



northern
beaches
council

NORTHERN BEACHES LOCAL PLANNING PANEL

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

WEDNESDAY 2 JUNE 2021

Beginning at 12.00pm for the purpose of considering and determining matters included in this agenda.

Peter Robinson
Executive Manager Development Assessment

Panel Members

Paul Vergotis	Chair
Robert Hussey	Environmental Expert
Brian Kirk	Town Planner
Nick Lawther	Community Representative

Quorum

A quorum is three Panel members

Conflict of Interest

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

Agenda for the Northern Beaches Local Planning Panel to be held on Wednesday 2 June 2021

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2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 19 MAY 2021

The Panel notes that the Minutes of the Northern Beaches Local Planning Panel held 19 May 2021 were adopted by the Chairperson and have been posted on Council's website.

3.0 PUBLIC MEETING ITEMS

ITEM 3.1	DA2021/0006 - 10 JAMIESON PARADE, COLLAROY - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL AND SPA
AUTHORISING MANAGER	Lashta Haidari
TRIM FILE REF	2021/372657
ATTACHMENTS	1 Assessment Report 2 Site Plan & Elevations

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2021/0006 for demolition works and construction of a dwelling house including swimming pool and spa at Lot 14 Sec 22 DP 12012, 10 Jamieson Parade, Collaroy subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0006
Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 14 DP 12012, 10 Jamieson Parade COLLAROY NSW 2097
Proposed Development:	Demolition works and construction of a dwelling house including swimming pool and spa
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Andrew Peter Lutze Shae Eliza Lutze
Applicant:	Andrew Peter Lutze
Application Lodged:	15/01/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	28/01/2021 to 11/02/2021
Advertised:	Not Advertised
Submissions Received:	15
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,872,000.00

EXECUTIVE SUMMARY

The Development Application (DA) seeks approval for the demolition of the existing dwelling and the construction of a part two (2) part three (3) storey four (4) bedroom dwelling with pool. The application is being referred to the NBLPP as more than ten (10) submissions have been received.

A total of fourteen (14) unique submissions have been registered following notification of the application which raised issues in respect of the bulk, scale, and height of the dwelling and impacts on amenity including view loss, privacy and over shadowing.

With the exception of minor breaches of the wall height, building envelope and landscape open space controls the application has been amended to reduce the height, bulk and scale and generally comply with the built form controls.

Notwithstanding the amendments that the applicant has made since lodgement of the application, conditions are recommended to further increase the side setbacks of parts of the upper storey (level 1) to address the breach of the building envelope, reduce the visual dominance of the side walls from neighbouring properties and overshadowing to the south. Conditions require the front door to the gym located on the lower ground level to be deleted and earthworks and landscaping to the southern front garden to reduce the visual impact of the dwelling from the streetscape. In addition, conditions are recommended to ensure privacy is maintained with high level windows, obscure glazing and privacy screens. Subject to these conditions the proposal, as amended, will not result in unreasonable impacts on the amenity of neighbouring properties. The front elevation is articulated to reduce the visual dominance of the dwelling in the streetscape and a condition requires a canopy tree to be planted in the front setback which will soften the perceived bulk of the dwelling.

On balance, the proposal is recommended for approval having considered relevant issues and the assessment of the design plans submitted.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the demolition of the existing dwelling and the construction of a new part two (2) / part three (3) storey dwelling with pool and spa. In detail, the application seeks consent for:

Garage level RL +24.520

- Excavation to a depth of 1.5m;
- Double garage;
- Under-croft, cellar, gym and storage, and
- Stair.

Ground Floor RL +27,220

- Open plan kitchen (and pantry), dining and living with adjoining rear covered terrace and central courtyard;
- Media room;
- Guest bedroom with ensuite;
- Office;
- Laundry and storage, and
- Foyer and raised deck to the front.

First Floor +30,220

- Three bedrooms, the master bed has an ensuite, a walk in robe and deck;
- Bathroom;
- Balcony overlooking the central courtyard below, and
- Study and stairs.

External

- Pool and spa;
- New driveway;

- Stairs;
- Front fence;
- Removal of three (3) trees, and
- Replacement planting.

Materials

Colour bond roof, weatherboard cladding, timber windows and doors.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D8 Privacy
Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 14 DP 12012 , 10 Jamieson Parade COLLAROY NSW 2097
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Jamieson Parade.</p> <p>The site is regular in shape with a frontage of 15.2m along</p>

Jamieson Parade a depth of 45.6m and a surveyed area of 696.7m². The site is located within the R2 (Low Density Residential) zone from WLEP 2011 and accommodates a detached part one / two storey brick and rendered dwelling with a hipped tiled roof. A stone and concrete driveway provided access to the site.

The site has a slope of approximately 3.5m (5 degrees) from front (east) to rear (west) and a number of trees are located within the rear garden including two (2) bottle brush trees and a date palm. The rear boundaries are defined with hedging and a timber fence, there is no boundary treatment to the frontage.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by detached one, two and part two / three storey dwellings.

Map:



SITE HISTORY

On 16 February 2021 a letter was sent to the applicant raising concerns in relation to the height, building envelope, front setback, building bulk and impacts on neighbouring amenity including privacy and solar access. In addition, height poles were requested to be installed to make a detailed assessment of view loss.

On 1 March 2021 amended plans were submitted which included the following modifications:

- Building height reduced;
- Increase in landscape open space.
- Increased in the first floor side setbacks and front setbacks;

- Planting added to the north courtyard for privacy, and
- Garage repositioned to minimise excavation.

The plans were notified to all those who made a submission.

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	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to issues relating to height, bulk and scale, landscaping and amenity impacts.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p>

Section 4.15 Matters for Consideration'	Comments
	<p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	Subject to conditions, 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 28/01/2021 to 11/02/2021 in

accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

Name:	Address:
Bradley Mark Tattersall	12 Jamieson Parade COLLAROY NSW 2097
Craig Anthony Bathie	9 Jamieson Parade COLLAROY NSW 2097
Mr James Michael Luscombe	18 Bakers Road CHURCH POINT NSW 2105
Mr Andrew John White	33 Anzac Avenue COLLAROY NSW 2097
Ann Stewart	7 Jamieson Parade COLLAROY NSW 2097
Mark Ronald Stewart	6 Wabash Avenue CROMER NSW 2099
BBF Town Planners	1 / 9 Narabang Way BELROSE NSW 2085
Mr Andrew Paul Spitzer Mrs Sara Jacqueline Spitzer	8 Jamieson Parade COLLAROY NSW 2097
DM Planning	1 / 9 Narabang Way BELROSE NSW 2085
Mr Craig Maurice Formosa Mrs Sarah Marcella Formosa	57 Carawa Road CROMER NSW 2099
Mr Edward James Feltham	14 Jamieson Parade COLLAROY NSW 2097
Mrs Emma Jane Dose	C/- Freestyle Pools 43/7 Sefton Road THORNLEIGH NSW 2120
Brigitte Tattersall	12 Jamieson Parade COLLAROY NSW 2097
Stephen John Walliss	31 Anzac Avenue COLLAROY NSW 2097
Janine Mary Wallis	150 Killarney Drive KILLARNEY HEIGHTS NSW 2087

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

- **Non compliance with planning controls**
- **Overdevelopment and out of character**
- **Excessive bulk, height and scale**
- **Amenity impacts; privacy and overshadowing**
- **Insufficient landscape open space**
- **View loss**
- **Deficiencies with application**

The matters raised within the submissions are addressed as follows:

- **The proposal does not comply with the built form controls including height, wall height, side boundary envelope, side setbacks and front setback. The bulk and scale of the dwelling is overbearing and out of character with the streetscape and represents overdevelopment. The walls are excessive in height with continuous wall planes and minimum relief to break up the mass.**

Comment:

The proposal has been amended to reduce the bulk, scale and height of the dwelling and increase its set back from the street frontage so that it generally complies with the built form

controls. The front balcony has been reduced in size so that it is located 4.5m from the north and south side boundaries and the front facade is well articulated to reflect the character of the streetscape. A condition requires a canopy tree to be planted in the front set back to further soften the bulk and scale of the dwelling in the streetscape.

The upper floor is now stepped along the side elevations to break up the wall plane, however, there remains to be a minor breach of the wall height and side envelope controls to the north and south elevations. A condition requires bedroom 2 and 3 on the upper floor to be setback further to address the envelope breach which in turn will help reduce the visual impact of the side walls as viewed from neighbouring properties and help minimise solar access and view loss impacts. In addition, a condition requires the rear terrace and associated roof to be reduced in size which will help address issues with respect of bulk to the side boundaries.

In order to ensure that the bulk and scale of the dwelling is reduced to be consistent with the streetscape a condition requires the front door to the gym to be deleted and earthwork and landscaping to be completed to the front garden (the area to the southern side of the stair), similar to the treatment of No. 4 and 8 Jamieson Parade.

- **Overshadowing impacts on the neighbouring property to the south including issues with the shadow falling on solar panels on roof at No. 8 Jamieson Parade.**

Comment:

As noted above, the proposal has been amended to reduce the height, bulk and scale of the dwelling. Shadow diagrams have been submitted which confirm that the proposal complies with clause D6 which requires 50% of sunlight to be retained to the private open space of neighbouring dwellings for 3 hours between 9am and 3pm on 21 June. Notwithstanding this, a condition requiring an increased set back of bedroom 3 from the southern boundary will help reduce the amount of shadow cast to the area of private open space to No. 8 Jamieson Parade. A condition also requires the rear roofed terrace to be setback an additional 1.5m which will help minimise solar access impacts.

The shadow diagrams show that the existing shadow falls on part of the roof to No. 8 Jamieson Parade between at 9am and 3pm June 21 to which the solar panels are located. It is accepted that the proposal will increase the shadow falling on the roof, however, the solar access assessment presents the worst case scenario being mid winter.

- **The proposal will result in a loss of ocean views as a result of the bulk, scale and height. The proposed screen planting to the rear will add to impacts on view loss and conditions are required to ensure the species selection minimises the height of trees at maturity. Height poles are required to assess view loss impacts.**

Comment:

Height poles have been installed and a view loss assessment has been carried out to the property to the south and south-west which confirm that the proposal will have moderate view loss impacts. Refer to discussion under clause D7 of this report.

Conditions are included in the recommendation for the screen planting to reach a maximum height of 3m at maturity to ensure view loss is minimised. The condition requiring the increased set back of bedroom 2 and 3 from the side boundaries will also help retain the view corridor along the side of the dwelling to the benefit of the properties to the rear.

- **Insufficient information including details of survey levels on the DA drawings which impact on the calculation of building and wall height. Incorrect / insufficient SEE and Clause 4.6 variation.**

Comment:

The applicant has submitted additional drawings which are annotated to include the correct survey levels to enable accurate height calculations. The SEE is acceptable and the clause 4.6 variation is no longer relevant as the proposal has been amended to reduce the height below the 8.5m maximum building height limit.

- **The internal courtyard cannot be included in the calculation as it is enclosed on three side and covered with a roof.**

Comment:

Agreed, the internal courtyard is not included in Council's calculation of landscape open space. The proposal will result in a minor 4.3% breach of the control and a condition is recommended requiring a reduction in the size of the roofed terrace to the rear which will help address this issue. Refer to discussion under clause D1.

- **Insufficient building separation between neighbouring properties and insufficient light and solar access between buildings.**

Comment:

The proposal complies with the side setback and solar access controls has been amended to step back the upper floor to improve the separation between adjoining dwellings. A condition requires elements of the upper floor to be further setback to further reduce the bulk and scale of the side walls.

- **Non-compliant front setback, the dwelling does not maintain the visual continuity and pattern of buildings in the streetscape.**

Comment:

With the exception of the ancillary stair access to the entry deck the eastern (front) wall and decks of the dwelling, as amended, fully comply with the 6.5m set-back control. The siting of the dwelling generally complies with the pattern of buildings in the streetscape and is consistent with the setback of the dwellings to the south.

- **Visual and acoustic privacy impacts resulting in overlooking and a loss of privacy as a result of the following. The elevated front entrance decks and insufficient front setback, the elevated windows on side boundary do not have 1.7m high sills. The raised ramp on the northern side and raised terrace enables direct overlooking due to the elements being located approximately 1.8m above ground level.**

Comment:

Conditions are included in the recommendation requiring privacy screens, sill heights of 1.6m and obscure glazing to windows and courtyards / terraces. The dwelling is set back 18.4m to the rear boundary which exceeds the minimum 6m rear setback requirement and sufficient screen planting is proposed to ensure privacy is maintained to the dwellings to the west. It is not

expected that the elevated deck to the front entrance will be used as a principle area private open space. Despite this, a condition requires a privacy screen to be installed along the northern and southern edge to address concerns from neighbours. Refer to discussion under Clause D8.

- **The roof does not complement the local skyline and is over bearing.**

Comment:

The roof design is similar to other properties in the area and as a result of the reduction on the mass, height and scale of the dwelling is assessed as acceptable.

- **The front fence does not comply with the 1.2m height limit.**

Comment:

The proposed front fence is generally 1.2m in height and comprises a low wall with timber fence in between which is consistent with the design of the fence to the neighbouring property to the south.

- **Should the DA be approved conditions are required relating to dilapidation reports, privacy, noise etc. to protect residential amenity and the structural stability of neighbouring properties.**

Comments

As noted above, conditions are included in the recommendation to address concerns from neighbours. The excavation is relatively minor and set back from the side boundaries. As such, it is not considered reasonable, necessary or relevant to impose a condition requiring dilapidation reports to neighbouring properties.

The amended plans were notified to all those that made a submission. As a result of the re-notification three additional submissions were received which reiterated issues raised above.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>Supported with conditions</p> <p>This application is for the demolition of an existing residential dwelling, and the construction of a new residential dwelling including a new double garage and swimming pool.</p> <p>Councils Landscape Referral section has considered the application against the Warringah Local Environment Plan, and the following Warringah DCP 2011 controls:</p> <ul style="list-style-type: none"> • D1 Landscaped Open Space and Bushland Setting • E1 Preservation of Trees or Bushland Vegetation

Internal Referral Body	Comments
	<p><u>Original Comments - 24/02/2021</u></p> <p>The Statement of Environmental Effects provided with the application provides little information regarding the impacts of the proposed development on existing vegetation. An Arboricultural Impact Assessment has also been provided, which has identified three trees impacted by the development, all located towards the rear of the property. The Architectural and Landscape Plans indicate that four trees are located within the site and impacted by the development, with three of those to be removed. The fourth tree, not addressed in the Arboricultural Impact Assessment, appears to be below 5m in height, and is therefore exempt and does not require Council's approval for removal.</p> <p>Of the three trees identified at the rear of the dwelling, Trees No. 1, 2 and 3, all have been identified as either exempt species, or exempt due to heights being below 5m. It is noted that this Arboricultural Impact Assessment is a pre-development consultation review, and does not provide sufficient and accurate information regarding the existing trees, particularly in relation to tree heights. Trees No. 1 and 2 have been identified as <i>Callistemon viminalis</i> however the heights of these two trees have been estimated, and this pre-development consultation review has noted these existing tree heights shall be confirmed by an Arborist prior to any work being undertaken. Upon further review, these trees appear to be at least 5m tall, and will therefore require an updated Arborist report to confirm this.</p> <p>If these trees are confirmed to be 5m or above in height, design alternatives should be explored in order to protect these trees from removal. If justification can be provided for their removal, new native tree planting shall be proposed in order to compensate this loss, as well as to provide screening between neighbouring properties which these existing trees currently provide. The protection of existing trees, and the amenity and screening they provide, is vital to satisfy control E1.</p> <p>In addition, there is insufficient information regarding planting at the front of the property. Planting at the front of the property is vital to satisfy control D1, as a key objective of this control is for landscaped areas 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". There is currently a small tree/shrub located at the front of the property that has not been shown on plans, and is therefore assumed to be removed as a result of the proposed stairway location. With the removal of this tree and associated vegetation, control D1 is not satisfied as minimal softening of the built form has been provided.</p> <p>At this stage Landscape Referral do not support the application as insufficient information has been provided regarding the justification of</p>

Internal Referral Body	Comments
	<p>proposed existing tree removal, and the addition of new planting at the front of the site to mitigate the bulk and scale of the built form. An updated Arboricultural Impact Assessment and Landscape Plan is required.</p> <p><u>Updated Comments - 12/05/2021</u></p> <p>Following previous comments, amended Architectural and Landscape Plans have been provided with the application. A significant change within these amended plans is the increase in the front setback which is supported. This increase in area provides a larger area at the front of the site which is capable of supporting native tree planting.</p> <p>Concerns were originally raised regarding the limited planting within the front of the site, and the potential impacts of the proposed increase in built form, particularly in relation to the surrounding streetscape. As amendments have been made to increase the front setback, it is recommended that a native canopy tree be planted to ensure the proposed built form is softened, as well as to further enhance the overall streetscape of the area. The implementation of this tree planting is vital to satisfy control D1, as key objectives of this control include "to enable planting to maintain and enhance the streetscape", as well as "to provide for landscape 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".</p> <p>No concerns are raised regarding proposed tree removal as these have since been identified as below 5m in height, and are therefore exempt and may be removed without Council's approval. It is noted that Tree No. 3 has been proposed for retention and forms a key landscape element of the proposal as it is integrated into the backyard with a garden seat surrounding its trunk. It is therefore required to be protected during development to ensure its survival. The retention of this tree is key to satisfying control E1, which seeks to "protect and enhance the scenic value and character that trees and/or bushland vegetation provide".</p> <p>The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, as well as the completion of landscape works as proposed on the Landscape Plans, inclusive of an additional native canopy tree within the front setback to help mitigate and soften the proposed built form.</p>
NECC (Development Engineering)	<p>Supported with conditions</p> <p>Development Engineering has no objection to the application subject to the following conditions of consent.</p>
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>Supported with conditions</p> <p>The proposal was referred to Ausgrid who provided a response</p>

External Referral Body	Comments
	stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1165524S dated 23 December 2020).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Target 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

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 who offered no objections subject to conditions.

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	8.3m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

6.2 Earthworks

The excavation is limited to a small area to the east (front) up to 1.5m associated with the garage and the pool (max depth 1.9m). No fill is proposed.

Subject to conditions the earthworks is unlikely to cause disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality or the amenity of adjoining properties.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.4m to the north-east corner	2.7%	No
B3 Side Boundary Envelope	North 4m	Two (2) areas breach the envelope which vary in height between 1m -1.3m	N/A	No
	South 4m	Three (3) areas breach the envelope which vary between 0.6m - 0.9m in height	N/A	No
B5 Side Boundary Setbacks	North 0.9m	Ground 1.2m First Floor 1.7m, 2.4m 7.34m	N/A	Yes
	South 0.9m	Ground 1.2m First Floor 1.2m, 1.8m and 2.4m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	9m to the eastern wall 6.5m to the cover elevated deck 3.1m to the stairs which provide access to the front deck	N/A N/A 52.4%	Yes Yes No (Assessed as acceptable)
B9 Rear Boundary Setbacks	6m	18.3m to the western (rear) wall of the dwelling 9.7m to the rear terrace 4.8m to the spa 6.5m to the pool	N/A N/A 20% N/A	Yes Yes No (Assessed as acceptable) Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	35.7%	4.3%	No

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	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C4 Stormwater	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
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
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	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
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Clause B1 requires a maximum wall height of 7.2m.

Description of non-compliance

With the exception of a minor breach of the wall height at the north-eastern corner of the side wall (northern elevation) the proposal complies with the wall height. The wall height reaches a maximum of 7.4m (0.2m / 4% breach) at the corner.



North elevation wall height breach (source sketchArc)

Merit consideration:

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

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

Comment:

The minor breach of the wall height at the north-eastern corner will not in itself result in unreasonable visual impacts when viewed from No. 12 Jamieson Parade.

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

Comment:

The dwelling generally sits below the tree canopy.

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

Comment:

The minor breach in the wall height will not in itself add to unreasonable impacts on view sharing along the existing view corridor.

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

Comment:

The minor breach in the wall height will not give rise to unreasonable amenity impacts on neighbouring properties in terms of solar access.

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

Comment:

Excavation has been minimised.

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

Comment:

The roof pitch provides variation in its design.

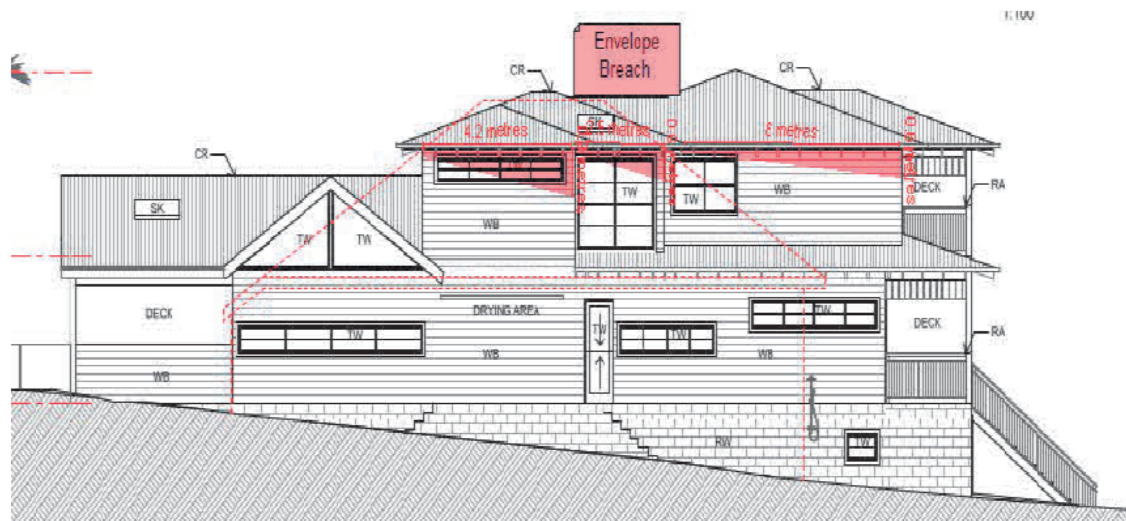
Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B3 Side Boundary Envelope

Description of non-compliance

Southern elevation

There are three areas of non-compliances, as detailed below:



Southern Elevation - envelope breach (source sktechArc)

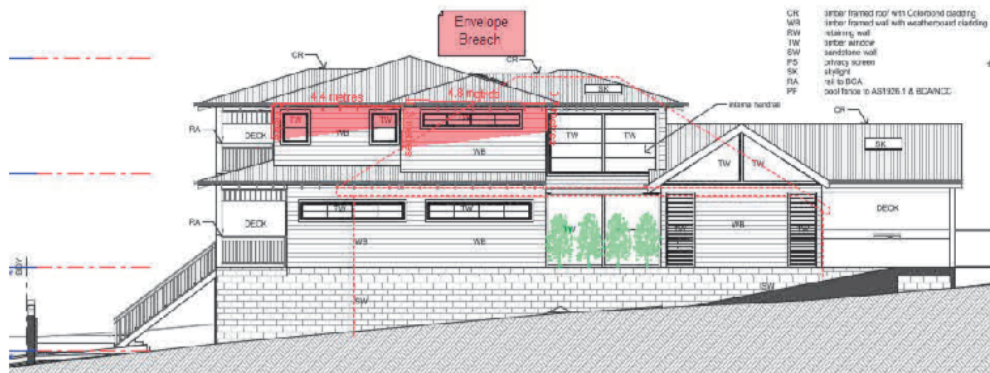
Area 1 - 0.6m - 0m in height x 6m in length relates to the master-bedroom

Area 2 - 0.6m - 0m in height x 2.5m in length relates to the stairs

Area 3 - 0.9m - 0m in height x 4.2m in length relates to bedroom 3

Northern elevation

There are two areas of non-compliances, as detailed below:



Northern Elevation (source sktechArc)

Area 1 - 1m - 0.6m in height x 4.4m in length relates to the master-bedroom

Area 2 - 1.3m - 0.7m in height x 4.8m in length relates to the bedroom 2.

Merit consideration

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

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

Comment:

Concerns have been raised from neighbours regarding the bulk and massing of the dwelling. The proposal has been amended to increase the level 1 setbacks from the side boundaries and reduce the height to sit below the maximum 8.5m height limit. In order to further minimise the bulk and scale of the side walls as viewed from the adjoining properties a condition requires that bedroom 2 and 3 are setback a further 0.5m from the boundaries. This is particularly relevant given that the under-croft area adds to the bulk and scale of the side elevations.

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

Comment:

As noted above, the upper floor has been amended to increase the setback from the side boundaries and the overall height has been reduced. While the proposal complies with the numerical solar access provisions the reduction in the bulk of part of the upper floor, by way of a condition, will help minimise shadow impacts to the private open space of No. 8 Jamieson Parade to the south. Conditions are also recommended to ensure that privacy impacts are minimised. Refer to discussion under Clause D8.

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

Comment:

There is an approximate 3.5m level difference from the front (east) to the rear (west). The

height of the proposal dwelling is reduced to the rear consistent with other developments along the street.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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

Clause D1 requires

40% of the site to be retained as landscape open space the control notes:

- a) Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation;*
- b) The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation;*
- c) Landscaped open space must be at ground level (finished); and*
- d) The minimum soil depth of land that can be included as landscaped open space is 1 metre.*

Description of non-compliance

The applicant calculates that the development retains 278.68sqm (40%) of landscaped open space in compliance with the control. However, the internal courtyard cannot be included in the calculation as it is paved, covered and above ground. The landscape open space is therefore calculated to be 249.32sqm (35.7%).

Merit consideration

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

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

Comment:

Sufficient deep soil is available to allow for effective planting to enhance the streetscape and soften the built form, refer to comments from Council's Landscape Officer.

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

Comment:

There is no indigenous vegetation on the site or topographical features. The trees proposed to be removed are exempt species.

- *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 dimension of the landscape open space allows for planting of a mixture of species including a canopy tree in the frontage to mitigate the height, bulk and scale of the building.

- *To enhance privacy between buildings.*

Comment:

Screen planting is proposed around the perimeter of the rear garden to enhance privacy. A condition requires screen planting to the rear garden to have a maximum height at maturity of 3m to address concerns about view loss as a result of proposed planting.

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

Comment:

The proposal benefits from appropriate recreational opportunities including a pool, terrace and internal courtyard. A condition requires the size of the cover rear terrace to be reduced in area to increase the area of landscape open space. The modified covered terrace will have a width of 3m which is assessed as sufficient to allow for the recreational opportunities of the occupants. Subject to this condition the landscape open space will equate to 267.6sqm (38.4%). It is also noted that the reduction in the size of the covered terrace will help address concerns about building bulk and solar access.

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

Comment:

Sufficient space is provided for service functions.

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

Comment:

The reduction in the size of the covered terrace will increase the area available for water infiltration.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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.

D6 Access to Sunlight

Clause D.6 requires:

At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.

Comment

Shadow diagrams have been submitted which show that the amended proposal will cast additional shadow to the rear principle area of principle area of open space to the rear of No. 8 Jamieson Parade at 9am. At 12 noon the line of shadow shifts to fall primarily over the roof and by 3pm the additional shadow is cast over the roof, the front garden of the southern neighbour and the street. The proposal retains a minimum 50% of sunlight to the rear principle area of private open space for at least 3 hours between 9am and 3pm in compliance with the control.

Notwithstanding this, it is recommended that a condition be imposed requiring bedroom 3 to be set back an additional 0.5m to minimise the bulk and scale of the development when viewed from No. 8 Jamieson Parade which will help reduce the shadow impact between 9am to 12 noon to the adjoining rear garden.

D7 Views

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To allow for the reasonable sharing of views.*

Comment:

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

1. Nature of the views affected

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

Comment to Principle 1:

View loss issues have been raised in written submissions from the following properties; No. 31 and No. 33 Anzac Avenue and No. 1 Worcheser Street which are located to the rear (west) at a higher level and No. 8 Jamieson Parade which is located at the same level to the immediate south. Following the submission of amended plans and the installation of height poles all those that made a submission were re-notified of the amended plans and offered the option to have Council Officers conduct a view loss assessment from their respective properties. The invitation for a view loss assessment was accepted from the owner of two properties, No. 8 Jamieson Parade and 31 Anzac Avenue.

The view loss assessment confirmed that north-eastern views towards the ocean and treetops along the ocean front can be observed across the side of the site from No. 8 Jamieson Parade and from an oblique angle along the view corridors either side of the existing dwelling from No. 31 Anzac Avenue.

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

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

Comment to Principle 2:

No. 8 Jamieson Parade

No. 8 Jamieson Parade is located directly to the south of the subject site. Views are enjoyed from a sitting and standing position towards the ocean and the interface of the treetops and ocean looking to the east and north-east from the first floor front balcony and from the side (northern) windows to the master bedroom.

No 31 Anzac Parade

No. 31 Anzac Parade is located to the rear (west) of the subject site at an elevated position. Views can be observed of the tree top and ocean interface and ocean looking to the east and north-east from a standing and sitting position from the first floor deck and adjoining open plan living, dining and kitchen. It is noted that the views are partially obscured by the existing vegetation, some of which is proposed to be removed.

View loss assessments were not conducted from No. 33 Anzac Parade and No 1 Worchester Avenue, however, it is expected that the view loss will be similar to that observed at No. 31 Anzac Parade (refer to assessment below). The three properties are located to the rear (west) of the subject site at elevated positions, approximately 2m-4m higher than the subject site.

3. Extent of impact

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

Comment to Principle 3:

No. 8 Jamieson Parade

The north-eastern view towards the tree top interface with the ocean enjoyed from the northern side windows of the first floor master bedroom and the view from the first floor deck will be partially affected by the proposal. The view loss is assessed as moderate (from the bedroom window) to minor (deck).



North facing bedroom window standing position looking to the north-east.

**It is noted that the height pole in the photo depicts the highest point of the south-west corner of the dwelling. The roof of the balcony will extend a further 2.5m beyond this being set back 4.5m from the southern boundary.*



North facing bedroom window siting position looking to the north-east.



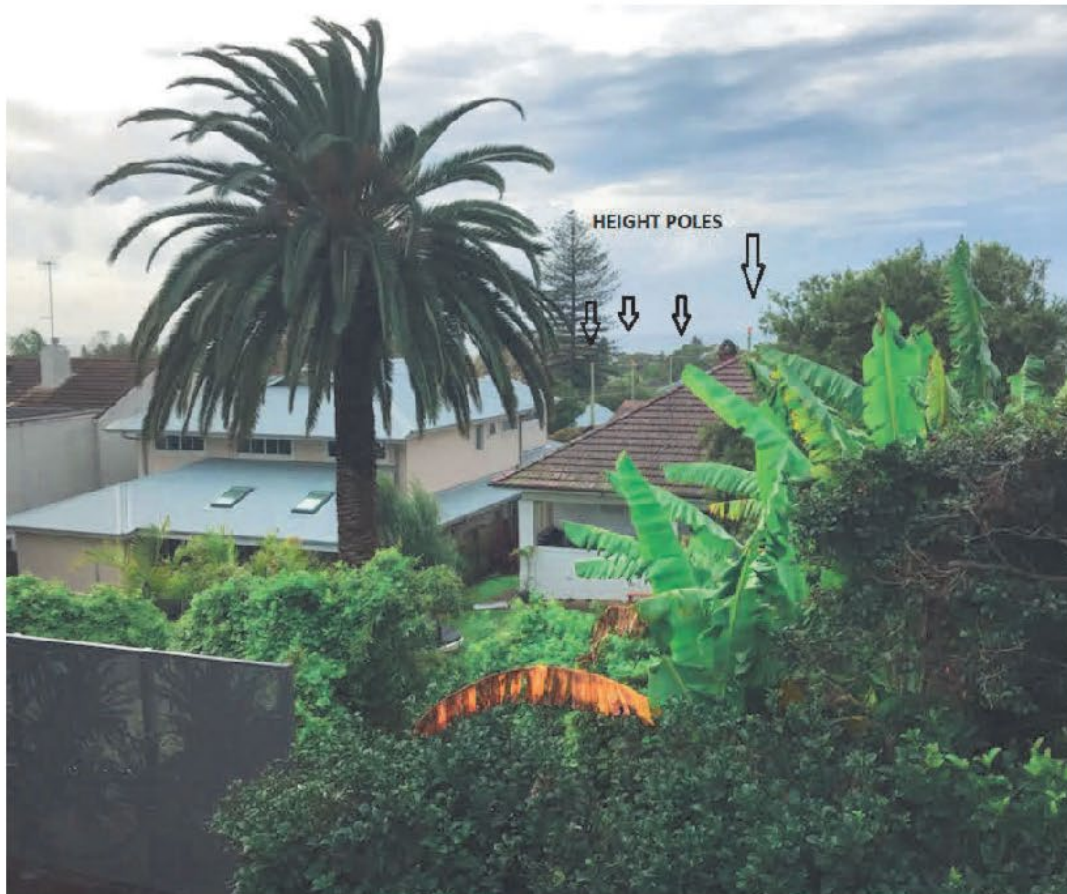
View from front balcony looking to the north-east.

No 31 Anzac Anzac Parade

The north-eastern oblique view towards the tree top interface with the ocean and a small area of ocean view will be affected by the proposal which is currently enjoyed from the first floor rear deck and open plan living room from a standing and sitting position. The view along the southern view corridor is currently compromised with existing vegetation including the large tree observed in the left of the photo. The proposal includes the removal of this tree which has the potential to improve the wider ocean view. Due to the elevated position of this property the view loss is assessed as moderate (from the deck) to negligible (from the open plan living, kitchen and dining room). A condition requires future planting to be limited in height to minimise impacts.



Eastern view from rear first floor balcony looking towards the southern view corridor along the side of the existing dwelling.



Eastern view from rear first floor balcony looking towards the northern view corridor along the side of the existing dwelling.



Eastern view from the open plan living, kitchen and dining room, the height poles are not visible from this view.

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

With the exception of the minor breach of the side envelope and wall height controls the proposal, as amended, is fully compliant with the built form controls, including the 8.5m height limit.

In order to further minimise the bulk and scale of the side walls of the dwelling a condition is recommended requiring the side setback of bedroom 2 and 3 on level 1 to be increased an additional 0.5m. This in turn will help address the envelope breach and help minimise view loss

along the view corridors either side of the dwelling.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

Subject to conditions the design, as amended, is assessed as being responsive to the existing environment and will help minimise unreasonable view loss.

- *To ensure existing canopy trees have priority over views.*

Comment:

There will be some minor impact on the distant view of treetops along the ocean front as a result of the proposal, however, the proposal will sit below the height of street trees within the immediate area.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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.

D8 Privacy

Clause D 8 requires:

1. *Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.*
2. *Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.*
3. *The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass.*
4. *The windows of one dwelling are to be located so they do not provide direct or close views (ie from less than 9 metres away) into the windows of other dwellings.*

Southern elevation

Level 1 - The window to bedroom 3 is a high level window. The window to the study is set back 1.8m from the southern boundary and a condition requires this window to be high level. The front first floor balcony to the master bedroom is sited 4.5m from the side boundaries and 8.4m from the first floor balcony to No. 8 Jamieson Parade. In order to ensure privacy is maintained without the need to add privacy screens either side of the balcony which would add to the visual bulk a condition requires that the balcony is reduced in size to be set back a further 0.5m to the north and south boundaries. The separation distance between the front balconies will be modified to 8.9m which is generally compliant with the recommended 9m separation.

Ground level - Due to the under-croft the finish floor level of the ground floor sits a maximum of 1.7m above ground level. In order to ensure visual privacy is maintained conditions requires the office window and kitchen window to be a high level window and the half wall to the external BBQ area to be increased in height to 1.8m. In addition, a condition requires a privacy screen to be installed along either side of the elevated front deck.

North elevation

Level 1 - The window to bedroom 2 is a high level window and conditions requires the windows to the ensuite to be obscure glazing. The front first floor balcony to the master bedroom is sited 4.5m from the northern side boundary. The balcony sits forward of the existing first floor balcony to No 12 Jamieson Parade and will not result in unreasonable impacts by virtue of overlooking. Despite this a condition requires the setback to be increased a further 0.5m from the northern boundary which will ensure the symmetry of the balcony is retained and further minimises privacy impacts.

Ground level - Due to the under-croft the ground floor level sits up to 2.2m above ground level. In order to ensure privacy is maintained to No. 12 Jamieson to the north a condition requires the guest bedroom and media room are high level. Conditions also require the windows to the ground floor lounge to be fitted with fixed and angled privacy screens and privacy screens to be installed along the northern edge of the ground level front deck and the northern edge of the raised courtyard.

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

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

Comment:

Subject to condition including the use of high sills, privacy screens and an increase in the side setback of the first floor balcony visual and acoustic privacy to neighbouring properties can be maintained. In addition, it is recommended that a standard noise condition be imposed to ensure there are no unreasonable acoustic impacts from the pool pump.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The amended design, subject to conditions, is deemed to be acceptable.

- *To provide personal and property security for occupants and visitors.*

Comment:

The proposal will not result in unreasonable impacts on security.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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.

D9 Building Bulk

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

The amended design reduces the height, bulk and scale of the dwelling. The projecting front balcony has been reduced in size with setbacks increased to 4.5m from the north and south boundary. The facade is well articulated to reduce the bulk and scale of the dwelling from the streetscape.

The front wall of dwelling has been amended to have a 9m set back from the street frontage and a 56sqm area of landscaped open space is retained to the frontage which allows for sufficient space for planting of a canopy tree which will also help soften the bulk of the dwelling.

Conditions are recommended to further reduce the bulk of the side walls to ensure that the dwelling responds to the context of the site.

The dwelling presents as three storeys to Jamieson Parade. In order to ensure that the bulk and scale of the dwelling is reduced to be consistent with the streetscape a condition requires the front door to the gym to be deleted and earthwork and landscaping to be completed to the front garden (the area to the southern side of the stair). Subject to this condition, the dwelling will have a similar presentation to the street as the adjoining properties to the south including No. 4 and 8 Jamieson Parade.

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

Comment:

The amended design increases the setback of the upper floors of the dwelling to between 1.3m to 2.4m. The increase in the setback helps reduce the visual impact of the dwelling from the adjoining properties and a selection of materials have been included to provide variation and interest to the wall plane.

In order to further reduce the visual impact of the development it is recommended that bedroom 2 and 3 are set back a further 0.5m from the side boundaries. This in turn will help minimise the envelope non-compliance and shadow impacts to the property to the south.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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 \$18,720 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,872,000.

CONCLUSION

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

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

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

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

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

In summary, a detailed assessment has been required for the following specific issues:

Density - bulk, scale, height and massing and impacts on the character of the area.

The application has been amended to reduce the height, bulk and scale of the development to comply with the built form controls with the exception of minor breaches to wall height, envelope and landscape open space. Conditions are recommended to further reduce the bulk of the development along the side elevations and reduced the terrace area which will help address the breaches. Conditions require the front door to the gym to be deleted and earthworks and landscaping to the southern front garden to reduce the visual impact of the dwelling from the streetscape.

Impacts on residential amenity

The amended design helps address amenity impacts including overshadowing. Conditions are recommended to further protect neighbouring amenity including privacy treatment to windows and area of private open space and an increase in the set back of the bedroom 2 and 3 which will help address issues in relation to solar access.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2021/0006 for Demolition works and construction of a dwelling house including swimming pool and spa on land at Lot 14 DP 12012, 10 Jamieson Parade, COLLAROY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA3 Site Analysis Plan	26/03/2021	SketchArc
DA4 Garage Floor Plan	26/03/2021	SketchArc
DA5 Ground Floor Plan	26/03/2021	SketchArc
DA6 Ground Floor Plan	26/03/2021	SketchArc
DA7 First Floor Plan	26/03/2021	SketchArc
DA8 Roof Plan	26/03/2021	SketchArc
DA9 North and South Elevation	26/03/2021	SketchArc
DA10 East and West Elevation	26/03/2021	SketchArc
D11 Street Elevation and Section Drive	26/03/2021	SketchArc
D12 Sections AA and BB	26/03/2021	SketchArc
D13 Section CC and DD	26/03/2021	SketchArc
Materials and Finishes /Perspectives	No date	SketchArc

Engineering Plans		
Drawing No.	Dated	Prepared By
20102 SW-1 - 2	18/12/2020	Michael Korecky

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary Geotechnical Assessment	18/12/2020	White Geotechnical Group
Waste Management Plan	20/12/2020	Matthew Power
BASIX Certificate	23/12/2020	ecomaxhomes
Arborist Report	13/10/2020	Peake Arboriculture

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
DA15 Landscape Plan	26/03/2021	SketchArc

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 sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$18,720.00 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 \$1,872,000.00.

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

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 \$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).

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

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

6. **On Slab Landscape 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 over 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:

- i) 300mm for lawn
- ii) 600mm for shrubs

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

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

7. **Amendments to the approved plans**

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

- o Privacy treatment, the design shall be amended as follows:
 - Windows W6, W9, W17, W18, W26 and W32 are to be high level with a sill height of 1.6m.
 - Windows W12 and W13 shall be amended to fixed glass (as opposed to louvres) with have fixed angled privacy screens.
 - Windows W33 and W34 shall have obscure glazing.
 - A 1.6m high fixed and angled privacy screen shall be installed along the northern side

of the internal courtyard.

- 1.6m high fixed and angled privacy screens shall be installed along the northern and southern edge of the front elevated deck.

- The southern wall of the BBQ area shall be increased in height to be 1.6m from the finished floor level.

- The first floor front deck to the master bedroom shall be set back an additional 1m from both the north and south side boundaries.

- o Reduction in areas of hard surface, the design shall be amended as follows:

- The hard surface area adjacent to the gym (reference garage floor plan (DA4)) shall be deleted.

- The rear paved terrace and associated roof shall be reduced in size with a maximum width of 3.0m.

- o Increase in the side set back of level 1, the design shall be amended as follows:

- 0.5m increase in the set back of bedroom 2 level 1 from the northern side boundary.

- 0.5m increase in the setback of bedroom 3 level 1 from the southern side boundary.

- o Landscaping and levels to frontage and door to gym

- The door to the gym reference W1 shall be deleted window W2 may be increase in length to ensure light and access to the gym.

- The existing ground level across the front of the property to remain at RL25 at the southern front corner of the dwelling and RL 25.2 adjoining the southern side of the stairs at the front of the dwelling. Along the front boundary the land shall remain at RL25 in the south east corner and 24.8 adjoining the southern alignment with the stairs.

- Planting to reach a minimum 1m height to be planted along the front of the gym.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land and reduce the visual impact of the dwelling from the streetscape.

8. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations identified in the Preliminary Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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.

9. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY, and generally in accordance with the concept drainage plans prepared by Michael Korecky, drawing number 20102, dated 18/12/2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer.

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.

10. **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.

11. **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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. **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.

No. 8 and No. 12 Jamieson Parade, Collaroy

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.

13. **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

14. **Protection of Existing Street Trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street trees fronting the development site shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, and in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture.

All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

Should any problems arise with regard to the existing or proposed trees on public land during construction, 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: Tree protection.

15. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

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

- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) 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,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

- c) 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.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

16. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,

- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

17. **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.

18. **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:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o 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.

19. **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.

20. **Vehicle Crossings**

The Applicant is to construct a vehicle crossing 4 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/4 EH 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.

21. **Survey Certificate(Conditions - During Works)**

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. (DACPLE01)

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

22. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Amended Landscape Plan, inclusive of the following conditions:

i) an additional locally native canopy tree shall be required within the front yard of the property, minimum 75L pot size. Suggested species include: *Angophora costata*, *Banksia integrifolia* or *Eucalyptus haemastoma*.

Tree planting shall be located within a 9m² deep soil area wholly within the site and be located a minimum of 3 metres from existing and proposed buildings, and other trees.

Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views.

Native tree planting species shall be selected from Council's list, specifically the *Native Plant*

Species Guide - Narrabeen Ward: www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

23. **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.

24. **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) Preliminary Geotechnical Assessment dated 18/12/2020 prepared by White Geotechnical Group
- (b) Waste Management Plan dated 20/12/2020 prepared by Matthew Power
- (c) BASIX Certificate dated 23/12/2020 prepared by ecomaxhomes
- (d) Arborist Report dated 13/10/2020 prepared by Peake Arboriculture

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.

25. **House Number**

House 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.

26. **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 (DACPLF09)

27. **Swimming Pool Requirements (existing pool modified by works)**

The existing onsite Swimming Pool / Spa fencing enclosure shall be upgraded to comply with:

(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 warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING**

THIS POOL' has been installed.

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

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 a Interim / Final Occupation Certificate.

Reason: To protect human life. (DACPLF10)

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

28. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

Any screen planting installed within the rear of the property shall be maintained at a height not exceeding 3m measured from the ground level adjacent to the trunk.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

29. **Undesirable Trees**

Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, or any other Undesirable Trees identified by Council, must not be planted on the site for the life of the development.

In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views and loss of plant diversity.

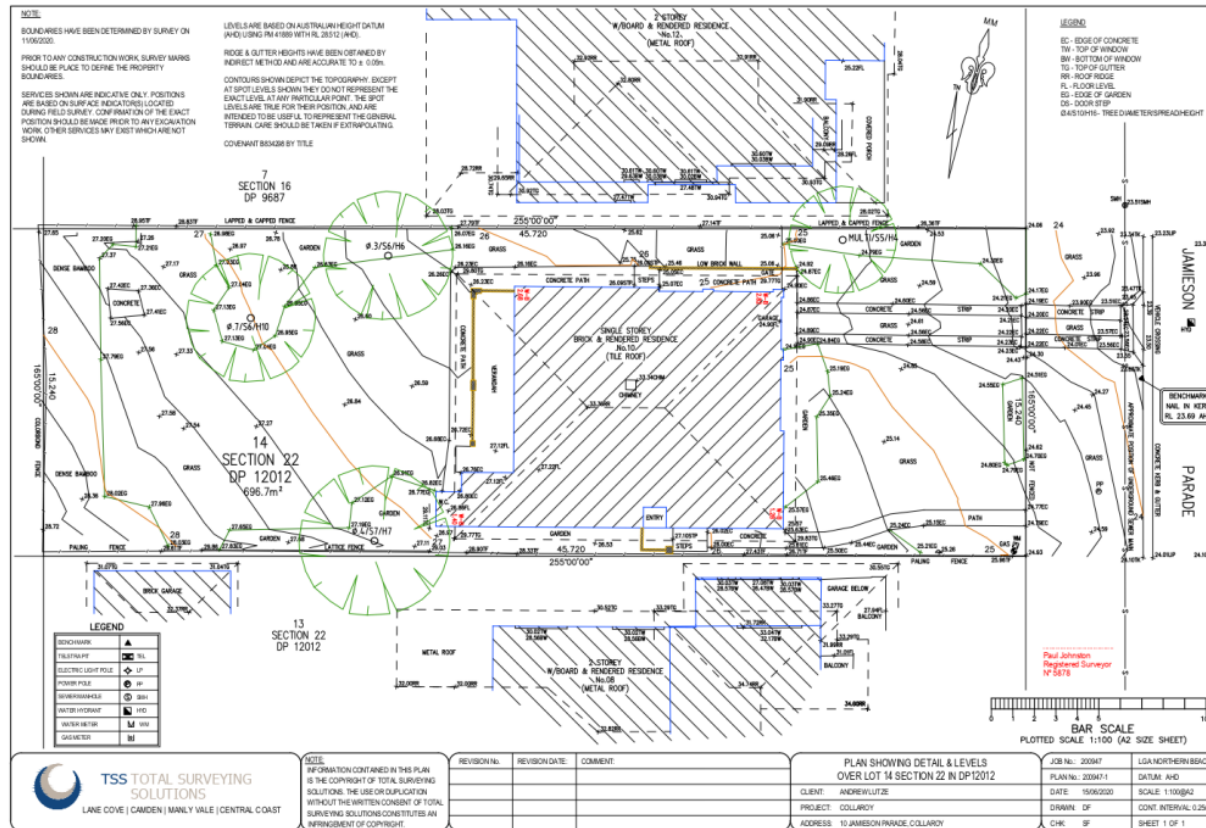
30. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

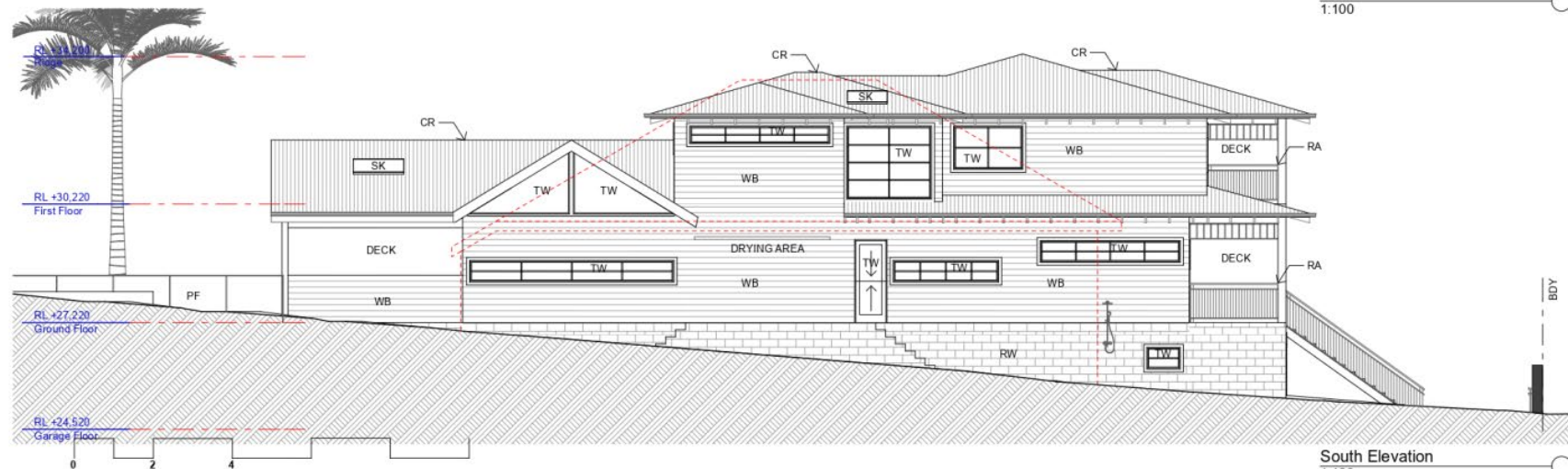
31. **Noise from plant**

Noise from all plant air condition units and pool plant must not generate noise above 5dBA at the property boundary and not be audible within habitable rooms of surrounding properties.





North Elevation
1:100



South Elevation
1:100

sketchArc

DO NOT SCALE DRAWINGS. CHECK ALL DIMENSIONS ON SITE.
FIGURED DIMENSIONS TAKE PRECEDENCE.
The builder shall check and verify all dimensions
and verify all errors and omissions to the
Architect. Do not scale the drawings.
Drawings shall not be used for construction
purposes until issued by the
Architect for construction.

REV	DATE	DESCRIPTION

sketchArc
Po Box 377 Manly 1655
m : 0422 521 871
e : power@sketcharc.com.au
w : www.sketcharc.com.au

PROJECT: 10 Jamieson Pde, Collaroy,
2097, NSW
New Dwelling
LOT 14 Sec. 22 in DP 12012 - 696.7m2

CLIENT: Private

- Demolition
 - Proposed

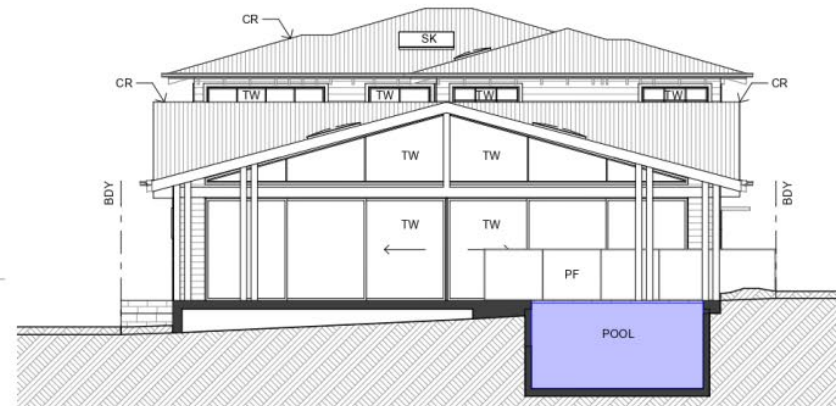
STATUS:
DA2
DATE:
260321
SCALE:
1:100@A3
PROJECT NUMBER:
2023
STAGE:
DA2
DRAWN/DESIGNED:
PB / MP
ISSUE:

DRAWING NO:
DA9

CR timber framed roof with Colorbond cladding
WB timber framed wall with weatherboard cladding
RW retaining wall
TW timber window
SW sandstone wall
PS privacy screen
SK skylight
RA rail to BCA
PF pool fence to AS1926.1 & BCA/NCC



East Elevation
1:100



West Elevation
1:100



sketchArc

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REV	DATE	DESCRIPTION

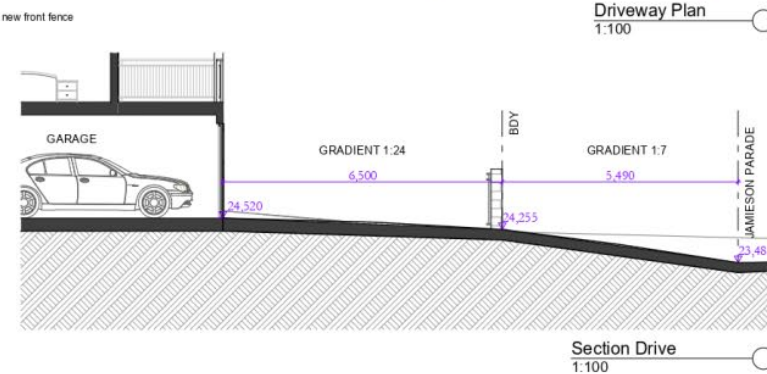
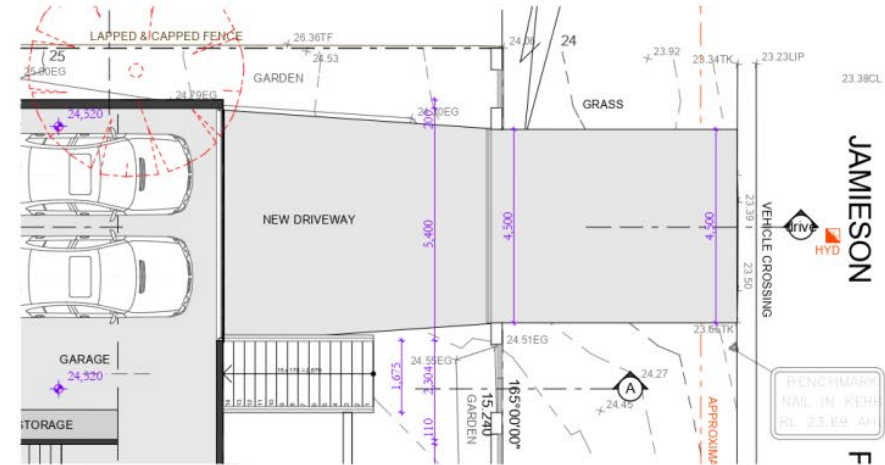
sketchArc
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PROJECT: 10 Jamieson Pde, Collaroy,
2097, NSW
New Dwelling
LOT 14 Sec. 22 in DP 12012 - 696.7m2

CLIENT: Private



STATUS:		PROJECT NUMBER:	
DATE:	260321	SCALE:	1:100@A3
STAGE:	DA2	DRAWN/DESIGNED:	PB / MP
DRAWING NO:		ISSUE:	
DA10			



sketchArc

DO NOT SCALE DRAWINGS. CHECK ALL DIMENSIONS ON SITE.
FIGURED DIMENSIONS TAKE PRECEDENCE.
The builder shall check and verify all dimensions and verify all errors and omissions to the Architect. Do not scale the drawings. Drawings shall not be used for construction purposes until issued by the Architect for construction.

REV	DATE	DESCRIPTION

sketchArc
Po Box 377 Manly 1655
m : 0422 521 871
e : power@sketcharc.com.au
w : www.sketcharc.com.au

PROJECT: 10 Jamieson Pde, Collaroy,
2097, NSW
New Dwelling
LOT 14 Sec. 22 in DP 12012 - 696.7m2

CLIENT: Private



STATUS: DA2	SCALE: 1:100@A3	PROJECT NUMBER: 2023
DATE: 260321	DRAWN/DESIGNED: PB / MP	ISSUE:
STAGE: DA2		
DRAWING NO: DA11		

ITEM 3.2	DA2021/0311 - 2 THE CIRCLE, NARRAWEENA - DEMOLITION WORKS AND CONSTRUCTION OF A BOARDING HOUSE
AUTHORISING MANAGER	Lashta Haidari
TRIM FILE REF	2021/372675
ATTACHMENTS	1 Assessment Report 2 Site Plan & Elevations 3 DSAP Report

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2021/0311 for demolition works and construction of a Boarding House at Lot 7 DP 36192, 2 The Circle, Narrabeena subject for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0311
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Responsible Officer:	Jordan Davies
Land to be developed (Address):	Lot 7 DP 36192, 2 The Circle NARRAWEENA NSW 2099
Proposed Development:	Demolition works and construction of a Boarding House
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Michael Philip Bennett
Applicant:	Michael Philip Bennett

Application Lodged:	29/03/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	07/04/2021 to 21/04/2021
Advertised:	07/04/2021
Submissions Received:	31
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 2,152,700.00
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Executive Summary

The proposed development is for the construction of a two storey boarding house consisting of 12 'new generation' style boarding rooms and one managers room, seven car parking spaces, 3 motorcycle spaces, bicycle parking, a common room and a laundry. The application is referred to the Local Planning Panel for determination as the application has received 31 submissions objecting to the proposed development.

The application was referred to the 'Design Sustainability Review Panel' (DSAP) for feedback and advice regarding the urban design, architecture and sustainability of the project. The DSAP were supportive of the proposal from the perspective of the building form, design and sustainability of the development and noted that this was a high quality design for a boarding house development. The proposed design of the building is considered satisfactory with regards to visual privacy, solar access

and landscape design.

A boarding house is a permitted land use within the R2 Low Density Residential Zone under the Warringah LEP 2011. A boarding house is also permitted with consent pursuant to the Affordable Rental Housing SEPP (ARHSEPP) and the application has been made pursuant to the ARHSEPP.

Council has conducted a review of the suitability of the site with regards to access to public transport (bus services) against the definition of the 'accessible area' as outlined within the SEPP, which requires the site to be within 400m walking distance from a bus stop to be within the 'accessible area'. The applicant submits that the residents of the boarding house can access a bus stop within 400m by traversing a section of the adjoining grassy public reserve. However, Council's position is that this method of access is not in accordance with the definition of walking distance under the SEPPARH, as there is no public footpath through the reserve to provide equitable, practical and safe access for future residents of the boarding house. The alternative route via public roads and footpaths is 500m to the nearest bus stop, which does not constitute a 'high level of access' as required by Council's planning controls which would be applicable to the development given the site falls out of the 'accessible area' as defined by the SEPP.

Although the principle reason for recommending refusal of the application is the site is not suitable for a boarding house as it does not provide adequate access to the nearest bus stop and given this style of development is a form of affordable housing which relies heavily on public transport (by virtue of the minimum parking rate required under the SEPPARH) this issue is considered to have sufficient weight for refusal of the application.

There are outstanding issues as raised by Council's development engineer and waste officer with regards to the location of the driveway in relation to a stormwater inlet pit, driveway width, impact upon Council's stormwater pipe and configuration of the bin storage area which are also reasons for refusal of the application. Although there is potential for these issues to be resolved by way of amended plans and additional information, there remains the fundamental issue of site suitability which prevents Council from supporting the proposal. Hence, the application is referred to the Panel in the current form. There is also limited opportunity to deal with all of these issues via a condition as there is tension at the front of the site resulting from the required driveway widening (as required by Council's traffic engineers), existing stormwater pit location and impact on the design of the waste storage room.

The application was notified and advertised for a period of 14 days and 31 submission were received objecting to the proposal. The principle issues raised were safety and security, character of the development within the R2 Low Density Zone, traffic safety and parking, access to public transport, overlooking and privacy of adjoining properties and the park.

Therefore, although the proposal is considered to be well designed and is supported by the DSAP with regards to the architectural merit and urban design of the development, the site is not considered suitable for a boarding house for the reasons outlined within this report and therefore the application is recommended for refusal due to the site not being suitable for the proposed development.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for the construction of a boarding house comprising of 12 boarding rooms and 1 managers room. Specifically, the proposed development consists of:

- Demolition of the existing dwelling and structures on the site;
- Construction of a 'new generation' style boarding house which includes 10 double rooms and 2 single rooms, comprising of the following:

- Ground floor Managers Accommodation, two accessible units and one standard unit each containing their own bathroom and kitchen;
 - Parking for 7 vehicles and 3 motorcycles, bin storage.
 - Common space, bicycle storage, common laundry and rear landscaped garden.
 - First floor consisting of nine (9) boarding rooms each containing their own bathroom and kitchen.
- New access driveway along the south-eastern boundary.
 - Landscape planting around the development.
 - 1.8m height open mesh boundary fencing and hardwood timber fencing (to allow climbers to create green fence).
 - Application accompanied by a Plan of Management.

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 - A.5 Objectives

Warringah Development Control Plan - B3 Side Boundary Envelope

Warringah Development Control Plan - C2 Traffic, Access and Safety

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - C6 Building over or adjacent to Constructed Council Drainage Easements

Warringah Development Control Plan - C9 Waste Management

Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

Warringah Development Control Plan - D8 Privacy

Warringah Development Control Plan - D20 Safety and Security

SITE DESCRIPTION

Property Description:	Lot 7 DP 36192 , 2 The Circle NARRAWEENA NSW 2099
Detailed Site Description:	The subject site consists of one (1) allotment located on the

north-eastern side of The Circle. The site also adjoins Beverly Job Park at the northern and western boundary.

The site is irregular in shape with a relatively narrow frontage of 10.755m along The Circle and a depth of 49.195m. The site has a surveyed area of 1032m².

The site is located within the R2 Low Density Residential zone and accommodates a single storey dwelling and associated outbuildings

The site has a moderate slope from the front boundary to the rear boundary, with an overall fall of approximately 3m across the site .

The site does not contain any significant canopy trees or endangered tree species. The site has low and medium height shrubs and trees along the eastern boundary. A drainage easement traverses the rear half of the site which contains a Council stormwater pipe.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by detached residential dwellings of one and two stories. Immediately to the east is a single storey dwelling. Immediately to the west is a public reserve, known as Beverly Job Park. This park contains playing fields and further away are tennis courts. There is public parking to service Beverly Job Park to the west of the site in the road reserve. Adjoining the site to the north-east is a residential dwelling and shed.

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:

PLM2021/0018 - Prelodgement meeting held with Northern Beaches Council for the construction of a boarding house on 23 February 2021.

Referral to Design Sustainability Advisory Panel (DSAP)

The application was referred to the DSAP on 29 April 2021 for advice regarding the urban design, architecture and sustainability of the development. The DSAP was supportive of the proposal and their comments and recommendations are provided below. The DSAP provided recommendations to further improve the development with regards to design and sustainability so the development could become an exemplar of a boarding house development with regards to sustainability. The recommendations were passed onto the application to consider incorporating the recommendations into the design.

However, the application is being progressed to the Local Planning Panel in its current form as from Council's point of view there is a fundamental issue with the suitability of the site for a boarding house and this would not be overcome by amending the design in accordance with the DSAP recommendations. At the time of writing this report, no further amendments have been received by the applicant in response to the DSAP recommendations.

Strategic context

The site is zoned R2 Low Density Residential under the Warringah LEP 2011 and the proposed development is permitted with consent in the R2 Low Density Residential Zone. The proposed development is also permitted within the zone pursuant to the SEPP (Affordable Rental Housing) 2009 and the applicant has made the application pursuant to the SEPP (Affordable Rental Housing) 2009.

Urban context: surrounding area character.

The surrounding area is low-density residential with a public park to the north. The design of the development is low scale, to fit within the residential context. The design and orientation will provide

good passive surveillance of the park.

Scale, built form and articulation,

The scale meets the height control requirements and the built form suits the area.

- Articulation could be improved by increasing the gaps between the buildings where the stairs are currently located, to provide the impression of separate buildings.
- Shuffling the building towards the north could also provide more space at the manager unit end to also increase space available for bins.
- Currently the roofs are angled towards the south west which is not ideal for PV orientation.
- The proposal incorporates 2 splits in the building that serves to break up what would otherwise be a repetitious form.
- The proposal complies with the minimum setbacks but the Panel recognises that the standard side and rear setback controls assume there will be adjacent dwellings. This is not applicable to this site, being adjoined by the park at the rear and to the north west.

Recommendations:

1. Optimise roof pitches for PV
2. Considered increased articulation of the building massing, by breaking the development into a number of 'paired' modules with larger and skewed or 'fanned' gaps between them and allowing for vegetation between

Landscape context, Façade treatment

Provision of a communal garden would improve the amenity for residents.

Landscaping around the bins provides good screening.

Recommendation:

3. Consider addition of a communal garden

Public domain: relationship to public domain, safety/security.

Access through the park will provide better connection to public transport. This could be provided by a simple gate in the fence, however the question of whether this provides legal access to satisfy the provision of the SEPP is for Council to determine.

We need to recognise and plan for the way people actually behave, rather than planning for the way we think they should behave. There is little doubt that if there is a short cut to a desirable destination then people will use it.

Recommendations

4. Provide a gate in the fence to enable easy access through the park.

Common areas

The common space design provides good amenity and landscaping. Could be improved by a communal garden plot, as mentioned above.

Sustainability and resilience

A lot of positive aspects of this development. A few simple additions to the sustainability strategy would

enable this project to be an exemplar project:

- Increase the PV provision as was discussed in the panel meeting, the roof pitches should be optimized. The Panel notes that the roofs are not oriented to the north. Further consideration needs to be given to how the PV panels will be fixed. The panels may not be integrated into the roof plane and in this case, some thought needs to be given to the visibility and overall appearance from the street.
- Reconsider some of the building materials to enable a net zero carbon approach. Particularly the driveway paving materials – permeable, recycled products, etc.
- Increase the bike parking spaces. 3 are noted in the application and there is currently only a very small space for bike parking. Space for at least half the residents should be allowed.
- Change to an all-electric approach – heat pump hot water, induction cooktops
- Provide ceiling fans to reduce the potential for residents to retrofit air conditioning units

Recommendations

5. Increase the PV provision
6. Given more consideration to roof orientation and how the PV panels will be fixed, their orientation and appearance.
7. Provide ceiling fans
8. Change to heat pump hot water and induction cooktops – remove gas
9. Increase the bike parking

Car parking

Increase bike parking to reduce reliance on car parking.

PANEL CONCLUSION

The Panel supports the proposal in its current form.

The Panel is of the view that the proposed development is well considered and demonstrates good design attributes. Following the recommendations above will enable the project to become an exemplar and has the potential to be a Net Zero Carbon project through reconsideration of the use of gas, and changes to some materials.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

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

Section 4.15 Matters for Consideration'	Comments
the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	<p><u>Assessment of Site Suitability for a boarding house</u></p> <p>The issue of site suitability is one of the fundamental issues for consideration for the assessment of this application. As explored later within this assessment report under the assessment against the State Environmental Planning Policy (SEPPARH), Council's position is that the site is not within the 'accessible area' as defined under the SEPPARH.</p> <p>The definition of 'walking distance' within the SEPPARH means <i>'the shortest distance between 2 points measured along a route that may be safely walked by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings'</i>.</p> <p>The applicant submits that the site is within 400m of a bus stop and this is achieved by traversing a distance of approximately 60m from the rear boundary of the site across the grassy public reserve in an easterly direction, before crossing to the eastern site of Victor Road, to then walk in a northern direction along the public footpath on the eastern side of Victor Road to obtain access to the bus stop on McIntosh Street, a total distance of 335m. The applicant also submits that alternatively, a resident of the boarding house could traverse the grassed public reserve in a northern directly from the subject site which would be a distance of 323m to a bus stop on McIntosh Street, with almost the entirety of this journey taken across the grassed public reserve.</p> <p>Council's position is that the route provided by the applicant to access the bus stop within 400m is not in accordance with the definition of 'walking distance' (as defined by the ARHSEPP) as there is no public footpaths through Beverly Job Park and there is no pedestrian crossing/island when crossing Victor Road. Council's parks and reserves team have confirmed that the construction of a public footpath through Beverly Job Park to service a private development would not be acceptable to remedy the situation. The route which is considered to meet the definition of 'walking distance' distance by following public roads and footpaths (not all of this route having a footpath either) is 500m to the Bus Stop on McIntosh Road.</p> <p>Therefore, Council considers that the site is outside the deemed 'accessible area' as defined by the SEPPARH. However, as boarding houses are</p>

Section 4.15 Matters for Consideration'	Comments
	<p>permitted with consent in R2 Low Density Residential Zone under the Warringah LEP 2011, the proposed development can be considered on a merits basis with regards to site suitability against the provisions of the Warringah LEP 2011 and Warringah DCP, even though it is outside the 'accessible area' as defined by the SEPPARH. The Warringah DCP is silent on what is a reasonable distance for access to a bus stop for a boarding house development. However, the most relevant section of the WDCP are the objectives contained in A.5 WDCP which is for development in the LGA 'To provide a high level of access to and within development' and controls D18 and D20 WDCP.</p> <p>The issue of site suitability in the context of the above objective in considering site suitability for a boarding house under the Warringah DCP was examined in the case <i>Mckavanagh v Northern Beaches Council [2020] NSWLEC 1662</i> for a nearby site at 22 Redman Road, Dee Why (approximately 300m east of the subject site). In that case the nearest bus stop was 420m away from the subject site, however to access the bus stop it was required that residents of the proposed boarding house negotiate a flight of 71 stairs to then gain access to that bus stop and the Dee Why Town Centre. In that case, it was examined what a 'high level of access to development' means in relation to a boarding house development. The Commissioner states in Paragraph 32 of the judgement that <i>'because the proposed development is a boarding house I give more weight to pedestrian accessibility when assessing the suitability of the site'</i> in which it is considered that a boarding house provides a form of low cost accommodation in which the residents may not all have access to private cars (and due a parking rate of 1 space per 2 rooms applying to the development).</p> <p>Furthermore, no assumptions can be made as to the physical ability of the residents of the boarding house which could be varied and may include a proportion of disabled residents who may require wheelchair access to and from the site. It was argued by the Council in that case that <i>"a high level of access suggests suitable pedestrian access for a broad range of uses, not only by person without any mobility issues and who are in good health, a high level of access suggests at least that access by means of electric wheelchair, motorised cart or the like is afforded to cater for person who may not be in good physical health or may have a mobility impairment, whether it be permanent or intermittent"</i> (paragraph 26 of the Judgement).</p> <p>The same rational and conclusion is applied to the subject site at 2 The Circle Narraweena, that for it to be assumed that all residents of the boarding house can easily walk across a grassed public reserve, which is unlit and has no public footpath, would not constitute a 'high level of access' between the development site and the bus stop at McIntosh Road. To take an alternate route that did not traverse the grassy public reserve would result in a distance of 500m to the bus stop on McIntosh Road and in excess of the defined 'accessible area' under the SEPPARH.</p> <p>The proposed development is inconsistent with the objectives of the Warringah DCP which requires a 'high level of access' to the site of the proposed development and therefore the site is not considered suitable for a boarding house development given the proposed method of access and walking</p>

Section 4.15 Matters for Consideration'	Comments
	distance to the nearest bus stop The application is recommended for refusal as the site is not 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	This assessment has found the proposal to be contrary to the relevant requirement to provide a 'high level of access' for developments (in this case a boarding house development) and will result in a development which will create an undesirable precedent such that it would undermine the desired site suitability for this kind of development and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be 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 07/04/2021 to 21/04/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 31 submission/s from:

Name:	Address:
Mr David Peter Michael Higgins	66 Victor Road NARRAWEENA NSW 2099
Mr Mark John Phillips	6 The Circle NARRAWEENA NSW 2099
Ms Kelly Anne Doolan	8 Federation Place FRENCHS FOREST NSW 2086
Sharman Mary Walker	2 Landy Place BEACON HILL NSW 2100
Mrs Michelle Bagnato	137 Alfred Street NARRAWEENA NSW 2099
Mrs Sarah Rebecca Silver	4 Dela Close DEE WHY NSW 2099
Mrs Jennifer Hartigan	44 Alamein Avenue NARRAWEENA NSW 2099
Mr Christopher Mena Mikhail	49 / 4 - 16 Kingsway DEE WHY NSW 2099
Maxime Peter	88 Parr Parade NARRAWEENA NSW 2099
Mrs Sarah Brooke Johns	2 / 10 a Greenwood Avenue NARRAWEENA NSW 2099
Withheld Hye Kim	NARRAWEENA NSW 2099

Name:	Address:
Withheld Hye Kim	NARRAWEENA NSW 2099
Mr Xiao Kun Lin	8 The Circle NARRAWEENA NSW 2099
Aileen San Pedro Dimalanta	C/- JDH Real Estate PO Box 3067 ALLAMBIE HEIGHTS NSW 2100
Sonia Vumbaca	77 Edward Street NARRAWEENA NSW 2099
Mr Cheyne	Oceana Street NARRAWEENA NSW 2099
Mr Michael Anthony Roland King	15 The Circle NARRAWEENA NSW 2099
Nicholas John Trumbull	34 The Circle NARRAWEENA NSW 2099
Ms Annika Jean Martz	2 Ada Street CREMORNE NSW 2090
Wendy Dong	28 The Circle NARRAWEENA NSW 2099
Ms Lai Hing Irene Chan	C/- Granny Flat Solutions Pty Ltd 20/7 Sefton Road THORNLEIGH NSW 2120
Feng Lin	Address Unknown
Mauren Yohanna Vela Pinzon	6 The Circle NARRAWEENA NSW 2099
Mr Nicola Pascuzzo	Suite 5, Level 1, 319 Condamine Street MANLY VALE NSW 2093
Mr Russell William McNamara	78 A Victor Road NARRAWEENA NSW 2099
Rachel Monteiro	32A The Circle NARRAWEENA NSW 2099
Mrs Sam Gilmour	4 The Circle NARRAWEENA NSW 2099
Mrs Vicki Elizabeth Carden	27 The Circle NARRAWEENA NSW 2099
Anonymous	N/A
Mrs Elizabeth Davina Wickins	23 / 40 The Crescent DEE WHY NSW 2099
Ms Jodie Suzanne Lynch	C/- Premier Pools Pty Ltd PO Box 173 LINDFIELD NSW 2070
Tom Atkinson	Address Unknown

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

- Safety and security concerns with regards to the demographic of residents that would occupy the boarding house development.
- Impact of visual privacy and overlooking of the adjoining properties.
- Impact of overlooking upon the adjoining public reserve Beverly Job Park.
- Insufficient parking
- Traffic safety concerns due to the location on the driveway at the bend in the street.
- The proposed development is out of character for the R2 Low Density Zone and out of character with the community.
- The site is not suitable for a boarding house given the distance to the nearest bus stop, proximity to the Dee Why Town Centre. The Northern Beaches Local Housing Strategic identifies site within 400m of the Dee Why Town centre suitable for a boarding house and the subject land falls outside of this.

The matters raised within the submissions are addressed as follows:

- *Safety and security concerns with regards to the demographic of residents that would occupy the boarding house development.*

Comment:

The issue of occupancy and who may accommodate the boarding house is not a relevant matter for consideration under Section 4.15 of the EP&A Act 1979. Similarly, the issue raised regarding safety of children walking to school is also not a matter for consideration under Section 4.15 of the EP&A Act 1979 as the land use is permissible in the R2 Low Density Residential zone. Whilst the residents concerns are noted, this issue does not have determining weight for the application as the use is permissible within the zone.

- *Impact of visual privacy and overlooking of the adjoining properties.*

Comment:

An assessment against the visual privacy controls and overlooking is undertaken later within this assessment report. The proposed development is considered to be designed to prevent direct overlooking of adjoining properties and will not result in unreasonable direct overlooking impacts resulting from the design of the building.

- *Impact of overlooking upon the adjoining public reserve Beverly Job Park.*

Comment:

A large number of the objections raised concern regarding overlooking of the adjoining public reserve, which is used by a variety of residents of the community for public recreation purposes. These concerns also tied in with the demographic of the residents which may occupy the boarding house and concerns around safety and security. The DSAP was supportive of the orientation of the development towards the park with regards to an urban design outcome which provides further activation of the public reserve and would provide an outlook for residents of the boarding house that would result in a high level of amenity. It is noted that this park is a public reserve and is not inherently a private space, which would ordinarily be a consideration when orientation a development towards a private backyard. The issue of overlooking the park does not have determining weight for the application and it is considered benefit of the design to afford amenity for the residents and increase passive surveillance of the park in accordance with the Principles of Crime Prevention Through Environmental Design.

- *Insufficient car parking*

Comment:

An assessment against the applicable parking rate for boarding houses is carried out later within this report and the proposal provides a compliant rate of parking. However, given the proposed development site exceeds the walking distance to a bus stop under the SEPPARH development of this site for the purpose of a boarding house in this particular location could create more demand for parking given it is not within an 'accessible area' as defined under the SEPPARH. This issue of site suitability is explored in more detail later within this report where it is found that the site is not suitable for a boarding house given the proximity to the nearest bus stop.

- *Traffic safety concerns due to the location on the driveway at the bend in the street.*

Comment:

Concerns have been raised regarding the volume of traffic entering and existing the site which could create a traffic safety concern given the location of the driveway at the bend of the curve. To remedy this and ensure vehicles are not waiting on the bend to enter the site, Council's traffic engineer recommends a condition of consent be imposed to widen the driveway to 5.5m for the first 6m of the driveway to allow a waiting area for vehicles entering and existing the site. Should consent be granted to this application, this condition should be imposed to ensure this

arrangement is provided for the site.

- *The proposed development is out of character for the R2 Low Density Zone and out of character with the community.*

Comment:

Development for the purpose of a boarding house is a permitted use within the R2 Low Density Residential Zone under the Warringah LEP 2011 and therefore, this style of development is anticipated under the local planning controls. The character of the building form was considered in detail by the DSAP and was supported with regards to the urban design and architectural outcome of the site. Furthermore, an assessment against the planning principles set out in *Project Venture Developments v Pittwater Council (2005) NSWLEC 191* with regards to character of the local area is undertaken later within this assessment report where the proposal is found to be consistent with the planning principle.

- *The site is not suitable for a boarding house given the distance to the nearest bus stop. The Northern Beaches Local Housing Strategic identifies that this style of development should be centered around 800m radius from the Dee Why Town Centre and the subject site falls outside this radius.*

Comment:

It is agreed that the site is not suitable for the purpose of a boarding house due to an inadequate walking distance to the nearest bus stop. This issue is detailed elsewhere within this assessment report and is a reason for refusal of the application.

The Northern Beaches Local Housing Strategy document informs the consideration of future planning controls and changes to permissibly, including the location of boarding houses. At this stage, the LHS does not have any statutory weight and the current planning controls contained within the SEPPARH and WLEP 2011/WDCP are the controls which must be considered in the assessment of the application. However, it is acknowledged that the Local Housing Strategy informs the desired future outcome and location for this kind of development, which is to provide boarding houses in areas that are within close proximity to public transport and town centers. A review of this document shows the subject site right on the edge of this radius, as shown in Figure 26 of the LHS. However, it is still considered the proposed development does not meet the current planning controls under the SEPPARH and the objective of the WDCP 'to provide a high level of access to development' and is therefore recommended for refusal based on the current planning controls.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<u>Supported</u> The application was referred to the DSAP on 29 April 2021 for advice regarding the urban design, architecture and sustainability of the development. The DSAP was supportive of the proposal and their comments are addressed in the site history above.
Landscape Officer	<u>Supported subject to conditions</u>

Internal Referral Body	Comments
	<p>This application is for the demolition of an existing residential dwelling, and the construction of a new boarding house development, comprising of twelve individual units and an additional managers accommodation.</p> <p>Councils Landscape Referral section has considered the application against the following relevant controls and policies:</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Affordable Rental Housing) 2009, • Warringah Local Environment Plan 2011, • Warringah Development Control Plan 2011 - <i>D1 Landscaped Open Space</i>; and <i>E1 Preservation of Trees or Bushland Vegetation</i>. <p>A Landscape Plan is provided with the application and proposed works the in-ground planting of trees, shrubs, grasses and groundcovers, as well as the on-slab planting of shrubs, grasses and groundcovers.</p> <p>With regards to landscape and its relationship to the State Environmental Planning Policy (Affordable Rental Housing) 2009, the key criteria to be assessed is <i>Clause 30A - Character of Local Area</i>. This clause seeks to ensure the development is compatible with the character of the local area, with particular emphasis on the front setback, ensuring it is consistent and complimentary to the existing streetscape. The proposal seeks to plant a variety of palms, low shrubs, grasses and groundcovers within the front setback which is viewed as a positive addition to the streetscape, as the existing site as it stands is largely clear of trees and shrubs, with landscape areas typically turfed. It is also noted the front fence has been offset 500mm from the boundary line, allowing for additional planting at the front of the site. This provides a layered planting approach, providing effective built form softening, which is a positive outcome for both the State Environmental Planning Policy, as well as control D1 of the Warringah DCP.</p> <p>The Arboricultural Impact Assessment provided with the application notes a total of twenty three trees have been identified within close proximity to the site. Ten of these trees are either located in adjoining properties, the nature reserve to the north and west, as well as the road reserve and are proposed to be retained. The remaining thirteen trees identified are located within the site boundaries. Of the thirteen trees within the site, all are proposed for removal. It is worth noting that eleven of these trees have been identified as either exempt species, or are below 5m in height, and therefore do not require Council's approval prior to removal. The remaining two trees proposed for removal have been identified as Trees No. 4 and 12.</p> <p>Tree No. 4 is located towards the rear of the property adjacent to the</p>

Internal Referral Body	Comments
	<p>northern boundary. Tree No. 4 has been identified as having a low landscape retention value, and is also in poor health. As evident on the Landscape Plans provided, substantial tree planting has been proposed which adequately compensates the removal of this tree. For this reason, the Arborists recommendations for removal are supported. Tree No. 12 is located adjacent to the eastern boundary within close proximity to the existing driveway. Similarly to Tree No. 4, Tree No. 12 has a low landscape retention value and is in poor health. The removal of Tree No. 12 in accordance with the Arboricultural Impact Assessment is supported.</p> <p>Concern is raised in relation to some trees noted as retained. Of the ten trees noted for retention, five trees are clear of the proposed works and have no encroachment within the Tree Protection Zones (TPZ) and Structural Root Zones (SRZ). The remaining five trees to be retained experience varied levels of encroachment, both within the TPZ and SRZ. Tree No. 18 has been identified as having a TPZ encroachment of 5%, with no impacts expected to the SRZ. This is deemed a safe encroachment level, and the long term health of this tree is not expected to decline subject to typical tree protection measures as outlined in the Arboricultural Impact Statement. Tree No. 17 has a TPZ encroachment of 11%, which is deemed as a major encroachment in accordance with AS4970. That being said, it is noted that the existing residential dwelling on the site currently is within this TPZ, and the additional works as part of the development are in increase of only 3.8%. Although this increase is minor, it is necessary for a tree root investigation to occur, ensuring the proposed works do not have significant impacts on the long term health of the tree. The remaining three trees retained, Trees No. 6A, 6B and 7A, have a TPZ encroachment of 5.4%, 22.3% and 39% respectively. In addition, proposed works are also located within the SRZ of these trees, and in accordance with AS4970, these encroachments are identified as being major and require further investigation. It is therefore recommended that a tree root investigation take place, identifying the extent of roots and the likely impact of the proposed development. The retention of all trees in adjoining properties, the nature reserve to the north and west, as well as the road reserve is vital to satisfy control E1, as key objectives include "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide", as well as "to effectively manage the risks that come with an established urban forest through professional management of trees".</p> <p>The proposed Landscape Plans indicate the substantial planting of trees is to take place within the site, with trees largely located at the rear of the property, as well as on side boundaries between the neighbouring property to the east as well as the reserve to the west. These trees, alongside additional screening vegetation, provide increased privacy which is particularly important as the proposed development is sited adjacent to public open space. It is noted that the proposal has a total landscape area of 33.7%, which is below the 40% requirement, on merit it is deemed acceptable as the proposal satisfies the State Environmental Planning Policy, and the broader</p>

Internal Referral Body	Comments
	<p>landscape works are seen as a positive outcome for a relatively clear existing site. The completion of landscape works as proposed on the Landscape Plans is therefore required in order to satisfy control D1, as key objectives include "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 sale of the building", "to enhance privacy between buildings", as well as "to enable planting to maintain and enhance the streetscape".</p> <p>The landscape component of the proposal is therefore acceptable subject to the protection of existing trees, and the completion of landscape works as proposed on the Landscape Plans.</p>
NECC (Development Engineering)	<p><u>Not supported</u></p> <p>The subject site appears to be burdened by a Council drainage easement that traverses the rear of the site. Council's records indicate that there is a stormwater pipeline that traverses the site diagonally from the existing stormwater pit in The Circle to a pit in the reserve at the rear of the site. In this regard, the applicant is required to demonstrate compliance with Council's Water Management Policy Clause 6.1. This consists of accurately locating, confirming dimensions and plotting Council's stormwater pipelines and associated infrastructure to scale on the DA plans which show the proposed works. This should be carried out by a service locating contractor and registered surveyor. (The applicant will need to provide evidence of the methodology used for locating). A plan outlining the indicative locations of Council's stormwater infrastructure is available from Council's website. Northern Beaches Council has public stormwater drainage maps online. Please follow the relevant link below and select the 'Stormwater' map from the 'No Overlay Map' drop down menu. You can then search by address and use the zoom functionality to see pipe diameters and asset id numbers. https://services.northernbeaches.nsw.gov.au/icongis/index.html</p> <p>The proposed driveway crossing must be relocated a minimum of 1 metre from the existing Council pit in The Circle to ensure future vehicle movements do not impact this infrastructure. It is noted that Council's Traffic Engineer requires a minimum 5.5 metre wide crossing which is to extend a minimum of 6 metres into the property. It is considered a revised design incorporating these requirements must be submitted for assessment. Council's standard drawing A4/3330/1 Normal must be used for the driveway crossing with internal transitions in accordance with AS/NZS2890.1:2004.</p> <p>The submitted drainage design is satisfactory subject to conditions.</p> <p>Development Engineers cannot support the application due to insufficient information to address clauses C2 and C6 of Warringah DCP.</p>
NECC (Stormwater and	<u>Supported subject to conditions</u>

Internal Referral Body	Comments
Floodplain Engineering – Flood risk)	<p>From the Dee Why South Catchment Flood Study, the north-western corner of the property is affected by the 1% AEP flood event, and there is some overland flow through the property (<0.15m depth in the 1% AEP event) from the sag in The Circle roadway.</p> <p>A freeboard of 0.3m is permitted due to depths being less than 0.3m as well as VD products being less than 0.3m²/s.</p> <p>The Flood Planning Level, from the rear of the property, is 64.45m AHD.</p> <p>Floor levels are above the Flood Planning Level, and available flood storage has not been reduced below the 1% AEP flood level.</p> <p>The proposed development generally complies with Council's flood related development controls.</p>
Parks, reserves, beaches, foreshore	<p><u>Supported subject to conditions</u></p> <p>The application is for the demolition of an existing residential dwelling, and the construction of a new boarding house development, comprising of twelve individual units and an additional managers accommodation.</p> <p>Council's Parks Referral staff have assessed the proposal against the following Warringah DCP Controls:</p> <ul style="list-style-type: none"> • C5 Erosion and Sedimentation • C8 Demolition and Construction • E7 Development on Land Adjoining Public Open Space <p>The site adjoins Beverley Job Park located downslope of the development site. During the works surface sediment runoff and/or erosion is to be controlled, managed and contained to the immediate downslope of the works area and obstruct from entering the public reserve downslope.</p> <p>No encroachments are permitted upon public land and all works shall be confined within the legal boundaries.</p> <p>Parks Referral consider that the proposal does not impact upon the existing recreational use and enjoyment of the adjoining land, and no objections are raised subject to the protection of public assets.</p>
Strategic and Place Planning (Urban Design)	<p><u>Supported with no conditions</u></p> <p>The proposed development application is for the demolition of an existing residential dwelling and the construction of a new 12 room boarding house including manager's accommodation.</p> <p>The application is considered against the following relevant controls and policies, namely;</p> <ul style="list-style-type: none"> - State Environmental Planning Policy - Affordable Rental Housing (SEPP ARH) 2009, <i>cl. 30 A Character of Local Area</i> <i>cl. 29(2)(c) Solar Access</i> <i>cl. 29(2)(d) Private Open Space</i>

Internal Referral Body	Comments
	<p>- Warringah Local Environment Plan (WLEP) 2011 <i>cl.4.3 Height of Buildings</i></p> <p>- Warringah Development Control Plan (WDCP) 2011 <i>E7 Development on Land Adjoining Public Open Space</i></p> <p>Background The proposed development was subject to a pre-lodgement meeting (PLM2021/0018) held with Council on 23 February 2021 to discuss preliminary issues associated with the proposed development. Urban Design pre-lodgement advice sought clarification on several design issues and further information required to be addressed prior to lodgement of further development applications.</p> <p>SEPP ARH cl. 30 A Character of Local Area The development application is considered against cl. 30A Character of Local Area. The proposed site is located at a junction between R2 low density residential and public open space, namely Beverly Job Park in Narraweena. The site planning strategy is such that amenity impacts to the residential neighbouring property to the east boundary have been minimised. Similarly, the treatment of the front setback zone, treatment of elevation and material selections assists the reading of the development in the context of the R2 zone in that the facade treatments break down the scale and bulk of the development. This along with the residential type roof form and general elevational articulation and material distribution across the development sits comfortably within the character of the local area and general R2 zone. As such the proposal is considered reasonable within the context and can be supported.</p> <p>SEPP ARH cl. 29(2)(c) Solar Access The shadow diagrams submitted with the application demonstrate adequate solar access can be achieved to the neighbouring residential property to the east, with only 1 hour approximately of overshadowing to the private open space. The site planning is generally well considered, with orientation optimised to provide the best achievable solar amenity outcomes across the site, pushing the bulk of the development away from the neighbouring property and toward the public open space boundary alignment. This site strategy is considered to be an optimal outcome for the site and unique context.</p> <p>SEPP ARH cl. 29(2)(d) Private Open Space The proposed development sits within a residential zone adjacent a heavily vegetated public open space. The site planning strategy is considered to have optimised the outcomes for the private open space, directing the main area in closest proximity to the public open space and away from the adjacency residential neighbouring property, 4 The Circle. Located in the northern sector of the site the communal open space is considered adequate to address the needs and amenity of the occupants in accordance the SEPP requirements. Similarly the manager's private open space provides sufficient space as required under SEPP ARH></p>

Internal Referral Body	Comments
	<p>WDCP 2011 - E7 Development on Land Adjoining Public Open Space</p> <p>The unique location gives cause to consider the locality and context of place. The proposed development, at two storeys and under the WLEP Height of buildings development standards, brackets and bookends the public open space and sits within a heavily vegetated fringe location of the public park.</p> <p>The proposal at two storeys with its varied and articulated elevational treatment and abstracted residential roof forms and landscape planning sits well within the R2 zone. The advantage of the open space adjacency does have the effect of a perceived reduction on the mass and scale of the development. Additionally there is significant existing mature tree coverage sufficient to mitigate any impacts of the building when viewed from a public place, namely Beverly Job Park.</p> <p>Summary</p> <p>Generally the development is assessed as providing an orderly and appropriately scaled development commensurate with the site locality which has also considered the adjacent residential R2 zone and open space context. The proposal is generally supported.</p>
Traffic Engineer	<p><u>Supported subject to conditions</u></p> <p>The proposed development comprises of the demolition of the existing building and construction of a 12 room plus a manager's room boarding house. The proposal includes the provision of 7 parking spaces, 3 motorcycles spaces and 3 bicycle spaces. Parking is proposed to be accessed by a combined ingress/egress driveway located in a similar position to the existing driveway on The Circle frontage.</p> <p>The proposed additional traffic generation is not considered to have significant impact on the road network.</p> <p>The proposed parking provision satisfies the parking requirements. The parking spaces/area are to be in compliance with Australian Standards AS2890. The bicycle spaces are to be provided at a security level of high to medium.</p> <p>Given the proposed site being located on a bend, the provision of a waiting bay with the minimum width of 5.5m at the first 6m of the driveway will be required.</p> <p>Given the above, the proposal can be supported subject to conditions.</p>
Waste Officer	<p><u>Not supported</u></p> <p>This proposal does not comply with Council's waste management design guidelines. To comply with Council's design guidelines the following requirements must be met.</p> <p>Specifically:</p>

Internal Referral Body	Comments
	<p>Residential waste storage room design and access</p> <p>The external Waste Storage Area does not appear to have a roof. An external Waste Storage Area must: a) Have a minimum wall height of 1600mm. b) Be roofed with a minimum ceiling height of 2100mm throughout and clear of any obstructions. Please provide Council with detailed plan and section showing the roof on the Waste Storage Area.</p> <p>The width inside the Waste Storage Area provided for the bank of 6 bins must be a minimum of 3600mm. The width to accommodate the 6 bins is approximately 140mm short.</p> <p>Please advise why is there infrastructure (store) in the waste storage area? If the store must remain, the store must be relocated to other end of the bin enclosure as the doors swing out over the entry, obstructing access to service the bins.</p>

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated.

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

SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 3: Boarding houses

General Comment:

The applicant has advised within the Statement of Environmental Effects that the application is made pursuant to the SEPPARH which permits boarding houses within the R2 Low Density Zone under Clause 26. It is noted that boarding houses are also permitted within the R2 Low Density Zone under the Warringah LEP 2011 and the application could also be made pursuant to the Warringah LEP 2011.

Clause 27 of SEPPARH provides that Division 3 applies to development on land within the R2 Zone for the purpose of boarding houses. However, pursuant to Clause 27(3), clauses 29, 30 and 30A do not apply to development on land within the R2 Low Density Residential Zone unless the land is within an 'accessible area'. The definition of an 'accessible area' under the SEPP is as follows:

Accessible area means land that is within:

(c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.

'Walking distance' is defined within the SEPPARH as meaning *'the shortest distance between 2 points measured along a route that may be safely walked by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings.'*

The applicant submits that the site is within 400m of a bus stop and this is achieved by traversing a distance of approximately 60m from the rear boundary of the site across the grassy public reserve in an easterly direction, before crossing to the eastern site of Victor Road, to then walk in a northern direction along the public footpath on the eastern side of Victor Road to obtain access to the bus stop on McIntosh Street, a total distance of 335m. The applicant also submits that alternatively, a resident of the boarding house could traverse the grassed public reserve in a northern directly from the subject site which would be a distance of 323m to a bus stop on McIntosh Street, with almost the entirety of this journey taken across the grassed public reserve.

Council's position is that the route provided by the applicant to access the bus stop is not in accordance with the definition of 'walking distance' as there is no public footpaths through Beverly Job Park and there is no pedestrian crossing/island when crossing Victor Road. Council's parks and reserves team have confirmed that the construction of a public footpath through Beverly Job Park to service a private development would not be acceptable to remedy the situation. Furthermore, the requirement to cross

the public reserve is not considered a safe route as the public reserve has no lighting and could be affected by variable weather conditions. The route which is considered to meet the definition of 'walking distance' by following public roads and footpaths (not all of the route has a footpath) is 500m to the Bus Stop on McIntosh Road.

The fact that the development is not within the 'accessible area' as defined under the SEPPARH does not mean that the development is unable to be considered under the SEPPARH or become prohibited, rather, as per Clause 27(3) it has the effect of making Clauses 29, 30 and 30A not apply to the development. As the proposed development is not considered to be within an 'accessible area' under the SEPPARH and Clauses 29, 30 and 30A not applying, the proposal is to be considered against the planning controls under the Warringah LEP and Warringah DCP. It is noted that Clause 30AA continues to apply to the development which places a limit of 12 boarding rooms on a boarding house within the R2 Zone.

As the subject site is outside of the 'accessible area' as defined by the SEPP, the suitability of the site with regards to access to public transport and services is to be considered under the Warringah DCP, Warringah LEP and 4.15(1)(c) site suitability as outlined earlier in this assessment report. The assessment as detailed earlier within this report concludes that the site is not suitable for a boarding house due to the required walking distance to the nearest bus stop (which is in excess of 400m walking distance as defined by the SEPPARH).

As the applicant has submitted the application pursuant to the SEPPARH, an assessment is carried out anyhow against each control within Division 3 below.

Clause 25: Definition

For the purposes of this Division, the Standard Instrument defines a 'boarding house' as a building that:

*"(a) is wholly or partly let in lodgings, and
(b) provides lodgers with a principal place of residence for 3 months or more, and
(c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
(d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment".

In this Division 'communal living room' means *"a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room".*

Clause 26: Land to which this Division applies

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone B1 Neighbourhood Centre, or (f) Zone B2 Local Centre, or	Consistent The site is located within the R2 Low Density Residential and, as such, the proposed use is permissible with consent under WLEP 2011.

(g) Zone B4 Mixed Use.

Clause 27: Development to which this Division applies

(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.

Requirement	Comment
<p>(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.</p> <p>Note: Accessible area means land that is within:</p> <p>(c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</p> <p>'Walking distance' is defined within the SEPPARH as meaning <i>'the shortest distance between 2 points measured along a route that may be safely walked by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings.'</i></p>	<p>Inconsistent</p> <p>The site is located with the R2 Low Density Residential and is situated more than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</p> <p>This has been included as a reason for refusal and is discussed in detail elsewhere within this report.</p>
<p>(3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.</p>	<p>Not applicable.</p> <p>The site is located within the Sydney region.</p>

Clause 28: Development may be carried out with consent

Requirement	Comment
<p>Development to which this Division applies may be carried out with consent.</p>	<p>The development constitutes the construction of a boarding house, as defined by the Standard Instrument. Therefore, the development may be considered under this Division of the SEPP as development which may be carried out with consent.</p>

Clause 29: Standards that cannot be used to refuse consent

Standard	Requirement	Proposed	Compliant/Comment
(1) Density and scale A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:	(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	No FSR control for the site.	Not applicable
	(b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or	No FSR control for the site.	Not applicable
	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus: (i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.	No FSR control for the site.	Not applicable
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:			
(a) building height	if the building height of all proposed buildings is not more than the maximum building	Maximum 8.5m	Compliant

	height permitted under another environmental planning instrument for any building on the land,		
(b) landscaped area	if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	Three canopy trees, along with low and medium height vegetation are provided within the front setback area. The proposal does not result in the removal of any significant canopy trees within the front setback which would result in the landscaped character of the street being fundamentally changed.	Consistent
(c) solar access	where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	The communal living room receives a minimum of 3 hours.	Consistent
(d) private open space	<p>if at least the following private open space areas are provided (other than the front setback area):</p> <p>(i) one area of at least 20m² with a minimum dimension of 3.0m is provided for the use of the lodgers,</p> <p>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8.0m² with a minimum dimension of 2.5m is provided adjacent to that accommodation,</p>	<p>An area exceeding 20sqm and 3m dimension is provide within the rear setback for the lodgers.</p> <p>The boarding house manager has a 10sqm area directly adjoining their room that has minimum 3m dimensions.</p>	Compliant
(e) parking	<p>if:</p> <p>(i) in the case of development carried out</p>	A total of 6 spaces are provided for a total of 12 boarding rooms, plus 1 space for the manager.	Compliant

	<p>by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>		
(f) accommodation size	<p>if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16 square metres in any other case.</p>	The rooms are compliant with the minimum sizes.	Compliant
	(3) A boarding house	Each room has a	Compliant

	may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	private bathroom and kitchen	
	(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	The proposal is consistent with the requirements for subclause 1 and 2.	Consistent

Clause 30: Standards for boarding houses

Standard requirement	Proposed	Compliant/Comment
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	One communal living space is provided	Compliant
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25m ² ,	All rooms are under 25sqm excluding kitchen and bathroom facilities.	Compliant
(c) no boarding room will be occupied by more than 2 adult lodgers,	Should consent be granted, a condition could be imposed.	Compliant
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Each room has a private bathroom and kitchen	Consistent
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	The boarding house has capacity for 22 residents (10 double occupancy and 2 single occupancy rooms) and a boarding house manager room is provided	Consistent
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes	Not applicable	Not applicable

unless another environmental planning instrument permits such a use,		
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	An area is provide that will allow a minimum of three bicycles. Three motorcycle parking spaces are provided.	Compliant
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	Not applicable	Not applicable

Clause 30AA: Boarding houses in Zone R2 Low Density Residential

A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.

Comment:

The subject site is zoned R2 Low Density Residential. The proposed development provides 12 boarding rooms and compliant with the control. One managers room is provided, however this does not contribute to the 12 boarding room limit.

Clause 30A: Character of the local area

The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 and *Project Venture Developments v Pittwater Council (2005)* NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. The following provides an assessment against the Planning Principles established in those two cases.

In the case of *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 Senior Commissioner Roseth developed the following Planning Principles:

- *The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the major reason for conservation.*

Comment:

The surrounding character is predominately single storey with some double storey dwellings which is the typical character of the low density residential setting with an 8.5m height limit. The proposed development is two stories and within the height limit, comparable in height other two storey dwellings in the vicinity of the site. The front elevation of the building presents as 5.6m in height, with the skillion roof projecting away from the front boundary to limit scale presenting to the street. The two storey form is will articulated throughout to provide visual interest and break up the building bulk as viewed from all elevations. Setbacks are provided in accordance with the same controls applying to a dwelling house.

In this regard, it is considered that the scale of the development is compatible with the streetscape and consistent with the first principle.

- *The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.*

Comment:

The proposal provides an articulated roof form across the whole first floor level, with two gaps between the upper floor modules to break up the continued massing of the building as viewed from the side elevations. The balcony treatments along the western edge of the building reduce the solid facade elements presenting to the park and give the building facade further articulation. Landscaping is provided in planter boxes adjoining the southern and eastern edge of the building. The recommendation of the DSAP is that landscape planting could also be provided between Units 5 and 6, and units 10 and 11 to further break up the building bulk, however in general the landscape treatment was supported.

In this regard, the development is considered to be compatible with the scale of surrounding development and consistent with the second principle.

- *The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.*

Comment:

There are no distinct landscape or topographic features of the site that would be required to be preserved to retain the character of the locality. The applicant has provided a landscape plan which provides a variety of plant species around the perimeter of the building to soften the development as viewed from each elevation and enhance the landscape setting of the locality.

In this regard, it is considered that effective methods have been employed in the design of the development to reduce its visual dominance and is consistent with the third principle.

- *The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity.*

Comment:

There is no distinct pattern of building materials that have been used in the vicinity of the site, apart from brick facade which is a result of the age and style of houses. There are examples of recently constructed two storey dwellings with rendered brick facade, face brickwork and cladding, all typical building materials for a low density setting. The proposed development has incorporated a modular building structure upon the first floor consisting of laminated timber or concrete construction which is considered to provide an appropriate transition between the adjoining public park and residential dwellings. The building materials chosen are considered sympathetic to the environment and

representative of contemporary architecture which contributes to the varied typologies of dwellings in the area.

In this regard, the development is considered to be consistent with the fourth principle.

The above principles were further developed in *Project Venture Developments v Pittwater Council* (2005) NSWLEC 191 to include the following:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Comment:

The physical impacts of the development on surrounding properties are assessed as consisting of constraints on the development potential of surrounding sites, privacy, overshadowing and noise.

Constraints on the development potential of surrounding sites

The proposal does not unreasonably constrain adjoining sites with regards to solar access, vehicular access, privacy or views.

Privacy

As discussed later within this report, the proposed development does not result in unreasonable overlooking or privacy impacts.

Overshadowing

The adjoining property to the east will retain solar access in accordance with the DCP controls.

Noise

The proposed development is not considered to give rise to unreasonable noise, beyond what would be expected in a residential context. A Plan of Management has been provided which includes noise mitigation strategies and it would be required to be adhered to as a condition of consent, should consent be granted.

Conclusion to character assessment

The above character assessment has found that, in the context of the Land and Environment Court Planning Principles, the proposal is compatible with the character of the local area and surrounding wider locality.

This matter would not warrant the refusal of the Development Application.

Conclusion

Although it is Council's position that Clauses 29, 30 and 30A do not apply to the subject development as it is outside the 'accessible area' as defined by the SEPPARH, the proposed development has demonstrated consistency with the controls contained within these clauses.

A detailed discussion regarding the merits of the suitability of the site and access to transport services is undertaken elsewhere within this report under the considerations of the Warringah LEP and

Warringah DCP.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1185336M dated 19 March 2021).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	45

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

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	8.4m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.2m	N/A	Yes
B3 Side Boundary Envelope	4m West	Outside	N/A	No
	4m East	Within	N/A	Yes
B5 Side Boundary Setbacks	0.9m West	2m	N/A	Yes
	0.9m East	0.9m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	6.5m *Bin room permitted encroachment	N/A	Yes
B9 Rear Boundary Setbacks	6m	7.4m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	34% (areas >2m dimension counted only)	N/A	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	No	No
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	No	No
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	No
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	No	No
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

A.5 Objectives

One objective of the WDCP is 'To provide a high level of access to and within development'. The issue of site suitability with regards to access to a bus stop is explored in detail earlier within this assessment report.

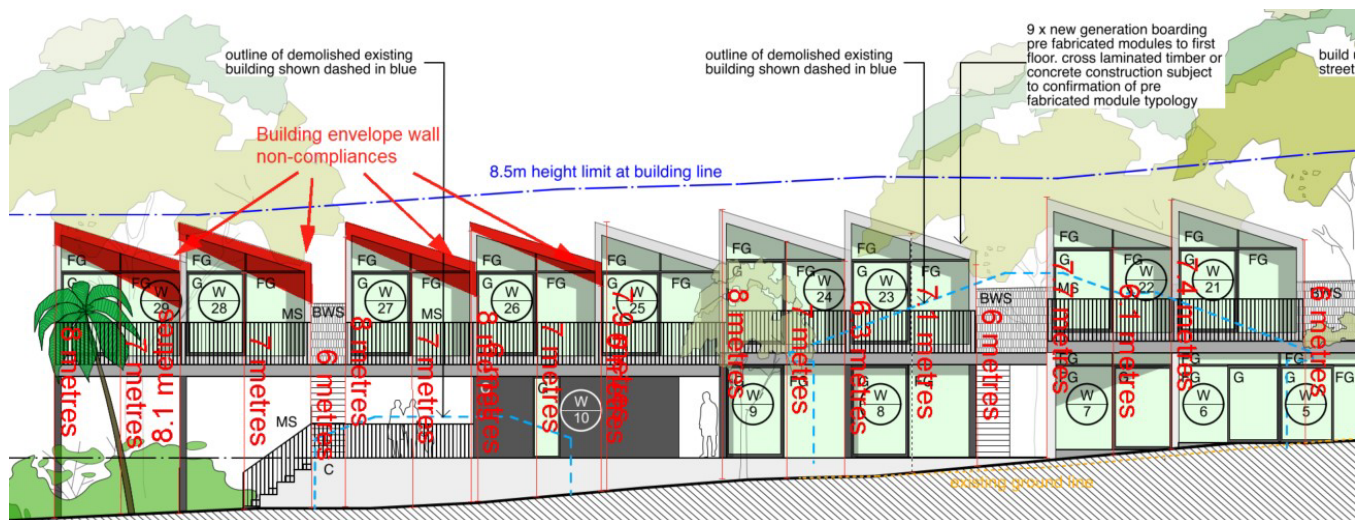
The site is not considered to be in a suitable location for a boarding house as it does not provide a 'high level of access' for the potential residents of the boarding house as the subject land is outside the 'accessible area' as defined by the SEPPARH and when considering the alternate route to access a bus stop within 400m requires residents to traverse an unlit grassing reserve, which does not constitute a 'high level of access' for the range of potential residents who may occupy the boarding house.

For this reason, the proposed development is recommended for refusal.

B3 Side Boundary Envelope

Description of non-compliance

The western elevation results in point encroachments of the building envelope. An extract of the western elevation (with marked up heights) is shown below:



Merit consideration

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

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

Comment:

The building is highly articulated upon the western elevation facing Beverly Job Park, with recessing and projecting features, open balconies, articulated roof forms and a mixture of building materials. The building represents a high quality of architectural design and is sufficiently articulated to break up the bulk and scale of the building.

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

Comment:

The proposal has demonstrated solar access for the adjoining property will be retained in accordance with the DCP controls and the proposal has been designed to retain privacy for the adjoining residential properties.

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

Comment:

The building has sufficiently responded to the moderate slope of the site with the floor levels slightly reducing following the topography of the land to comply with the maximum 8.5m height limit.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the building envelope control. Accordingly, this assessment finds that the non-compliance with the building envelope does not have determining weight and is not a reason for refusal of the application.

C2 Traffic, Access and Safety

Council's traffic engineer has reviewed the proposed development and is satisfied that the proposed development will not have an unreasonable impact on the surrounding traffic and road network, subject to a condition which requires the first 6m of the driveway to be widened to 5.5m to provide for a waiting bay for vehicles entering/exiting the site.

It is noted that the provision of a 5.5m wide driveway within the first 6m of the site would impact the pedestrian pathway and bin storage area to the west of the driveway. Should consent be granted, an alternative pedestrian pathway design and bin storage design must be considered so that the driveway widening can occur in accordance with the recommended condition by Council's traffic engineer.

Furthermore, Council's development engineer is not satisfied the proposed driveway has been designed to provide a minimum 1m clearance to the stormwater inlet pit at the front of the site. Any further increase in driveway width must also consider the impact to this stormwater pit, should consent be granted.

The application is recommended for refusal for the reasons outlined in the engineering referral response with regards to the proposed driveways impact on the stormwater inlet pit.

C3 Parking Facilities

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Boarding House	Comparison to be drawn from similar developments. The most relevant	6 spaces for residents 1 manager space 3 motorcycle	6 spaces for residents 1 manager 3 motorcycle	Complies

	parking rate is the rate provided under the SEPPARH at 0.5 spaces per room, plus 1 space for manager. 1 motorcycle space per 5 rooms	spaces		
Total		7 car 3 motorcycle	7 car 3 motorcycle	Complies

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

The parking area which is provided at grade in the undercroft of the building is considered to have minimal impact upon the public domain and will not be visually discernible from the street or park.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The undercroft area does not dominate the street and will not be visually discernible from the street.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of this control within the WDCP.

C6 Building over or adjacent to Constructed Council Drainage Easements

Council's development engineer has reviewed the proposed development with regards to Clause C6 and the potential impact of the proposed development upon Council's Drainage easement and associated stormwater pipe infrastructure.

The applicant has not provided a sufficient level of detail which locates the stormwater infrastructure within the site for Council to be satisfied the proposed development will not have an impact on the Council stormwater pipe.

The application is recommended for refusal for this reason.

C9 Waste Management

Council's waste team have reviewed the proposed waste storage room and are not satisfied with the design and dimension of the waste storage room, see their comments earlier within this report.

This is therefore a reason for refusal of the application.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The DCP requires that the site consist of 40% soft landscaping, with only those areas of a minimum 2m dimension and soil depth of 1m counting towards the control. The proposed development consists of 34% soft landscaping when including areas with a minimum 2m dimension and 1m soil depth.

Merit consideration

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

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

Comment:

The proposed development is provided with a deep soil zone in the front setback to allow for three (3) cabbage tree palms and a variety of low and medium shrubs to be provided to soften the building from as viewed from the street and contribute the landscape setting of the streetscape.

As viewed from the public reserve, the proposal provides a 2m deep soil zone between the western boundary and development, to allow opportunity for medium sized canopy trees to soften the building as viewed from the park and allow a transition between the development and public reserve.

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

Comment:

The proposal does not result in an impact to any significant canopy trees or topographical features on the site. The submitted landscape plan has proposed an adequate amount of new native plantings to enhance the landscaped setting of the site.

- *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:

There is sufficient area in the front and rear setback to allow for medium and tall canopy trees, whilst providing a landscape buffer along the western boundary to soften the building as viewed from the public reserve. A landscape strip is provided along the eastern boundary adjacent to the driveway to allow medium height planting to be established.

In addition to the ground level planting, upper floor planter boxes have been included throughout the development on the front elevation and side elevations, to further enhance the landscape setting and provide planting to soften the building form as viewed from the street, park and adjoining properties. Details of the planter boxes have been provided within the landscape plan and Councils' landscape officer is supportive of the development.

- *To enhance privacy between buildings.*

Comment:

The building design itself mitigates direct overlooking and privacy. Landscape planting has also been incorporated throughout to further enhance privacy and reduce opportunity for overlooking.

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

Comment:

The rear setback area provides adequate area for outdoor recreation for the needs of the occupants and is consistent with the general requirements of a boarding house development which is guided by state policies.

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

Comment:

Adequate room is provided in the rear setback area to provide clothes drying area.

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

Comment:

Council's development engineers have reviewed the proposal and are satisfied with the method of stormwater drainage which includes on-site detention.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of landscape open space control within the WDCP. Accordingly, this assessment finds that the development provides an appropriate landscape outcome and the non-compliance with this particular control does not have determining weight and is not used as a recommended reason for refusal.

D8 Privacy

The proposed development has been reviewed with regards to its design and impact upon privacy for adjoining properties. The building has been designed to orientate all units to overlooking the public reserve and provide a breezeblock treatment to the eastern elevation to limit opportunity for overlooking of the two adjoining residential properties.

The proposed development is considered to have been designed to limit opportunity of direct overlooking and place the upper floor of the building as far possible away from the eastern boundary to provide acoustic privacy for the adjoining property. The proposal is well designed in this regard and does not present any unreasonable impacts with regards to privacy.

D20 Safety and Security

The control requires the following:

3. *There is to be adequate lighting of entrances and pedestrian areas.*

As explored in detail under the assessment of site suitability and access to a bus stop from the proposed development site, the proposed development to be within 400m walking distance from a bus stop requires residents of the boarding house to traverse an unlit public reserve with no footpath.

The proposition that residents will traverse an unlit section of Beverly Job Park at night to gain access to and from the site from the nearest bus stop is contrary to the requirements of the control which is to provide safety and security as a result of development and the objective *'To ensure that development maintains and enhances the security and safety of the community'*.

For this reason, the application is recommended for refusal.

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 \$21,527 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,152,700.

CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

- Inconsistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP

- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

In summary, a detailed assessment has been required for the following specific issues:

- Site suitability for the proposed development
- Public submissions in relation to the proposed development
- Non-compliance with the relevant DCP controls.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION



THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council , as the consent authority REFUSE Development Consent to Development Application No DA2021/0311 for the Demolition works and construction of a Boarding House on land at Lot 7 DP 36192,2 The Circle, NARRAWEENA, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the objectives of contained within control A.5 of the Warringah Development Control Plan in that the proposed development does not provide a 'high level of access to and within the development'. In this regard, the nearest bus stop is in excess of 400m walking distance which does not constitute a high level of access to meet the needs of all potential residents of the boarding house and therefore the site is not considered suitable for a boarding house development.
2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C2 Traffic, Access and Safety of the Warringah Development Control Plan with regards to the design of the driveway which does not provide a minimum 1m clearance to the stormwater inlet pit located at the street gutter.
3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C6 Building Over or Adjacent to Constructed Council Drainage Easements of the Warringah Development Control Plan.
4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C9 Waste Management of the Warringah Development Control Plan with regard to the bin storage room design.
5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D20 Safety and Security of the Warringah Development Control Plan as the route provided to access the bus stop requires pedestrians to walk across an unlit grassy reserve which does not provide a suitable and safe method of access to and from the development.
6. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 the site is not suitable for a boarding house development as the site does not provide for a high level of access to the nearest bus stop due to the walking distance required for potential residents to access this bus stop and the surrounding essential services.
7. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

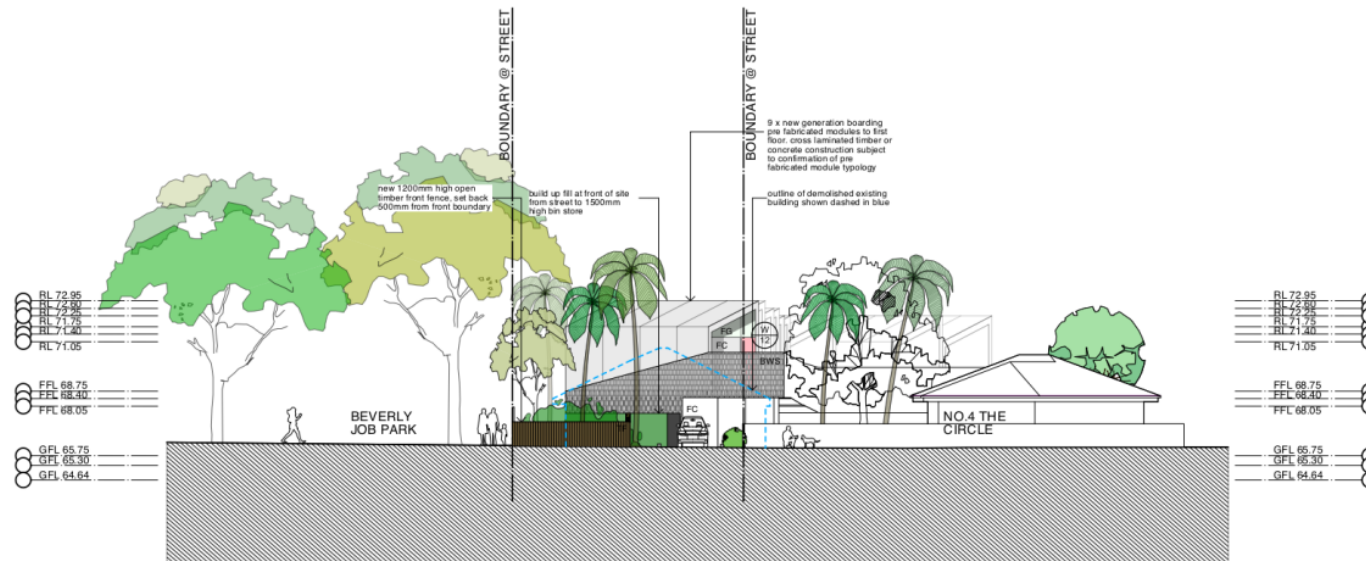


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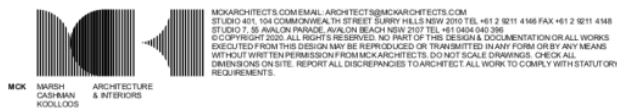


	LEGEND	brickwork screen	HWU	hot water unit	T	demolition	low jallery
	BWS	bathroom	K	kitchen	TF	timber fence	
	ETH	concrete	PD	permeable driveway	MB	metal balustrade	full height pin
	FC	fine cement	PV	paving	MS	metal roof	
	G	garden steel		photovoltaic cells			
	PROJECT PROPOSED NEW GENERATION BOARDING HOME 2 THE CIRCLE, NARRAWEENA, NSW				ISSUE 1 18/03/2021	FOR DA	DATE 12/01/2021 SCALE 1:200 @ A1 DRAWN BY

3	DRAWING TITLE ROOF + SITE PLAN	DRAWING NO. DA02	ISSUE: 1
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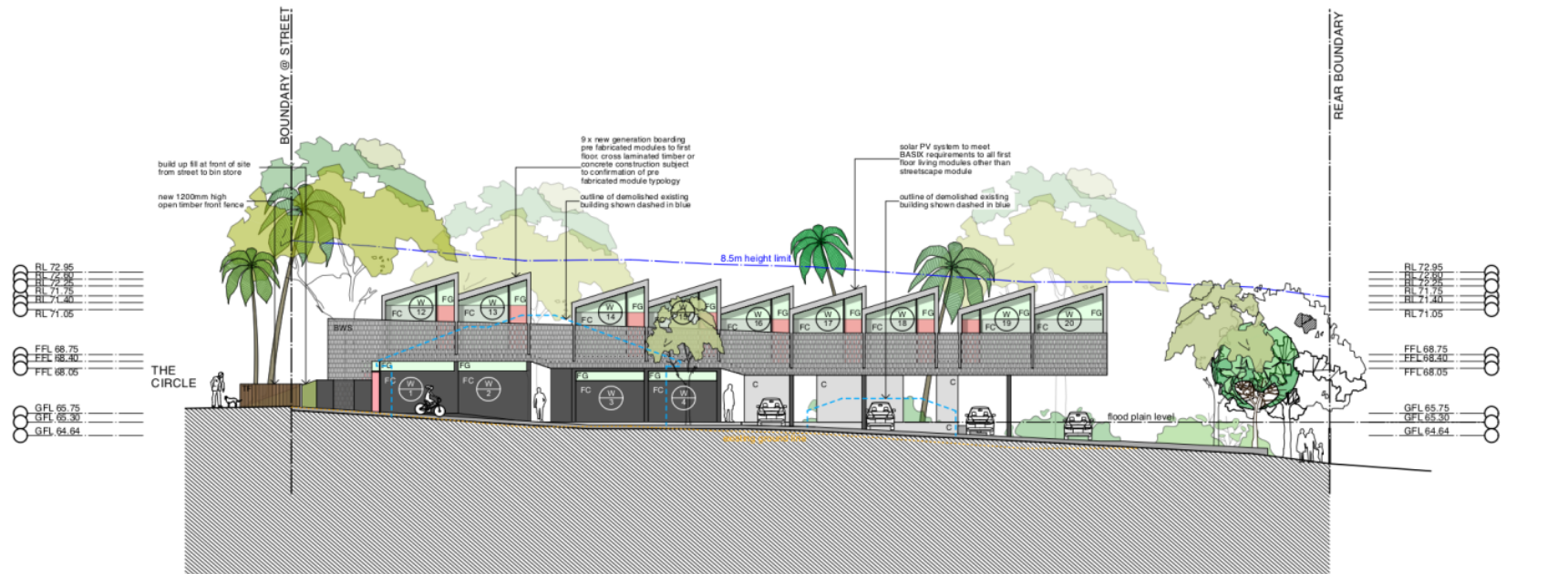
SOUTH ELEVATION (STREETSCAPE) 1:200



LEGEND			
BWS	brickwork screen	HWU	hot water unit
BTH	bathroom	K	kitchen
C	concrete	PD	permeable driveway
FC	fibre cement	PV	paving
G	garden bed	PV	photovoltaic cells
		T	terrace
		TF	timber fence
		MB	metal balustrade
		MR	metal roof
			demolition
			new works
			low joinery
			full height joinery

FOR DA

PROJECT PROPOSED NEW GENERATION BOARDING HOME 2 THE CIRCLE, NARRAWEENA, NSW		ISSUE: 1 19/03/2021 FOR DA	DATE PROJECT NO. 2016 SCALE 1:200 @ A3 DRAWN BY NM	DRAWING TITLE SOUTH ELEVATION (STREETSCAPE)	DRAWING NO. DA05	ISSUE: 1
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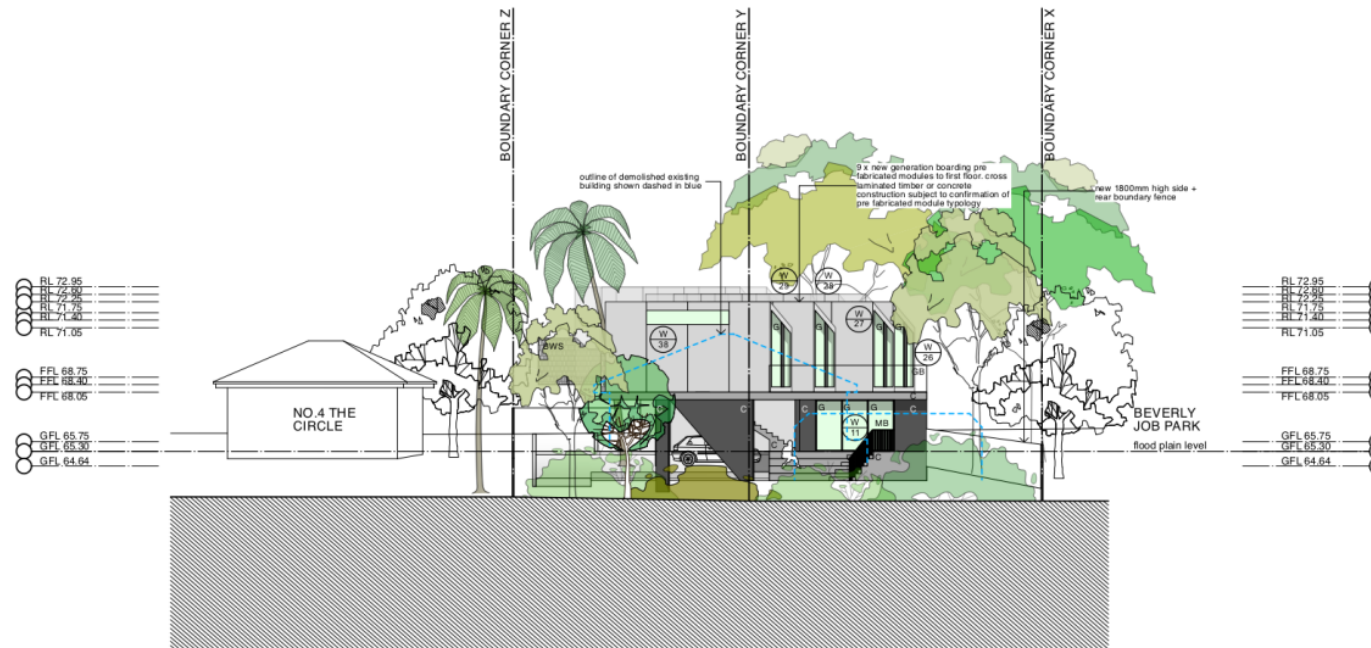


EAST ELEVATION 1:200

LEGEND			
BWS	brickwork screen	HVU	hot water unit
BTH	bathroom	K	kitchen
C	concrete	PD	permeable driveway
FC	fibre cement	PV	paving
G	garden bed	PV	photovoltaic cells
		T	terrace
		TF	timber fence
		MB	metal balustrade
		MR	metal roof
			demolition
			new works
			low joinery
			full height joinery

FOR DA

PROJECT PROPOSED NEW GENERATION BOARDING HOME 2 THE CIRCLE, NARRAWEENA, NSW	ISSUE: 1 19/03/2021 FOR DA	DATE PROJECT NO. 12/01/2021 SCALE 1:200 @ A3 DRAWN BY NM	DRAWING TITLE EAST ELEVATION	DRAWING NO. DA06	ISSUE: 1
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NORTH ELEVATION 1:200

LEGEND			
BWS	brickwork screen	HVU	hot water unit
BTH	bathroom	K	kitchen
C	concrete	PD	permeable driveway
FC	fibre cement	PV	paving
G	garden bed	PV	photovoltaic cells
		T	terrace
		TF	timber fence
		MB	metal balustrade
		MR	metal roof
			demolition
			new works
			low joinery
			full height joinery

FOR DA

PROJECT PROPOSED NEW GENERATION BOARDING HOME 2 THE CIRCLE, NARRAWEENA, NSW	ISSUE: 1 19/03/2021 FOR DA	DATE PROJECT NO. 12/01/2021 SCALE 1:200 @ A3 DRAWN BY NM	DRAWING TITLE NORTH ELEVATION	DRAWING NO. DA07	ISSUE: 1
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WEST ELEVATION 1:200



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LEGEND							
BWS	brickwork screen	HWU	hot water unit	T	terrace	demolition	low joinery
BTH	bathroom	K	kitchen	TF	timber fence	new works	full height joinery
C	concrete	PD	permeable driveway	MB	metal balustrade		
FC	fibre cement	PV	paving	MR	metal roof		
G	garden bed		photovoltaic cells				

FOR DA

PROJECT PROPOSED NEW GENERATION BOARDING HOME 2 THE CIRCLE, NARRAWEENA, NSW		ISSUE: 1 19/03/2021 FOR DA	DATE PROJECT NO. 1201/2021 SCALE 1:200 @ A3 DRAWN BY NM	DRAWING TITLE WEST ELEVATION	DRAWING NO. DA08	ISSUE: 1
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Design + Sustainability Advisory Panel Meeting 29 April 2021**DA2021/0311 - 2 The Circle, NARRAWEENA****PANEL COMMENT AND RECOMMENDATIONS*****General***

Site Area: 739m²

Proposal: Demolition of the existing dwelling and construction of a two-story boarding house comprising of 2 single occupancy and 10 double occupancy rooms for lodges and one managers residence, common laundry and common room and common terrace. At-grade car parking for 7 vehicles (including 1 manager space and 1 accessible space), 3 motorcycle spaces, 3 bicycle spaces, storage and garbage area

Strategic context

The site is zoned R2 Low Density Residential under the Warringah LEP 2011 and the proposed development is permitted with consent in the R2 Low Density Residential Zone. The proposed development is also permitted within the zone pursuant to the SEPP (Affordable Rental Housing) 2009 and the applicant has made the application pursuant to the SEPP (Affordable Rental Housing) 2009.

Urban context: surrounding area character.

The surrounding area is low-density residential with a public park to the north. The design of the development is low scale, to fit within the residential context. The design and orientation will provide good passive surveillance of the park.

Scale, built form and articulation,

The scale meets the height control requirements and the built form suits the area.

Articulation could be improved by increasing the gaps between the buildings where the stairs are currently located, to provide the impression of separate buildings.

Shuffling the building towards the north could also provide more space at the manager unit end to also increase space available for bins.

Currently the roofs are angled towards the south west which is not ideal for PV orientation.

The proposal incorporates 2 splits in the building that serves to break up what would otherwise be a repetitious form.

The proposal complies with the minimum setbacks but the Panel recognises that the standard side and rear setback controls assume there will be adjacent dwellings. This is not applicable to this site, being adjoined by the park at the rear and to the north west.

Recommendations:

1. Optimise roof pitches for PV

2. Considered increased articulation of the building massing, by breaking the development into a number of 'paired' modules with larger and skewed or 'fanned' gaps between them and allowing for vegetation between

Landscape context, Façade treatment

Provision of a communal garden would improve the amenity for residents.

Landscaping around the bins provides good screening.

Recommendation:

3. Consider addition of a communal garden

Public domain: relationship to public domain, safety/security.

Access through the park will provide better connection to public transport. This could be provided by a simple gate in the fence, however the question of whether this provides legal access to satisfy the provision of the SEPP is for Council to determine.

We need to recognise and plan for the way people actually behave, rather than planning for the way we think they should behave. There is little doubt that if there is a short cut to a desirable destination then people will use it.

Recommendations

4. Provide a gate in the fence to enable easy access through the park.

Common areas

The common space design provides good amenity and landscaping. Could be improved by a communal garden plot, as mentioned above.

Sustainability and resilience

A lot of positive aspects of this development. A few simple additions to the sustainability strategy would enable this project to be an exemplar project:

- Increase the PV provision as was discussed in the panel meeting, the roof pitches should be optimized. The Panel notes that the roofs are not oriented to the north. Further consideration needs to be given to how the PV panels will be fixed. The panels may not be integrated into the roof plane and in this case, some thought needs to be given to the visibility and overall appearance from the street.
- Reconsider some of the building materials to enable a net zero carbon approach. Particularly the driveway paving materials – permeable, recycled products, etc.
- Increase the bike parking spaces. 3 are noted in the application and there is currently only a very small space for bike parking. Space for at least half the residents should be allowed.
- Change to an all-electric approach – heat pump hot water, induction cooktops
- Provide ceiling fans to reduce the potential for residents to retrofit air conditioning units

Recommendations

5. Increase the PV provision

6. Given more consideration to roof orientation and how the PV panels will be fixed, their orientation and appearance.
7. Provide ceiling fans
8. Change to heat pump hot water and induction cooktops – remove gas
9. Increase the bike parking

Car parking

Increase bike parking to reduce reliance on car parking.

PANEL CONCLUSION

The Panel supports the proposal in its current form.

The Panel is of the view that the proposed development is well considered and demonstrates good design attributes. Following the recommendations above will enable the project to become an exemplar and has the potential to be a Net Zero Carbon project through reconsideration of the use of gas, and changes to some materials.

4.0 NON PUBLIC MEETING ITEMS

ITEM 4.1 **DA2021/0113 - 28 LEWIS STREET, DEE WHY - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE**

AUTHORISING MANAGER Lashta Haidari

TRIM FILE REF **2021/372725**

ATTACHMENTS **1 Assessment Report**
 2 Site Plan & Elevations
 3 Clause 4.6

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2021/0113 for alterations and additions to a dwelling house at Lot 1 DP 861565, 28 Lewis Street, Dee Why subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0113
Responsible Officer:	Brendon Clendenning Creative Planning Solutions Pty Limited
Land to be developed (Address):	28 Lewis Street DEE WHY NSW 2099
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Bronwen Heather Regan
Applicant:	Bronwen Heather Regan
Application Lodged:	16/02/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential – Single new detached dwelling
Notified:	23/02/2021 to 09/03/2021
Advertised:	Not Advertised
Submissions Received:	Nil
Clause 4.6 Variation:	Yes
Recommendation:	Approval
Estimated Cost of Works:	\$400,000.00

EXECUTIVE SUMMARY

Council is in receipt of a development application DA2021/0113 for alterations and additions to create a first floor of a dwelling with an attic and a carport at 28 Lewis Street, Dee Why (Lot 1 – DP861565). The site is zoned R2 Low Density Residential under the Warringah Local Environmental Plan 2011 (WLEP 2011) and the proposed development is permissible with consent.

The Development Application is being referred to the Northern Beaches Local Planning Panel under the Local Planning Panels Direction made pursuant to section 9.1 of the Environmental Planning and Assessment Act 1979, as the owner of the land is the spouse of the Mayor of Northern Beaches Council.

There is currently an operative approval on the site (DA2019/0524), approved by the Northern Beaches Local Planning Panel on 24 July 2019. The application was approved for a first-floor addition to the dwelling. The application also proposed to include a detached carport in front of the dwelling which was deleted in line with the recommendation. The proposed application seeks to replicate the approved roof form as approved, add an attic into the roof cavity and reinstate the deleted carport.



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. Initial issues identified within the assessment relate to the building height (clause 4.3 of the WLEP 2011), front setback (control B7 of the DCP), visual privacy (Control D8 of the WDCP 2011), landscaping (Control D1 of WDCP 2011), loss of street parking (C2 and C3 of WDCP 2011) and BASIX. While some issues including the BASIX and visual privacy matters had been resolved, remaining issues include those relating to height, landscaping, front setback, and loss of street parking.

While the proposed roof form (ridge RL and roof pitch) is the same as that approved under DA2019/0524, the assessment has calculated a differing overall height of the building, compared with the previous assessment, with the height being over the maximum prescribed by clause 4.3 of the WLEP 2011. The applicant has provided a written clause 4.6 variation seeking the variation to the height of buildings development standard.

The application was notified for a period of 14 days in accordance with Council's Community Participation Plan and no submission were received during that time. After an assessment of the application it is recommended the application be approved subject to conditions. Notably, the assessment recommends that the carport be deleted from the proposal so as to resolve the remaining issues.

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.

SITE DESCRIPTION

Property Description:	Lot 1DP861565, 28 Lewis Street DEE WHY NSW 2099
Detailed Site Description:	<p>The subject site is located on the northern side of Lewis Street, and has a site area of 361.7m² (by survey). The land is generally rectangular in shape and has a 13.74m frontage to Lewis Street (southern boundary of the lot).</p> <p>The site falls from the rear (north) to the street (south) of approximately 1.6m over 25m (6.4% gradient). The site, along with surrounding land, is located within an R2 Low Density Residential zone under the WLEP 2011.</p> <p>The site does not contain a heritage item, is not within a heritage conservation area, and not in close proximity to a</p>

	<p>heritage item, with the nearest item being located approximately 140m to the south.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>The site sits forward of a battleaxe allotment (28A Lewis Street), with the access handle spanning the length of the western boundary of the site. The subdivision pattern in the locality is relatively regular, with limited other examples of other battleaxe allotments, including the lots to the west, at 26 and 26A Lewis Street.</p> <p>Adjoining and surrounding development is characterised by dwelling houses with front setback ranging between 5m and 7.5m.</p> <p>The site is approximately 300m from to the west of the Dee Why Town Centre, containing a supermarket, police station and other shops.</p>
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PROPOSED DEVELOPMENT IN DETAIL:

The subject application proposes alterations and additions to a dwelling, which includes:

Ground Floor Level

- Internal alterations to bathroom and laundry;
- New stairs provided to the proposed first floor;
- An external door and stairs will provide access from the laundry to the eastern side external pathway;
- Changes to windows.

First Floor Level



- New first floor level containing a bedroom with ensuite, a powder room, a media room and an entertaining room with adjacent terrace and standalone spa pool.

Attic level

- Storage

New Carport and Driveway Crossing - A single carport with a green roof is proposed at the front of the site with access from Lewis Street.

Rain Water Tank - A new rain water tank is proposed in the rear yard.

SITE HISTORY

- 20 February 2019 – Development Application (DA2018/1442) refused for alterations and additions to a dwelling house including swimming pool.
- 24 July 2019 – Development Application (DA2019/0524) approved for alterations and additions to a dwelling house including a spa pool, with conditions.

DA2019/0524 was for a similar development approved by the Northern Beaches LPP in July 2019. The application also proposed to include a carport in front of the dwelling which was deleted in line with the consultant planner's recommendation. An additional condition was also imposed by the LPP, requiring the deletion of a shed in the rear to accommodate an additional parking space.

APPLICATION HISTORY

This application was submitted to Council on 16 February 2021, and Council's consultant planner undertook a site visit on 26 April 2021.

A request for information was prepared by the consultant planner on 3 May 2021, and forwarded to the applicant by Council. Issues raised include:

- Building height non-compliance.
- Streetscape and character concerns.
- BASIX commitments not nominated on architectural plans.
- Visual privacy.
- Request for details regarding rainwater tank capacity, location and details of the spa.

Amended plans were received on 15 May 2021.

A further request was sent on 19 May 2021 requesting to reduction of the building height to be no more than 8.5m, or for the development application to be accompanied by a written clause 4.6 variation request. This correspondence also indicated that the carport was not supported.

On 21 May 2021, a written clause 4.6 variation request was provided, as well as a response to the position on the carport, containing accompanying images of structures in the locality.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process, Council has not received any submissions.

REFERRALS

Internal Referral Body	Comments
Development Engineer	<p>Comments summarised below:</p> <ul style="list-style-type: none"> The applicant proposed to create a new car parking space in the front of the property and retain the existing parking in the rear of the property. There is an existing shared ROW to serve the subjected site and No. 28 A Lewis Street. The installation of the second driveway to serve the subjected site does not comply with C2 of the Warringah DCP 2011 and Vehicle Crossing Policy (LAP-PL 413), which specifies that where the frontage of the property is less than 30m, the property should be limited to a single vehicular access to the lot, to maximise the on-street kerb side parking to the residents. <p>The proposal was not supported by the Development Engineer given the issues associated with the additional crossing. This position was maintained upon receipt of additional justification provided by the applicant. However, once advised that the carport was to be recommended for deletion, conditions of consent were provided and it is therefore understood that there are no other objections to the proposal.</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 AND ASSESSMENT ACT, 1979 (EP&A Act)

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None of particular relevance.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via conditions of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Council requested additional information in order to address a height non-compliance, improvements to the streetscape presentation, as well as information to address inconsistencies within the submitted plans and documentation. The Applicant provided amended plans which partly responded to the concerns, and design amendment conditions are able to be imposed to address the outstanding matters.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). No such upgrade is warranted in this instance.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

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 little risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid, no objection were raised subject to compliance must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A325614_05, 12 January 2021). 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

The plans initially submitted with the application had not shown all BASIX commitments required to be shown with the DA plans. However, this was rectified within the amended plan set.

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

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
2.7 Demolition requires consent	Demolition not proposed
4.3 Height of buildings	No, see clause 4.6 and discussion below
4.6 Exceptions to development standards	Yes
5.1 Heritage conservation	Yes, not identified as a heritage item, within a heritage conservation area, or within the vicinity of an item.
6.2 Earthworks	No significant earthworks proposed
6.3 flood planning	N/A, site not identified as flood prone
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exception to development standards

Description of non-compliance:

Development Standard	Height of buildings
Requirement:	8.5m
Proposed:	8.88m
If a numerical enter a % variation to requirement	4.47%

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 Building 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.

CI 4.6 (4)(a)(i) (Justification) Assessment:

CI 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).

Further to the discussion made in the provided clause 4.6 request, there is an approval on the site for a ridge and roof form identical to that proposed. While the height and roof form proposed is



identical to the approved, the previous assessment conducted did not conclude with the same overall height calculations as this assessment. Given there is an approval on the site for the same roof form it is unreasonable to enforce compliance with this development standard in this instance.

(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 (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.'*

S1.3 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.*

Comment:

The applicant's written request argues that the proposal is consistent with the height and zoning objectives for the reasons provided as follows.

- *The existing character of the surrounding area is predominately 1 and 2 storey residential dwellings. The proposed alterations and additions will present as a 2 storey development with pitched roof. The resultant bulk and scale will be entirely consistent with the established scale of development in the area.*
- *Most observers would not find the proposed development by virtue of its roof form and building height offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of development within the sites visual catchment.*
- *The minor non-compliance does not give rise to any adverse amenity impacts with regard to view sharing, privacy or overshadowing. Shadow diagrams provided with the application demonstrate compliance with the solar access provisions.*



- *The site is situated within an established residential area and not in close proximity to either coastal or bush environments. As such, there is no adverse impacts to these environments.*
- *The maintenance of the majority of the existing front boundary hedges assist in softening and screening the built form. The front façade has been appropriately articulated and utilises a range of materials and finishes to create visual interest as well as softening the built form. It is considered that the proposal would not be considered jarring or unsympathetic when viewed from the street.*
- *The proposed carport will incorporate a green roof and permeable materials to enhance the landscaped character of the site. It is considered that the development will maintain an appropriate balance between the built form and the landscaped character. The proposal is consistent with development in the vicinity with dwellings sited within informal landscaped settings.*
- *Dwelling houses are a permissible form of development within the Land Use table and is considered to be specified development that compatible with the objectives of the zone. The proposal relates to alterations and additions to a dwelling and will maintain that existing use. The works will create a 2 storey family dwelling consistent with the scale of development along Lewis Street and maintain the low density character of the zone.*
- *Sufficient environmental planning grounds exist to justify the height of buildings variation. The minor nature of the breach does not result in any adverse amenity impacts with regard to view loss, overshadowing or privacy impacts. The dwelling will present as 2 storeys with a pitched roof which is consistent with the scale of development in this locality. The alterations and additions utilise the existing dwellings established footprint and represents an orderly and economic use of the site given the undersized nature of the allotment. In this regard, I consider the proposal to be of a skilful design which responds appropriately to the constraints on the site and utilises the existing dwelling to create a modern dwelling that contributes to the streetscape character. Such outcome is achieved whilst realising the reasonable development potential of the land. The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically: • The proposal promotes the orderly and economic use and development of land (1.3(c)). • The development represents good design (1.3(g)).*
- *The building as designed facilitates its proper construction and will ensure the protection of the health and safety of its future occupants (1.3(h))*

Assessment response:

The assertions made by the applicant are generally agreed with, in that the proposed building although non-compliant with the building height will provide a development that is consistent with the scale and form of development within the surrounding context.

As mentioned earlier, the non-compliance is derived from an approval on the site for a ridge and roof form identical to that proposed. While the height and roof form proposed is identical to the approved, the previous assessment did not calculate the same overall height calculations as this assessment. Given there is an approval on the site for the same roof form it is unreasonable to enforce compliance with this development standard in this instance as consent has already been given on the site for the same built proposed.

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 clauses 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).

Cl 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 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 cl 4.3 Height of Building development standard are:

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

Comment:

The proposed development is non-compliant with the height of building development standard to the central portion of the roof only. The 8.5m maximum building height envisages a two-storey development, and the proposed development reads as a two-storey building from the street frontage and elevation.

The proposed development acceptable adequate setbacks and articulation and provides a generally negligible impact on the amenity of nearby existing and future two-storey dwellings. As such, the proposal is compatible with the height and scale of surrounding and nearby development.

The development satisfies this objective.

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

Comment:

The site is not identified as sharing any significant or protected views corridors or result in visual privacy concerns. Furthermore, the accompanying shadow diagrams submitted with the proposed development demonstrate adequate solar access to the subject site and adjacent sites. Visual impacts are discussed in relation to the first objective.

The development satisfies this objective.

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

Comment:



The site is not identified as containing any scenic qualities relating to coastal or 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 proposed development is non-compliant to the height of building development to the central portion of the roof only. The 8.5m maximum height of building envisages a two-storey development, and the proposed development reads as a two-storey building from the public domain of Lewis Street.

The development satisfies this objective.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone

(a) To provide for the housing needs of the community within a low density residential environment.

Comment:

The proposed development is alterations and additions to a dwelling. The proposed dwelling is to be two storeys in form which is a typical built form within the R2 zone. The height non-compliance is not considered to deter from the low density environment surrounding the site and allows for the dwelling to continue to service the housing needs of the community.

Furthermore, given there is an approval on the site for the same roof form it is unreasonable to enforce compliance with this development standard in this instance.

(b) To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Comment:

Not applicable. The proposed development provides a residential land use.

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

Comment:

As further discussed in relation to the Warringah DCP 2011, while the proposal seeks non-compliant landscaped area, the alterations and additions to the dwelling do not further contribute to landscape issue on the site. As discussed within this report, it is recommended the carport be deleted from the proposal to ensure adequate landscaping is maintained on the site, which is unrelated to the height matter subject to this clause 4.6.

Subject to the removal of the carport, the proposed development has adequately landscaping to satisfy this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

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



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

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

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6m	-	Yes
B2 Number of storeys	N/A – not mapped	-	-	-
B3 Side Boundary Envelope	4m + 45°	Non-compliances with side boundary envelope on the eastern side. 800mm (measured horizontally)	20%	No
	4m + 45°	West - within envelope	-	Yes
B4 Site Coverage	N/A	-	-	-
B5 Side Boundary Setbacks	0.9m	East - 1.59m	-	Yes
	0.9m	West - 2.645m	-	Yes
B7 Front Boundary Setbacks	6.5m	Dwelling house – 6.19m Carport – 0.2m	4.8% 96.9%	No No
B9 Rear Boundary Setbacks	6.0m	6.3m	-	Yes
C3 Parking Facilities (refer to Appendix 1)	2 spaces	2 spaces (one subject to deletion)	-	No
	Design matters	See discussion below	-	No
D1 Landscaped Open Space and Bushland Setting	40% (144.7sqm)	9% (33sqm)	81%	No
D2 Private Open Space	60sqm	Nil	100%	No

Compliance Assessment

Control	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	No
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	No
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes

Control	Compliance with Requirements	Consistency Aims/Objectives
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	No	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes

Detailed Assessment

B3 Side Boundary Envelope

The proposal complies with the side boundary envelope control on the western elevation; however it breaches the control on its eastern elevation. The proposal exceeds the envelope control on the eastern elevation by 0.8m for a length of 8.0m.

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 proposal development largely matches the development approved by DA2019/0524, particularly when viewed from the street. The proposal maintains the existing building envelope siting, which is currently characterised by a larger than required setback on the western side. On this basis, the form of the development does not create a dominant element in the street. The development is not considered to create unreasonable building bulk or amenity impacts to the adjoining eastern property or be detrimental to the Lewis Street streetscape.

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

Comment:

The orientation of the site is such that shadows generally fall towards the street and the proposal satisfies the requirements of Part D6 Access to Sunlight of the WDCP 2011. Potential privacy impacts associated with first floor elements are addressed through the provision of privacy screening and high window sills.

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

Comment:

The existing front portion of the dwelling is elevated above surrounding ground levels, but the ground floor of the existing dwelling sits above ground levels at the rear of the site. The existing dwelling



therefore provides a balanced response to the site topography, characterised by a gentle fall to the street. It is reasonable to maintain the existing ground floor level in order to provide an addition of a first floor. Accordingly, the response to the topography of the site is deemed to be appropriate.

B7 Front Boundary Setbacks

This provision require front setbacks of 6.5m to be provided; however, the proposal includes a front setback of 6.19m to the dwelling (5% variation) and 200mm (96.9% variation) to the carport.

Dwelling:

The existing dwelling is situated 6.19m from the front setback with the proposal seeking to maintain the existing building setbacks. Dwellings with identical ground floor and first floor setbacks are not uncommon in the locality, and there would be little streetscape merit in provided an additional 0.31m setback to the first floor. As the front setback of the development replicates that of the existing dwelling, this non-compliance will not create any additional impacts on the streetscape.

Carport:

Unlike the proposed front setback non-compliance to the dwelling additions, the proposed carport does not relate to an existing structure, and the entirety of this element does not comply with the 6.5m front setback requirement.

A similar element was sought within DA2019/0524 and the Local Planning Panel deleted this element via condition, in line with the recommendation by the independent planning consultant. Compared with the earlier proposal, the current proposed carport is marginally smaller, is detached from the dwelling and contains a green roof.

The following assessment examines the consistency of the proposed carport with the objectives of the front boundary setbacks controls:

- *To create a sense of openness.*

Approval of a structure within the front setback would interrupt the open transition space between the public domain and the relatively consistent front building line of the Lewis Street streetscape. The buildings to the northern side of Lewis Street, within the visual catchment of the site, are provided with a front setback of between approximately 5m and 7.5m, and contain no ancillary structures within the front setback. The proposed carport would undermine the objective of the control and would be inconsistent with the open transition space within the front setbacks of the visual catchment surrounding the site.

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

As mentioned below, the applicant has provided a list of properties that are not within the visual catchment of the subject site or are not subject to a recent development consent. Due to the irregular alignment of Lewis Street, the visual catchment is generally limited to that shown within **Figure 4** below.



Figure 1: Identified properties as containing carports, the visual catchment of the site and front setbacks within the visual catchment (Source: Nearmap).

None of Nos. 1, 3, 4, 9, 11 or 14 Lewis Street are located within the visual catchment of the site. No. recent approval of 35 Lewis Street is known, and given this development contains only a shade sail that is tied to trees on site, it is unlikely that this element has development consent.

The pattern of development contains front setbacks of approximately between 5m and 7.5m, and the proposed carport, with only a 200mm setback and a 96.9% variation to the control, would provide a stark contrast to this character.

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

The setback of the carport, as detailed above is inconsistent with the setback of the visual catchment and streetscape.

- *To achieve reasonable view sharing.*

The site is not identified as containing any significant view sharing corridors and this objective is not particularly relevant to the proposal.

The submitted Statement of Environmental Effects (SEE) had provided additional arguments to support the carport within the front setback. Below is a discussion in response to the matters raised within the submitted SEE.

The rear of the site is considered to be inadequate to accommodate 2 parking spaces that would be in compliance with the Australian Standard and the carport is an acceptable solution to the car parking arrangements on site.

A green roof allows for a sense of openness to be maintained.

Providing car spaces in front of the building is consistent within the streetscape

Proposed permeable materials used instead of concrete to facilitate drainage and be more aesthetically pleasing.

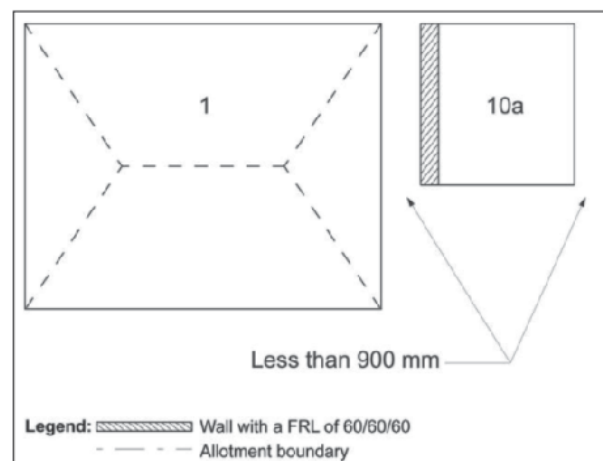
Response: The LPP had previously imposed a condition recommending that an additional parking space be provided within the rear. Turning circles or the like were not provided to support the



argument; however, it is acknowledged that additional parking in the rear may be constrained, particularly given that the driveway must maintain access to the driveway to the rear at 28A Lewis Street.

It is further acknowledged that the existing development does not provide the minimum required parking and that the proposed addition may provide a trigger for additional parking. However, given the numerous reasons for the recommended deletion of the carport, this is more likely to provide an argument against the addition, rather than an argument for the carport. However, the proposed parking non-compliance is supported in this instance (see discussion below) only on the basis that the driveway crossing is deleted, and on-street parking is maintained.

A 'green roof' does not conceal the structure from the streetscape to create openness. The intent of the control is to prevent structures within the front setback, and to allow for a transition from the public domain to the buildings. Furthermore, the proposed carport, being a class 10a structure, is located 740mm from the dwelling, being a class 1 structure, meaning the carport will need to be fire rated in accordance with the 3.7.2.4 of National Construction Code 2019 – Building Code of Australia – Volume Two (refer to image below taken from Part 3.7.2.4).



On this basis, the green roof would be constrained by the fire rating required within 900mm of the boundary. Furthermore, there are no stairs which provide access to the green roof, and it would be accessible only by a ladder or the like. It is not considered good practice to provide a green roof, which requires maintenance to prevent the spread of fire, and which is not readily accessible.

The permeable materials as noted in the SEE are not replicated on the architectural plans. The architectural plans illustrate the use of a concrete driveway.

Following the initial assessment of the proposal, the applicant provided further additional responses to correspondence on this matter, including the extract below:

There are a number of identified garages or carports in proximity of the site, which include:

- *Note that one is an enclosed garage (3 Lewis).*
- *Another is a large double carport on the boundary (11 Lewis).*
- *Next door is a stark white carport on the front boundary (9 Lewis).*
- *Across the road is (4 Lewis).*
- *14 Lewis has both a high brick fence to front boundary, high gate, and a carport in the front setback.*
- *1 Lewis and 35 Lewis both have carport structures with a temporary roof.*

Response: The sites noted above are not located within the visual catchment of the site or – in the case of 35 Lewis Street – are unlikely to have development consent and thus hold no value to the argument of the proposed carport.



Considering the discussion of the matters raised by the applicant and the consideration of the variation against the objectives of the control, the proposed carport within the front setback is not considered to have merit and it is recommended that it be deleted from the application to resolve not only this issue, but further issues detailed within this report.

C2 Traffic Parking and Access

In accordance with the control 4 of this part, the vehicle crossings must be in accordance with Council's vehicle crossover policy 'LAP-PL 413'. The LAP-PL 413 specifies a maximum of one (1) driveway crossover for sites with a frontage of less than 30m. The site has a frontage of 13m and shares a vehicle crossing to the battle-axe lot behind the site. The fact that the parcels share the driveway is considered to provide limited support for the non-compliance. The two lots are well short of the minimum 600m² minimum lot size requirement prescribed by WLEP 2011 and noting the battleaxe subdivision to the west, battleaxe subdivisions are not common in the locality; the provision of an additional crossing on this basis, would only serve to highlight this unusual arrangement.

A review of the subdivision pattern in the street indicates that lots with frontages of less than 30m are limited to single vehicle crossings. The vehicle crossing also reduces on-street parking, contrary to objective (f) of this Part, making the proposal further inconsistent with the provisions of this control and objectives of this control.

The applicant has provided a response to this matter within Council's first request for information letter which provided the following matters for discussion:

The loss of one kerbside parking is based on the assumption the current arrangement provides two vehicles can park out the front. This is incorrect, with the naked eye it can look like two cars can park but only two small cars and the standards only allow for one, no net loss.

Australian Standard AS2890 indicates that car parking spaces are to have a length of 5.5m. The distance between the vehicle crossover for the subject site and 30 Lewis Street is 12.3m, meaning two spaces can be provided with the additional 1.3m of space providing sufficient separation between the vehicles and the driveway crossings that sit adjacent. The proposed carport would result in 6.8m of remaining parking space to the west of the proposed vehicle crossover and 2.1m to the east. This would result in a reduction to on-street parking from two (2) spaces to one (1) space in front of the property.

Furthermore, it should be noted that Council's Development Engineer has reviewed historical aerial imagery of cars parked in front of the site and notes that two cars are often found parked in this location.

In light of all of the above, the proposed additional vehicle crossing is not considered to have merit and the additional vehicle crossing forms part of the concerns with the proposed carport and further supports the reasoning for the recommendation to delete the carport from the application.

C3 Parking Facilities

The existing dwelling contains one parking space, short of the two parking spaces that are required. The existing development does not provide the minimum required parking and the proposed addition may provide a trigger for additional compliant parking.

In its decision relating to DA2019/0524, the LPP had imposed a condition recommending that an additional parking space be provided within the rear. However, in the absence of turning circles or the like, a similar condition is not recommended, largely because the driveway must maintain access to the driveway to the rear at 28A Lewis Street, and that the additional parking would require almost the entirety of the rear setback to be used for parking, providing limited options for outdoor storage, additional plantings, etc.



The only other option available to achieve compliance is to require a vehicular crossing as sought by this application; however, this arrangement is opposed for numerous reasons as outlined herein. Furthermore, the provision of a driveway crossing would require the loss of one on-street parking space, which would be of greater impact to the availability of parking, given on-street parking spaces are available for general public use (rather than exclusive private use). The additional crossing is therefore not considered a reasonable means of achieving compliance with this control.

Despite the increased floor space, in this particular instance, the parking non-compliance is largely a function of the existing site arrangement. In this instance it is acknowledged that there are limited means of providing additional compliant parking, and the non-compliance is therefore supported.

D1 Landscaped Open Space and Bushland Setting

Part D1 of WDCP 2011 requires that 40% of the site be provided as landscaped open space. The existing development on site does not comply with this control, providing only 14.0% (50.5m²) as landscaped open space, largely owing to the minor provision of landscaping within the rear setback area.

The carport portion of the proposal exacerbates the landscaping non-compliance of the site by further reducing the landscaped area of the site to 9.3% (34.2m²). The applicant has submitted that the loss of landscaped area is offset by the green roof of the carport. As discussed above the use of vegetation on the roof of the carport cannot be supported in accordance with the provision of the NCC. Moreover, driveways and roofed areas do not constitute landscape area, per provisions (a), (c) and (d) of this control which state that:

- a) *Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation.*
- c) *Landscaped open space must be at ground level (finished).*
- d) *The minimum soil depth of land that can be included as landscaped open space is 1 metre.*

The carport and associated green roof not only fail to achieve the objectives of the provision, they also undermine the following objectives of Part D1:

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*
- *To facilitate water management, including on-site detention and infiltration of stormwater.*

It is noted that the removal of the carport from the application resolves the extent of the landscaping non-compliance, with the remaining works within the existing building envelope resulting in no change to the existing landscaped area on the site. Therefore, subject to the deletion of the carport, the remaining variation to the landscaped area provision is not unreasonable.

D2 Private Open Space

Part D2 of WDCP 2011 requires that 60m² of private open space be provided for a for a three-bedroom dwelling. The private open space cannot be within the front setback area and must have a minimum dimension of 5.0m. There is currently no private open space on site that satisfies these criteria and this situation will be unchanged by the proposed development.

As indicated earlier, the LPP had previously imposed a condition which would remove any private open space opportunities in the rear. This assessment has concluded that a similar condition is not required, and that the existing non-compliance at the rear is acceptable.

Further, the proposal includes a new upper level terrace adjacent to the entertainment room together with a new portable spa pool. These facilities will improve the private recreational facilities on the site. In these circumstances, the lack of private open space satisfying the criteria in Part D2 of WDCP 2011 is not considered to grounds for refusal of the 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.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as the owner of the land is the spouse of the Mayor of Northern Beaches Council.

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

In consideration of the proposal and the merit consideration of the development, subject to the deletion of the carport, 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 the Northern Beaches Local Planning Panel as the consent authority grant Development Consent to DA2021/0113 for alterations and additions to a dwelling house on land at Lot 9 DP 7413, 28 Lewis Street, DEE WHY subject to the conditions printed below:

CONDITIONS OF APPROVAL

Application Number:	DA2021/0113
Land to be developed (Address):	Lot 1 DP 861565, 28 Lewis Street DEE WHY NSW 2099
Proposed Development:	Alterations and additions to a dwelling house

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Cover Page - 000, Issue 2	08/05/2021	Unsigned
Ground Floor Plan - 101, Issue 3	08/05/2021	Unsigned
First Floor Plan - 102, Issue 3	08/05/2021	Unsigned
Elevations and Sections - 200, Issue 2	08/05/2021	Unsigned

Engineering Plans		
Drawing No.	Dated	Prepared By
SMO-01 - SMP-03, Rev 00	20-01-2021	Oz Geos

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A325614_05	12 January 2021	Efficient Living Pty Ltd

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

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

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

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

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



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 sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.



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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$4,000.00 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 \$400,000.00.

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

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 \$1,500 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).

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

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

6. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

7. **Amendments to the approved plans**

Prior to the issue of a construction certificate, amended architectural plans are to illustrate the removal of the proposed carport, driveway and vehicle crossover from the development. The approved development does not relate to this part of the site and changes to surface finishes are therefore not approved in the location of the proposed carport, driveway and vehicle crossover.

Reason: To avoid adverse streetscape, street parking and landscaping impacts.

8. **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.

9. **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.



10. Waste Management Plan

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

11. 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.

12. 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.

13. 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.

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

14. 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

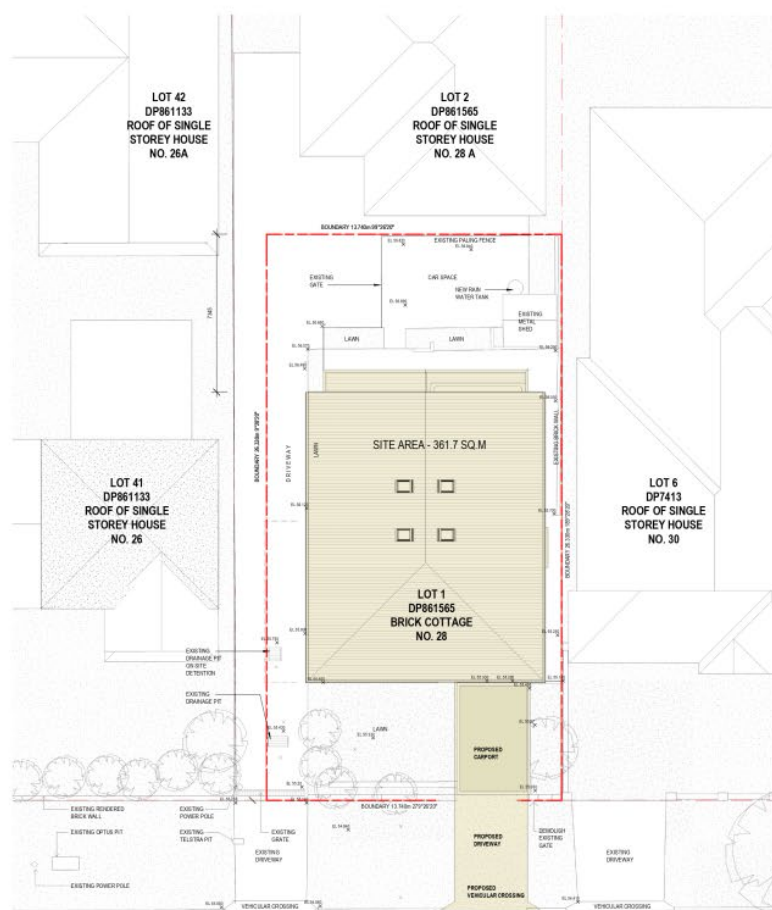


be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

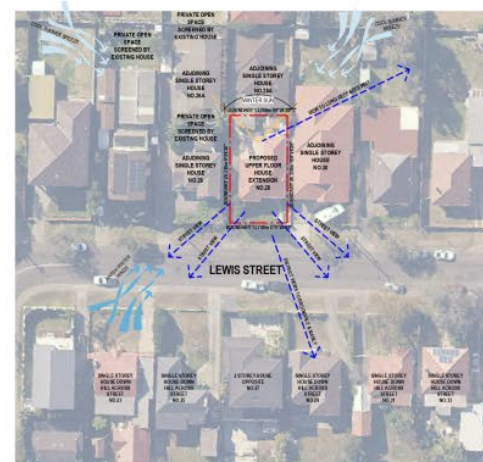
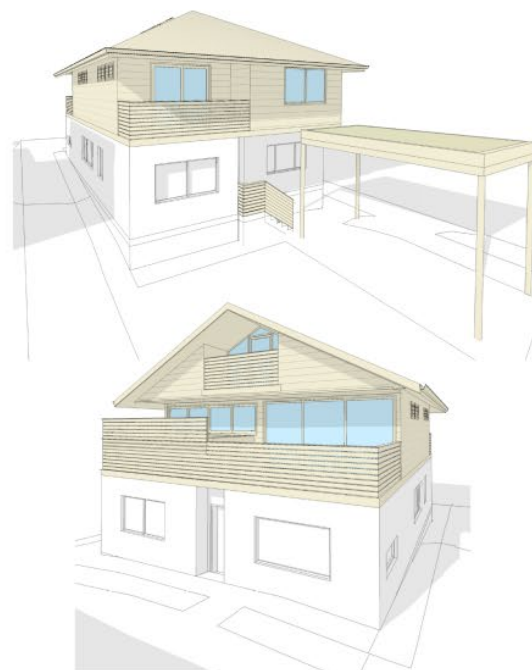
Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

REGAN RESIDENCE

28 LEWIS ST. DEE WHY
DEVELOPMENT APPLICATION



1 SITE PLAN
1 : 100



2 SITE ANALYSIS
1 : 15



DA APPLICATION

FINISHES LEGEND

- ANTIKISSED ALUMINIUM FRAMES - DARK CHARCOAL
- JAMES HARDIE ACENT TON - DARK CHARCOAL
- CLEAR GLAZING
- AL ADJUSTABLE GLASS LOUVER
- BAL TIMBER BALUSTRADE
- CGR CARPORT GREENROOF
- FC FIBRE CEMENT HORIZONTAL CLADDING
- FC JAMES HARDIE SCYON 'STIRIA' COLOUR DARK CHARCOAL
- FG FIXED GLASS WINDOW
- GD GLASS HINGED DOOR
- GSD GLASS SLIDING STACKER DOOR
- GSW GLASS SLIDING STACKER WINDOW
- GLW GLASS LOUVERED WINDOW
- AW ACRYLIC WINDOW
- MCR INSULATED COLORBOND METAL DECK ROOF
- PC PAINTED CONCRETE (DULUX CENTRE DUST)
- SKY SKYLIGHTS (VELUX OR SIMILAR)

GENERAL NOTES:

- ALL TIMBER WINDOWS TO BE REPLACED WITH NEW ALUMINIUM FRAMED WINDOWS
- ALL DEMOLISHED WALLS, FLOORS AND CEILINGS TO BE MADE GOOD
- EXISTING FITTING & FLOOR TILES TO EXISTING BATHROOMS TO BE DEMOLISHED

LEGEND

- EXISTING WALLS
- NEW WALLS
- DEMOLITION
- PROPOSED NEW WORK

NO.	DATE	DESCRIPTION	BY
1	18/05/2021	DA APPLICATION	MR. & MRS. M. REGAN
2	08/06/2021	REVISED DA APPLICATION	MR. & MRS. M. REGAN

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Project
REGAN RESIDENCE

at
28 LEWIS ST. DEE WHY

for
MR. & MRS. M. REGAN

Drawing Title
COVER PAGE

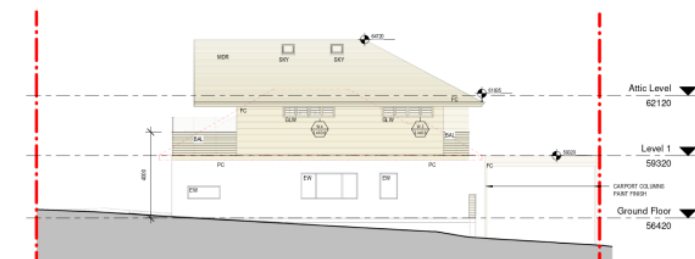
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Drawing Reference
DEE WHY-000

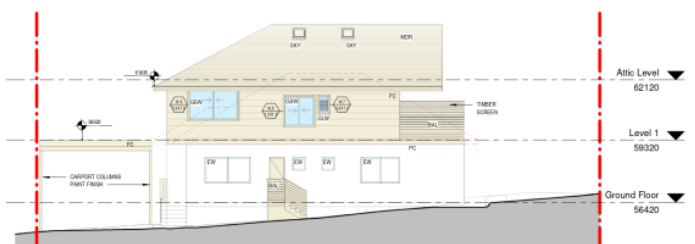
Revision

2

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1 WEST ELEVATION
1 : 100



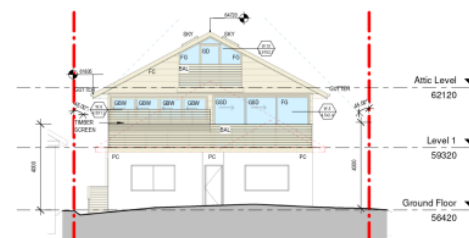
2 EAST ELEVATION
1 : 100



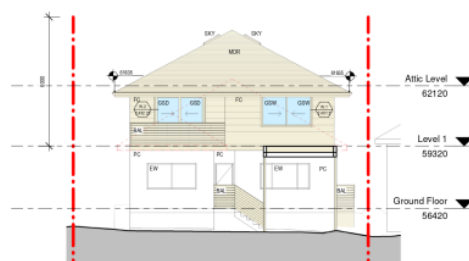
5 SECTION 1
1 : 100



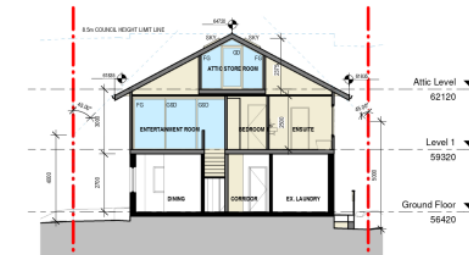
7 SECTION 3
1 : 100



3 NORTH ELEVATION
1 : 100



4 SOUTH ELEVATION
1 : 100



6 SECTION 2
1 : 100

DA APPLICATION

FINISHES LEGEND

- ANODISED ALUMINIUM FRAMES: DARK CHARCOAL
- JAMES HARDIE AXENT TRIM: DARK CHARCOAL
- CLEAR GLAZING
- ADJUSTABLE GLASS LOUVER
- BAL: TIMBER BALUSTRADE
- CSF: CASPPOINT GREENROOF
- FC: FIBRE CEMENT HORIZONTAL GLAZING
- JAMES HARDIE SCYTH TRIM: COLOUR: DARK CHARCOAL
- FG: FIXED GLASS WINDOW
- GD: GLASS HINGED DOOR
- GSD: GLASS SLIDING STACKER DOOR
- GSW: GLASS SLIDING STACKER WINDOW
- GLW: GLASS LOUVERED WINDOW
- AW: AINING WINDOW
- MR: INSULATED COLORBOND METAL DECK ROOF
- COLOUR: MONUMENT
- PC: PAINTED CONCRETE (DULUX CENTRE: OXIST)
- SKY: SKYLIGHTS (VELUX OR SIMILAR)

GENERAL NOTES:

- ALL TIMBER WINDOWS TO BE REPLACED WITH NEW ALUMINIUM FRAMED WINDOWS
- ALL DEMOLISHED WALLS, FLOOR AND CEILINGS TO BE MADE GOOD
- EXISTING FITTING & FLOOR TILES TO EXISTING BATHROOMS TO BE DEMOLISHED

LEGEND:

- EXISTING WALLS
- NEW WALLS
- DEMOLITION
- PROPOSED NEW WORK

Rev	No.	Date	Drawn	Check
1	1000	2021	DA APPLICATION	
2	1000	2021	REVISED DA APPLICATION	

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Project
REGAN RESIDENCE

at
28 LEWIS ST. DEE WHY
for
MR. & MRS. M. REGAN

Drawing Title
ELEVATIONS & SECTIONS

Date: 8/05/2021 10:56:51 AM
Scale: As indicated @ A1

Drawing Reference
DEE WHY-200

Revision
2

0 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20



CLAUSE 4.6 REQUEST TO VARY HEIGHT OF BUILDINGS DEVELOPMENT STANDARD

28 Lewis Street,
Dee Why

Suite 1, 9 Narabang Way Belrose NSW 2085

Phone: (02) 9986 2535 | Fax: (02) 9986 3050 |

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4.6 Request to Vary Development Standard

Alterations and Additions to the Existing Dwelling

28 Lewis Street, Dee Why

Prepared under instructions from

Michael & Bronwen Regan

By **William Fleming**

BS, MPLAN

Suite 1/9 Narabang Way
Belrose NSW 2085

Tel: (02) 99862535

May 2021

1.0 Introduction

This clause 4.6 variation has been prepared having regard to the Land and Environment Court judgements in the matters of *Wehbe v Warringah Council* [2007] NSWLEC 827 (*Wehbe*) at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *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.

2.0 Warringah Local Environmental Plan 2011 (“WLEP”)

2.1 Clause 4.3 - Height of buildings

Pursuant to Clause 4.3 of Warringah Local Environmental Plan 2011 (WLEP) the height of a buildings for secondary dwelling in the R2 zone is a maximum of 8.5m. The objectives of this control are as follows:

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

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (c) to minimise any overshadowing of neighbouring properties,*
- (d) to allow for the reasonable sharing of views,*
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

Building height is defined as follows:

building height (or height of building) means the vertical distance between ground level (existing) and 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 is defined as follows:

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

The leading case authority which considers the definition of “ground level (existing)” is *Bettar v Council of the City of Sydney* [2012] NSWLEC 1070 which was followed in the

recent decision of *Stamford Property Services Pty Ltd v City of Sydney & Anor* [2015] NSWLEC 1189.

In *Stamford Property Services*, the Court followed the reasoning adopted in *Bettar* and confirmed that “ground level (existing)” must relate to the levels of the site, and not to the artificially modified levels of the site as reflected by the building presently located on the land. In this regard the Court preferred the Council’s method to determining the “ground floor (existing)” from which building height should be measured. Council’s approach required that the proposed height be measured from the natural ground levels of the site where known, such as undisturbed levels at the boundary, and from adjacent undisturbed levels such as the level of the footpath at the front boundary of the site. These levels could then be extrapolated across the site reflecting the pre-development sloping topography of the land, consistent with the approach adopted in *Bettar*.

In these proceedings the Court was satisfied that even though there was limited survey information available for the site, there was enough information to determine the “ground level (existing)” for the site based on unmodified surveyed levels in the public domain (footpaths) which could be extrapolated across the site. In summary, the Court has confirmed that the definition of “ground level (existing)” from which building height should be measured:

- is not to be based on the artificially modified levels of the site such as the floor levels of an existing building. This includes the entrance steps of an existing building.
- is not to include the basement floor or the soil beneath the basement following construction of the building.
- is to be based on the existing undisturbed surveyed surface of the ground. For sites where access to the ground surface is restricted by an existing building, natural ground levels should be determined with regard to known boundary levels based on actual and surveyed levels on adjoining properties including within the public domain (footpaths).

In this regard, it has been determined that the proposed works have a maximum building height of 8.88m metres which exceeds the standard by 380mm metres or 4.47%.

2.2 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of WLEP provides:

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

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

The decision of Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 ("Initial Action") provides guidance in respect of the operation of clause 4.6 subject to the clarification by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [1], [4] & [51] where the Court confirmed that properly construed, a consent authority has to be satisfied that an applicant's written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).

Initial Action involved an appeal pursuant to s56A of the Land & Environment Court Act 1979 against the decision of a Commissioner.

At [90] of *Initial Action* the Court held that:

"In any event, cl 4.6 does not give substantive effect to the objectives of the clause in cl 4.6(1)(a) or (b). There is no provision that requires compliance with the objectives of the clause. In particular, neither cl 4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard "achieve better outcomes for and from development". If objective (b) was the source of the Commissioner's test that non-compliant development should achieve a better environmental planning outcome for the site relative to a compliant development, the Commissioner was mistaken. Clause 4.6 does not impose that test."

The legal consequence of the decision in *Initial Action* is that clause 4.6(1) is not an operational provision and that the remaining clauses of clause 4.6 constitute the operational provisions.

Clause 4.6(2) of WLEP provides:

- (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.*

This clause applies to the clause 4.3 Height of Buildings Development Standard.

Clause 4.6(3) of WLEP provides:

- (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.*

The proposed development does not comply with the height of buildings provision at 4.3(2FA) of WLEP which specifies a maximum building height however strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and there are considered to be sufficient environmental planning grounds to justify contravening the development standard.

The relevant arguments are set out later in this written request.

Clause 4.6(4) of WLEP provides:

- (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 Director-General has been obtained.*

In *Initial Action* the Court found that clause 4.6(4) required the satisfaction of two preconditions ([14] & [28]). The first precondition is found in clause 4.6(4)(a). That precondition requires the formation of two positive opinions of satisfaction by the consent authority. The first positive opinion of satisfaction (cl 4.6(4)(a)(i)) is that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3)(a)(i) (*Initial Action* at [25]).

The second positive opinion of satisfaction (cl 4.6(4)(a)(ii)) is that the proposed development will be in the public interest **because** it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out (*Initial Action* at [27]). The second precondition is found in clause 4.6(4)(b). The second precondition requires the consent authority to be satisfied that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (*Initial Action* at [28]).

Under cl 64 of the *Environmental Planning and Assessment Regulation 2000*, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in

respect of applications made under cl 4.6, subject to the conditions in the table in the notice.

Clause 4.6(5) of WLEP provides:

- (5) *In deciding whether to grant concurrence, the Director-General 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.*

As these proceedings are the subject of an appeal to the Land & Environment Court, the Court has the power under cl 4.6(2) to grant development consent for development that contravenes a development standard, if it is satisfied of the matters in cl 4.6(4)(a), without obtaining or assuming the concurrence of the Secretary under cl 4.6(4)(b), by reason of s 39(6) of the Court Act. Nevertheless, the Court should still consider the matters in cl 4.6(5) when exercising the power to grant development consent for development that contravenes a development standard: *Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at 100; *Wehbe v Warringah Council* at [41] (*Initial Action* at [29]).

Clause 4.6(6) relates to subdivision and is not relevant to the development. Clause 4.6(7) is administrative and requires the consent authority to keep a record of its assessment of the clause 4.6 variation. Clause 4.6(8) is only relevant so as to note that it does not exclude clause 4.3 of WLEP from the operation of clause 4.6.

3.0 Relevant Case Law

In *Initial Action* the Court summarised the legal requirements of clause 4.6 and confirmed the continuing relevance of previous case law at [13] to [29]. In particular the Court confirmed that the five common ways of establishing that compliance with a development standard might be unreasonable and unnecessary as identified in *Wehbe v Warringah Council* (2007) 156 LGERA 446; [2007] NSWLEC 827 continue to apply as follows:

- 17. *The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Warringah Council at [42] and [43].*
- 18. *A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Warringah Council at [45].*

19. *A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Warringah Council at [46].*
20. *A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Warringah Council at [47].*
21. *A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Warringah Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Warringah Council at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.*
22. *These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

The relevant steps identified in *Initial Action* (and the case law referred to in *Initial Action*) can be summarised as follows:

1. Is clause 4.3 of WLEP a development standard?
2. Is the consent authority satisfied that this written request adequately addresses the matters required by clause 4.6(3) by demonstrating that:
 - (a) compliance is unreasonable or unnecessary; and
 - (b) there are sufficient environmental planning grounds to justify contravening the development standard
3. Is the consent authority satisfied that the proposed development will be in the public interest because it is consistent with the objectives of clause 4.3 and the objectives for development for in the zone?
4. Has the concurrence of the Secretary of the Department of Planning and Environment been obtained?

5. Where the consent authority is the Court, has the Court considered the matters in clause 4.6(5) when exercising the power to grant development consent for the development that contravenes clause 4.3 of WLEP?

4.0 Request for variation

4.1 Clause 4.6(3)(a) – Whether compliance with the development standard is unreasonable or unnecessary

The common approach for an applicant to demonstrate that compliance with a development standard is unreasonable or unnecessary are set out in *Wehbe v Warringah Council* [2007] NSWLEC 827.

The first option, which has been adopted in this case, is to establish that compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Consistency with objectives of the height of buildings standard

An assessment as to the consistency of the proposal when assessed against the objectives of the standard is as follows:

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

Response: The existing character of the surrounding area is predominately 1 and 2 storey residential dwellings. The proposed alterations and additions will present as a 2 storey development with pitched roof. The resultant bulk and scale will be entirely consistent with the established scale of development in the area.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Warringah Council* (2005) NSW LEC 191 I have formed the considered opinion that most observers would not find the proposed development by virtue of its roof form and building height offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of development within the sites visual catchment.

The proposal is consistent with this objective.

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

Response: The minor non-compliance does not give rise to any adverse amenity impacts with regard to view sharing, privacy or overshadowing. Shadow diagrams provided with the application demonstrate compliance with the solar access provisions.

The proposal is consistent with this objective.

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

Response: The site is situated within an established residential area and not in close proximity to either coastal or bush environments. As such, there is no adverse impacts to these environments.

The proposal is consistent with this objective.

- d) *to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities*

Response: The proposal is consistent with the scale of development but providing a 2 storey presentation to the street. Accordingly, the dwelling would not result in an unreasonable visual impact when viewed from the street. The maintenance of the majority of the existing front boundary hedges assist in softening and screening the built form. The front façade has been appropriately articulated and utilises a range of materials and finishes to create visual interest as well as softening the built form.

It is considered that the proposal would not be considered jarring or unsympathetic when viewed from the street.

The proposal is consistent with this objective.

Consistency with zone objectives

The subject site is zoned R2 Low Density Residential pursuant to WLEP 2011 with secondary dwellings permissible in the zone with consent. The stated objectives of the zone are as follows:

- *To provide for the housing needs of the community within a R2 Low Density Residential environment.*

Response: Dwelling houses are a permissible form of development within the Land Use table and is considered to be specified development that compatible with the objectives of the zone. The proposal relates to alterations and additions to a dwelling and will maintain that existing use. The works will create a 2 storey family dwelling consistent with the scale of development along Lewis Street and maintain the low density character of the zone.

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

Response: The proposal maintains the existing dwelling house use.

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

Response: The dwelling will continue to sit within a landscaped setting with the front lawn and hedging to be largely retained. The proposed carport will incorporate a green roof and permeable materials to enhance the landscaped character of the site. It is considered that the development will maintain an appropriate balance between the built form and the landscaped character.

The proposal is consistent with development in the vicinity with dwellings sited within informal landscaped settings.

4.2 Clause 4.6(4)(b) – Are there sufficient environmental planning grounds to justify contravening the development standard?

In Initial Action the Court found at [23]-[24] that:

23. *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.*
24. *The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.*

The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately

addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].

Sufficient environmental planning grounds exist to justify the height of buildings variation. The minor nature of the breach does not result in any adverse amenity impacts with regard to view loss, overshadowing or privacy impacts. The dwelling will present as 2 storeys with a pitched roof which is consistent with the scale of development in this locality. The alterations and additions utilise the existing dwellings established footprint and represents an orderly and economic use of the site given the undersized nature of the allotment.

In this regard, I consider the proposal to be of a skilful design which responds appropriately to the constraints on the site and utilises the existing dwelling to create a modern dwelling that contributes to the streetscape character. Such outcome is achieved whilst realising the reasonable development potential of the land.

The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:

- The proposal promotes the orderly and economic use and development of land (1.3(c)).
- The development represents good design (1.3(g)).
- The building as designed facilitates its proper construction and will ensure the protection of the health and safety of its future occupants (1.3(h)).

It is noted that in *Initial Action*, the Court clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

87. *The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.*

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

4.3 Clause 4.6(a)(iii) – Is the proposed development in the public interest because it is consistent with the objectives of clause 4.3 and the objectives of the R2 Low Density Residential zone

The consent authority needs to be satisfied that the proposed development will be in the public interest if the standard is varied because it is consistent with the objectives of the standard and the objectives of the zone.

Preston CJ in Initial Action (Para 27) described the relevant test for this as follows:

"The matter in cl 4.6(4)(a)(ii), with which the consent authority or the Court on appeal must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest. If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, or the Court on appeal, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii)."

As demonstrated in this request, the proposed development it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

Accordingly, the consent authority can be satisfied that the proposed development will be in the public interest if the standard is varied because it is consistent with the objectives of the standard and the objectives of the zone.

4.4 Secretary's concurrence

By Planning Circular dated 21st February 2018, the Secretary of the Department of Planning & Environment advised that consent authorities can assume the concurrence to clause 4.6 request except in the circumstances set out below:

- Lot size standards for rural dwellings;
- Variations exceeding 10%; and
- Variations to non-numerical development standards.

The circular also provides that concurrence can be assumed when an LPP is the consent authority where a variation exceeds 10% or is to a non-numerical standard, because of the greater scrutiny that the LPP process and determination s are subject to, compared with decisions made under delegation by Council staff.

Concurrence of the Secretary can therefore be assumed in this case.

5.0 Conclusion

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

- (a) that the contextually responsive development is consistent with the zone objectives, and
- (b) that the contextually responsive development is consistent with the objectives of the height of buildings standard, and
- (c) that there are sufficient environmental planning grounds to justify contravening the development standard, and
- (d) that having regard to (a), (b) and (c) above that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case, and
- (e) that given the developments ability to comply with the zone and height of buildings standard objectives that approval would not be antipathetic to the public interest, and
- (f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning; and
- (g) Concurrence of the Secretary can be assumed in this case.

Pursuant to clause 4.6(4)(a), the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) being:

- (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.*

As such, I have formed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a height of buildings variation in this instance.

ITEM 4.2	DA2021/0151 - 25 CLIFF STREET, MANLY - ALTERATIONS AND ADDITIONS TO A RESIDENTIAL FLAT BUILDING
AUTHORISING MANAGER	Anna Williams
TRIM FILE REF	2021/372741
ATTACHMENTS	1 Assessment Report 2 Site Plan & Elevations 3 Clause 4.6

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2021/0151 for alterations and additions to a residential flat building at Lot CP SP 12958, 25 Cliff Street, Manly subject for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0151
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Responsible Officer:	Clare Costanzo
Land to be developed (Address):	Lot CP SP 12958, 25 Cliff Street MANLY NSW 2095
Proposed Development:	Alterations and additions to a residential flat building
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Proprietors of Strata Plan 12958
Applicant:	Pittwater Design & Draft

Application Lodged:	02/03/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	10/03/2021 to 24/03/2021
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 42%
Recommendation:	Refusal

Estimated Cost of Works:	\$ 329,000.00
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EXECUTIVE SUMMARY

The application seeks consent for internal and external alterations and additions to a residential flat building located at 25 Cliff Street, Manly.

The proposed works consist of replacing some existing windows, battening up the existing sun rooms to be level with existing FFL of each Unit and new balconies at the rear along the northern elevation of the building.

The proposal provides for a maximum height of 12.1m. This presents a 3.58m or 42% variation to the maximum building height control of 8.5m as required under Manly Local Environmental Plan 2013, specifically Clause 4.3 Height of Buildings.

Despite the non-compliance with the development standard, the works are contained generally within

the existing developed area, below the maximum roof height and are not expected to result in any substantial additional bulk. Subsequently the Applicant has provided a Clause 4.6 written request to vary the Development Standard.

The proposed variation to the height of buildings development standard exceeds 10% and the proposal relates to a residential flat building (Class 2). As such, the application is referred to the Northern Beaches Local Planning Panel for determination.

Owners consent from the Owners of Strata Plan No. 12958 has been provided as part of the application. However owners consent for the construction of supporting columns for the proposed balconies over land belonging to Lot 7 has not been provided as part of the Development Application. Council has requested owners consent from the Applicant multiple times including a formal request for additional information on the 6 May 2021.

Subsequently the proposal is recommended for refusal as a result of insufficient information provided.

PROPOSED DEVELOPMENT IN DETAIL

The proposal comprises of the following alterations and additions to an existing residential flat building:

- Replace existing windows in sunrooms with aluminium framed louvred glass
- Batten up existing sunrooms to match existing internal floor levels
- New balconies to units 1 to 6 along the northern elevation of the building
- New colourbond roofing over existing sunrooms and proposed balconies

Owners consent for the Development Application has been provided by the Owners of Strata Plan No. 12958. The supporting columns for the balconies are proposed on the garden area (see Figure 1 below) specifically belonging to Lot 7. No owners consent has been provided from Lot 7 as part of the Development Application.

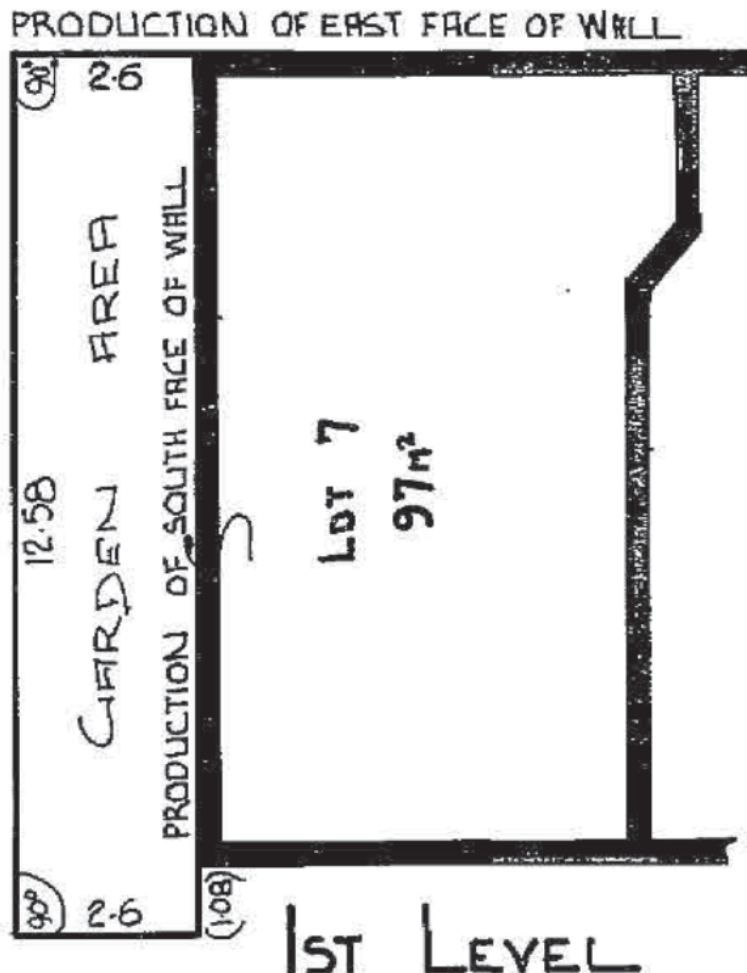


Figure 1: Extract from Strata Plan 12958 showing Lot 7 and garden area forming part of Lot 7

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 - 4.6 Exceptions to development standards
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 3.8 Waste Management
 Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping
 Manly Development Control Plan - Schedule 1 – Maps accompanying the DCP

SITE DESCRIPTION

Property Description:	Lot CP SP 12958 , 25 Cliff Street MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the north eastern side of Cliff Street, Manly.</p> <p>The site is regular in shape with a frontage of 14.02m along Cliff Street and a depth of 24.385m. The site has a surveyed area of 341.80m².</p> <p>The site is located within the R1 General Residential zone and accommodates a four storey brick residence with a tile roof. There are 7 separate unit residences within the building. There is no vehicular access available to the site. Pedestrian access is available to the site via Cliff Street.</p> <p>The site slopes towards the north west with a fall of approximately 4 metres from the front boundary to the rear.</p> <p>The existing building is constructed with a nil setback to the front boundary with concrete pathways and steps along the side boundaries. There is some grass areas and paved surfaces within the rear of the site. There are medium size street trees along Cliff Street, with one directly to the south of the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by residential flat buildings of a similar height and size. Views from the site and adjoining sites are available to the north east towards Manly Beach.</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:

- DA99/10 for Alterations and Additions to an existing residential flat building to add an attic level bedroom and ensuite to Unit 6 was approved on the 16 December 2010.

An internal (from within Unit 5) and external site visit was conducted on the 24 March 2021.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.

Section 4.15 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&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>Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p>Clauses 54 and 109 of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to Land Owners Consent.</p> <p>Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p>Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p>

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

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 10/03/2021 to 24/03/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

Name:	Address:
Ms Lynley Margaret Peebles	4 St Michaels Road MITCHAM NSW 5062
Withheld	MITCHAM NSW 5062

The matters raised within the submissions are addressed as follows:

- Owners Consent**
Comment:
 The submission raised concern that the columns to support the proposed balconies will be constructed on land that forms part of her Lot (Unit 7). Council is aware of this and have recommended the Development Application for Refusal subject to not receiving owners consent from Unit 7.
- Amenity Impacts**
Comment:
 The Applicant raises concern that the proposal will have a significant impact on solar access to Unit 7. The rear of 25 Cliff Street currently receives northern sun, with some existing overshadowing throughout the day as a result of existing development and tall mature

vegetation along the rear boundary of adjoining property (Figure 2).



Figure 2: Looking North at ground level from the rear of 25 Cliff Street

The floor to ceiling height from the ground level to the first floor balcony is 3 metres. The balconies are considered to provide for sufficient height and separation to allow a reasonable level of solar access to Unit 7. A condition has been recommended to reduce the north-south depth of the proposed balconies. As a result natural lighting would still be available to the

subject site.

- **Quality of Construction**

Comment:

The submission raises concerns in relation to the quality of construction in terms of waterproofing and the possibility of ongoing/water drainage problems. In the case of a determination conditions of consent are placed onto the development to ensure the above issues are dealt with at construction certificate stages, occupation certification stages and operational management. The works are also subject to compliance should there be any breaches of the conditions of consent in regard to stormwater management.

- **Owners Corporation Negotiation**

Comment:

This is not an issue related to the subject Development Application and is not taken into consideration as part of the assessment of the application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate stage.</p>
NECC (Bushland and Biodiversity)	<p>Council's biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity related controls:</p> <ul style="list-style-type: none"> • Biodiversity Conservation Act 2016 • Manly LEP cl. 6.5 Terrestrial Biodiversity • Manly DCP cl. 3.3.1 a) iv) Long-nosed Bandicoot Landscaping • Manly DCP cl. 5.4.2 Threatened Species and Critical Habitat Lands <p>The proposed development seeks to enclose existing sunrooms and the addition of new balconies on the northern elevation of the building. Such activities are largely situated within existing developed areas.</p> <p>The Statement of Environmental Effects (SEE) submitted with the application states that the proposed development will not remove any vegetation and that there will be no proposed change in landscaped</p>

Internal Referral Body	Comments
	<p>areas within the broader property.</p> <p>As the subject site is located within the mapped habitat area for the endangered population of Long-nosed Bandicoots at North Head, a '5-part test' for impacts to the endangered population is required to be completed. A 5-part test has been undertaken and concluded that the proposal is unlikely to result in impact to the endangered bandicoot population, subject to these conditions designed to address the potential risks associated with construction activity.</p>
NECC (Coast and Catchments)	<p>The subject land has been included on the 'Coastal Use Area' map but has not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 14 and 15 of the CM SEPP apply for this DA.</p> <p>On internal assessment the DA satisfies the requirements under clauses 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>The subject site is also shown as "Foreshores Scenic Protection Area" on Council's Foreshores Scenic Protection Area Map in Manly LEP 2013. As such, Clause 6.9 (Foreshores Scenic Protection Area) of Manly LEP 2013 and Section 5.4.1 Foreshores Scenic Protection Area of Manly DCP 2013 will apply to proposed development on the site.</p> <p>On internal assessment, the DA addressed the objectives and requirements of both Clause 6.9 (Foreshores Scenic Protection Area) of Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of Manly DCP 2013. Hence, the DA is supported</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 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) the development consists of any of the following:

- (i) the erection of a new building,
- (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
- (iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

The proposal does not include any works listed under (1)(a) above.

As per the definition of a residential flat building and the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are not applicable to the assessment of this application.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A387180_02, A387184_02, A387186_02, A387187_02, A387188_02, A387189_02, A387190_02 dated 28 February 2021).

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

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:

14 Development on land within the coastal use area

(1)

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

Comment:

The proposal is not expected to have any unreasonable impacts on the above.

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

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

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

Comment:

The proposal is not likely to cause increased risk of coastal hazards on that land or other land.

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

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
----------	-------------	----------	-------------	----------

Height of Buildings:	8.5m	12.1m	42%	No
Floor Space Ratio	FSR: 0.6:1	No changes	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	N/A
4.5 Calculation of floor space ratio and site area	N/A
4.6 Exceptions to development standards	Yes
5.8 Conversion of fire alarms	N/A
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	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 presents a 42% non-compliance to the Building Height Control. See 4.6 Exceptions to Development Standards for further discussion.

4.4 Floor space ratio

The existing development does not comply with the Floor Space Ratio (FSR), however there are no increases to the floor space as part of this development application.

The proposal provides for the battening up of existing sunroom floors to match existing internal floor levels and the replacement of existing windows with louvered glass. These sunrooms are already included as part of floor space and therefore the proposed alterations and additions will not increase the floor space area.

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	12.1m
Percentage variation to requirement:	42%

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 recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

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

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

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

Comment:

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

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

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

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

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

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

Comment:

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

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

The applicants written request argues, in part:

- The variation is a result of the existing non compliant building being approximately 15m in height.
- The proposed new balconies are considered to be compatible with the height and scale of surrounding development as it is considerably lower than the roof of the existing building.
- There is public benefit in maintaining a degree of flexibility in specific circumstances,

particularly when site constraints warrant a variation that is still able to achieve the outcomes of the control.

The existing residential flat building and adjoining residential flat buildings along Cliff Street exceed the Height of Building control of 8.5m. The proposal seeks to provide for balconies at the rear of the site to enhance residential amenity for occupants without any unreasonable impacts on surrounding sites. Despite the building height variation, the design and form of the proposed works are consistent with the development within the immediate vicinity and are considered to be appropriate in the context of the site.

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

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

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

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

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

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

Comment:

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

Objectives of development standard

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

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

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

Comment:

The proposed works are considered to be compatible with the surrounding development and prevailing building height. The works comprise of a similar rear setback to the adjoining site to the west. It should also be noted the works are sited to the rear of the property and will not be visible

from Cliff Street.

b) to control the bulk and scale of buildings,

Comment:

The proposed new balconies are not considered to result in any substantial bulk and scale in the context of the existing building given their open nature and the proposed colours and finishes.

c) to minimise disruption to the following:

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

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

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

Comment:

The proposal is not considered to unreasonably impact views to, from or between residential development and public spaces.

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

Comment:

The proposed works are not anticipated to result in any unreasonable overshadowing impacts on adjoining sites given the orientation of the existing building. It is expected the proposed balconies will provide for some loss of sunlight access to Unit 7, located on the ground floor. However given the modest size of the balconies it is considered adequate sunlight access will still be provided.

e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

Comment:

The height of the proposed works are compatible with the surrounding environment and are not expected to cause conflict with the bushland and surrounding land uses.

Zone objectives

The underlying objectives of the R1 General Residential zone are:

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

Comment: The proposal seeks to provide for increased amenity for the existing occupants.

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

Comment: The proposal provides for balconies on an existing residential flat building.

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

residents

Comment: The proposal will provide for facilities to meet the day to day needs of residents.

Conclusion:

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

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

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

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

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 341.8m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.3 Roof Height	Height: 2.5m	0.6m	N/A	Yes
	Parapet Height: 0.6m	0.4m	N/A	Yes
	Pitch: maximum 35 degrees	5 degrees	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	3.8m (based on wall height)	East: 1.4m West: 1.2m	63-68%	No
	Windows: 3m	East: 1.4m West: 1.2m	54-60%	No
4.1.4.4 Rear Setbacks	8m	4.7m	41%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area	25% or 86.3	55%	No
	Open space above ground 25% of total open space	26.3m ² 30%	N/A	No
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	45%	N/A	Yes
4.1.5.3 Private Open Space	18sqm / 12sqm per dwelling	12sqm	N/A	Yes

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	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.)	N/A	N/A
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
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	No	No
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	N/A	N/A
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.7 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
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes
Schedule 1 – Maps accompanying the DCP	No	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

The proposal provides for balconies along the northern rear of an existing residential flat building. There

will be some solar access deficit experienced by Unit 7, located on the ground level as a result of the overhanging balconies. In the case that owners consent is provided, It is recommended the balconies north-south depth is reduced from 2.3m to a maximum of 2m to allow for a reasonable level of solar access to Unit 7.

The balconies are not expected to have an unreasonable impact on the amenity of the occupants on the ground level, subject to the recommended condition. Given the north facing orientation of Unit 7 there will continue to be adequate sunlight access throughout the entire day, subject to the recommended condition.

3.4.2 Privacy and Security

The applicant has stated privacy screens will be incorporated into the development along the eastern and western sides of the proposed balconies. These privacy screens are not indicated on the plans, however should the application be determined as approved a condition has been recommended ensuring inclusion of the privacy screens as part of the development.

3.8 Waste Management

A Waste Management Plan has not been provided as part of the Development Application. A condition has been recommended to ensure a Waste Management Plan is prepared and provided in accordance with the relevant Council controls.

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

The proposed development presents a non-compliance to the Building Height control. See 4.6 Exemption to Development Standards for further discussion and assessment.

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

Description of non-compliance

The proposal presents a non-compliance to the following controls:

- Side setbacks presents a variation of 2.6-2.8m or 63-68% to the control along the eastern and western side boundaries respectively
- Windows present a variation of 1.6-1.8m or 54-60% to the control along the eastern and western side boundaries respectively
- Rear setback presents a variation of 4.7m or 41% to the control along the northern rear boundary

The proposed windows seek to replace existing windows. A condition has been recommended to ensure any BCA compliances are addressed.

Merit consideration:

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

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

Comment:

The proposed works are located within the rear of the site and are not visible from Cliff Street.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposed alterations and additions to the existing residential flat building to provide for internal works and balconies seeks to increase amenity for the occupants. The proposed works are in line with the side setbacks of the existing dwelling and are not expected to have any unreasonable impacts on local amenity enjoyed by surrounding residents.

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

Comment:

The non-compliances are as a result of the siting of the existing development. The side and rear setbacks are compatible with the setback of buildings on adjoining sites.

Objective 4) To enhance and maintain natural features by:

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

Comment:

The proposal retains all trees and vegetation on site. A condition has been recommended to ensure no clearing of vegetation unless otherwise exempt.

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

Comment:

It is considered the proposed building separation will assist in bushfire asset protection zones.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the

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

4.1.5 Open Space and Landscaping

Description of non-compliance

The proposal presents a non-compliance to the minimum residential total open space requirements of 41%. The non-compliance is existing and does not present a deficit as a result of the proposal. It should also be noted the proposed works are located within and on previously cleared and developed portion of the site.

Merit consideration:

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

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

Comment:

The proposed development comprises of internal works and the construction of balconies over an existing paved area. As a result there is no vegetation removal required.

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

Comment:

The proposal complies with the soft landscaped area controls and does not seek to remove any of the existing landscaping.

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

Comment:

The proposed works are sited to the rear of the site and therefore will not have any impacts on the amenity of the streetscape. The proposed balconies have been designed to be compatible with the adjoining development and are not expected to have any unreasonable impacts on the surrounding area.

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

Comment:

The proposal does not seek to remove any water infiltration areas on site. The new roof areas will be connected to existing storm water detention system.

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

Comment:

The proposal will not import any weeds. A condition has been recommended to ensure no weeds are to be imported onto the site prior to or during any construction works.

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

Comment:

The development application has been assessed by Council's Natural Environment Biodiversity Officer who supported the application subject to conditions.

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

Schedule 1 – Maps accompanying the DCP

See 4.1.5 Open Space and Landscaping for further discussion and assessment.

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 \$3,290 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$329,000.

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, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

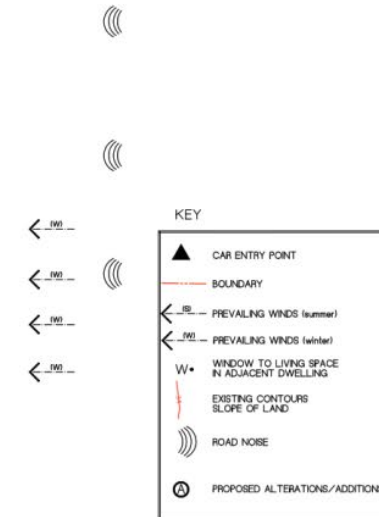
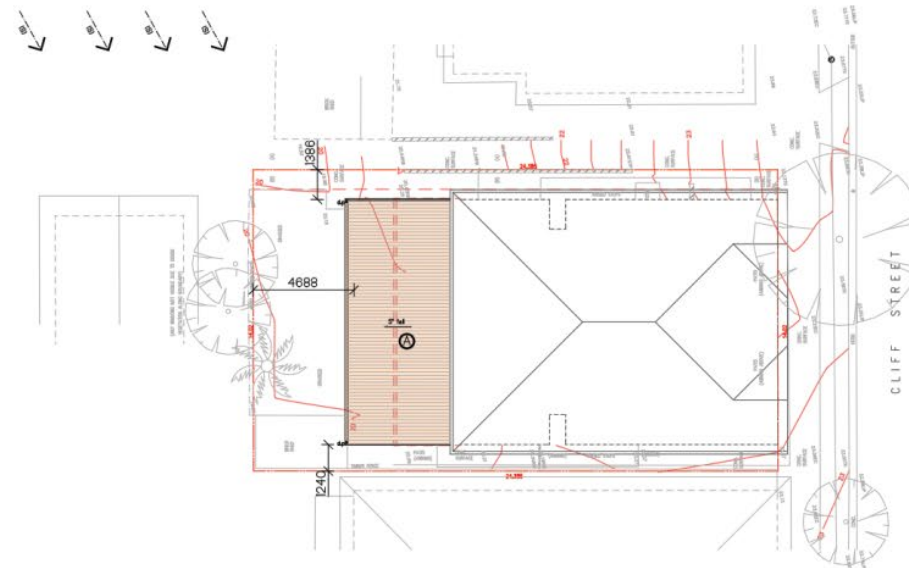
- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council , as the consent authority REFUSE Development Consent to Development Application No DA2021/0151 for the Alterations and additions to a residential flat building on land at Lot CP SP 12958,25 Cliff Street, MANLY, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, no owners consent been provided for the encroaching balcony affecting Lot 7 within SP 12958 which is not part of common property.



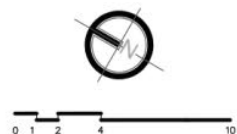
Zoning Map of 25 Cliff Street, Manly



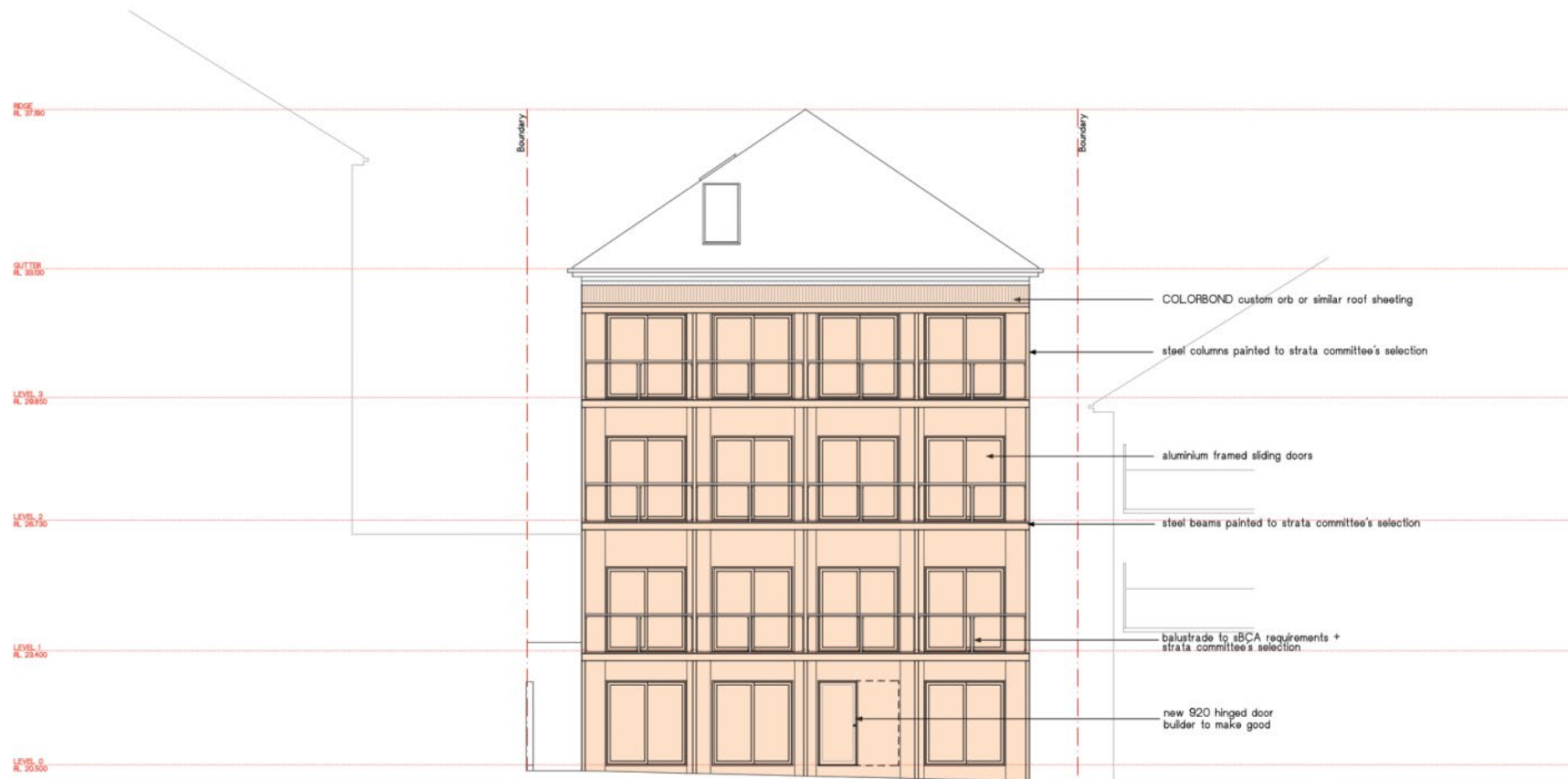
Aerial View of 25 Cliff Street, Manly

SITE CALCULATIONS

	Existing	Proposed
Site Area	341.8m ²	
4.1.3 Floor Space Ratio	1.88:1	1.88:1
4.1.4 Setbacks		
-South (front)	0mm	0mm
-North (rear)	6989mm	4688mm
-East (side)	1386mm	1386mm
-West (side)	1240mm	1240mm
EXISTING RESIDENTIAL AREA	170.4m ²	
PROPOSED RESIDENTIAL AREA	170.4m ²	
EXISTING HARD SURFACE AREA	293.8m ²	
PROPOSED HARD SURFACE AREA	293.8m ²	
PROPOSED LANDSCAPED AREA	65.8m ² (required)	49m ² (existing)



REFER TO EXTERNAL CONSULTANT DOCUMENTATION SUBMITTED WITH THIS DOCUMENT FOR ADDITIONAL CONSTRUCTION SPECIFICATIONS AND PROCEDURES.



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ISSUE	DATE	AMENDMENT
-	----	-

ADDRESS:
LOT CP SP 12598
25 CLIFF STREET, MANLY

SHEET TITLE:
NORTH ELEVATION

DATE:
10.01.20

CLIENT:
STRATA PLAN 12958

SCALE:
1:100 @ A3

PROJECT No:
1727

DWG No:
DA-07

ISSUE:
-



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ISSUE	DATE	AMENDMENT
-	----	-

ADDRESS:
LOT CP SP 12598
25 CLIFF STREET, MANLY

SHEET TITLE:
EAST ELEVATION

DATE:
10.01.20

CLIENT:
STRATA PLAN 12958

SCALE:
1:100 @ A3

PROJECT No:
1727

DWG No:
DA-08

ISSUE:
-



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ISSUE	DATE	AMENDMENT
-	-	-

ADDRESS:
LOT CP SP 12598
25 CLIFF STREET, MANLY

SHEET TITLE:
WEST ELEVATION

DATE:
10.01.20

CLIENT:
STRATA PLAN 12958

SCALE:
1:100 @ A3

PROJECT No:
1727

DWG No:
DA-09

ISSUE:
-



Outlook

Planning &
Development

CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARD

Height of Building Variation

Lot 43 DP 261817

25 Cliff Street
Manly

Clause 4.6 (Height of Building)
25 Cliff Street Manly

Clause 4.6 Exception to Development Standard

25 Cliff Street Manly

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Clause 4.6 (Height of Building)
25 Cliff Street Manly

1 Introduction

This clause 4.6 report accompanies a development application for alterations and additions to an existing residential flat building at 25 Cliff Street Manly

2 Clause 4.3 Height of Buildings - Variation Request

Maximum height: 8.5m

Proposed/existing height: 12.085m

Variation Requested: 3.58m

The request seeks exception to a development standard under clause 4.6 - Exceptions to Development Standards of Manly Local Environmental Plan 2013. The development standard for which a variation is sought is that of Height of Building restriction contained within Clause 4.3. The variation is extremely minor and is a result of the existing non compliant building being approximately 15m in height.

The variation has been prepared in accordance with the NSW Department of Planning and Infrastructure (DP & I) guideline *Varying development standards: A Guide*, August 2011, and has incorporated as relevant, principles identified in the *Wehbe v Pittwater Council [2007] NSWLEC 827*

Clause 4.6 Exceptions to development standards establishes framework for varying development standards applying under a local environmental plan.

Objectives to clause 4.6 at 4.6(1) 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.*

Clause 4.6(3)(a) and 4.6(3)(b) require that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Clause 4.6(4)(a)(i) and (ii) require that development consent must not be granted to a development that contravenes a development standard unless the:

- (a) the consent authority is satisfied that:*
 - (i) the applicants written request has adequately address 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*

Clause 4.6(4)(b) requires that the concurrence of the Secretary be obtained and clause 4.6(5) requires the Secretary in deciding whether to grant concurrence must consider:

- (a) whether contravention of the development standard raises any matter of significance for*

Clause 4.6 (Height of Building)
25 Cliff Street Manly

*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 Secretary before
granting concurrence.*

A detailed assessment has been carried out below:

2.1 What is the Development Standard proposed to be varied?

Clause 4.3 of the Manly LEP provides the following development standard in relation to height of buildings.

(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.

Objectives of clause 4.3

The objectives of clause 4.3 are as followed:

- (a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*
- (b) to control the bulk and scale of buildings,*
- (c) to minimise disruption to the following—*
 - (i) views to nearby residential development from public spaces (including the harbour and foreshores),*
 - (ii) views from nearby residential development to public spaces (including the harbour and foreshores),*
 - (iii) views between public spaces (including the harbour and foreshores),*
- (d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*
- (e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.*

2.2 Clause 4.6(3)(a) - Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

In determining this, the 5 Part test established in *Wehbe v Pittwater Council [2007] NSWLEC 827* has been utilised as a guide

1. Is the proposal consistent with objectives of the standard notwithstanding non-compliance;

The proposal, despite non-compliance with Clause 4.3(2) of the Manly LEP, is considered to remain consistent with the underlying objective of the development standard as follows:

Clause 4.6 (Height of Building)
25 Cliff Street Manly

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

Comment: The proposed new balconies are considered to be compatible with the height and scale of surrounding development as it is considerably lower than the roof of the existing building.

Objective B: *to control the bulk and scale of buildings,*

Comment: The proposed development is not considered to contribute to the bulk and scale of the building.

Objective C: *to minimise disruption to the views to nearby residential development from public spaces (including the harbour and foreshores) and views between public spaces (including the harbour and foreshores),*

Comment: The proposed development does not cause an impact on views of neighbouring residences or from public spaces or between public spaces.

Objective D: *to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*

Comment: The proposed development maintains adequate sunlight for the units and adjacent dwellings.

Objective E: *to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.*

Comment: The proposed development does not impact the existing vegetation and topography as it is built over an existing hard surface area. It will not cause conflict with the bushland and surrounding land uses.

2. Is the underlying objective or purpose of the standard not relevant to the development and therefore compliance is unnecessary;

The underlying objective or purpose of the Standard is relevant. As demonstrated above, the proposal retains consistency with the objectives of Clause 4.3 of Manly Council LEP, despite non-compliance.

3. Would the underlying object of purpose be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

The underlying objectives or purpose of the standard would not be defeated or thwarted if compliance was required, however, as outlined above consistency with objectives is achieved despite noncompliance.

4. Has the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

Clause 4.6 (Height of Building)
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The standard has not been abandoned or destroyed however it is noted from Council's Clause 4.6 Variations register that the Council regularly grants consent for development despite a non compliance with the Height of Buildings' clause 4.3.

5. Is the zoning of the particular land unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary.

The zoning of the land is appropriate for the site.

Clause 4.6(3)(b) - Are there sufficient environmental planning grounds to justify contravening the development standard?

The proposed development is considered to appropriately address and respond to the relevant matters for consideration under S4.15(1) of the EP&A Act 1979.

Specifically, it is considered that the development has been designed in accordance with the objectives outlined in section 1.3 of the EP&A Act 1979 as followed:

***Object (b)** to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*

Comment: The proposed development is alterations and additions to the existing residential flat building to provide new balconies and will result in ecologically sustainable development.

***Object (g)** to promote good design and amenity of the built environment,*

Comment: The proposed alterations to the existing residential flat building promote good design and amenity of the built environment. It is noted that the non compliance is minor and is a result of a depression in the site.

It is considered that there are sufficient environmental planning grounds to justify the non-compliance with the development standard as provided above. Additionally, the development complies with the outcomes of the R2 Low Density Residential zone.

2.3 Clause 4.6(4)(a)(ii) - Is the proposed development in the public interest because it is consistent with the objectives of the standard and zone as set out above.

There is public benefit in maintaining a degree of flexibility in specific circumstances, particularly when site constraints warrant a variation and the development is still able to achieve the outcomes of the control. In the current case, strict compliance would limit the development potential of the site and limit the lifestyle of the occupants of the dwelling. As identified above, the development achieves the outcomes of the development standard and is considered to be in the public interest.

3 Conclusion

As provided above, the development complies with the outcomes of the development standard and is considered to be in the public interest. Strict compliance with this control is deemed unnecessary

Clause 4.6 (Height of Building)
25 Cliff Street Manly

and restricts the use of the site by the owner due to the site constraints. It is considered that the development results in a good planning and design outcome for the property and the community.

ITEM 4.3

**MOD2021/0171 - QUEENSCLIFF SURF LIFE SAVING CLUB,
MANLY - MODIFICATION OF DEVELOPMENT CONSENT
DA302/2012 FOR ALTERATIONS AND ADDITIONS TO THE
EXISTING QUEENSCLIFF SURF LIFE SAVING CLUB
BUILDING INCLUDING MEZZANINE FLOOR, NEW ROOF AND
INTERNAL MODIFICATION**

AUTHORISING MANAGER Anna Williams

TRIM FILE REF 2021/372755

ATTACHMENTS

- 1** Assessment Report
- 2** Floor Plan & Elevations

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. Mod2021/0171 for Modification of Development Consent DA302/2012 for alterations and additions to the existing Queenscliff Surf Life Saving Club building including mezzanine floor, new roof and internal modifications at Lot 1 DP 909018 & Lot 1 DP 178410, Queenscliff Surf Life Saving Club, Manly subject to the conditions set out in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0171
Responsible Officer:	Penny Wood
Land to be developed (Address):	Lot 1 DP 178410, 0 Cameron Avenue MANLY NSW 2095 Lot 1 DP 909018, 0 North Steyne MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA302/2012 for alterations and additions to the existing Queenscliff Surf Life Saving Club building including mezzanine floor, new roof and internal modifications
Zoning:	Manly LEP2013 - Land zoned RE1 Public Recreation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Department of Land & Water Conservation
Applicant:	Northern Beaches Council
Application Lodged:	16/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Community facility
Notified:	26/04/2021 to 10/05/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

The proposed application seeks approval to modify Development Consent DA302/2012 and involves alterations and additions to the Queenscliff Surf Life Savings Club (SLSC) building.

The subject building is a local heritage item, being 1171 - Queenscliff Surf Club - North Steyne, Manly listed in Schedule 5 Environmental Heritage of Manly Local Environmental Plan 2013.

The public exhibition of the modification application resulted in no submissions.

The subject site is located on Crown Land in which Council is the Crown Land Manager. Given Council is the applicant, the modification application is referred to the Northern Beaches Local Planning Panel for determination.

PROPOSED DEVELOPMENT IN DETAIL

The modification application seeks consent for alterations and additions to a community facility being the Queenscliff Surf Life Saving Club (SLSC) building, pursuant to Manly Local Environmental Plan (MLEP 2013).

The proposed works involve:

Ground Floor:

- Replace double door with roller shutter door (same size and location) along eastern elevation and retain doors adjacent to new roller shutter door.
- New door from 'proposed ski and board storage room' into fire stair.
- Existing walls to remain for storage area at northern end.
- New opening onto enclosed area along western elevation.

First Floor:

- Reconfiguration of rooms and removal of male and female toilet and replaced with office and storeroom.
- Door onto western deck from hall are not being installed and a maintenance door is proposed off the corridor is proposed.
- Maintain existing void adjacent to northern end of balcony located along the eastern elevation of building.
- Re-locate the location of the bar within the 'Club Room'

No operational changes are proposed to the use of the Surf Club Building.

Under the Crown Land Managers Act 2016 Clause 3.21, all Crown land managed by local councils must be managed as if it were community land in accordance with the Local Government Act 1993. As a consequence council, as CLM, may make a Development Application without the need for consent of the Crown, as owner of the land, provided that a notice of intention to make the application is served upon the Crown for comment prior to lodgement. Council (as the Crown Land Managers) notified Crown Lands on 16 April 2021 of the lodgement of the subject S4.55 (1A) modification application.

The applicable Plan of Management (PoM) for Queenscliff Surf Life Saving Club (SLSC) is the Manly Ocean Beach Plan of Management 2002, which specifically authorises a 20 year lease for Queenscliff SLSC. All works proposed fall within the lease area (which is currently up for renewal for another 20 year period) and are consistent with the ongoing use of the premises for surf lifesaving purposes. Queenscliff Surf Life Saving Club is categorised as "general community use" under the Local Government Act 1993. The core objectives for management of land classified as "general community use" are to promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public. As such it is considered that the proposal is consistent with the provisions of the PoM.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 1 DP 178410 , 0 Cameron Avenue MANLY NSW 2095 Lot 1 DP 909018 , 0 North Steyne MANLY NSW 2095
Detailed Site Description:	<p>The subject site is located on the eastern side of North Steyne at the northern end of Queenscliff Beach. The site is located within a public recreational reserve known as Merrett Park Reserve. The land is legally known as Lot 1 in DP 178410, Lot 1 in DP 909018. The land is part of Crown Reserve 58090 for Public Recreation. Council is the Crown land Manager of Merrett Reserve.</p> <p>The site is located within the RE1 Public Recreation zone of MLEP 2013 and accommodates the Queenscliff Surf Life Saving Club. The land is classified as Community Land under the Local Government Act.</p> <p>The site contains a heritage listed item, being Item I171 - Queenscliff Surf Club - North Steyne Manly. The site is also within the vicinity of a number of heritage items. Item I168 - Ocean Foreshores - Manly municipal area, boundary adjacent to the ocean. Item I174 - Beach Reserve - Merrett Park North Steyne and South Steyne - North Steyne and South Steyne. Item I166 - Row of Norfolk Island Pine trees (Araucaria heterophylla) - Lagoon Park.</p> <p>Detailed Description of Adjoining/Surrounding</p>

Development

Adjoining and surrounding development is characterised by a public reserve to the north and south and is located adjacent to Manly Lagoon Reserve to the north west with residential dwellings and residential flat buildings located to the west.

Map:



SITE HISTORY

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

- DA302/2012 - Alterations and additions to the existing Queenscliff Surf Life Saving Club including mezzanine floor, new roof and internal modifications. Approved by MIAP 21 February 2013.
- S96 (1A) to modify approved Alterations and additions to the existing Queenscliff Surf Life Saving Club including mezzanine floor, new roof and internal modifications - involving partition walls and modification to layout, new windows, door, ballustrade and backup generator - Part 2. Approved on 22 July 2013.
- S96(1A) to modify approved Alterations and additions to the existing Queenscliff Surf Life Saving Club including mezzanine floor, new roof and internal modifications - involving installation of a door to the courtyard and a rainwater tank - Part 3. Approved 18 March 2015
- Section 96(1A) application to modify approved alterations and additions to the existing Queenscliff Surf Life Saving Club including internal modifications Approved 14 February 2017.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

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

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA302/12, in full, with amendments detailed and assessed as follows:

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

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> • The modification does not alter the built form of the building with the proposed modifications mainly confined to the interior of the existing building. • The proposed works to the building being a Heritage Item (1171 - Queenscliff Surf Club) are supported by Council's Heritage Officer and are not considered to be of a nature that will alter the appearance or significance of the Item. • Given the minor nature of the proposed modifications, the proposal is unlikely to impact on the significance of the heritage listed Ocean Foreshores (Item 1168 under the MLEP 2013) adjacent to the subject site. • The proposed works are unlikely to significantly impact upon the visual and aesthetic quality of the Foreshore Scenic Protection Area.
(b) it is satisfied that the development to which	The development, as proposed, has been found to

Section 4.55(1A) - Other Modifications	Comments
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>be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA302/12 for the following reasons:</p> <ul style="list-style-type: none"> • The proposed works maintain the use and function of the Surf Club. • The development will maintain the same built form as what is existing with no changes to building height, setbacks or building envelope. • The development will not alter the existing impacts to the amenity of the surrounding buildings and public space.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

Section 4.15 Assessment

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

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

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

Section 4.15 'Matters for Consideration'	Comments
of any draft environmental planning instrument	seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes 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>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts	<p>(i) Environmental Impact</p> <p>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>

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 26/04/2021 to 10/05/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
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. It has also been assessed against requirements of the Manly LEP 2013 and DCP 2013.</p> <p>Coastal Management Act 2016 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. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p>

Internal Referral Body	Comments
	<p>State Environmental Planning Policy (Coastal Management) 2018</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental 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, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Manly LEP 2013 and Manly DCP</p> <p>Foreshores Scenic Protection Area Management</p> <p>The subject site is also shown to be as "Manly Foreshores Scenic Protection Area" on Council's Foreshores Scenic Protection Area in Manly LEP 2013. As such, Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013 will apply to proposed development on the site.</p> <p>On internal assessment, the DA satisfies requirements under Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013. As such, it is considered that the application does comply with the requirements of the Manly DCP 2013.</p>
NECC (Development	Yes without conditions.

Internal Referral Body	Comments
Engineering)	
NECC (Riparian Lands and Creeks)	The changes proposed are minor in nature to approved consent with no additional external works. Recommended for approval without conditions.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed modifications are minor in nature and not considered to increase flood risk. Recommended for approval without conditions.
Parks, reserves, beaches, foreshore	The application is for modifications to development consent DA0302/12 including ground floor and first floor internals changes that are minor design changes. Parks, Reserves and Foreshores Referral raise no objections.
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	The proposal has been referred to Heritage as the subject property is a heritage listed item, being Item I171 - Queenscliff Surf Club - North Steyne, Manly. It is also within the vicinity of a number of heritage listed items: Item I168 - Ocean foreshores - Manly municipal area, boundary adjacent to the ocean Item I174 - Beach Reserve —Merrett Park North Steyne and South Steyne - North Steyne and South Steyne Item I166 - Row of Norfolk Island Pine trees (Araucaria heterophylla) - Lagoon Park
	Details of heritage items affected
	Details of the heritage items, as contained within the Northern Beaches Heritage Inventory, are: Item I171 - Queenscliff Surf Club <u>Statement of significance:</u> A post-modern style building, not architecturally distinguished, but possessing great social significance. <u>Physical description:</u> Completed in the 1990. A large two storey cement rendered post-modern style building with rectangular columns to colonnade extending around the building's beach front with terrace above and a corner clock, tower facing the beach. The street front has a curvilinear wave form to the ground floor, front, a setback curved corrugated colour bond roof form and clear storey above. A small gabled parapet with semicircular opening defines the entry. The SLSC has operated since 1877. Item I168 - Ocean foreshores <u>Statement of significance:</u>

Internal Referral Body	Comments																					
	<p>Natural landscape. Part of coastal zone east coast of Australia. Part entrance to Sydney Harbour. Listed due to its aesthetic, historic, and scientific significance to the area.</p> <p><u>Physical description:</u> Ocean foreshores, mostly rocky edge and cliff or beach sand system. Natural environment. High scenic quality.</p> <p>Item I174 - Beach Reserve <u>Statement of significance:</u> High significance as natural sand beach and cultural backdrop of paved promenade and first coastal plantings of Norfolk Island Pines.</p> <p><u>Physical description:</u> Beachfront, promenade, sandstone retaining wall, paved, grassed And/or planting beds and remnant plantings of Norfolk Island Pines planted from the 1850's to the 1880's.</p> <p>Item I166 - Row of Norfolk Island Pine trees (Araucaria heterophylla) <u>Statement of significance:</u> Listed for its aesthetic importance.</p> <p><u>Physical description:</u> A row of Norfolk Island Pine trees planted between the boundary of private allotments and the Lagoon Park. Visually prominent landscape elements.</p> <table><tr><th colspan="3">Other relevant heritage listings</th></tr><tr><td>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td><td>No</td><td></td></tr><tr><td>Australian Heritage Register</td><td>No</td><td></td></tr><tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr><tr><td>National Trust of Aust (NSW) Register</td><td>No</td><td></td></tr><tr><td>RAIA Register of 20th Century Buildings of Significance</td><td>No</td><td></td></tr><tr><td>Other</td><td>N/A</td><td></td></tr></table> <p>Consideration of Application The proposal seeks consent for minor external and mainly internal modifications to consent (DA302/12/S96-1A). A number of modification applications have been approved prior to this modification application. The proposed modifications are mainly confined to the interior of the existing building.</p> <p>The site is located adjacent to heritage listed Ocean Foreshores and consideration of visual impact to the waterways and foreshores</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	
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																					

Internal Referral Body	Comments
	<p>is required. Given the minor nature of the proposed modifications, the proposal is considered to be unlikely to impact on significance of the heritage item and it is considered that the impact upon the visual and aesthetic quality of the Foreshore Scenic Protection Area is negligible.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u> 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> <p>Further Comments</p> <p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 28 April 2021</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 community 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 community land use.

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 development is located within the coastal use area. The proposed modifications are mainly internal and are therefore not considered to impact on the coastal environment.

- (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:

Given the minor nature of the works and the works relating to the internal fabric and layout of the building, Council is satisfied that the development is sited designed and will be managed to avoid any adverse impact referred to in subclause (1).

14 Development on land within the coastal environment area

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

- (b) is satisfied that:
- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The development is located within the coastal use area. Council's Coast and Catchments Section is satisfied that the proposed works will not result in any adverse impact on the items listed in (1)(a) and that the development is designed and sited and will be managed to avoid any adverse impact on these items.

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's Coast and Catchments Section have provided comments raising no issues and state the proposal satisfies the requirements under Clause 15.

As such, it is considered that the application does/does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Manly Local Environmental Plan 2013

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

Principal Development Standards

No Principal Development Standards apply to the subject site.

Compliance Assessment

Clause	Compliance with Requirements
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.5 Terrestrial biodiversity	Yes

Clause	Compliance with Requirements
6.6 Riparian land and watercourses	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Manly Development Control Plan

Built Form Controls

No Built Form Controls apply to the subject site.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.6 Accessibility	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.3 Flood Prone Land	Yes	Yes
5.4.4 Riparian Land and Watercourses	Yes	Yes

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 application seeks consent for alterations and additions to a community facility being the Queenscliff Surf Life Saving Club (SLSC) building.

The assessment of the subject application finds the proposed works to be minor in nature and is not considered to resulting in any unreasonable impacts to the public domain and natural environment. Given the minor nature of the proposed modifications the proposal is unlikely to impact on the significance of the heritage and it is considered that the impact upon the visual and aesthetic quality of the Foreshore Scenic Protection Area is negligible.

No submissions were received in relation to the proposed development.

Assessment of modification application against the Manly LEP, Manly DCP and relevant SEPP's finds that the development is suitable in the context of the site, and 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 Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2021/0171 for Modification of Development Consent DA302/2012 for alterations and additions to the existing Queenscliff Surf Life Saving Club building including mezzanine floor, new roof and internal modifications on land at Lot 1 DP 178410,0 Cameron Avenue, MANLY, Lot 1 DP 909018,0 North Steyne, MANLY, subject to the conditions printed below:

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

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

a) Modification Approved Plans

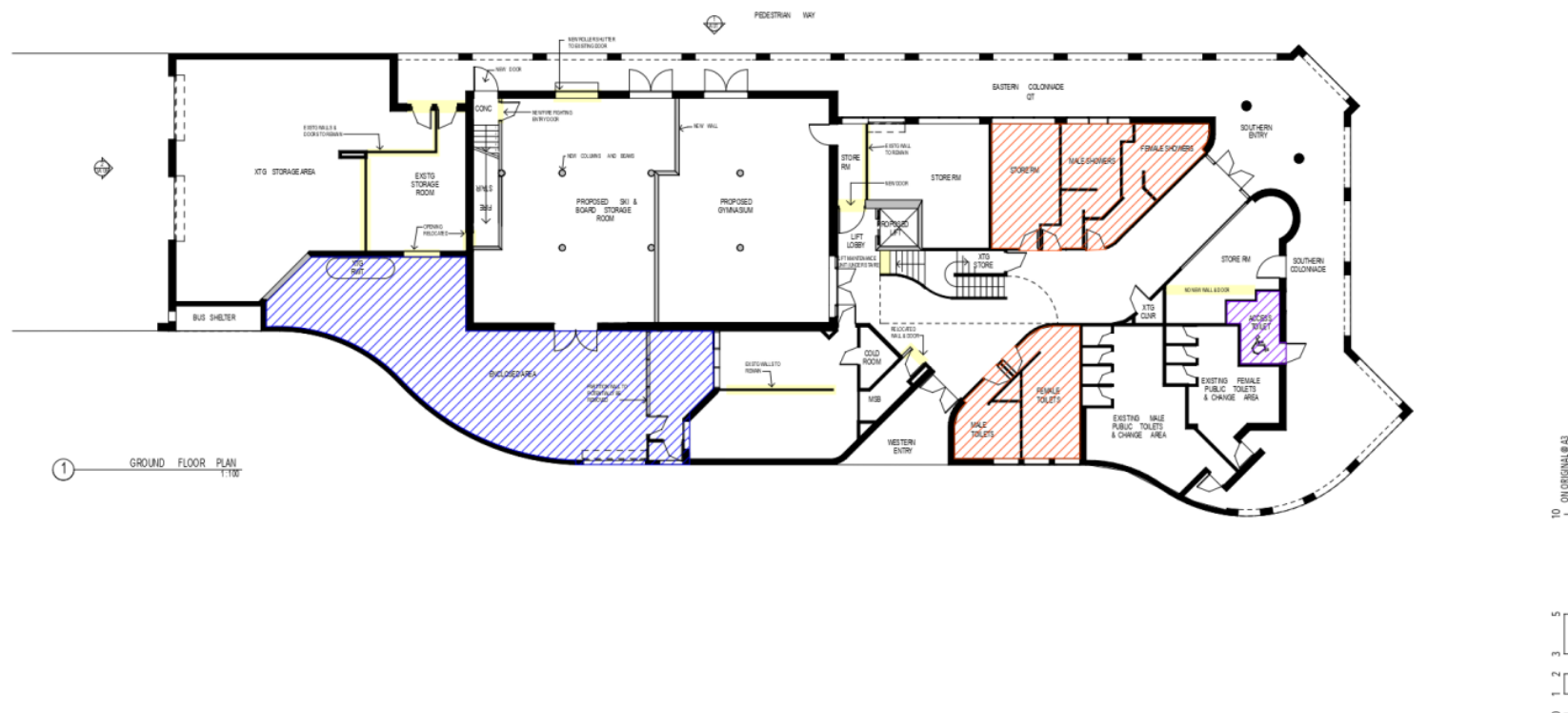
Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Ground Floor Plan - DA01 - Revision E	25 March 2021	Pieter Henry
First Floor Plan - DA02 - Revision E	25 March 2021	Pieter Henry
Elevations - DA03 - Revision E	25 March 2021	Pieter Henry
Elevations - DA04 - Revision E	25 March 2021	Pieter Henry

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

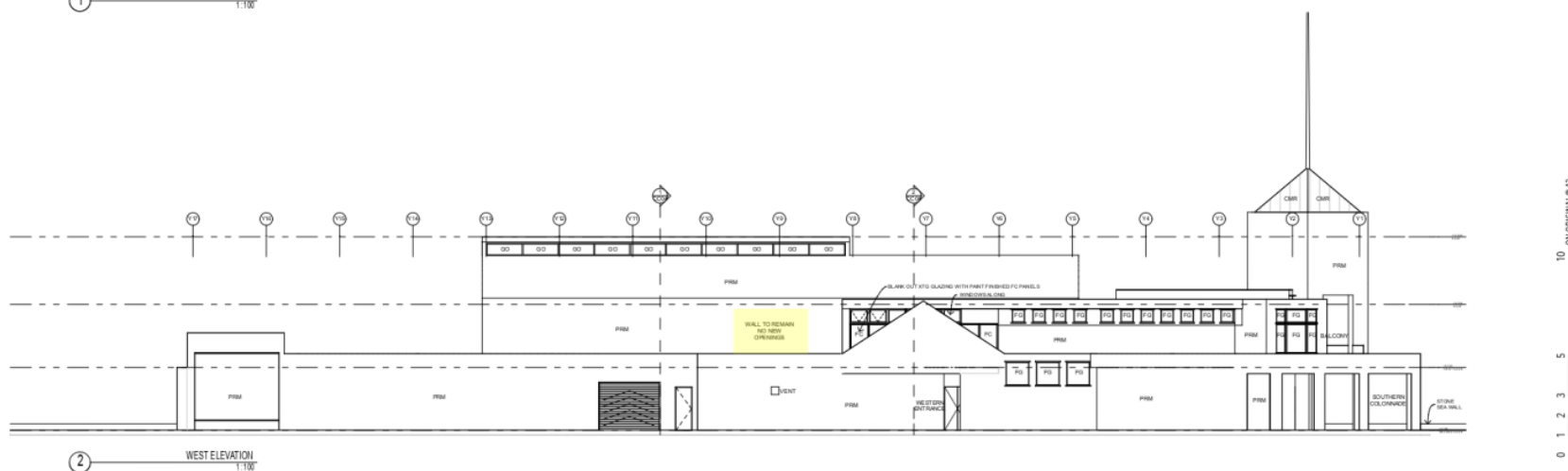
Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.


NOTE:
CHECK ALL DIMENSIONS ON SITE BEFORE COMMENCING WITH THE
WORK SHOWN ON THIS DRAWING. WORK TO FIGURED DIMENSIONS
ONLY. DO NOT SCALE DRAWINGS. REPORT ANY DISCREPANCIES TO THE
ARCHITECT FOR A DECISION BEFORE PROCEEDING WITH WORK.

LEGEND
EXISTING WALLS
NEW WALLS
PROPOSED NEW WORK
DEMOLISHED WALLS
DEVELOPMENT CONSENT DATED 20/04/21 - 20/04/21 15A DATED 20/04/21
DEVELOPMENT CONSENT DATED 20/04/21 - 18/03/21 15A DATED 20/04/21
DEVELOPMENT CONSENT DATED 20/04/21 - 14/02/21 15A DATED 20/04/21
DEVELOPMENT CONSENT PART 5 - 15/03/21



PROJECT TITLE			DRAWING TITLE			DRAWING SCALE			DATE			DRAWN / CHECKED		
QUEENSCLIFF SURF LIFESAVING CLUB			GROUND FLOOR PLAN			1:100			25/3/21			BM		
PROJECT ADDRESS			SITE DESCRIPTION			REVISION			DESCRIPTION			DATE		
QSLC NORTH STEYNE, MANLY NSW						C			EMAIL 08.03.21 CHANGES			09.03.21		
						D			CLIENT CHANGES 16.03.21			18.03.21		
						E			PRELIMINARY ISSUE			25.03.21		
									STATUS					
												DRAWING NO		
												DA.01		
												ON ORIGINAL @ A3		
												REVISION		
												E		



 <p>PINTER HEAVY PO BOX 771 MANASSA, VA 20108 (703) 461-6221 464-656 info@pinterheavy.com www.pinterheavy.com A/E/C 405 264-7807 A/E/C 411 788-897 NONAFFILIATED ARCHITECT - REG. NO. 4741</p>	<p>PROJECT TITLE QUEENSLIFF SURF LIFESAIVING CLUB</p>		<p>DRAWING TITLE ELEVATIONS</p>		<p>CLAUSE 4.6 APPLICATION - MODIFICATION TO ORIGINAL CONSENT</p>	
	<p>PROJECT ADDRESS</p>		<p>SITE DESCRIPTION</p>		<p>DRAWING SCALE 1:100</p>	<p>DATE 25/3/21</p>
					<p>DRAWING NO DA.03</p>	<p>REVISION</p>
					<p>DATE</p>	<p>STATUS</p>

REVISION	DESCRIPTION	DATE
C	EMAIL 08 03 21 CHANGES	09 03 21
D	CLIENT CHANGES 16 03 21	18 03 21
E	PRELIMINARY ISSUE	25 03 21



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WORK SHOWN ON THIS DRAWING. WORK TO FIGURED DIMENSIONS
ONLY. DO NOT SCALE DRAWINGS. REPORT ANY DISCREPANCIES TO THE
ARCHITECT FOR A DECISION BEFORE PROCEEDING WITH WORK.

LEGEND

- EXISTING WALLS
- NEW WALLS
- PROPOSED NEW WORK
- DEMOLISHED WALLS
- DEVELOPMENT CONSENT CHANGES 11 - 2017 11A CHANGES 11A00C
- DEVELOPMENT CONSENT CHANGES 11 - 1810 11A CHANGES 11A00C
- DEVELOPMENT CONSENT CHANGES 11 - 1412 11A CHANGES 11A00C
- DEVELOPMENT CONSENT PART 11 - 130000

<p>PROJECT TITLE QUEENSLIFF SURF LIFESAVING CLUB</p>		<p>DRAWING TITLE ELEVATIONS</p>		<p>CLAUSE 4.6 APPLICATION - MODIFICATION TO ORIGINAL CONSENT</p>	
				<p>DRAWING SCALE 1:100</p>	
<p>PROJECT ADDRESS</p>		<p>SITE DESCRIPTION</p>		<p>DATE 25/3/21</p>	
<p>REVISION</p>		<p>DESCRIPTION</p>		<p>DRAWING NO DA.04</p>	
<p>C</p>		<p>EMAIL 03 21 CHANGES</p>		<p>09 03 21</p>	
<p>D</p>		<p>CLIENT CHANGES 16 03 21</p>		<p>18 03 21</p>	
<p>E</p>		<p>PRELIMINARY ISSUE</p>		<p>25 03 21</p>	
<p>STATUS</p>		<p>REVISION</p>		<p>ON ORIGINAL @ A3</p>	

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PROJECT TITLE
QUEENSLIFF SURF LIFESAVING CLUB

DRAWING TITLE
ELEVATIONS

REVISION

DATE
25/3/21

DRAWN / CHECKED
BM

REVISION

E

ITEM 4.4	DA2020/1606 - 10 COURTLEY ROAD, BEACON HILL - CONSTRUCTION OF A DWELLING HOUSE
AUTHORISING MANAGER	Anna Williams
TRIM FILE REF	2021/372785
ATTACHMENTS	1 Assessment Report 2 Site Plan & Elevations

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is a member of Parliament (either the Parliament of NSW or Parliament of the Commonwealth).

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2020/1606 for construction of a dwelling house at Lot 7 DP 238331, 10 Courtley Road, Beacon Hill for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1606
Responsible Officer:	Sarah McNeilly (external consultant)
Land to be developed (Address):	10 Courtley Road, Beacon Hill
Proposed Development:	Construction of a dwelling house
Zoning:	R2 Low density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Mrs S and Mr F Nile
Applicant:	Jonathan Malota (Allura Homes)
Application Lodged:	16/12/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential – New dwelling
Notified:	11/01/2021 to 25/01/2021
Advertised:	Not advertised
Submissions Received:	2
Clause 4.6 Variation:	No
Recommendation:	Refusal
Estimated Cost of Works:	\$982,000

EXECUTIVE SUMMARY

The application has been referred to the Northern Beaches Local Planning Panel (NBLPP) as the applicant is a member of Parliament (New South Wales).

The proposal consists the construction of a new two storey dwelling with double garage. The site is currently vacant with a previous dwelling having been demolished in 2020.

Two (2) submissions were received during the notification, raising issues of: privacy; overshadowing; visual impact; and unauthorised fill.

Amended plans were received from the applicant on 14 April 2021 in response to issues raised by Councils engineers and landscape officer. Amended driveway grades and stormwater plans were provided.

The site has been the subject of a 2020 [Complying Development Certificate](#) approval for a similar development, which was the subject of unauthorised earthworks (cut and fill) and resulted in a stop work notice being issued by the Principal Certifying Authority on 11 March 2020. Following this a pre-DA meeting was held with Council prior to the current Development Application being lodged.



At the pre-lodgement meeting advice was provided including:

Ensuring the natural ground level on the north-east corner is re-instated to its original level, to reduce privacy impact on the adjoining dwelling at No.10 Courtley Road.

Rectification of ground levels has not been undertaken prior to lodgement of this application with the unauthorised fill and excavation all retained on the site. Additionally, no Building Certificate has been provided for unauthorised fill, excavation and retaining works. Accordingly, the survey provided with the application which provides current altered levels, should not be relied on for assessment.

There are minor variations to setbacks and a small landscaped open space departure. However, the key factors which have led to a recommendation for refusal are privacy and the retention of the unauthorised fill in the north – east corner of the site.

PROPOSED DEVELOPMENT IN DETAIL

The subject development application proposes the construction of a two-storey rendered brick dwelling with a tile roof. The dwelling sits centrally on the lot and consists of:

Ground floor

- Double garage (oversize to provide storage/workbench)
- Entry porch
- Entry foyer
- Living/kitchen (with pantry)/dining
- Media room
- Laundry
- Storage
- Powder room
- Bathroom
- Guest bedroom
- Stair and circulation space
- Covered timber deck on eastern elevation

First floor

- Bedroom 1 with WIR and ensuite and Juliette Balcony
- Bedroom 2
- Bedroom 3
- Balcony (shared by bedroom 2 &3)
- Bedroom 4
- Bathroom
- Sperate WC
- Study nook
- Linen cupboard
- Stair and Circulation space

Site Works

- Relocate driveway cross over from lower (east) to higher (west) side of frontage
- Additional fill to provide level building platform (up to 529mm over current fill level)
- Retaining walls in north eastern corner of site and north western corner of site.

A landscape Plan was received in response to issues raised by Council's landscape officer. Amended plans were also received from the applicant on 14 April 2021 in response to issues raised by Councils engineers. Amended driveway grades and stormwater plans were provided. No changes to the dwelling were included in these revisions.



ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 – 6.2 Earthworks
Warringah Development Control Plan – B5 Side Boundary Setbacks
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan – C7 Excavation and Landfill
Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 7 DP 238331, 10 Courtley Road BEACON HILL NSW 2100
Detailed Site Description:	<p>The development site consists of a single lot with an area of 557m². It is located on the southern side of the street and is irregularly shaped. The lot falls roughly from west to east with the lowest point being the eastern frontage.</p> <p>The site is zoned R2 Low Density Residential and is currently vacant.</p> <p>Surrounding development is low density residential, with the subject lot having six (6) properties sharing a boundary due to the irregular lot shapes in immediate proximity.</p>



SITE HISTORY

PLM 2020/0239

Consideration of a two-storey dwelling brick veneer and tile dwelling, with decking and a pool was considered on 15 October 2020. Advice provided by Council officers at the meeting included the following concluding comments:

The proposal is not acceptable and requires redesign prior to submission. The issues identified are:

- *Adverse privacy impact of the swimming pool; ground floor alfresco area and 1st floor balcony to bedroom 1;*
- *Insufficient landscaped open space to meet the requirements and objectives of WDCP 2011 (Rear Setback and Landscaped Open Space), in particular enhancing privacy and mitigating visual impact; and*
- *Ensuring the natural ground level on the north-east corner is re-instated to its original level, to reduce privacy impact on the adjoining dwelling at No. 10 Courtley Road.*

Based upon the above comments you are advised to satisfactorily address the matters raised in these notes prior to lodging a development application.

DA2020/0585 – Construction of retaining walls and fencing (4/6/20)
Withdrawn

CDC2020/0112 - Construction of a two-storey dwelling with attached garage and swimming pool
It is understood that the PCA issued a stop work order and following this the application has been abandoned. Certificate issued on 11 February 2020.

CDC2020/0048 – Demolition (31/01/2020)

DA2018/1886 – Demolition works and construction of a dwelling house swimming pool
(29/11/2018)
Approved on 17 July 2019.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the [Community Participation Plan](#). ~~relevant Development Control Plan.~~

As a result of the public exhibition process council is in receipt of two submissions from:

Name:	Address:
Ken Smith	12 Courtley Road, Beacon Hill 2100
Ru Jiang Wang & Feng Ying Zhao	14 Courtley Road, Beacon Hill 2100

The matters raised within the submissions are as follows:

- *The proposal will have an adverse impact on the privacy of the adjoining dwelling at No. 14 Courtley Road.*

Comment: The property at No. 14 Courtley Road adjoins the subject site on the eastern (side) boundary, with its area of rear private open space adjoining this boundary. The plans concentrate the bulk of the second storey toward the front of the site which has the benefit for this lot of reducing potential impacts. A bathroom and bedroom first floor window face this site and are not considered to create privacy concerns.

The deck on the eastern elevation of the ground floor is not considered to be a great privacy concern to no 14 as there is ample opportunity for screening and separation as the lot spays out in this location creating greater separation than is available at the front of the lot.

- *The proposal will have an adverse impact on the privacy of the adjoining dwelling at No. 12 Courtley Road.*

Comment: The objectors concerns are considered valid with the combination of unauthorised raised ground levels, location of living areas, raised outdoor space and lack of landscaping all resulting in the new dwelling having views over their pool and outdoor recreation area. These implications could be negated with a varied design which uses the original existing ground level and provides extended setbacks to decks and living areas from the eastern elevation and north eastern corner of the site.

Should the application be approved, conditions of consent could be imposed requiring the deletion of the eastern deck adjoining the dining area, additional landscape screening on the eastern boundary and deletion of retaining walls in the north eastern corner of the site which provides a raised turf yard to the boundary and privacy screening on eastern elevation windows. However, given the fill added since 2018 and the cumulative impacts raising this corner of the dwelling, this objection is considered valid and is included in the reasons of refusal of the application.

- *The proposal will have an adverse solar access impact on the rear yard for the dwelling at No. 14 Courtley Road.*

Comment: Solar access implications for no. 14 Courtley Avenue are considered to comply with the DCP. There is no shadowing at 9am or midday in midwinter, with some shadow to the rear yard at 3pm. This demonstrates that 3 hours can be retained in accordance with DCP controls.

- *Inadequate planting is provided to ensure privacy for no 12 Courtley Road.*

Comment: The proposed landscape plan does include the provision of planting in the north east corner of the site where the soil levels are proposed to be substantially further elevated. However, no other planting is included on the eastern boundary. It appears the applicant is relying to a large



extent on planting which is located on the neighbouring lot. Given the elevated nature of the proposed new dwelling, it is necessary that greater planting be provided on the site boundary to ensure that privacy can be maintained, without reliance on the neighbour's planting. Should the application be approved a condition of consent requiring planting to a height of 2-3 along the perimeter of the eastern boundary would be recommended.

- *Rear Boundary Setback is inadequate to allow for landscaping*

Comment: The rear boundary does provide a non-compliant setback. This is considered reasonable in this instance due to the irregular shape of the lot and the reasonable impacts for neighbours. The landscaped area, including that within the rear boundary is found to be consistent with Council's definition.

- *Excavation and Fill*

Comment: The site has a history of unauthorised excavation and fill being added to the site and this has not been rectified. This matter was raised the pre-lodgement meeting and has not been addressed. It is agreed that is a deficiency with the application and that the survey provided is inaccurate. It is considered that this application cannot be approved as submitted without a Building Certificate which authorises the excavation in the rear western corner of the site of up to 1.93 metres. There has also been the addition of fill in the north eastern corner of up to 1.18 metres. The appropriate measure of levels for the site is agreed to be the survey provided with DA2018/1886 in 2018, which shows pre demolition levels. Therefore, this issue is considered valid and is included in the reasons of refusal of the application.

- *Landscaped Open Space*

Comment: The landscaped area proposed is calculated to be 38% consistent with Council's landscaped area definition. This variation is considered reasonable based on the irregular shaped lot.

- *Front Setback*

Comment: Parts of the development vary the front setback control. However, this is considered a reasonable result for an irregularly shaped lot.

- *Overdevelopment of the site*

Comment: It is considered that the site has potential for a two-storey dwelling. However, the design of the current proposal concentrates the two-storey portion of the development on a filled level close to the street front and in immediate proximity of a lower neighbouring site. By concentrating this portion of bulk it provides an overbearing presence to the lower neighbour.

We note that the previously approved dwelling (DA2018/1886) retained a garage on the eastern corner of the site and accordingly retained the existing driveway crossover in this location. This design, with less alteration to existing ground levels, allowed for a better result which was more considerate of site constraints resulting in a more equitable result. Therefore, this issue is considered valid and is included in the reasons of refusal of the application.

REFERRALS

Internal Referral Body	Comments
Engineering	The proposed impervious area for the development exceeds 40% of the site area and as such on-site stormwater detention (OSD) is required for the proposal in accordance with Council's Simplified

Internal Referral Body	Comments
	<p>Method in the Water Management Policy. The proposed driveway crossing width and grade are unacceptable. The driveway grade is to match the existing ground profile in the road reserve to ensure there are no retaining walls. The width of the crossing is to be a maximum of 4 metres from kerb to the boundary.</p> <p>Development Engineers cannot support the application due to insufficient information to address clauses C2 and C4 of Warringah DCP.</p> <p>Amended Plans received 14/04/2021</p> <p>The amended stormwater plans are satisfactory subject to amendment. The driveway width and grade are also satisfactory.</p> <p>No objection to approval, subject to conditions as recommended.</p> <p>The proposal is therefore supported.</p>
Landscape	<p>This application is for the construction of a residential dwelling on a vacant block of land. The proposed dwelling is to be a two-storeys with accompanying double garage.</p> <p>Councils Landscape Referral section has considered the application against the Warringah Local Environment Plan, and the following Warringah DCP 2011 controls:</p> <ul style="list-style-type: none"> • D1 Landscaped Open Space and Bushland Setting • E1 Preservation of Trees or Bushland Vegetation <p>The Statement of Environmental Effects provided with the application notes that a total area of 209.58m² has been provided for landscaping, totalling 37.6% of the site. This is a minor nonconformance to control D1, however as it is an improvement on the previously approved DA which has 32% of the site dedicated to landscape. The Statement of Environmental Effects provided also notes that the proposed dwelling retains the sites natural and landscape setting. It is worth noting in this case, the site is clear and vacant, and therefore no landscape setting is currently present. In addition to this, it is indicated in the Statement of Environmental Effects that landscaping has been provided which is consistent with the sites suburban context. Following previous comments made in relation to this application, a Landscape Plan has since been provided, with proposed works including the in-ground planting of trees, shrubs and grasses.</p> <p>The proposal seeks to removal two street trees at the front of the property in order to construct a new driveway. Upon review, these trees appear to be undesirable species or in poor health, and with the new Landscape Plans provided, compensatory tree planting has been proposed. Previous concerns were also raised regarding minimal information about proposed planting, however the Landscape Plan now addresses these concerns and indicates sufficient planting to help both mitigate the bulk and scale of the built form, whilst also ensuring privacy between neighbours is retained. Concern is raised regarding the proposed use of <i>Rhaphiolepis umbellata</i>, as this has been identified as an environmental weed and an undesirable species, and shall be required to be substituted for a native alternative. The completion of landscape works as proposed on the Landscape Plans, inclusive of this species change, is vital to satisfy control D1 as key</p>

Internal Referral Body	Comments
	<p>objectives of this control include "enable planting to maintain and enhance the streetscape", "enhance privacy between buildings", as well as "to provide for landscape 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".</p> <p>At this point in time, the proposal is not supported due to insufficient information being provided regarding proposed landscape works and the presence of compensatory planting as a result of street trees removed. A Landscape Plan in accordance with Council's DA Lodgement Requirements is therefore required.</p> <p>The proposal is therefore unsupported.</p> <p>Revised Comments 12 April 2021 Following receipt of a landscape plan, the landscape officer has amended their response to:</p> <p>The landscape component of the proposal is therefore supported subject to the following conditions.</p>

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

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	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for a residential development. However, as is discussed in this report, the scale of the elevated north-eastern corner of the site results in excessive scale and privacy implications and is considered unacceptable.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	This assessment found the application to be contrary to the relevant requirements of the Warringah LEP and DCP, due to the unauthorised alterations of the topography of the site. In this regard the development is not considered to be in the public interest.

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.

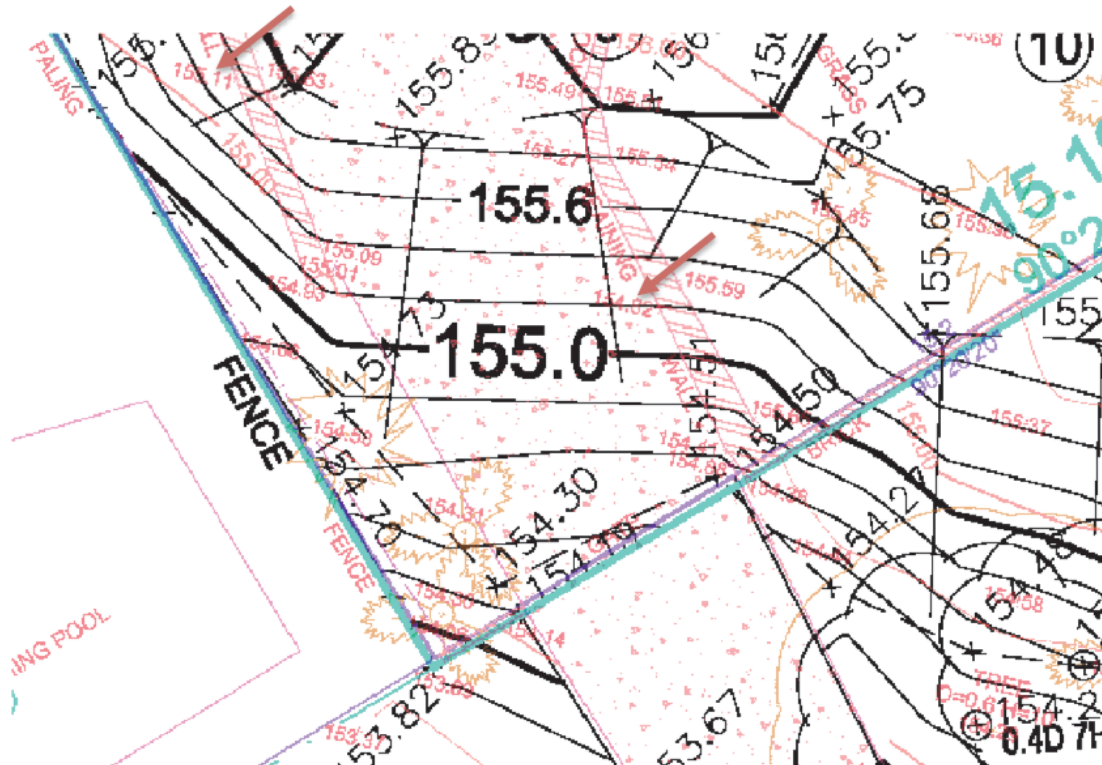
EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

UNAUTHORISED WORKS

CDC2020/0112 for the cConstruction of a two-storey dwelling with attached garage and swimming pool was commenced in early 2020 and it is understood that the PCA issued a stop work order following unauthorised excavation at the rear of the site and filling on the front of the site in March 2020. These works have not been rectified and a Building Certificate has not been sought to permit the varied ground levels.

See overlay of the 2018 (shown in red) and 2020 (shown in black) surveys below detailing areas of fill in north eastern corner of site. The greatest areas of fill are on the western side of the original driveway at 1.18m and at the top of the original driveway at approximately 600mm. Large areas of excavation also exist at the rear of the site.





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 (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.1070491S_02 dated 17 November 2020). The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	42
Thermal Comfort	Pass	Pass
Energy	50	54

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

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?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	8.5m	8.265m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.3 Development near zone boundaries	N/A
6.2 Earthworks	No
6.4 Development on sloping land	Yes

Detailed Assessment

Clause 4.3 Height of Buildings

It is noted that the height of building has been calculated using the survey's level provided on the original survey of 2018 and not the survey provided with the application. It is also noted that the plans do not provide RLs for all roof ridge components and as the ridge height shown on the plan does not scale it is not possible to get an exact calculation. The 8.265m figure is a best estimate.

6.2 Earthworks

Additional fill is proposed to level and raise the site up to 549mm, in addition to the existing unauthorised fill which provides varying additional fill particularly across the front of the site, of up to 1.12 metres. The LEP requires the consent authority to consider a number of factors including "the effect of the proposed development on the existing and likely amenity of adjoining properties".

In this instance it is not considered that the cumulative addition of fill at the northern eastern frontage of the site results in reasonable impacts for the neighbour at 12 Courtley Avenue. The result of the additional fill is a raised building platform and loss of privacy. Given that there are other opportunities to develop on the site without such impacts, this is considered unreasonable and included as a reason for refusal in the recommendation.

It is also considered that a Building Certificate is required to retain the fill and excavation (of up to 1.92 metres at the rear of the site) which has currently been undertaken on the site to rectify the unauthorised works.

WARRINGAH DEVELOPMENT CONTROL PLAN

Built Form Controls

Built Form Control	Requirement	Proposed	%Variation	Complies
B1 Wall Height	7.2m	6.4m	N/A	Yes
B2 Side Boundary Envelope	4m (east)	Within envelope	N/A	Yes
	4m (west)	Within envelope	N/A	Yes
B5 Side Boundary Setbacks	0.9m (east)	0.5 – 7.5m	44%	No
	0.9m (west)	1.18m	N/A	Yes
Front Boundary Setbacks	6.5m	4.05m	37.6%	No
B9 Rear Boundary Setbacks	6m	2.383m deck	60.2%	No
		3.809 (ground flr)	35.5%	No
		8.9m (1st floor)	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	38% 215.5m ²	3.3%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Build Form Controls	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setback	No	Yes
B9 Rear Boundary Setback	No	Yes
Part C Siting Factors	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	No	No
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Part D Design	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	No	No
D10 Building colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
Part E The Natural Environment	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

Description of Non-compliance



The side boundary setback varies for the eastern porch adjacent the dining room, providing a 500mm setback.

Merit Consideration

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

- *To provide opportunities for deep soil landscape areas.*
Ample deep soil is provided.

- *To ensure that development does not become visually dominant.*
The setback is imposing due to the elevated topography of the site and is considered unacceptable when viewed from the neighbouring site, 12 Courtley Avenue. Deletion of the deck adjacent the dining room would resolve this issue.

- *To ensure that the scale and bulk of buildings is minimised.*
The bulk of the structure is accentuated due to the proximity to the boundary. Deletion of the deck adjacent the dining room would resolve this issue.

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

Solar access is achieved.

The development is not supported in its current form. However, deletion of the eastern deck is considered to resolve this issue.

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

B7 Front Boundary Setbacks

Description of Non-compliance

The front boundary setback varies from 4.05 metres at its closest point. The majority of the dwelling frontage sits behind the 6.5 metre line, with variation resulting from the angle of the dwelling and the unusual shape of the lot.

Merit Consideration

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

- *To create a sense of openness.*
The frontage retains ample open area at the frontage. It is noted that this was suggested in the Pre-lodgement meeting with Council.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*
This is achieved with an unusual lot pattern and inconsistent line of dwellings existing in the immediate locality.

- *To protect and enhance the visual quality of streetscapes and public spaces.*
The setback variation is not to the detriment of the streetscape. Some additional planting and reduction in excess driveway area would assist in ensuring this is enhanced.

- *To achieve reasonable view sharing.*
View Sharing is unaffected.

B9 Rear Boundary Setbacks



Description of Non-compliance

The rear boundary setback varies at the ground level with a reduced setback of 2.383 metres.

Merit Consideration

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

- *To ensure opportunities for deep soil landscape areas are maintained.*

Ample deep soil planting is provided on the site.

- *To create a sense of openness in rear yards.*

An open rear yard area is achieved for the site in a more logical location being in the south eastern corner of the site, with the traditional rear boundary, not backing onto a large area of open space in the rear yard of the neighbour no. 6 Kadigal Place, which has its open space area in the north western corner of their site.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Ample separation is provided with the proposal an increase on the setback provided by the previous dwelling on the lot.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Visual continuity is considered to have been achieved by the propose rear boundary.

- *To provide opportunities to maintain privacy between dwellings.*

The rear boundary adequately maintains privacy, particularly given that the first floor is compliance and only the ground floor and deck do not comply.

C7 Excavation and Landfill

Description of Non-compliance

The DCP states that *Excavation and landfill works must not result in any adverse impact on adjoining land*. The proposed development includes fill that has resulted through the commencement of work on CDC2020/0112 in 2020, which was abandoned following a stop work order. There is also the proposal for additional fill as a part of this application. This filling is considered to be to the detriment of the neighbour, 12 Courtley Road with regard to privacy and bulk and scale. The cumulative fill proposed includes:

Eastern corner of dining room – 1.34m

Eastern most corner of deck – 1.314m

Eastern most corner of living room – 1.18m

North eastern corner retained turf (excluding any fencing) - 1.15m

Merit Consideration

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

- *To ensure any land excavation or fill work will not have an adverse effect upon the visual and natural environment or adjoining and adjacent properties.*

The development fails to achieve this, with he raised levels of the dwelling and prove open space creating an excessive scale in close proximity. Given the opportunity to develop on alternate components of the lot, or to step with eh site, the solution proposed is not considered reasonable.



- *To require that excavation and landfill does not create airborne pollution.*
This can be achieved.

- *To preserve the integrity of the physical environment.*
The site is currently vacant. However, it is considered that the raising of the front of the site will create an artificial and raised topography which is not consistent with the land.

- *To maintain and enhance visual and scenic quality.*
The raised levels are not to the benefit of enhancing visual and scenic quality.

As such, non-compliance with the fill requirements prescribed by this control is considered to warrant the refusal of the subject application.

D1 Landscaped Open Space and Bushland Setting

Description of Non-compliance

The landscaped area proposed is 215.5m² or 38%. This is a variation of 3.3 %

Merit Consideration

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

- *To enable planting to maintain and enhance the streetscape.*
There is excessive driveway area provided with the street frontage with the driveway concrete extension in front of the entry porch. The area not in front of the garage could be removed and a smaller entry path provided to allow for additional planting in this area. This could be resolved as a condition of consent.
- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*
The site is vacant but a landscape plan is proposed which is considered satisfactory by Council's landscape officer.
- *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.*
This is achieved.
- *To enhance privacy between buildings.*
This is achieved, with the exception of the deck on the eastern elevation, which could be deleted with a condition of consent.
- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*
This is achieved.
- *To provide space for service functions, including clothes drying.*
This is achieved.
- *To facilitate water management, including on-site detention and infiltration of stormwater.*
This is achieved.

D8 Privacy

Description of Non-compliance

Privacy is not satisfactorily retained for 12 Courtley Road, the neighbour to the east with their key private open space area, terrace pool all overlooked. The key issues are:

1. raised ground levels,



2. location of living areas,
3. Upper level windows overlooking
4. Raised turf levels
5. Lack of landscaping

The implications could be negated with conditions of consent requiring:

1. the deletion of the eastern deck adjoining the dining area,
2. Additional landscape screening on the eastern boundary and
3. Deletion of retaining walls in the north eastern corner of the site which provides a raised turf yard to the boundary and
4. Privacy screening on eastern elevation windows.

However, the cumulative impacts of the existing and proposed fill in the north-eastern corner of the site raising this corner of the dwelling cannot be resolved through condition. The implication of the fill is considered below.

Merit Consideration

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

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

This is not achieved with the elevation of the site resulting in enhanced loss of privacy. Retaining existing levels or an alternate siting of the dwelling would allow for this to be achieved.

- *To encourage innovative design solutions to improve the urban environment.*
- This has not been achieved.

- *To provide personal and property security for occupants and visitors.*

The site is adequately secure, with passive surveillance of the street enhanced.

As such, non-compliance with the privacy requirements prescribed by this control is considered to warrant the refusal of the subject application.

D9 Building Bulk

Description of Non-compliance

The DCP states that fill is not to exceed 1 metre. The cumulative fill on the site does exceed 1 metre as detailed above.

Merit Consideration

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

- *To encourage good design and innovative architecture to improve the urban environment.*

This is not achieved, with the dwelling footprint not stepping the fall of the land.

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

This is not achieved, with the impact of the proposed site and dwelling when viewed from 12 Courtley Road considered excessive.

As such, non-compliance with the building bulk prescribed by this control is considered to warrant the refusal of the subject application.

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.

7.12 CONTRIBUTIONS

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

A monetary contribution of \$9820 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$982,000.

CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

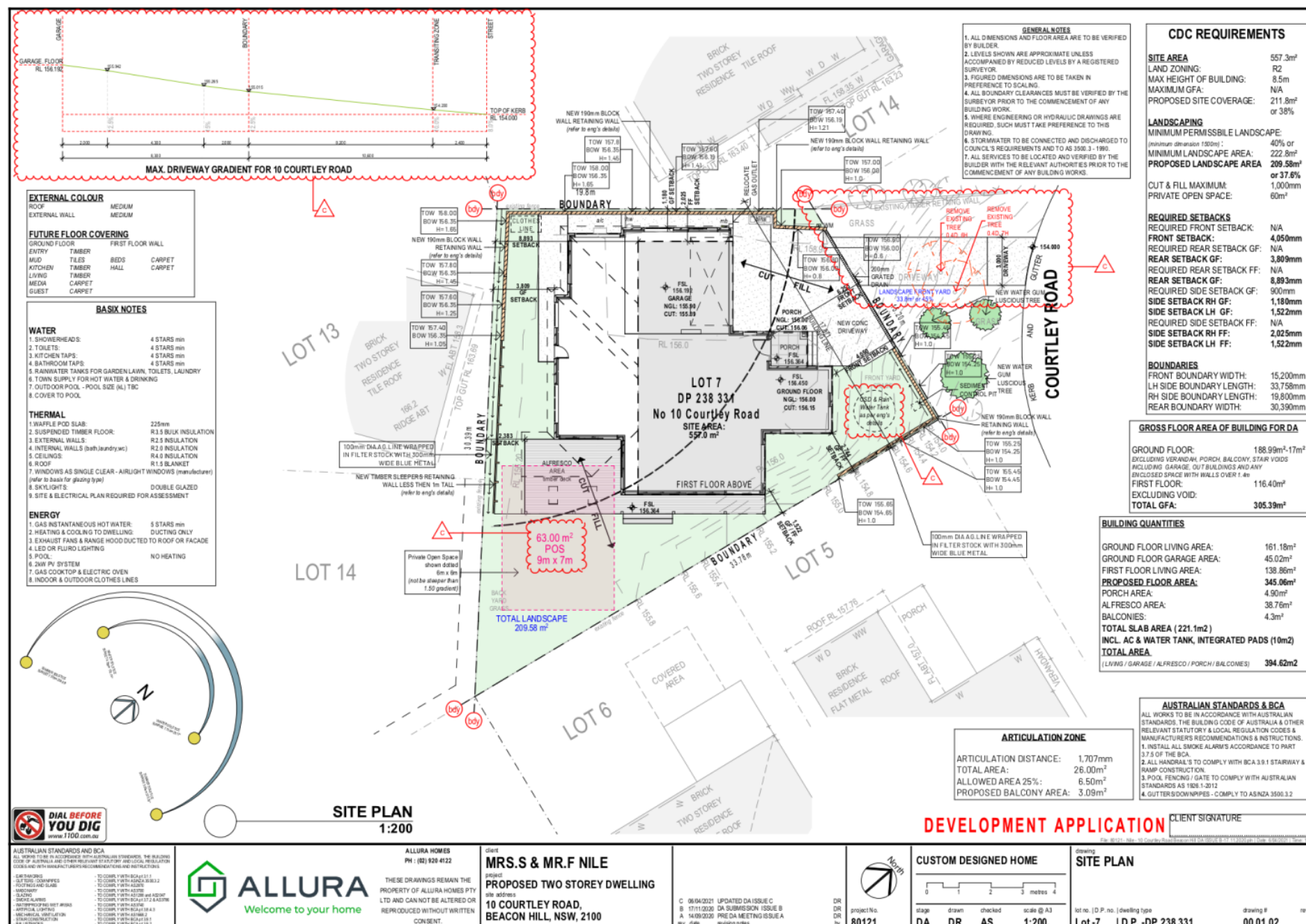
- Inconsistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

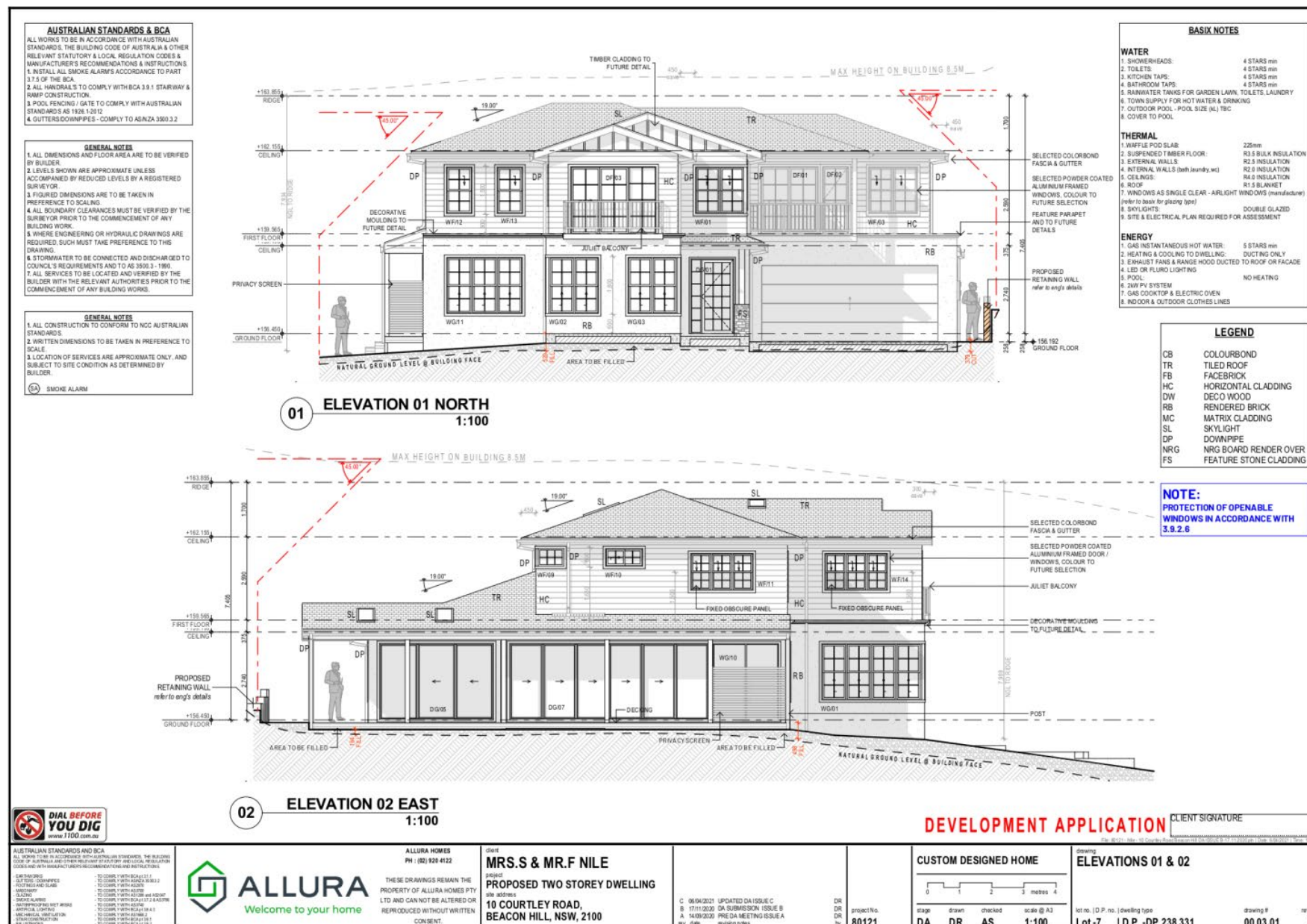
It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2020/1606 for the construction of a dwelling house on land Lot 7 DP 238331, 10 Courtley Road BEACON HILL, for the reasons outlined as follows:

1. The works proposed within the north eastern corner of the site and are inconsistent with the requirements and objectives of Warringah Local Environmental Plan 2011 – 6.2 Earthworks
2. The application would result in unreasonable impacts with regard to Warringah Development Control Plan – B5 Side Boundary Setbacks.
3. The application would result in unreasonable impacts with regard to Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting.
4. The application would result in unreasonable impacts with regard to Warringah Development Control Plan – C7 Excavation and Landfill.
5. The application would result in unreasonable impacts with regard to Warringah Development Control Plan - D8 Privacy





ALLURA HOMES
PH: (02) 920 4122

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ALLURA
Welcome to your home

MRS.S & MR.F NILE
PROPOSED TWO STOREY DWELLING
10 COURTLEY ROAD,
BEACON HILL, NSW, 2100

C: 06/04/2021 UPDATED DA/ISSUE C
B: 17/11/2020 DA SUBMISSION ISSUE B
A: 14/09/2020 PRE-DA MEETING ISSUE A
rev: 0/00

DEVELOPMENT APPLICATION

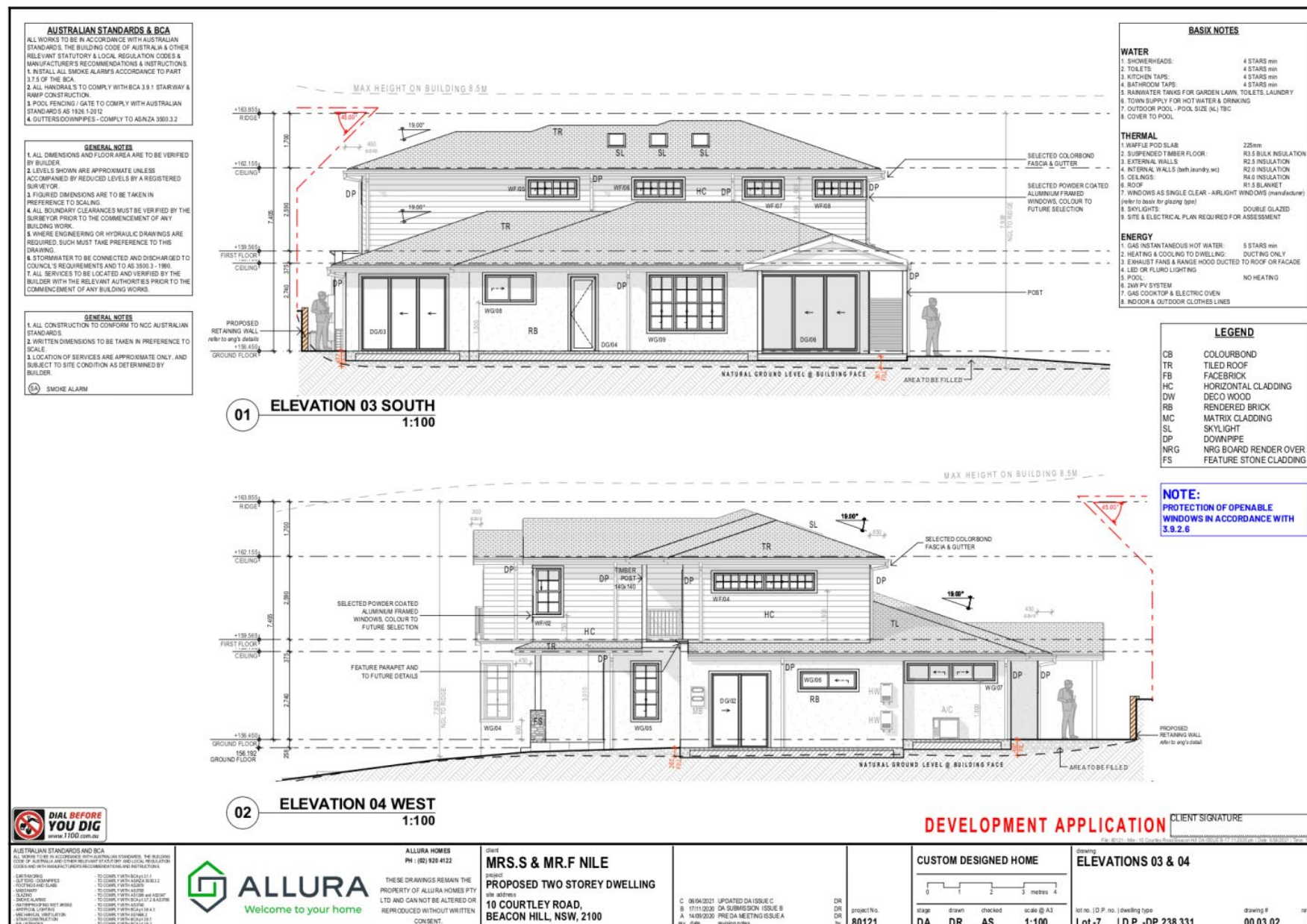
CLIENT SIGNATURE: _____

DATE: _____

PROJECT NO: 80121

STAGE: DA
DRAWN: DR
CHECKED: AS
SCALE: @ A3
1:100

DRAWING: ELEVATIONS 01 & 02
LOT NO: Lot-7
D.P. NO: -DP 238 331
DRAWING # 00.03.01
REVISION C



ITEM 4.5	DA2020/1632 - 14/75-76 WEST ESPLANADE, MANLY - ALTERATIONS AND ADDITIONS TO AN APARTMENT WITHIN AN EXISTING RESIDENTIAL FLAT BUILDING
AUTHORISING MANAGER	Anna Williams
TRIM FILE REF	2021/373069
ATTACHMENTS	1 Assessment Report 2 Site Plan & Elevations 3 Clause 4.6

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

- A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Floor Space Ratio Development Standard of Clause 4.4 pursuant to clause 4.6 of MLEP 2013 as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
- B. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2020/1632 for alterations and additions to an apartment within an existing residential flat building at Lot 14 SP 53663, 14/75-76 West Esplanade, Manly subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1632
Responsible Officer:	Penny Wood
Land to be developed (Address):	Lot 14 SP 53663, 14 / 75 - 76 West Esplanade MANLY NSW 2095
Proposed Development:	Alterations and additions to an apartment within an existing residential flat building
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Alison Rebecca Cadman
Applicant:	Peta Daniel
Application Lodged:	19/12/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	13/01/2021 to 27/01/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.4 Floor space ratio: 187.13%
Recommendation:	Approval
Estimated Cost of Works:	\$ 22,000.00

The application seeks consent for alterations and additions to a townhouse (No. 14/ 75-76) within the existing development.

The proposed works involve new bi-fold doors along the southern elevation of the townhouse to enclose the roofed terrace area which will create an additional 6m² of floor area. Whilst the actual increase in floor area is minor, the existing development containing 15 units (12 apartments and 3 townhouses), already includes a significant FSR exceedance of 1611.95m² over the control of 864.405m² (186.4% variation) The minor proposed increase of 6m² to the existing FSR at ground floor level of the subject townhouse, results in a technical variation of 187.13% for the building overall.

Despite the non-compliance with the development standard, the works are contained at ground floor level within the existing building envelope, below the maximum roof height, and do not result in any

substantial additional bulk. An assessment of the proposal development standard breaches and the accompanying Clause 4.6 written request is undertaken within this report and is found to be satisfactory.

The proposed variations to the floor space ratio development standard exceeds 10% and the proposal relates to a residential flat building (Class 2). As such, the application is referred to Northern Beaches Local Planning panel for determination.

No further assessment issues are raised and the proposal is recommended for approval based on the detailed assessment within this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for alterations and additions to the existing town house (No. 14) located along the northern side of the site fronting Gilbert Street, as follows:

- Alterations to the covered terrace by way of new bi-fold doors along the southern elevation to enclose this area.
- Removal of existing sliding doors along southern elevation at ground floor.
- New metal frame bi-fold window to existing opening along the southern elevation at ground floor.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
Manly Development Control Plan - 3.4.2 Privacy and Security
Manly Development Control Plan - 3.4.3 Maintenance of Views
Manly Development Control Plan - 3.8 Waste Management

Manly Development Control Plan - 4.1.8 Development on Sloping Sites

SITE DESCRIPTION

Property Description:	Lot 14 SP 53663 , 14 / 75 - 76 West Esplanade MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one allotment located on the northern side of West Esplanade. The site has a double street frontage with the northern side of the site fronting Gilbert Street.</p> <p>The site is irregular in shape with a frontage of 24.665m along West Esplanade and 24.605m. The site measures 45.96m along the western boundary and 46.815 along the eastern boundary. The site has a surveyed area of 1152.54m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates an existing three (3) storey Residential Flat Building (RFB) with basement parking. The development consists of twelve apartments with three (3) townhouses located to the north of the RFB. The town houses front Gilbert Street with pedestrian access and vehicular access also provided from Gilbert Street.</p> <p>The subject townhouse (No. 14) is located in the middle of a row of three townhouses fronting Gilbert Street.</p> <p>The site is relatively flat and provides minimal vegetation along the West Esplanade frontage with some hedge planting provided along the Gilbert Street frontage.</p> <p><u>Detailed Description of Adjoining/Surrounding Development</u></p> <p>Adjoining and surrounding development is characterised by a range of residential development including detached dwellings, dual occupancies and residential flat buildings.</p>

Map:



SITE HISTORY

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

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning 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)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted. / This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building 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) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.

Section 4.15 Matters for Consideration'	Comments
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 13/01/2021 to 27/01/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<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>

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 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) the development consists of any of the following:

- (i) the erection of a new building,
- (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
- (iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

The proposal does not include any works listed under (1)(a) above.

As per the definition of a residential flat building and the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are not applicable to the assessment of this application.

Accordingly, no further assessment is required with regard to the provisions of SEPP 65.

SEPP (Infrastructure) 2007Ausgrid

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 not referred to Ausgrid.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject property is located within the Foreshores and Waterways Area therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(2) (aims of the SREP), Clause 14 (nominated planning principles), Clause 22 (relating to public access to and use of foreshores and waterways), Clause 23 (relating to maintenance of a working harbour), Clause 24 (relating to interrelationship of waterway and foreshore uses), Clause 25 (relating to foreshore and waterways scenic quality), Clause 26 (relating to maintenance, protection and enhancement of views) and Clause 27 (relating to boat storage facilities) has been undertaken. The proposed works are within the existing development footprint and do not result in a substantial alteration to the appearance of the building. As such, the proposal is considered to be consistent with the above provisions of the SREP.

Given the location and scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	Unchanged	N/A	Yes
Floor Space Ratio	FSR: 0.75:1 (864.405m ²)	FSR: 2.15:1 (2482m ²)	187.13%	No

Compliance Assessment

Clause	Compliance with Requirements
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes

Clause	Compliance with Requirements
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor space ratio
Requirement:	0.75:1 (864.05m ²)
Proposed:	2.15:1 (2482m ²)
Percentage variation to requirement:	187.13%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 - Floor space ratio development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

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

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

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

Comment:

Clause 4.4 - Floor space ratio development standard is not expressly excluded from the operation of this clause.

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

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

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

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

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

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

Comment:

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

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental*

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

The applicants written request argues, in part:

- The proposed design of the house is well considered and is appropriate for the area. It is compatible in terms of scale with neighbouring buildings and buildings within the locality despite its numerical non-compliance.
- The numerical non-compliance is created by the need to meet the basic requirements of a family, to improve access to natural light at the rear and to improve the relationship between the internal and external spaces.
- The non-complying floor area is located at the rear of the property where it is not visible from the public domain and has no negative impact on neighbours.

The works represent a minor increase of 6m² to the gross floor area ratio at ground floor of the subject townhouse, relating to the enclosure of a small alcove adjoining the existing terrace. The enclosure of this area with glazing will not substantially alter the appearance of the building and achieves a greater internal floor area with adverse visual bulk or amenity impacts.

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 Floor Space Ratio development standard and the objectives of the R1 General Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

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

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

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

Comment:

The proposed additional bulk resulting in the new bi-fold doors is minimal and will not adversely impact the streetscape by virtue of the height and location of the works.

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

Comment:

The increase to gross floor area and bulk is not substantial in the context of the existing development, and will not unreasonably obscure any landscape or townscape features.

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

Comment:

The proposed development will not materially alter the appearance of the existing building and maintains the visual relationship with the character and landscape of the area.

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

Comment:

The proposal will not materially alter the appearance of the existing building and maintains the visual relationship with the character and landscape.

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

Comment:

N/A

Zone objectives

The underlying objectives of the R1 General Residential zone are:

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

Comment:

The proposed works will maintain the residential use of the development therefore providing for the housing needs of the community.

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

Comment:

The development will not change the residential use of the site maintaining the residential nature of the

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

Comment:

N/A

Conclusion:

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

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

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

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

Manly Development Control Plan

Built Form Controls

The proposed development relates generally to existing building elements. As such, there are no development controls under part 4 of the Manly DCP to consider as part of this assessment.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	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
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	No	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

The proposed works will enclose an existing alcove area along the southern side of the subject townhouse. This will result in minimal additional height and bulk. No unreasonable overshadowing is considered to arise from the works in the context of the building.

3.4.2 Privacy and Security

The proposed works are to the ground floor of the subject townhouse and will not result in any unreasonable privacy impacts to adjoining properties.

3.4.3 Maintenance of Views

The proposed works are located within the ground floor of the subject townhouse within the existing floor area. Given the extent and location of the additional bulk, the development is not considered to result in any unreasonable view impacts.

3.8 Waste Management

The application has not been accompanied by a Waste Management Plan. To ensure the proper disposal of builders' waste, a suitable condition has been included with this consent requiring a Waste Management Plan to be prepared in accordance with Council's waste management guidelines and submitted to the Certifying Authority prior to the issue of the Construction Certificate. Subject to satisfying the above, the proposal will demonstrate consistency with the requirements and objectives of this control.

4.1.8 Development on Sloping Sites

The subject site is mapped as Geotechnical Area G3. Given the minor nature, scale and location of the works no geotechnical assessment is required in this case.

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**

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

CONCLUSION

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

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

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

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

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.4 Floor Space Ratio has adequately addressed and demonstrated that:

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

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

The application seeks consent for alterations and additions to a townhouse within the existing development.

The key planning issues considered within the assessment are the proposed variations to the Floor Space Ratio development standard.

Notwithstanding the proposed floor space ratio variation of 187.13%, the development is not considered to result in any unreasonable impacts to adjoining properties or the public domain.

No submissions were received in relation to the proposed development.

Assessment of the application against the Manly LEP and DCP finds that the development is suitable in the context of the site, and 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 4.4 Floor Space Ratio development standard pursuant to clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/1632 for Alterations and additions to an apartment within an existing residential flat building on land at Lot 14 SP 53663, 14 / 75 - 76 West Esplanade, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan - Dwg No. 01	28 November 2020	daniel baker design
Ground Floor Plan - Dwg No. 01	28 November 2020	daniel baker design
South Elevation - Dwg No. 05	28 November 2020	daniel baker design
Section AA - Dwg No. 06	28 November 2020	daniel baker design

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	7 December 2020	Peta Daniel

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

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

2. Prescribed Conditions

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

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

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

Reason: Legislative requirement.

3. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is

- dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
 - (m) 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.

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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).

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

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

5. **Waste Management Plan**

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

6. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

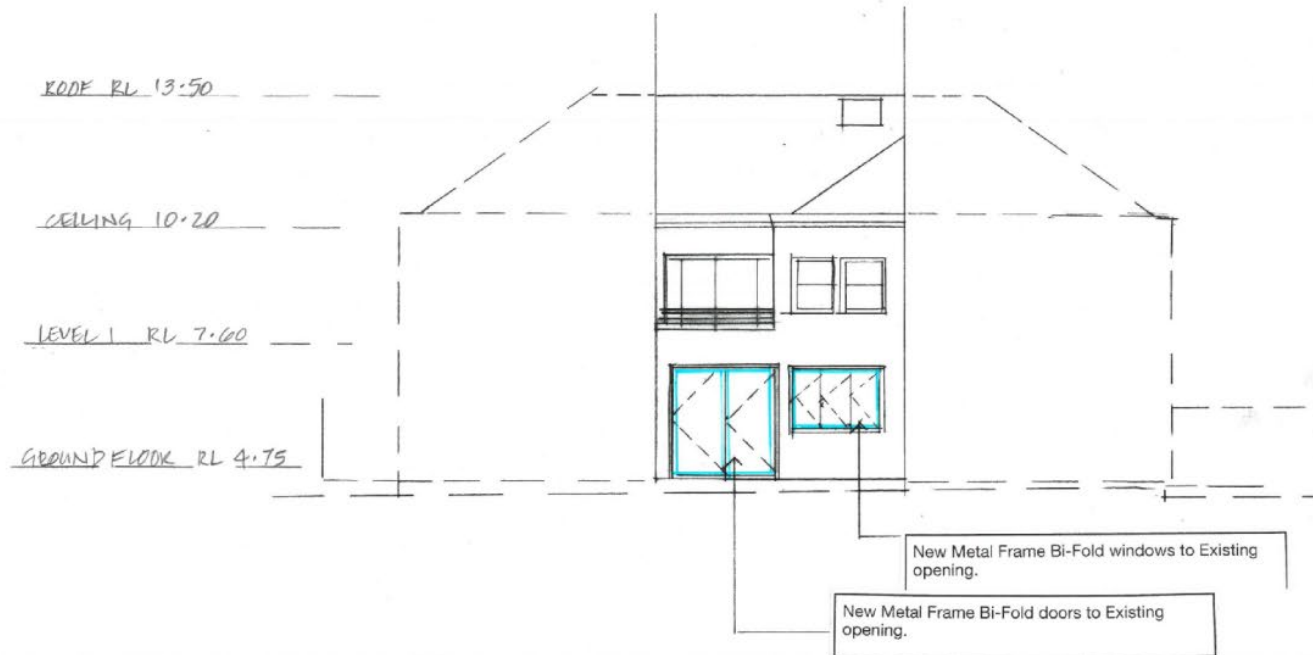
Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.





Project: Lot 14, 75 - 76 West Esplanade, Manly	
Title: North Elevation	Scale: 1:20 @ A3 Date: 28.11.2020
danielbaker design design, detailing and project management Peta Daniel BA(Syd) BD. Hon.1 M. 0414341778	DWG No: 04



Project: Lot 14, 75 - 76 West Esplanade, Manly		
Title: South Elevation	Scale: 1:20 @ A3 Date: 28.11.2020	
danielbaker design design, detailing and project management Peta Daniel BA(Syd) BD. Hon.1 M. 0414341778		DWG No: 05

daniel baker design

design planning and project management

CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

Clause 4.6 Variation _ Floor Space Ratio

14/75-76 West Esplanade, Manly
Revision B - April 2021

March 2021 DA 2020/1632

Prepared By: Peta Daniel BA.BD.Hon1

**CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARD FOR PROPOSED WORKS
AT 14/75 - 76 WEST ESPLANDA, MANLY**

Development consent is sought under clause 4.6 - Exceptions to Development Standards of the Manly Council Local Environment Plan 2013 in relation to a non-compliance with clause 4.4 - Floor Space Ratio for the proposed works at 14/75 -76 West Esplanade, Manly.

Description of Proposed Non-Compliance

As outlined by Floor Space Ratio Map 003 of the MLEP 2013, a 0.75:1 floor space ratio is applicable to the site. However in accordance with the approved Development Application 211/94 the property has an Approved FSR of 2.13:1. The proposed FSR is coordinated with the building envelope, height, depth, setbacks and open space requirements. This then ensures a 2.13:1 FSR for the total Development of Strata Plan 53663 - 75 - 76 West Esplanade, Manly.

With a total site area of 1152.54m², the existing GFA is 2476m². The proposed new works to PT14 is an area of 6m² which results in a gross floor area of 2482m² taking the FSR to 2.15:1. This equates to a 2% increase to the FSR.

Despite this numerical non-compliance, the proposal meets the qualitative objectives of MLEP Clause 4.4 - Floor Space Ratio. It also complies with height, boundary setbacks and landscaped area. It maintains views from neighbouring properties and does not alter the amenity afforded to any surrounding property, all of which demonstrates that it is an appropriate design. Numerical compliance with the Floor Space Ratio standard will not provide any added benefit or improvement to the site or the surrounding locality.

Analysis of the proposal against MLEP Clause 4.6 Objectives

Compliance with the relevant objectives of clause 4.6 of the Manly LEP 2013 is demonstrated below.

4.6(1)(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.

4.6(1)(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Providing flexibility in the application of the floor space ratio standard is appropriate in this circumstance as the proposed alterations result in minimal change to the existing design. The proposal to enclose the existing terrace adjacent to the kitchen space will allow for transitional use of the area without impacting on the light to this space. The minimal alterations are configured to sit within the current building envelope, the rear, which consequently does not impact the streetscape and locality.

Flexibility to the standard in this case will provide a better outcome for and from the development. Much needed additional and improved amenity will be provided for the owners of the property while the streetscape will not be impacted by this alteration which has been designed to improve

access to natural light and retain privacy to neighbouring properties. A strict numerical compliance with the standard will have no added advantage or effect on the positive outcomes provided by the current proposal.

4.6(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.

This application seeks development consent despite its contravention of the FSR development standard which is not expressly excluded from the operation of this clause.

4.6(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—

4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

This written request justifies the contravention of the floor space ratio development standard. Compliance with the standard is unreasonable and unnecessary in this case for the following reasons:

- The proposed design of the house is well considered and is appropriate for the area. It is compatible in terms of scale with neighbouring buildings and buildings within the locality despite its numerical non-compliance. It is therefore unreasonable and unnecessary for the building to be adjusted to comply numerically in this case.
- The numerical non-compliance is created by the need to meet the basic requirements of a family, to improve access to natural light at the rear and to improve the relationship between internal and external spaces. The non-complying floor area is located at the rear of the property where it is not visible from the public domain and has no negative impact on neighbours. It is therefore unreasonable and unnecessary for the building to be altered to comply numerically in this case as the current design provides a positive impact in all cases.
- In *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe*), five potential tests for determining whether a development standard could be considered to be unreasonable or unnecessary was established. The number of tests to be satisfied is further detailed in Initial Action where Preston CJ states at [22]:

These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be

sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

The proposal meets the Wehbe tests and therefore compliance with the standard is unreasonable in this instance. Demonstration of meeting one of the tests is as below:

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard

The objectives of the standard are outlined by clause 4.4 and are as follows:

4.4 (1)(a) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential –

(i) to ensure that buildings are compatible with the desired future character of the area in terms of building bulk and scale, and

No changes will be made to the main bulk and scale of the building as the proposed works are minor and therefore ensures the subject building is compatible with the desired future character of the area.

(ii) to provide a suitable balance between landscaping and built form, and

No changes will be made to the landscaping or footprint of the overall built form. As a result, the existing balance between landscaping and built form is retained.

(iii) to minimise the adverse effects of bulk and scale of buildings,

The bulk of the building is not increased as the proposed work is within the existing footprint of the building. The scale of the building is unchanged. Consequently, there will be no adverse effects to the bulk and scale of the subject property.

(iv) to limit excavation of sites and retain natural ground levels for the purpose of landscaping and containing urban run-off,

No excavation or changes to ground levels has been proposed in this application. As a result, no changes will be made to the existing landscaping and containment of urban run-off.

4.4 (1)(b) for development on land in Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B6 Enterprise Corridor, to ensure that buildings are compatible with the desired future character of the area in terms of building bulk and scale,

As the site is located in Zone R3 Medium Density Residential, this objective is not necessary for the application.

4.4 (1)(c) for development on land in zone B2 Local Centre or Zone B6 Enterprise Corridor, to provide opportunities for buildings of a greater scale than existing development in suitable locations to achieve the Council's residential strategy and provide opportunities for economic growth.

As the site is located in Zone R3 Medium Density Residential, this objective is not necessary for the application.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 1.3

The objectives of the Act are achieved notwithstanding non-compliance with the standard

Objects of Act

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.

The proposal does not alter the existing social and economic welfare of the community, environment and the States natural resources.

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.

The proposed design seeks to naturally improve the amenity of the Southern covered courtyard. The bi-fold doors will enable passive temperature control in accordance with desired environmental outcomes.

(c) to promote the orderly and economic use and development of land.

The proposal does not alter the order or economic use of the land.

(d) to promote the delivery and maintenance of affordable housing.

As an alteration to an existing development this objective is not necessary for the application.

(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.

The proposal has no impact on this objective.

(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage).

The proposal has no impact on this objective.

(g) to promote good design and amenity of the built environment.

The proposed design seeks to naturally improve the amenity of the Southern covered courtyard. The bi-fold doors will enable passive temperature control in accordance with desired environmental outcomes. The proposed design will enable the residence to improve their facility and interaction with the space.

(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.

As an alteration to an existing development this objective is not necessary for the application.

(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.

As an alteration to an existing development this objective is not necessary for the application.

(j) to provide increased opportunity for community participation in environmental planning and assessment.

As an alteration to an existing development this objective is not necessary for the application.

Conclusion

The proposal complies with the Manly LEP 2013 requirements for building height, and setbacks. It maintains a form which is compatible to neighbouring buildings and to the locality. The non-compliance with the floor space ratio standard is a result of additional space at the rear of the building which is not visible from the public realm. There are also no changes to the existing building footprint.

The proposal is an appropriate development for its site and compliance with the floor space ratio standard in this instance will be of no benefit to the site or its neighbours.

The details contained in the statement above provide sufficient environmental grounds to contravene the development standard for clause 4.4 floor space ratio in relation to the proposal. Strict compliance with the development standard in this instance is seen as both unreasonable and unnecessary given the specific details of the site and the surrounding context.

ITEM 4.6	DA2021/0372 - 32 GRANDVIEW PARADE, MONA VALE - DEMOLITION AND CONSTRUCTION OF A NEW DWELLING
AUTHORISING MANAGER	Lashta Haidari
TRIM FILE REF	2021/373945
ATTACHMENTS	1 Assessment Report 2 Site Plan & Elevations

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is a member of council staff who is principally involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2021/0372 for demolition and construction of a new dwelling at Lot 2 DP 1106194, 32 Grandview Parade, Mona Vale subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0372
Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 2 DP 1106194, 32 Grandview Parade MONA VALE NSW 2103
Proposed Development:	Demolition and construction of a new dwelling
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Jason Malcolm Simpson Ruszczyk Katharine Rose Ruszczyk
Applicant:	Jason Malcolm Simpson Ruszczyk
Application Lodged:	12/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	04/05/2021 to 18/05/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 764,000.00

EXECUTIVE SUMMARY

Development Application (DA2021/0372) is for part demolition of the existing dwelling and construction of a new dwelling.

The application is referred to the Northern Beaches Local Planning Panel as the owner is an employee of Northern Beaches Council.

An error was made in the original public exhibition of the Development application in that the description title was for 'Alterations and additions to the existing dwelling.' As such, the application was re-notified to the public with the following description, "Demolition and construction of a new dwelling."



The application does not comply with planning controls for building envelope, landscapes area, and side building line. These non-compliances are considered acceptable on merit, as further discussed in this report.

Accordingly, the application is referred to the NBLPP with a recommendation for approval subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The development seeks consent for demolition of portions of the existing dwelling and construction of a new dwelling, including portions of the existing structure.

Specifically, the proposal seeks consent for the following:

Lower Ground Floor

- Alterations and additions to the existing lower ground floor level to provide for a new entry, two bedrooms, store, rumpus, bathroom and terrace.

Ground Floor

- Alterations and additions to existing ground floor level to provide for an open plan dining, kitchen and sitting room, study/guest, laundry, WC, family room and terrace.

Upper Floor

- New loft addition to provide for main bedroom with ensuite and walk-in robe.

Garage/Studio

- Proposed double garage with bin storage and internal access stairs.
- First floor studio with WC

External works

- Proposed new driveway
- Covered walkway from garage to dwelling
- New landscaping

The proposal retains the existing in-ground swimming pool to the rear of the site.

ASSESSMENT INTRODUCTION

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



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

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - D9.7 Side and rear building line

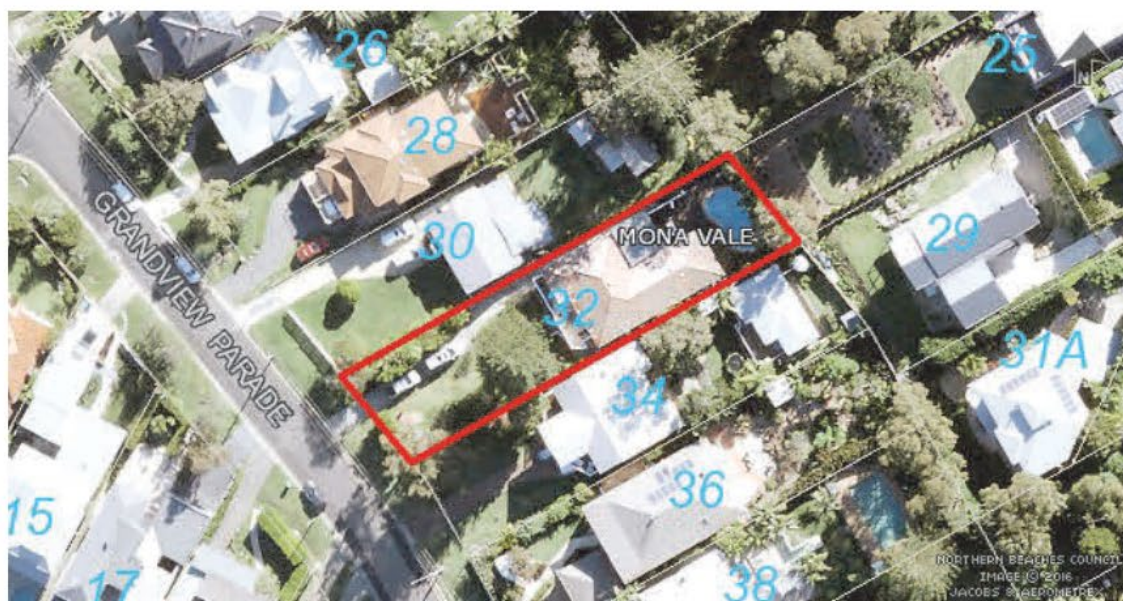
Pittwater 21 Development Control Plan - D9.9 Building envelope

Pittwater 21 Development Control Plan - D9.11 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 2 DP 1106194 , 32 Grandview Parade MONA VALE NSW 2103
Detailed Site Description:	<p>The subject site consists of a single, regular shaped allotment located on the eastern side of Grandview Parade.</p> <p>The site has a frontage of 15.455m along Grandview Parade and a depth of 61.77m. The site has a surveyed area of 941.6m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a one and two storey clad dwelling with a tiled roof. An in-ground swimming pool occupies the rear of the site</p> <p>The site falls from the rear boundary to the street frontage with a total fall of 9.55m and a slope of approximately 15.5%.</p> <p>The site is characterised by extensive lawn areas and an established, mature Norfolk Island Pine Tree located within the front yard. There are no known threatened species of flora or fauna.</p> <p>Adjoining and surrounding development is characterised by low-density residential development within a landscaped setting and of similar character.</p>

Map:



SITE HISTORY

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

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning 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)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building 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) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public	No matters have arisen in this assessment that would justify the



Section 4.15 Matters for Consideration'	Comments
interest	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 04/05/2021 to 18/05/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	Supported (subject to conditions) DA2021/0372 for the installation of a solid Fuel heater is approved subjected to conditions attached. The heater if used correctly should not create issues for surrounding properties as the house at number 30 is one story and well below the flue and the property at number 34 will again be below the flue and the properties behind are well away from the proposed heaters flue.
NECC (Development Engineering)	Supported (subject to conditions) No objections to approval subject to conditions as recommended.
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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



application hereunder.

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1180596S dated 31 March 2021).

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who raised no objection to the proposal subject to standard conditions of consent.

Pittwater Local Environmental Plan 2014

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



Principal Development Standards

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

Compliance Assessment

Clause	Compliance with Requirements
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

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Garage: 7.6m	N/A	Yes
Rear building line	6.5m	Cabana: 8.5m	N/A	Yes
Side building line	2.5m	North: 1.25m	50%	No
	1m	South: 1m	N/A	Yes
Building envelope	3.5m	Outside envelope	N/A	No
	3.5m	Outside envelope	N/A	No
Landscaped area	60% 564.9m ²	425.5m ² or 45.07%.	24%	No

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
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	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
C1.1 Landscaping	Yes	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
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	Yes	Yes
D9.7 Side and rear building line	No	Yes
D9.9 Building envelope	No	Yes
D9.11 Landscaped Area - Environmentally Sensitive Land	No	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

D9.7 Side and rear building line

Description of non-compliance

The proposal provides for a compliant setback to the south-east side boundary with a setback of 1m. However, the proposed cabana will be sited 1.25m to the north-west side boundary, resulting in a 50% variation. The dwelling is also set back 1.47m from the north-west boundary, a 41.2% variation.

Merit consideration

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



To achieve the desired future character of the Locality.

Comment:

The proposed development retains a compliant building height, maintains a one-two storey presentation, and provides articulation to reduce the presentation of bulk. The rear of the site also maintains substantial vegetation so that the desired future character of the locality is achieved.

The bulk and scale of the built form is minimised.

Comment:

The proposed dwelling is within the development standard for building height and the controls for front and rear building lines. Along with articulation and landscaping, this ensures that there will be no unreasonable visual impact caused by bulk or scale of built form.

*Equitable preservation of views and vistas to and/or from public/private places.
To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

Comment:

The proposed dwelling maintains appropriate corridors through the side to allow for suitable retention of views and vistas.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.

Comment:

The proposed dwelling is well separated from neighbouring living spaces and also provides a window design that is of a sufficient size to minimise overlooking. The proposal also maintains compliance with the requirements for solar access under the Pittwater DCP.

Substantial landscaping, a mature tree canopy and an attractive streetscape.

Comment:

The proposed development does involve the removal of any significant vegetation, and a substantial area for vegetation and landscaping at the front and rear of the site is retained. As such the proposal will maintain substantial landscaping and an attractive streetscape.

Flexibility in the siting of buildings and access.

Comment:

The proposed development maintains a similar siting to the existing dwelling. This siting provides a suitable visual presentation, and the lack of unreasonable amenity impact.

Vegetation is retained and enhanced to visually reduce the built form.

Comment:



The proposal maintains substantial landscaped area to the rear and also provides a landscaped area between the dwelling and garage. These areas of natural form ensure that the presentation of built form is appropriately minimised.

To ensure a landscape buffer between commercial and residential zones is established.

Comment:

Not applicable.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP 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.

D9.9 Building envelope

Description of non-compliance

The proposal does not comply with the control for side boundary envelope. In this regard, the non-compliance is in the form of a diminishing triangle as can be see in the image below.

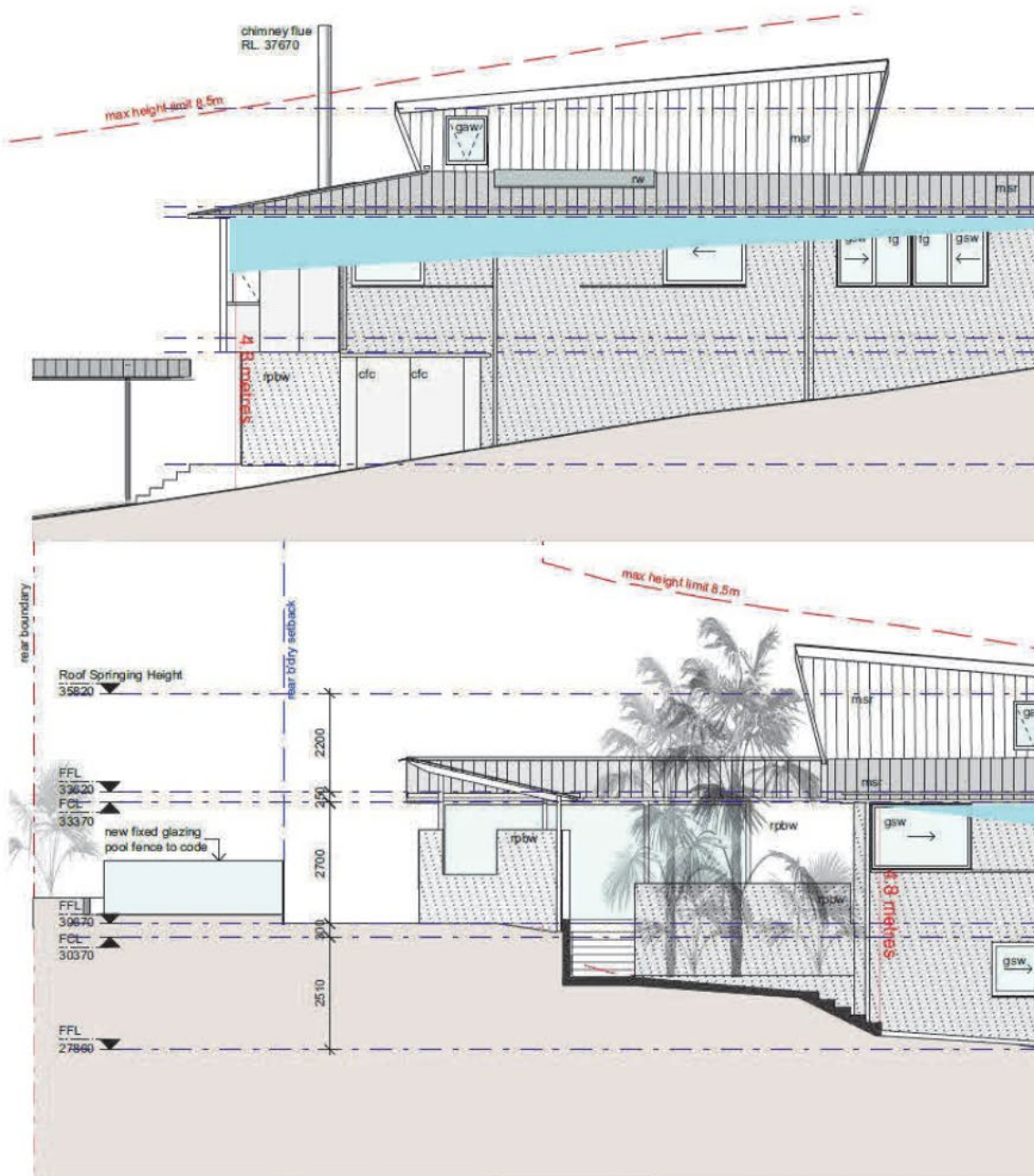


Diagram 1: Representation of envelope non-compliance

Merit consideration

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

To achieve the desired future character of the locality.



Comment:

The proposed development retains a compliant building height, maintains a one-two storey presentation, and provides articulation to reduce the presentation of bulk. The rear of the site also maintains substantial vegetation so that the desired future character of the locality is achieved.

To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.

Comment:

The proposal provides a compliant building height and articulation of the built form to ensure an appropriate scale in relation to the surrounding natural environment. Furthermore, the proposal maintains landscaping at the front and rear, and is buffered by a landscaped road reserve at the front of the site.

To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.

Comment:

The proposal does not involve significant excavation or the removal of any significant vegetation to allow for the new dwelling. As such, the development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.

The bulk and scale of the built form is minimised.

Comment:

The built form has been designed to effectively minimise the presentation of bulk and scale by providing an upper level that is set in from the lower levels, by providing articulation at ground floor, and by providing natural features across the site.

Equitable preservation of views and vistas to and/or from public/private places.

Comment:

The proposed dwelling maintains appropriate corridors through the site to allow for suitable retention of views and vistas.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.

Comment:

The proposed dwelling is well separated from neighbouring living spaces and also provides a window design that is of a sufficient size to minimise overlooking. The proposal also maintains compliance with the requirements for solar access under the Pittwater DCP.

Vegetation is retained and enhanced to visually reduce the built form.

Comment:



The proposal maintains substantial landscaped area across the site and there is a large landscaped road reserve in front of the site. These areas of natural form ensure that the presentation of built form is appropriately minimised.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP 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.

D9.11 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

The proposal provides for a landscaped area of 425.5m² or 45%. This is an increase from the total existing landscaped area on site (43%).

Merit Consideration

When applying the variation to the numerical control, the proposed development is assessed against the overlying outcomes of the control as follows:

Achieve the desired future character of the Locality

Comment:

The proposed development maintains landscaping to the front and rear of the site, and has a relatively large landscaped reserve. As such, the landscaped setting is suitable for the desired character of the area.

The bulk and scale of the built form is minimised.

Comment:

The built form has been designed to effectively minimise the presentation of bulk and scale by providing an upper level that is set in from the lower levels, by providing articulation at ground floor, and by providing natural features across the site.

A reasonable level of amenity and solar access is provided and maintained.

Comment:

The proposed new lot would not result in any unreasonable amenity impact due to the dwelling being well separated from neighbouring private open space and living space.

Vegetation is retained and enhanced to visually reduce the built form.

Comment:

No significant vegetation is removed from around the existing dwelling to facilitate the development. Further, proposed landscaping will assist in reducing the existing and future built form on the sites.

Conservation of natural vegetation and biodiversity.



Comment:

The proposal will not have a detrimental impact in regards to biodiversity. The proposed natural features will provide an appropriate outcome for the site in regard to biodiversity.

Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.

Comment:

Council's Development Engineer has reviewed the proposal and has found it to be acceptable with regard to stormwater runoff, subject to conditions. The variation to landscaped area will not cause adverse impacts in regards to stormwater runoff.

To preserve and enhance the rural and bushland character of the area.

Comment:

No significant trees are proposed to be removed. The proposed natural features will enhance the rural and bushland character of the area.

Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.

Comment:

The site is able to adequately deal with stormwater runoff as confirmed by Council's stormwater Engineer and subject to conditions.

The proposed development is considered to achieve the required outcomes of the control and Pittwater DCP, and therefore the variation is supported in this 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 \$7,640 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$764,000.

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

Conclusion

Development Application (DA2021/0372) is for part demolition of the existing dwelling and construction of a new dwelling.

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the EP&A Act, 1979, the provisions of relevant EPIs, the relevant codes and policies of Council, the relevant provisions of the Pittwater DCP.

Public Exhibition

The public exhibition of the DA did not result in any objections.

The issues raised in the submissions have been addressed in the 'Public Exhibition & Submissions' section of this report.

It is recommended that the NBLPP approve the application subject to conditions.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2021/0372 for Demolition and construction of a new dwelling on land at Lot 2 DP 1106194, 32 Grandview Parade, 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Legend & Material Schedule, A001, Issue A	29/3/2021	John Bohane Architecture
Site Analysis, A002, Issue A	29/3/2021	John Bohane Architecture
Site Plan - Proposed, A004, Issue A	29/3/2021	John Bohane Architecture
Site Plan - Demolition, Erosion, Sediment & Waste Control Plan, A010, Issue A	29/3/2021	John Bohane Architecture
GG - Existing - Garage Plan, A050, Issue A	29/3/2021	John Bohane Architecture
LG - Existing - Lower Ground Floor Plan, A051, Issue A	29/3/2021	John Bohane Architecture
G - Existing - Ground Floor Plan, A052, Issue A	29/3/2021	John Bohane Architecture
RL - Existing - Roof Plan, A053, Issue A	29/3/2021	John Bohane Architecture
GG - Proposed - Garage & Studio - Garage Plan, A100, Issue A	29/3/2021	John Bohane Architecture
GG - Proposed - Garage & Studio - Studio Plan, A101, Issue A	29/3/2021	John Bohane Architecture
GG - Proposed - Garage & Studio - Roof Plan, A102, Issue A	29/3/2021	John Bohane Architecture
LG - Proposed - Lower Ground Floor Plan, A103, Issue A	29/3/2021	John Bohane Architecture
G - Proposed - Ground Floor Plan, A104, Issue A	29/3/2021	John Bohane Architecture
UL - Proposed - Upper Floor Plan, A105, Issue A	29/3/2021	John Bohane Architecture
RL - Proposed - Roof Plan, A106, Issue A	29/3/2021	John Bohane Architecture
Elevations - North & South, A201, Issue A	29/3/2021	John Bohane Architecture
Elevations - Site - East & West, A202, Issue A	29/3/2021	John Bohane Architecture
Elevations - Dwelling - East & West, A203, Issue A	29/3/2021	John Bohane Architecture
Elevations - Garage & Studio - East & West, A204, Issue A	29/3/2021	John Bohane Architecture
Elevations - Garage - North & South,	29/3/2021	John Bohane

A205, Issue A		Architecture
Site Sections - East & West, A301, Issue A	29/3/2021	John Bohane Architecture
Cross Sections, A302, Issue A	29/3/2021	John Bohane Architecture

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Drainage - Lower Ground Floor Plan, Drawing No. 02437_201	29/3/2021	C&M Consulting Engineers
Stormwater Drainage - Ground Floor Plan, Drawing No. 02437_202	29/3/2021	C&M Consulting Engineers
Stormwater Drainage - Upper Floor Plan, Drawing No. 02437_203	29/3/2021	C&M Consulting Engineers
Stormwater Drainage - Roof Plan, Drawing No. 02437_204	29/3/2021	C&M Consulting Engineers
Driveway Plan & Sections, Drawing No. 02437_401	29/3/2021	C&M Consulting Engineers
On-Site Stormwater Detention Details, Drawing No. 02437_621	29/3/2021	C&M Consulting Engineers
Sediment & Erosion Control - Plan & Details, Drawing No. 02437_701	29/3/2021	C&M Consulting Engineers
Vehicle Turn paths, Drawing No. 02437_801	29/3/2021	C&M Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment	28/2/2021	All Arbor Solutions
BASIX Certificate, 1180596S	31/3/2021	Greenview Consulting Pty Ltd

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

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape Plan, Job.dwg no. 31.21/041	March 2021	iScape Landscape Architecture

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By

Waste Management & Erosion and Sediment Control Plan, Drawing No. 6.03, Issue A	25/3/2021	John Bohane Architecture
Waste Management Plan	2/3/2021	John Bohane

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 \$7,640.00 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 \$764,000.00.

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

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).

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

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

6. **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.

7. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by C&M Consulting Engineers Pty Ltd, drawing number 02437_201 to 02437_204, dated 29/03/2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

i. OSD to be provided in accordance with Clause 9.3.1 of Council's Water Management for Development Policy

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.

8. **Vehicle Driveway Gradients**

The Applicant is to ensure driveway gradients within the private property are not to exceed a



gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

9. **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.

10. **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)

11. **Sydney Water "Tap In"**

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

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

- o "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- o Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

12. **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.

13. **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:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o 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.

14. **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.

15. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

16. **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.

17. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ 2NH 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.

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

18. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/guide-submitting-ldaa-nov19.pdf>

The form for the application can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/4023-legal-documents-authorisation-oct19.pdf>

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system 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 as to user for the on-site stormwater detention system 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 detention system is maintained to an appropriate operational standard and not altered.

19. Certification Elevated Parking Facility Work

The Applicant shall submit a Structural Engineers' certificate certifying that the elevated parking facility and access driveway was constructed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation.

Reason: Compliance with this consent.

20. Installation of solid/fuel burning heaters

Installation work must be carried out by an appropriately experienced and qualified person and in accordance with the relevant provisions of AS2918:2001 – Domestic Solid Fuel Burning Appliances – Installation

Reason: To ensure the installation is completed in a legislatively compliant manner.

21. Certification of solid fuel burning heaters

A certificate from an appropriately qualified person indicating the system is compliant with all relevant legislation, Building Code of Australia, Australian Standards, Specifications and manufacturer requirements is to be submitted to Council prior to the operation of the solid fuel heater.

Reason: To ensure the system operates in a legislatively compliant manner.

22. 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.

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

23. Maintenance of solid fuel heaters

The owner/occupier shall ensure servicing of the heater is maintained according to the manufacturer's specifications.

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

24. Operation of solid fuel burning heaters

You are requested to take all practicable measures to prevent the likelihood of causing smoke and/or odour nuisances. Such measures should include:

- Using dry seasoned hardwood



- Storing wood in a dry well ventilated place
- Having a hot and well oxygenated fire
- Ensuring that the chimney flue is clean
- Checking the chimney at different stages of the fire to see if there is any smoke

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

25. **Use of studio**

The detached studio above the garage is not to be used for the purposes of separate habitation (i.e. secondary dwelling or similar). The use of cooking facilities, such as stoves and ovens, is prohibited.

Reason: To ensure consistency with the approved development.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed

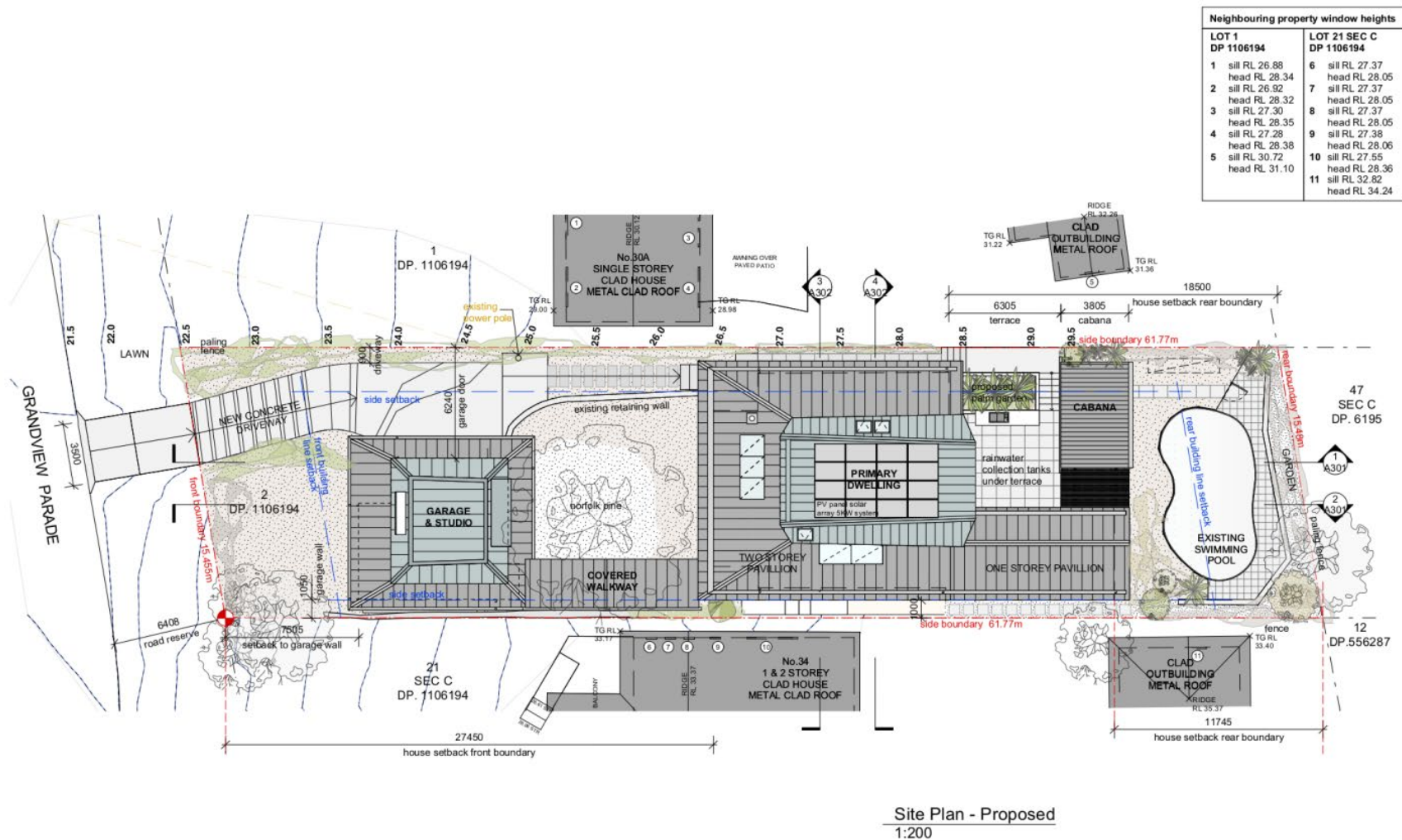


The application is determined on //, under the delegated authority of:

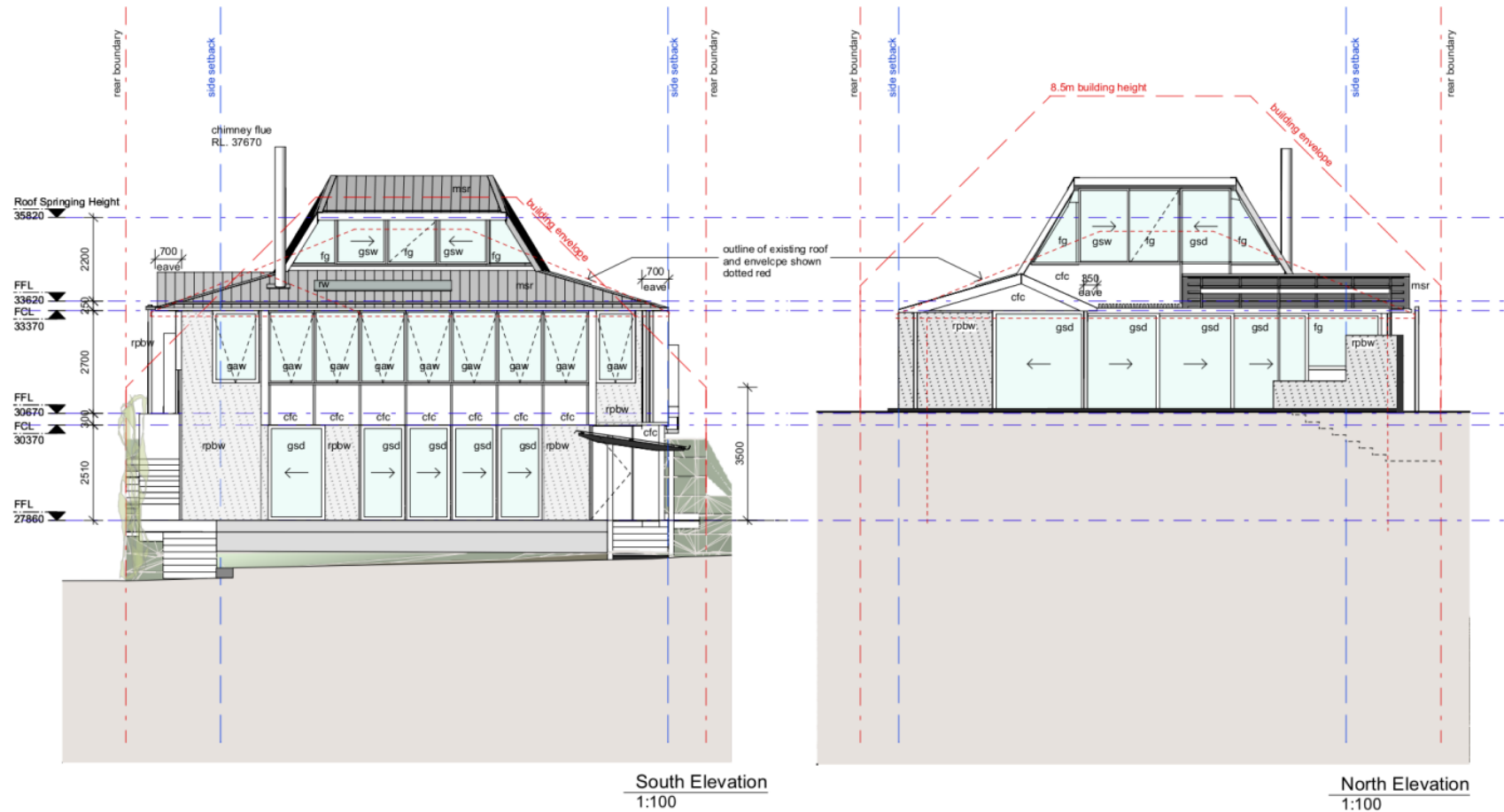


Lashta Haidari, Acting Development Assessment Manager

Peter Robinson, Executive Manager Development Assessment



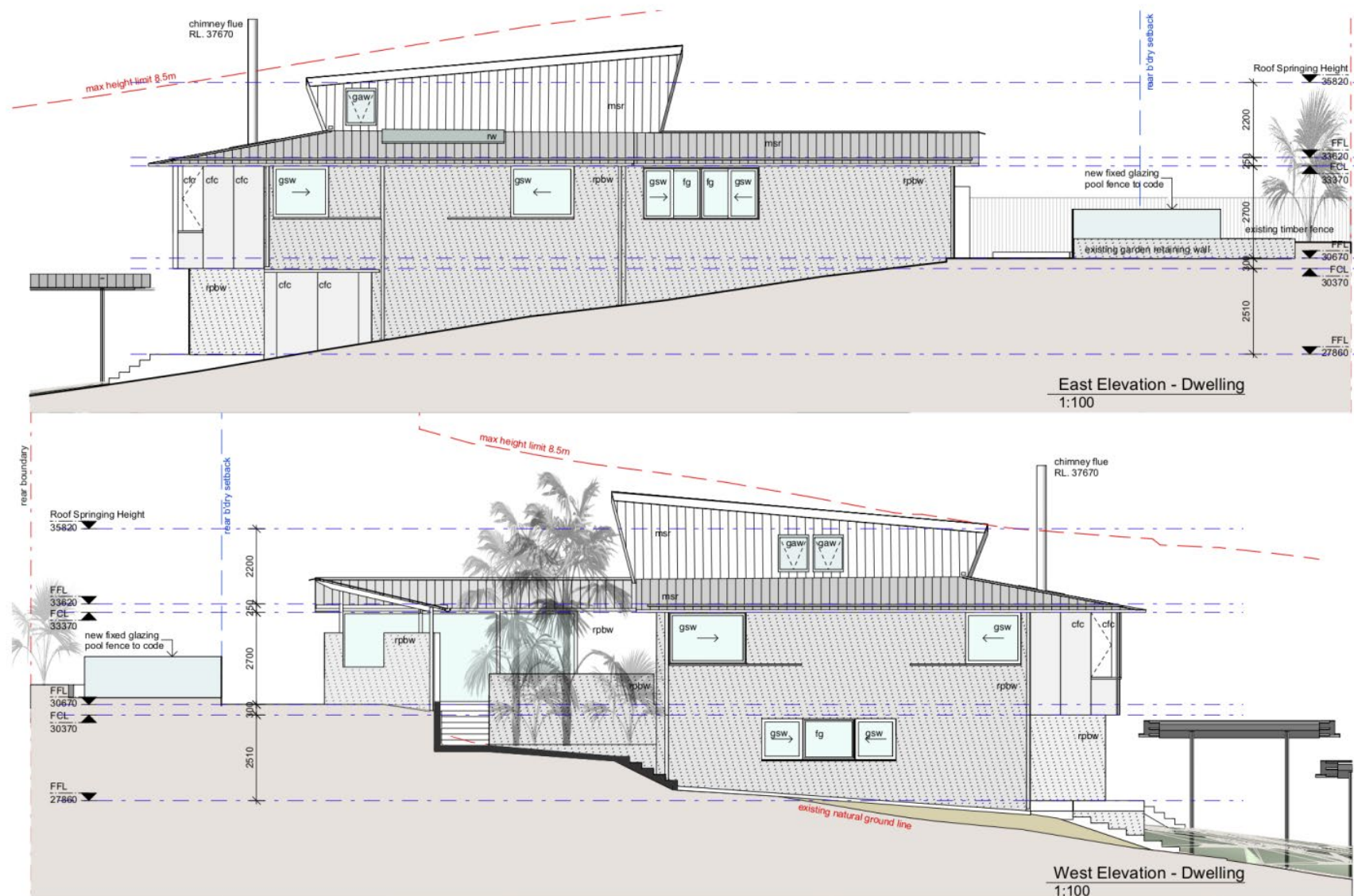
No. Drawing Issue A Issue for Development Application	Date 29/03/21	Do not scale from drawings. Verify all dimensions and levels on site. John Bohane Architecture & Building is the owner of the copyright submitting in these drawings, plans and specifications. They must not be used, reproduced or copied in whole or part for any information, ideas and concepts therein contained be disclosed to any person without the prior written consent of John Bohane Architecture & Building.	JOHN BOHANE ARCHITECTURE Address: 7A King St, Waverton NSW 2060 Mobile: 0421 325 285 Email: johnbohane@yahoo.com.au	GRANDVIEW RESIDENCE Katarina & Jason Ruszczyk 32 Grandview Pde, Mona Vale NSW 2103	 North	Drawing Name Site Plan - Proposed Date: 28 Mar 2021	Drawing No.: A004 Scale: 1:200 @ A3	Issue: A
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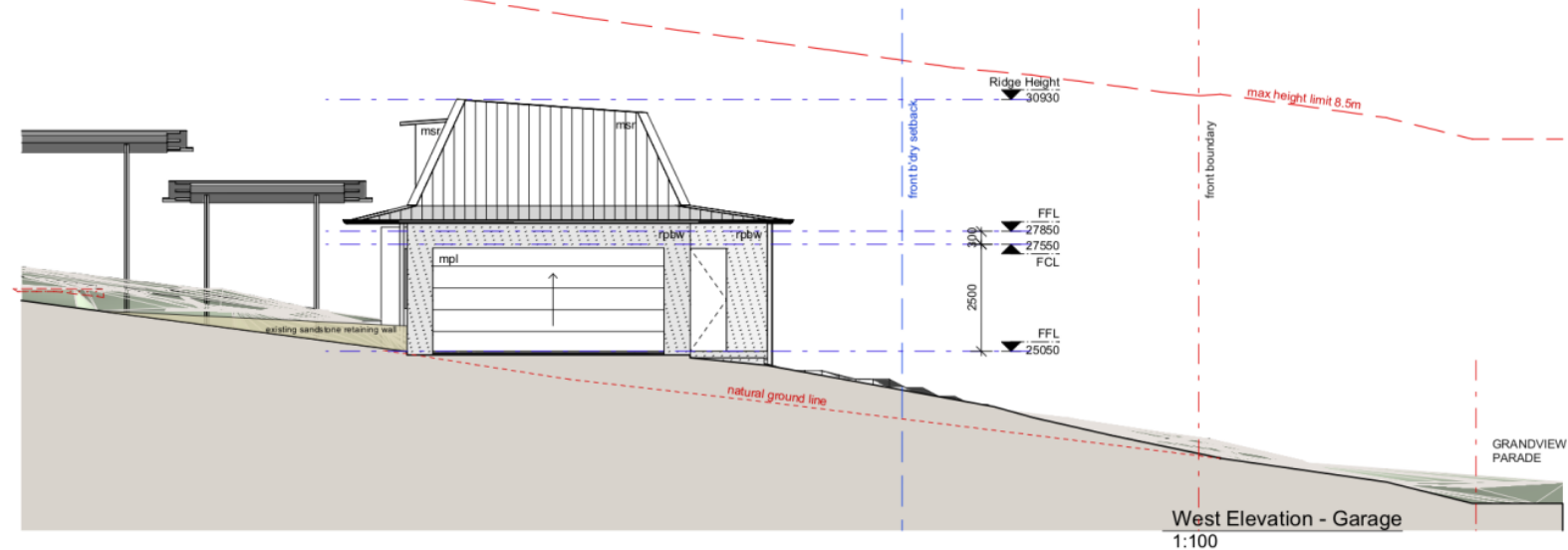
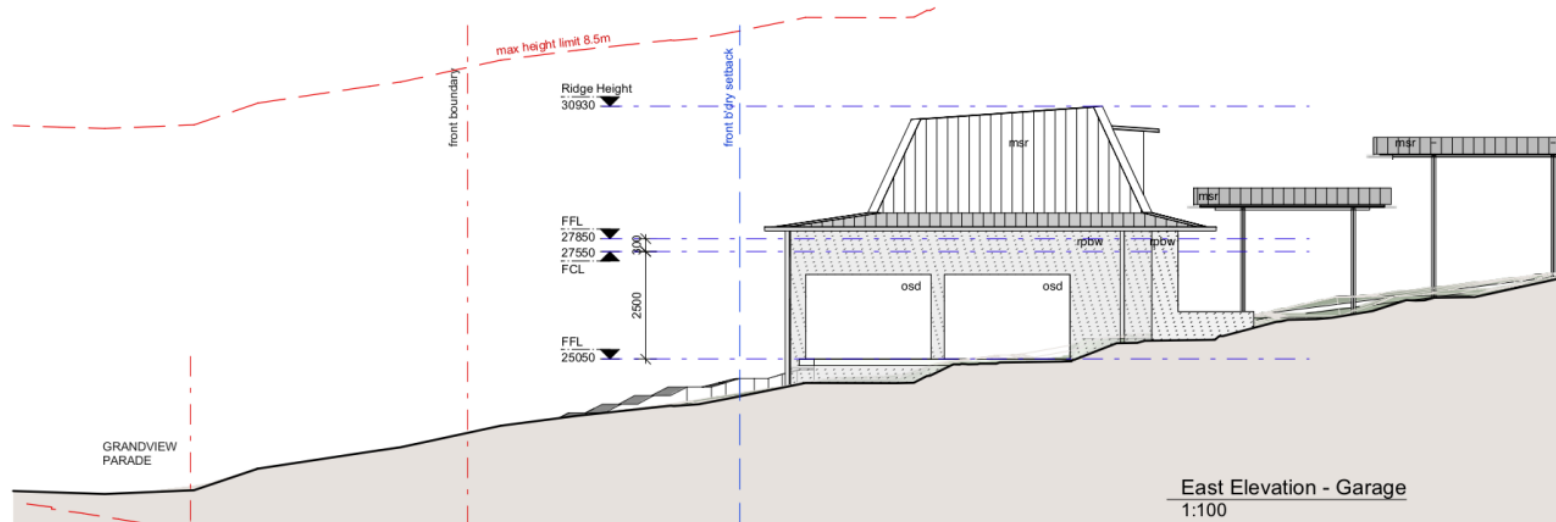
No. Drawing Issue A Issue for Development Application	Date 29/03/21	JOHN BOHANE ARCHITECTURE Address: 7A King St, Waverton NSW 2060 Mobile: 0421 325 295 Email: johnbohane@yahoo.com.au	GRANDVIEW RESIDENCE Katarina & Jason Ruszczyk 32 Grandview Pde, Mona Vale NSW 2103	Drawing Name Elevations - North & South North	Drawing No.: A201 Issue: A Scale : 1:100 @ A3
				Date : 28 Mar 2021	



No.	Drawing Issue	Date	JOHN BOHANE ARCHITECTURE	GRANDVIEW RESIDENCE	Drawing Name	Drawing No.:	Issue:
A	Issue for Development Application	29/03/21	Address: 7A King St, Waverton NSW 2060 Mobile: 0421 325 285 Email: johnbohane@yahoo.com.au	Katarina & Jason Ruszczyk 32 Grandview Pde, Mona Vale NSW 2103	Elevations - Site - East & West	A202	A
				North	Date: 28 Mar 2021	Scale: 1:200 @ A3	



No. Drawing Issue A Issue for Development Application	Date 29/03/21	JOHN BOHANE ARCHITECTURE Address: 7A King St, Waverton NSW 2060 Mobile: 0421 325 285 Email: johnbohane@yahoo.com.au	GRANDVIEW RESIDENCE Katarina & Jason Ruszczyk 32 Grandview Pde, Mona Vale NSW 2103	Drawing Name Elevations - Dwelling - East & West	Drawing No.: A203	Issue: A
North	Date : 28 Mar 2021				Scale : 1:100 @ A3	



No.	Drawing Issue	Date	JOHN BOHANE ARCHITECTURE	GRANDVIEW RESIDENCE	Drawing Name	Drawing No.:	Issue:
A	Issue for Development Application	29/03/21	Address: 7A King St, Waverton NSW 2060 Mobile: 0421 324 285 Email: johnbohane@yahoo.com.au	Katarina & Jason Ruszczyk 32 Grandview Pde, Mona Vale NSW 2103	Elevations - Garage & Studio - East & West	A204	A
				North	Date: 28 Mar 2021	Scale: 1:100 @ A3	



Garage - South (Street) Elevation
1:100

Garage - North Elevation
1:100

No. Drawing Issue A Issue for Development Application	Date 29/03/21	Do not scale from drawings. Verify all dimensions and levels on site. John Bohane Architecture & Building is the owner of the copyright subsisting in these drawings, plans and specifications. They must not be used, reproduced or copied in whole or part for any purpose, ideas and concepts therein contained be disclosed to any person without the prior written consent of John Bohane Architecture & Building.	JOHN BOHANE ARCHITECTURE Address: 7A King St, Waverton NSW 2060 Mobile: 0421 325 285 Email: johnbohane@yahoo.com.au	GRANDVIEW RESIDENCE Katarina & Jason Ruszczyk 32 Grandview Pde, Mona Vale NSW 2103	Drawing Name Elevations - Garage - North & South North Date : 28 Mar 2021	Drawing No.: A205 Issue: A Scale : 1:100 @ A3
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ITEM 4.7	DA2021/0047 - LOT 21/9999 KOOLOORA AVENUE, FRESHWATER - ALTERATIONS AND ADDITIONS TO A COMMUNITY FACILITY
AUTHORISING MANAGER	Anna Williams
TRIM FILE REF	2021/373988
ATTACHMENTS	1 Assessment Report 2 Site Plan & Elevations

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2021/0047 for alterations and additions to a Community Facility at Lot 21 Sec 2 & Lot 22 Sec 2 DP 975183, Lot 2797 DP 820312 & Lot 1 DP 909023, 21/9999 Kooloora Avenue, Freshwater subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0047
Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 22 DP 975183, 22 / 9999 Kooloora Avenue FRESHWATER NSW 2096 Lot 1 DP 909023, 9999 The Esplanade FRESHWATER NSW 2096 Lot 2797 DP 820312, Kooloora Avenue FRESHWATER NSW 2096 Lot 21 DP 975183, 21 / 9999 Kooloora Avenue FRESHWATER NSW 2096
Proposed Development:	Alterations and additions to a Community Facility
Zoning:	Warringah LEP2011 - Land zoned RE1 Public Recreation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Department Of Lands
Applicant:	Northern Beaches Council
Application Lodged:	04/02/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Community facility
Notified:	12/02/2021 to 26/02/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 220,000.00

EXECUTIVE SUMMARY

The development application seeks consent for alterations and additions to a community facility being the Freshwater Surf Life Saving Club (Freshwater SLSC) building.

The subject building is a local heritage listed item - Item I66 - Freshwater Surf Life Saving Club - Freshwater Beach, listed in *Schedule 5 Environmental Heritage of Warringah Local Environmental Plan*

2011.

The public exhibition of the application Council resulted in no (0) submissions.

The proposal is referred to the Local Planning Panel as it is an application categorised as having a 'conflict of interest' as the land on which the proposed development is located is a Crown Reserve, however Northern Beaches Council is the Crown Land Manager (under the Crown Lands Management Act 2016).

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for alterations and additions to a community facility being the Freshwater SLSC building, pursuant to *Warringah Local Environmental Plan 2011* (WLEP 2011).

Specifically, the development involves:

- Alterations and additions to the existing building; including
 - Mezzanine (level 3) extension to include a new meeting room and office;
 - Minor internal alterations.
- Erection of one (1) free standing illuminated sign.

No operational changes are proposed.

OWNERS CONSENT

- **Is the land a Crown Reserve?**
Yes, the land is part of Crown Reserve (64997 and 5000403) for Public Recreation.
- **Is Council the Crown land manager under the Crown Lands Management Act 2016?**
Yes, Council is the Crown Land Manager of Freshwater (64997 and 500403).
- **Can it be taken that the Minister has given consent on behalf of the Crown for its Crown land manager to sign as land owner? (What section of the Act applies?)**
Council, as Community Land Manager, may make a Development Application without the need for consent of the Crown, as owner of the land.
- **Is the land classified as community land under the Local Government Act 1993?**
Yes, the land is classified as community land.
- **Is there a Plan of Management and if so, are the proposed works consistent with that Plan?**
Yes, the Coastal Lands Plan of Management 2002. The Plan which was adopted on 24 September 2002, applies to the subject site and authorises a 20 year lease for the Freshwater Surf Life Saving Club. The works fall within the existing lease area, and maintains the existing use of the building as a volunteer life saving and beach patrol service and associated training and club activities.

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 - D10 Building Colours and Materials
Warringah Development Control Plan - D23 Signs

SITE DESCRIPTION

Property Description:	<p>Lot 22 DP 975183 , 22 / 9999 Kooloora Avenue FRESHWATER NSW 2096</p> <p>Lot 1 DP 909023 , 9999 The Esplanade FRESHWATER NSW 2096</p> <p>Lot 2797 DP 820312 , Kooloora Avenue FRESHWATER NSW 2096</p> <p>Lot 21 DP 975183 , 21 / 9999 Kooloora Avenue FRESHWATER NSW 2096</p>
Detailed Site Description:	<p>The subject site is located at the eastern end of Kooloora Avenue, within a public recreational reserve that adjoins Kooloora Avenue, Gore Street and Moore Road and Freshwater Beach to the east.</p> <p>The site is located within the RE1 Public Recreation zone and accommodates Freshwater Surf Life Saving Club building.</p> <p>The site contains a heritage listed item, being Item I66 - Freshwater Surf Life Saving Club - Freshwater Beach, listed in Schedule 5 Environmental Heritage of <i>Warringah Local Environmental Plan 2011</i>.</p> <p>The site is located within an existing wildlife corridor.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>

Adjoining and surrounding development is characterised by public reserve to the north, south and west. Freshwater beaches adjoins the property to the east.

Map:



SITE HISTORY

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

PLM2019/0297 - Alterations and Additions to an existing surf club (meeting held 23 January 2020).

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

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 12/02/2021 to 26/02/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<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>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following controls:</p> <ul style="list-style-type: none"> • SEPP (Coastal Management) - Coastal Environment Area • Warringah DCP E2 - Prescribed Vegetation • Warringah DCP E3 - Threatened Species, Populations and Ecological Communities • Warringah DCP E4 - Wildlife Corridors • Warringah DCP E5 - Native Vegetation

Internal Referral Body	Comments
	<ul style="list-style-type: none"> Warringah DCP E6 - Retaining unique environmental features <p>The proposal is generally within the existing development footprint and as such, will not impact upon remnant native vegetation or wildlife corridors.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, 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>Coastal Management Act 2016 <u>Comment:</u> The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 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 Coastal Management Act 2016.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 <u>Comment:</u> The subject land has been included on the 'Coastal Use Area' map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 14 and 15 of the CM SEPP apply for this DA.</p> <p>On internal assessment and as also assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Natalie Richter Planning dated 21 December 2020, the DA satisfies requirements under clauses 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>Warringah LEP 2011 and Warringah DCP 2011 <u>Comment:</u> 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>
Strategic and Place Planning (Heritage Officer)	<p>HERITAGE COMMENTS</p> <p>Discussion of reason for referral</p> <p>The proposal has been referred to Heritage as the site contains a heritage listed item, being Item I66 - Freshwater Surf Life Saving Club - Freshwater Beach, listed in <i>Schedule 5 Environmental</i></p>

Internal Referral Body	Comments																		
	<p><i>Heritage of Warringah Local Environmental Plan 2011.</i></p>																		
	<p>Details of heritage items affected</p>																		
	<p>Details of the item as contained within the Northern Beaches inventory is as follows:</p> <p>Item I66 - Freshwater Surf Life Saving Club</p> <p><u>Statement of significance:</u> A building of strong social significance which continued on from earlier clubhouses in this location. Historically evidence of the development of popular beach culture in the inter-war years. Good example of inter-war mediterranean style of architecture.</p> <p><u>Physical description:</u> Two storey cement rendered building on rear dunes of beach. Hipped tiled roof, with gable at top. Observation tower with hipped tiled roof. Arched & square headed openings.</p>																		
	<p>Other relevant heritage listings</p>																		
	<table><tr><td>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td><td>No</td><td></td></tr><tr><td>Australian Heritage Register</td><td>No</td><td></td></tr><tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr><tr><td>National Trust of Aust (NSW) Register</td><td>No</td><td></td></tr><tr><td>RAIA Register of 20th Century Buildings of Significance</td><td>No</td><td></td></tr><tr><td>Other</td><td>N/A</td><td></td></tr></table>	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	
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RAIA Register of 20th Century Buildings of Significance	No																		
Other	N/A																		
	<p>Consideration of Application</p> <p>The proposal seeks consent for alterations and an infill addition to the existing contemporary club building, abutting the heritage listed club house, which effectively involves enclosing the existing roof terrace area above the entry to create a new meeting room.</p> <p>It is noted that the proposed addition remains within the footprints of the existing contemporary building and does not involve any changes to the heritage listed club house. The proposed roof matches the existing roof form and material of the contemporary building, however the wall colour has been proposed to match the heritage item's wall colour. Heritage recommends to change this colour to match the contemporary building as to allow the visual separation of the heritage building from the later additions.</p>																		

Internal Referral Body	Comments
	<p>Therefore, no objections are raised to this application on heritage grounds, subject to one condition.</p> <p><u>Consider against the provisions of CL5.10 of WLEP 2011.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p> <p>Further Comments</p> <p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 05 March 2021</p>
Strategic and Place Planning (Urban Design)	<p>The proposal demonstrates a minimal impact addition that will have no significant impacts to the heritage context/adjacent surf club building.</p> <p>Additionally, the roof structure and material integration with the contemporary addition abutting the heritage building has no major or additional impacts on scale and bulk; the addition sitting relatively within the existing building footprint and roofline, and comprising an infill to the outdoor verandah space, wall, fenestrated enclosure and roof over.</p> <p>The drawings and perspective renders demonstrate the addition is to be painted to match the existing heritage building. Refer annotation on drawing no. 22002.15/E Elevations and Sections Detail 4. Section CC which describes the intended wall finish to be '... lined with selected cladding ... [with] applied textured paint finish externally to match existing'.</p> <p>Concern is raised with this strategy, given the heritage element should sit distinctly apart from the contemporary addition.</p> <p>As such is it recommended the proposed addition would be better integrated if it were to closer match the contemporary building; materiality, colour, proportion and scale, leaving the heritage element distinctly separate from the addition to the contemporary building.</p>
Waste Officer (Council Land)	<p>The application has very little waste impact and is supported from a waste perspective.</p> <p>It is noted however that plasterboard is nominated for recycling at Kimbriki, however this location does not provide recycling of Plasterboards.</p> <p>Sites where plasterboard can be recycled can be found here https://www.regyp.com.au/plasterboard-recycling-sites-nsw.</p> <p>The application is supported 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 community 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 community land use.

SEPP 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The sign is compatible with the locality being within a public reserve.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The sign is consistent with what would be expected for a public precinct	YES
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or	The site is not identified as having any particular visual qualities, environmental qualities or within a heritage area. The sign is not directly adjacent to residential properties.	YES

residential areas?		
3. Views and vistas Does the proposal obscure or compromise important views?	No views are obscured.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	No, the sign is below the existing tree canopy level.	YES
Does the proposal respect the viewing rights of other advertisers?	The sign does not conflict with any other signage.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes, the sign is of a height that allows it to be viewed from the public reserve and public car park whilst sitting below the tree line.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The sign will allow for the display of surf club information which will benefit the community and be consistent with the theme of signage on the land.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The signage strategy consolidates the signage into consistent areas which reduce visual clutter.	YES
Does the proposal screen unsightliness?	The site does not contain any unsightliness to screen.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The signage does not protrude above building, structures or tree canopies.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is considered to be compatible with the scale, proportion and character of the site and the building.	YES
Does the proposal respect important features of the site or building, or both?	The signage respects the character of the public recreation zone in which it is located.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage exhibits a level of imagination required to portray a recreational/community activity.	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	There is no other structure except for the electronic sign and no additional lighting apart from internal illumination.	YES
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The proposed illumination will not result in an unreasonable level of glare nor affect the safety of pedestrians, vehicles or aircraft nor detract from the amenity of the other uses of the reserve	YES

Can the intensity of the illumination be adjusted, if necessary?	The level of the intensity of the illumination could be adjusted by changing the light fittings.	YES
Is the illumination subject to a curfew?	The sign is capable of being programmed to switch on and off as necessary. The proposed signage will be subject to the the following hours of operation Monday - Sunday: 6:00am - 9:00pm	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The signage does not contain any animation or flashing lights such that it would not reduce the safety of any public road, pedestrians or bicyclists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The sign is located within the property boundary and does not obscure sight lines along public road or vehicle entrances.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying objectives.

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:

14 Development on land within the coastal use area

(1)

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

Comment:

The development is located within the coastal use area. The development will not result in any adverse impact on the items within (1)(a). Council is satisfied that the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a).

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's Coast and Catchments Division has provided comments indicating that the proposal satisfies the requirements under Clause 15.

As such, it is considered that the application does/does not 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

Compliance Assessment

Clause	Compliance with Requirements
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
Schedule 5 Environmental heritage	Yes

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
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	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	No	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	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
D23 Signs	No	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

D10 Building Colours and Materials

Merit consideration

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

- *To ensure the colours and materials of new or altered buildings and structures are sympathetic to the surrounding natural and built environment.*

Comment:

The site holds importance within the Freshwater Community and is a local heritage item under the WLEP 2011. The application was supported by a schedule of colours and finishes, which specifies that the proposed extension is to meet the colour and texture of the original Surf Club Building. Council's Heritage advisor has reviewed the proposal and notes the following:

"It is noted that the proposed addition remains within the footprints of the existing contemporary building and does not involve any changes to the heritage listed club house. The proposed roof

matches the existing roof form and material of the contemporary building, however the wall colour has been proposed to match the heritage item's wall colour. Heritage recommends to change this colour to match the contemporary building as to allow the visual separation of the heritage building from the later additions".

As such, the proposed colour and finishes as currently proposed are not supported. A condition has been imposed as part of this recommendation to ensure a more suitable colour scheme for the proposal and to allow for visual separation from the original heritage building. The amended colour scheme is to be approved by Council's Heritage Advisor, prior to the issue of any construction certificate.

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.

D23 Signs

Description of non-compliance and/or inconsistency

The application proposes one (1) pieces of signage consisting of the following:

Sign	Requirement	Width	Height	M ²	Complies
Freestanding signs (not being a sign elsewhere listed in this table, and includes a bulletin board, tenancy board, and the like)	Shall not exceed 2 metres in height above the existing natural ground level; Shall not have an area greater than 4sqm; Shall not project beyond the boundary of the premises; and Shall not be illuminated.	1.62m	2.45m	3.97sqm	No

Merit consideration

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

- To encourage well designed and suitably located signs that allow for the identification of a land use, business or activity to which the sign relates.*

Comment:

Whilst the free standing sign is non-compliant with the required height, the actual signage area is suitable in size and centrally located so not to dominate the landscape/beach setting of the area. The signage scheme is considered to provide, in a simple but clear design format, suitable identification of the principal land use and the ancillary facilities and services which the surf club provides.

- To achieve well designed and coordinated signage that uses high quality materials.*

Comment:

The proposal is considered to be well designed and does not result in visual clutter.

- *To ensure that signs do not result in an adverse visual impact on the streetscape or the surrounding locality.*

Comment:

The proposed sign is not expected to cause unreasonable impact to the visual amenity of the streetscape or surrounding locality, subject to conditions. Freestanding Signs are a common type of sign found within public recreation areas.

- *To ensure the provision of signs does not adversely impact on the amenity of residential properties.*

Comment:

No residential properties are located within close proximity to the site.

- *To protect open space areas and heritage items or conservation areas from the adverse impacts of inappropriate signage.*

Comment:

The proposed signage will not have a unreasonable impact upon the heritage item.

An assessment of the application has also found the development to be consistent with the requirements of *State Environmental Planning Policy No. 64 - Advertising and Signage*.

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 \$2,200 is required for the provision of new and augmented public

infrastructure. The contribution is calculated as 1% of the total development cost of \$220,000.

CONCLUSION

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

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

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

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

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

The assessment of the proposed development has found the proposal has sufficient merit, has addressed the relevant planning and environmental issues and is a suitable and appropriate development for the site and locality.

The proposal is assessed as being consistent with Warringah LEP 2011 and the general principles of the Warringah DCP 2011 well as the relevant SEPP's.

The report addresses all relevant considerations within this report and conditions have been imposed in relation to colour scheme of the proposal and operation of the proposed signage.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2021/0047 for Alterations and additions to a Community Facility on land at Lot 22 DP 975183, 22 / 9999 Kooloora Avenue, FRESHWATER, Lot 1 DP 909023, 9999 The Esplanade, FRESHWATER, Lot 2797 DP 820312, Kooloora Avenue, FRESHWATER, Lot 21 DP 975183, 21 / 9999 Kooloora Avenue, FRESHWATER, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
220012.10/B	27 November 2020	Priestleys Architects
220012.11	27 November 2020	Priestleys Architects
220012.12/C	27 November 2020	Priestleys Architects
220012.13/E	27 November 2020	Priestleys Architects
220012.14/C	27 November 2020	Priestleys Architects
220012.15/E	27 November 2020	Priestleys Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BCA Performance Solution	3 June 2020	Code Performance

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	21 December 2020	Northern Beaches Council

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 sewerage areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of

residents and the community.

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$2,200.00 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 \$220,000.00.

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

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 \$1,500 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).

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

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

6. **Stormwater Drainage Disposal**

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifying Authority prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

7. **Material and Colour Finishes**

The proposed addition to the existing contemporary building should be finished so as to integrate with the contemporary building, reflecting the colour and material finish. Colours and finishes that assist to recede the additions/development and match the existing contemporary building is required.

Details of alternative colours representing a recessive colour scheme and not matching the walls of the heritage item to be submitted to Council's Heritage Advisor for approval prior to the issue of any Construction Certificate.

Reason :To preserve the significance of the heritage item.

8. **Compliance with Standards**

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

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

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

9. **Sydney Water "Tap In"**

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

demonstrating the works are in compliance with Sydney Water requirements.

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

- o "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- o Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

11. **Wildlife protection**

If native wildlife is injured or killed during works, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be provided to the Principal Certifying Authority.

Reason: To protect native wildlife.

12. **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

13. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental

weeds.

14. Stormwater Drainage Disposal Certification

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Certifying Authority prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system 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 as to user for the on-site stormwater detention system 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 satisfactory management of stormwater.

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

15. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

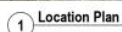
Reason: To protect wildlife habitat.

16. Hours of Operation - Signage

The hours of operation for the illuminated signage are to be restricted to:

- Monday to Sunday and Public Holidays: 6:00am and 9:00pm.

Reason: Information to ensure that amenity of the surrounding locality is maintained.



Issued for DA

8	11/1/20	EDUC FOR DEVELOPMENT APPLICATION
9	11/5/20	ADDITIONAL NOTIFICATION NEW ILLUMINATED CURB SIGNAGE
FROM	DATE	DESCRIPTION

AMENDMENTS

CLIENT
NORTHERN BEACHES COUNCIL

PROJECT

PROPOSED ALTERATIONS AND ADDITIONS TO FRESHWATER SURF LIFE SAVING CLUB

HOODORA/ADAGE/81154WATER NEW 2016 Council Reserve
Zoned R12 Public Reservation

THIS DRAWING

COVER SHEET -
LOCATION PLAN, SITE PLAN
& SITE ANALYSIS PLAN

Priestleys architects

ADN72626317058
PETER PRAEGLY ASSOCIATES (A.S.W.) PTY. LTD.
UNIT 14/16 SHAWFIELD AVENUE ST NICK

TELEPHONE: 940-8123		
MICHAEL L. EARLOW	Reg. No. 3050	
RUSSELLA BRAMLEY	Reg. No. 5406	
Business: 940-	Home: 940-	Mobile: 940-

Date: 04/28 System: 07/2010 Access: 04/28	Drawing no. 220
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