

3.1 90 Quirk Street, Dee Why – Modification of DA2008/0380 for a Dwelling, Swimming Pool and Front Fence

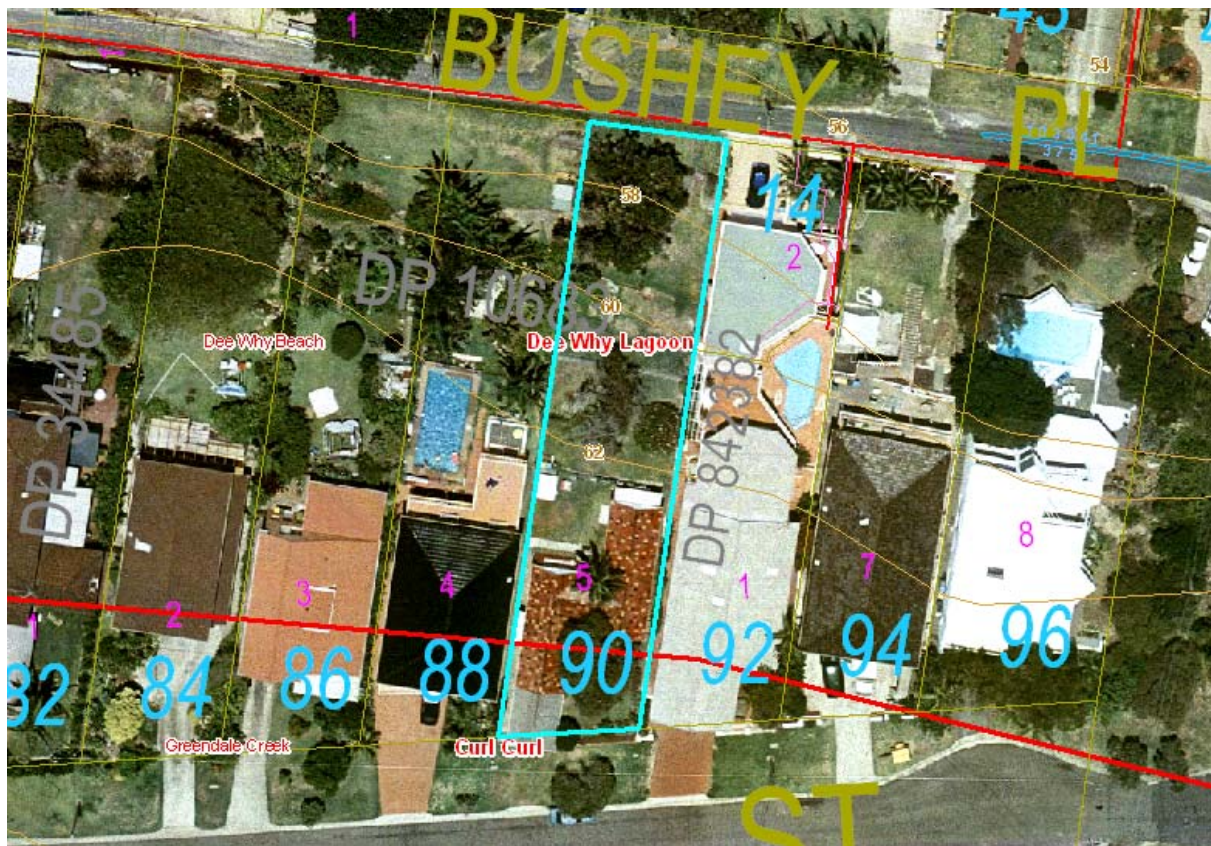
S96(1A) APPLICATION TO MODIFY A DEVELOPMENT CONSENT ASSESSMENT REPORT

Assessment Officer:	John Essenstam
Address / Property Description:	Lot 5 DP 10683, 90 Quirk Street DEE WHY
Development Application No:	DA2008/0380(Parent) MOD2009/0020 (Child)
Approved Development:	S96 Modification to DA2008/0380 for a dwelling, swimming pool & front fence following demolition of the existing dwelling & outbuilding 10 July 2008
Development Consent Determination Date:	
Previous Modifications:	No
Proposal in detail	<p>The modification seeks approval for the following changes</p> <p>Basement Level</p> <ul style="list-style-type: none">• Relocation of the pool to a north /south orientation• Extend the deck 4.5m to the north• Remove the stairway connecting the deck level to the ground floor <p>Ground Floor</p> <ul style="list-style-type: none">• Change external western wall of ground floor from masonry to timber frame• Replace decking to drying area with paving <p>First Floor</p> <ul style="list-style-type: none">• Extend northern wall 1.3m and make internal alterations• Increase balcony floor area within the existing footprint by reducing the width of planter boxes• Extend balcony roof 900mm to south
Application Lodged:	5/2/2009
Plans Reference:	A01 to A06
Amended Plans:	There are no amended plans
Applicant:	Peter Graham
Owner:	Susan Anne Viljoen
Locality:	E15 Wingala Hill
Category:	1
Variations to Controls (CI.20/CI.18(3)):	Yes. Variation to Landscaped Open Space as approved in DA2008/0380
Referred to ADP:	Yes
Referred to WDAP:	No
Land and Environment Court Action:	No

SUMMARY

Submissions:	3
Submission Issues:	Non compliance with Landscape open space, View loss, Increased roof height, Bulk, Noise, Envelope encroachment, Solar Access, Property devaluation
Assessment Issues:	All of the above
Recommendation:	Approval
Attachments:	Plans

LOCALITY PLAN (not to scale)



Subject Site: Lot 5 DP 10683 90 Quirk Street DEE WHY NSW

Public Exhibition: The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, the application was notified to adjoining land owners and occupiers and to persons who made a submission to the original development application (notice was sent to last known address) for a period of not less than 14 calendar days commencing on 12 February 2009 and extended by consent to 16/03/2009

SITE DESCRIPTION

The subject site is described as Lot 5 in DP 10683, commonly known as 90 Quirk Street Dee Why NSW 2099 with access via Quirk Street. The site is rectangular in shape with a slightly splayed south boundary (street frontage). The boundary dimensions are as follows: North 12.19metres, South 12.47metres, East 53.14metres, and West 55.57metres.

The subject site is currently vacant with earthworks being carried out under the existing approval. The site is adjoined to the East and West by two storey detached dwellings. The rear of the site abuts Bushey Place (access way). The site is moderately sloped with approx 2-3metre cross fall from the front boundary to the rear boundary. There are no unique environmental features or site constraints according to current information available to Council.

SITE HISTORY

DA2008/0380 was approved BY ADP on 10 July 2008 for a dwelling, swimming pool & front fence following demolition of the existing dwelling & outbuilding.

PREVIOUS MODIFICATIONS

There are no previous modifications

AMENDMENTS TO THE SUBJECT APPLICATION

Basement Level

- Relocation of the pool to a north /south orientation
- Extend the deck 4.5m to the north
- Remove the stairway connecting the deck to the ground floor level

Ground Floor

- Change external western wall of ground floor from masonry to timber frame
- Replace decking to drying area with paving
- Replace stairway footprint with deck

First Floor

- Extend northern wall 1.3m and make internal alterations
- Increase balcony floor area within the existing footprint by reducing the width of planter boxes
- Extend balcony roof 900mm to south

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979 (EPA Act 1979); and
- b) Environmental Planning and Assessment Regulations 2000.

PUBLIC EXHIBITION

As a result of the public exhibition process 3 submissions have been received.

Name	Address
1. Bronwyn & Robert Tuckerman	92 Quirk Street DEE WHY
2. Ken & Cathy Vineburg	94 Quirk Street DEE WHY
3. Maureen Fry	88 Quirk Street DEE WHY

The following issues were raised in the submissions:

Submission 1 - 92 Quirk St.

Increased height and bulk
Side Boundary Envelope encroachment
Landscaped Open Space deficiency
Privacy
Solar Access
View Sharing
Property Devaluation

The matters raised within the submissions are addressed as follows:

Increased height and bulk

Comment: The height of the building when measured from natural ground level to the ridge at the apex of the roof (RL 70081) has increased by 312mm to 7.591m, still well below the maximum permitted height being 8.5m. The increased height applies to a minor portion of the roof of the first floor and is not considered to unreasonably increase the bulk of the building. The extension of the northern first floor wall is minor (1.2m) and the increase of the first floor patio has been achieved by reducing the width of the planter box within the footprint of the approved balcony.

The removal of the stairs from the pool to the ground floor deck results in a reduction to the overall bulk of the building and the increase in the basement deck is balanced by the reduced pool area.

The above submission is not considered sufficient to warrant refusal of the application.

Side Boundary Envelope

Comment: The proposed pool is setback 1800mm to the waters edge which greater than the approved setback of 1650mm. The pool coping remains on a 1.2m setback. The modifications do not breach the Side Boundary Envelope Controls. The issue is therefore resolved.

Landscaped Open Space

Comment: The approved development provided a landscaped open space ratio of 37.5% that was approved as a variation to WLEP 2000 under CI 20. The modification proposes a smaller swimming pool area and an increased deck area that further reduces the landscaped open space. The applicant has agreed to the removal of 21m² of paving from the drying area resulting in the same landscaped open space ratio (37.4%) that has been approved. A condition of consent will be added to ensure compliance. The issue is therefore resolved.

Privacy

Comment: The only new element of the building introduced as a modification is the new en-suite window on the first floor of the eastern elevation. The applicant has agreed to have the window glazed to 1500mm from FFL in translucent glass to minimise any overlooking of habitable rooms of the adjoining property. A condition of consent will be added to ensure compliance. The issue is therefore resolved.

Solar Access

Comment: General Principle 62 requires development not to unreasonably reduce sunlight to surrounding properties - In the case of housing:

sunlight, to at least 50% of the principal private open spaces, is not to be reduced to less than 2 hours between 9 am and 3 pm on June 21, and where overshadowing by existing structures and fences is greater than this, sunlight is not to be further reduced by development by more than 20%.

The shadow diagrams submitted show solar access to 92 Quirk St meets the requirements of the General Principle and is therefore resolved

View Sharing

Comment: View Sharing was assessed in detail prior to consent and the minor alterations to the height and southern balcony roof will not result in any significant loss of view to this property that would warrant refusal of the application

Property Devaluation

Comment: Property devaluation is not a relevant consideration under the Environmental Planning and Assessment Act 1979

Submission 2 - 94 Quirk St.

Privacy

Comment: No.94 Quirk St. is not an adjoining property and is separated by the property at No. 92 Quirk St. The modification re -locates the pool further from the eastern boundary with No.92 (from 1650mm to 1800mm) than was approved and is considered to result in less impact to No. 94 Quirk St. There will be no unreasonable impact on privacy that would warrant refusal of the application.

Landscaped Open Space

Comment: See discussion in submission 1

Side Boundary Envelope

Comment: The building complies with the Side Boundary Envelope. The issue is therefore resolved

Increased height and bulk

Comment: See discussion in submission 1

Solar Access

Comment: See discussion in submission 1

View Sharing

Comment: View Sharing was assessed in detail prior to consent and the minor alterations to the height and southern balcony roof will not result in any significant loss of view to this property that would warrant refusal of the application

Property Devaluation

Comment: See discussion in submission 1

Submission 3 - 88 Quirk St.

Increased height and bulk

Comment: See discussion in submission 1

View Sharing

Comment: View Sharing was assessed in detail prior to consent and the minor alterations to the height and southern balcony roof will not result in any significant loss of view to this property that would warrant refusal of the application

LAND AND ENVIRONMENT COURT ACTION

Nil

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 96(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(1A)	Comments
Section 96(1A) (a) – Is the Modification to Consent of Minimal Environmental Impact?	Yes
Section 96(1A) (b) – Would the consent as proposed to be modified be substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was previously modified?	Yes
Section 96(1A) (c) & (d) – Public Exhibition of subject application / submission	See discussion on “Public Exhibition” in this report.
Section 96 (3) - Consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application	See discussion on “Matters for Consideration under Section 79C” in this report.

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	See discussion on “Draft Environmental Planning Instruments” in this report.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the regulations	Clause 7 of the EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter has been addressed and no condition of consent is required to this approval. Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: <i>The</i>

Section 79C 'Matters for Consideration'	Comments
	<p><i>Demolition of Structures.</i> This matter has been addressed and no condition of consent is required.</p> <p>Clause 93 of the EPA Regulation 2000 requires the consent authority to consider the fire safety upgrade of development. This matter has been addressed and no condition of consent is required.</p>
Section 79C (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) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) 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 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen that would justify the refusal of the application in the public interest.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs)

SEPP Infrastructure

Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

1 Desired Future Character (DFC)

The subject site is located in the LOCALITY E15 WINGALA HILL

DESIRED FUTURE CHARACTER

The Wingala Hill locality will remain characterised by detached style housing in landscaped settings interspersed by existing apartment style housing and a range of complementary and compatible uses.

Future development will relate to the predominant scale of existing detached style housing in the locality and the streets will be characterised by landscaped front gardens and buildings which address the street. The exposed natural sandstone rock outcrops throughout the locality are to be preserved where possible and development on prominent hillsides or hilltops must be designed to integrate with the landscape and topography and complement long distance views of the hill. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.

Locality under Warringah Local Environmental Plan 2000.

The proposed development is defined as "Housing" under the WLEP 2000 dictionary and is identified as Category 1 development in this locality.

Clause 12(3)(a) of WLEP 2000 requires the consent authority to consider Category 1 development against the locality's DFC statement.

Clause 20(1) requires consistency with the DFC if variations to the Built Form Controls are to be supported. The original development was considered to be consistent with the provisions. The modification is substantially the same as the original approval and therefore consistent with the DFC.

The proposed development has been considered against the locality's DFC statement and it is considered that the proposed land use is generally consistent with the provisions.

Built Form Controls (Development Standards)

The following table outlines compliance with the relevant Built form Control of the above locality statement:

Built Form Compliance Table				
Built Form Standard	Required	Approved Development	Proposed Modification	Compliance
Building Height Metres	8.5metres	7.279metres	7.591 metres	Yes
Building Height: Natural ground to upper ceiling (metres)	7.2metres	6.45metres	6.7	Yes
Front Setback	6.5metres	7.3metres to 8.6metres	7.3metres to 8.6metres	Yes
Housing Density	1/600 sqm	Existing allotment: 1/660sqm	Existing allotment: 1/660sqm	Yes
Landscaped Open Space	40% of site (264sqm)	37.5% of site (248sqm)	37.4% (247.45)	*No
Rear Setback	6metres	12metres to 18metres	10m	Yes
Side Boundary Envelope	5metres/45 degrees	Building within envelope	Building within envelope	Yes
Side Setbacks	900mm	East: 1.2metres West: 900mm	East: 1.2metres West: 900mm	Yes

*The new surveyed Landscaped Open Space Calculation is 0.1% less than the approved figure and is considered to be the consistent with the objectives considered in the development consent determination

The proposed development is considered to satisfy the Locality's Built Form Controls, accordingly, no further assessment will be provided in this regard.

2 General Principles Of Development Control

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	YES	The modified development does not result in overspill or glare from artificial illumination, or sun reflection, and does not unreasonably diminish the amenity of the locality. The development is satisfactory in addressing the General Principle.	YES

General Principles	Applies	Comments	Complies
CL39 Local retail centres	NO	No Comment	N/A
CL40 Housing for Older People and People with Disabilities	NO	No Comment	N/A
CL41 Brothels	NO	No Comment	N/A
CL42 Construction Sites	YES	Addressed in conditions of consent	YES
CL43 Noise	YES	The proposal involves minor modifications to the proposed dwelling. The surrounding area consists of detached single and two storey dwelling houses. The modifications will not introduce any new noise emissions, which would unreasonably diminish the amenity of the area. The Development application has been conditioned to address any noise from pool filters	YES
CL44 Pollutants	YES	The subject site has only previously been used for residential purposes and as such is unlikely to contain any pollutants; therefore the provisions of this principle have been satisfactorily addressed.	YES
CL57 Development on Sloping Land	YES	The proposal is designed to minimise disturbance of the site and respond to the topography by stepping down the slope and minimising cut/fill. No further cut/fill is proposed.	YES
CL61 Views	YES	View sharing was assessed in detail in the Development application assessment report. The added roof apex height of 312mm and the front patio roof extension of 900mm will not result in any further significant view loss	YES
CL62 Access to sunlight	YES	The certified shadow diagrams submitted have been assessed and demonstrate no further impact from overshadowing. Sunlight access to at least 50% of private open spaces is maintained for no less than 2 hours between 9am and 3pm on June 21 st . It is considered that a reasonable and equitable level of sunlight is maintained and the development is satisfactory in this regard.	YES
CL63 Landscaped Open Space	YES	The landscaped open space provision for the site did not strictly comply with the numerical requirements in the original approval (37.5%) and was varied under Clause 20 WLEP2000. The relocation of the pool and reduction in size of the pool area reduces the LOS but has been restored (37.4%) by the removal of paving from the Drying Area. The minor numerical non-compliance is still considered satisfactory in terms of landscaped open space and is consistent with that originally approved. The minor numerical non-compliance does not pose any adverse affect on the amenity of the adjoining properties and will remain consistent with the surrounding streetscape. The scale and density of planting is considered commensurate with the building bulk, height and scale, and provides an appropriate level of vegetation required to enhance its visual setting. Accordingly, the proposal is considered satisfactory in addressing the objectives of this general principle.	YES
CL63A Rear Building Setback	YES	The proposed works provides a rear setback of 10 metres to the proposed swimming pool and 18metres to the proposed rear deck/building, which meets the minimum requirement and satisfies the objectives of the rear setback control.	YES
CL64 Private open space	YES	The proposal provides greater than 60m ² private open space with dimensions of greater than 5m. This space is set apart for private use, is directly accessible from the living area and receives not less than 2 hours of sunlight	YES

General Principles	Applies	Comments	Complies
		between 9am and 3pm on 21st June. The development is considered satisfactory in addressing the requirements of Clause 64.	
CL65 Privacy	YES	Privacy concerns were raised from the adjoining property at No.92 Quirk Street and refer to issues dealt in the original application. The modification plans have included the requirements of Condition 11 and 12 to provide obscure glazing to the dining room. The applicant has agreed to also glaze the newly proposed window to the first floor en-suite on the western elevation with translucent glass to a height of 1500mm off FFL. The proposed development is acceptable in regards to privacy, subject to the imposition of a further condition to provide translucent glazing to the window described above and is therefore is satisfactory in addressing the General Principle.	YES
CL66 Building bulk	YES	The development is considered to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land and does not visually dominate the street or surrounding spaces. The development is consistent with the predominant pattern and scale of development in the immediate locality.	YES
CL67 Roofs	YES	The proposed roof form integrates with the design of the building and maintains a roof pitch and form that is consistent with other surrounding modern developments within the streetscape. The roof form is broken up to reduce bulk and is articulated with the use of elements and materials that complement the building. The proposal will satisfy the objective of the General Principle.	YES
CL68 Conservation of Energy and Water	YES	The development incorporates features that are consistent with energy and water use conservation. A BASIX certificate has been submitted and compliance therewith will be imposed by way of condition.	YES
CL69 Accessibility – Public and Semi-Public Buildings	NO	No Comment	N/A
CL70 Site facilities	NO	No Comment	N/A
CL71 Parking facilities (visual impact)	NO	No Comment	N/A
CL72 Traffic access & safety	NO	No Comment	N/A
CL73 On-site Loading and Unloading	NO	No Comment	N/A
CL74 Provision of Carparking	YES	Two (2) car spaces will be provided in the proposed garage, satisfying the parking requirements of Schedule 17 of the Warringah LEP 2000.	YES
CL75 Design of Carparking Areas	YES	The proposed works have been designed to provide safe manoeuvring opportunities for vehicles on-site and satisfying the requirements of this general principle.	YES
CL77 Landfill	NO	No Comment	N/A
CL78 Erosion & Sedimentation	YES	Development is to be sited and designed and related construction work carried out, so as to minimise the potential for soil erosion. Appropriate conditions associated with management of erosion and sedimentation for the duration of works on the site is considered satisfactory to meet the requirements of Clause 78 of WLEP2000.	YES

General Principles	Applies	Comments	Complies
CL79 Heritage Control	YES	The site has no local or state heritage significance, nor is located in a heritage conservation area.	YES
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	No Comment	N/A
CL81 Notice to Heritage Council	NO	No Comment	N/A
CL82 Development in the Vicinity of Heritage Items	NO	No Comment	N/A
CL83 Development of Known or Potential Archaeological Sites	NO	No Comment	N/A

POLICY CONTROLS

Warringah Section 94 Development Contribution Plan 2001

N/a

Warringah Section 94A Development Contribution Plan (adopted 14 November 2006)

N/a

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 96(1A) of the Environmental Planning and Assessment Act, 1979, the provisions relevant Environmental Planning Instruments including Warringah Local Environment Plan 2000 and the relevant codes and policies of Council.

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

As a result of the application and consideration of the matters detailed within this report it is considered that Council as the consent authority grant approval to modify the Notice of Determination as detailed within the "Recommendation" section of this report.

RECOMMENDATION

That Council as the consent authority grant approval to modify Development Consent No DA2008/0380 under MOD2009/0020 at Lot 5 DP 10683, 90 Quirk Street, Dee Why as follows:

(a) Condition No. 1 to be amended as follows;

1. Development in Accordance with Plans (S96 Amendments)

The development being carried out in accordance with plans Reference DA2008/0380 numbered as seen below:

Drawing Number	Dated	Prepared By
0708/30 A01 Issue A	07 March 2008	Msb design
0708/30 A02 Issue A	07 March 2008	Msb design
0708/30 A03 Issue A	07 March 2008	Msb design
0708/30 A05 Issue A	07 March 2008	Msb design

LP01 Landscape plan	March 2008	Stuart Pittendrigh
0708/30 A01 Issue A	07 March 2008	Msb design

Except as modified by Modification 1 Reference Mod2009/0020 plans listed below (refer to the highlighted sections on the plans only):

Drawing Number	Dated	Prepared By
0708/30 A01 Issue E	18/12/2008	Msb design
0708/30 A02 Issue E	18/12/2008	Msb design
0708/30 A03 Issue E	18/12/2008	Msb design
0708/30 A05 Issue E	18/12/2008	Msb design

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council - Public Information.

(b) The following additional conditions to be included

12a. Window changes

The window to the en-suite on the first floor of the eastern elevation to comprise glass in the window to a height of 1.5metres that is of fixed translucent glass. Details demonstrating compliance with this requirement are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure privacy between adjoining dwellings.

59a. Landscaped Open Space

Paving to be deleted from Drying Area and replaced with turf

Reason: To comply with the Built Form Controls WLEP2000



Elevation Plans

