

3.1**7 Hill Street Queenscliff - Alterations and Additions to Existing Semi-detached Dwelling****DEVELOPMENT ASSESSMENT REPORT**

Assessment Officer:	Sarah McNeilly Consultant Town Planner Watermark Planning
Address / Property Description:	7 Hill Street, Queenscliff
Proposed Development	Major alterations and additions to existing semi-detached dwelling including a second storey, basement car parking and an in-ground swimming pool.
Development Application No:	DA 2008/1773
Application Lodged:	23 December 2008
Plans Reference:	Drawing Numbers DA-02, DA04-DA-06 Issue A and DA-03, DA-07-DA-15 all dated 20/8/08 and drawn by Tom Potter Architects.
Amended Plans:	NO
Applicant:	Scott Manuel
Owner:	Scott Manuel and Linda Manuel
Locality:	H1 – Freshwater Beach
Category:	Category 1 - Housing
Variations to Controls (Cl.20/Cl.18(3)):	Landscaped area, height, side setback
Referred to ADP:	<i>Yes – Referred at the discretion of The Managers of Planning and Development Services for consideration under Cl 4(a) of ADP Charter</i>
Referred to WDAP:	NO
Land and Environment Court Action:	NO
SUMMARY	
Submissions:	2 submissions
Submission Issues:	Views; Extent of Excavation; Structural integrity and safety Owner's consent; Landscape area; Height; Side setback to no. 9 Hill Street; Building envelope; Privacy at no.5 Hills Street; Inconvenience to no.5 during excavation; New dwelling; Streetscape; Heritage value of dwelling; Rear setback (pool); Overdevelopment of a small site.
Assessment Issues:	Views; Extent of Excavation; Owner's consent; Landscape area; Height; Side setback to no. 9 Hill Street; Building envelope; Overdevelopment of a small site; Front setback
Recommendation:	Refusal

Attachments:

Plans

LOCALITY PLAN (not to scale)



Subject Site: Lot B, DP 442377, 7 Hill Street, Queenscliff

SITE DESCRIPTION

The subject site is comprised of one (1) allotment being Lot B in DP 442377, No. 7 Hill Street, Queenscliff. The site has an area of 443sqm and is located on the southern side of Hill Street. The site has a frontage to Hill Street of 9.945 metres, an eastern (side) boundary of 42.67metres, a western (side) boundary of 42.67 metres and a southern (rear) boundary of 11.155 metres.

The site is currently occupied by a single storey semi-detached dwelling, which adjoins no 5 Hill Street to the west. The landscape of the site is currently unkept, but includes some trees on the perimeters of the site. No parking is currently provided for the dwelling on site. The site has an approximate slope of 7%, falling in a northerly direction across the site.

Adjoining and surrounding properties primarily consist of residential development of varying scale and style. The street is a mix of older style single storey detached dwellings and new two storey detached dwellings. A large amount of construction and redevelopment is occurring in the immediate locality currently. The property immediately to the west is the adjoining semi-detached dwelling. This property has been extended to include a small upper storey in recent history. Further to the west is a three storey residential flat building. The Freshwater Shopping Centre is a short walk from the site.

SITE HISTORY

There is no relevant history for the subject site.

PROPOSED DEVELOPMENT

The applicant seeks to demolish the majority of the existing dwelling and redevelop with a two storey dwelling, with a basement incorporating carparking and an in-ground pool. The new development will consist of:

Basement

- 2 car garage
- entrance hall
- Foyer and stairs
- Cellar
- Workshop and Storage
- Laundry
- Bathroom

Ground Floor

- Verandah (wrap around)
- Lounge
- Entry foyer
- Kitchen
- Dining
- Living room
- Bathroom
- Study
- Rear Verandah

First Floor

- Bedroom 1 including WIR and Ensuite and balcony
- Bedrooms 2 including ensuite
- Bedroom 3 including ensuite
- Bedroom 4
- Hall and stairs

Site works

- Landscaping
- Reinforced concrete driveway
- Swimming Pool

AMENDMENTS TO THE SUBJECT APPLICATION

Not applicable

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979 (EPA Act 1979); and
- b) Environmental Planning and Assessment Regulations 2000.
- c) State Environmental Planning Policy No.55- Remediation of Land
- d) State Environmental Planning Policy- Infrastructure
- e) State Environmental Planning Policy - BASIX
- f) Warringah Local Environment Plan 2000
- g) Warringah Development Control Plan
- h) s94A Development Contributions Plan

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 36 adjoining land owners and occupiers (notice was sent to last known address) for a period of 14 calendar days.

As a result of the public exhibition process submissions have been received from:

1. Mr Nic Mumford – 5 Hills Street, Queenscliff
2. Concerned owners of Hill Street – no names or addresses provided.

The matters raised within the submissions are addressed hereunder:

- Views;
- Extent of Excavation;
- Structural integrity and safety;
- Owner's consent;
- Landscape area;
- Height;
- Side setback to no. 9 Hill Street;
- Building envelope;
- Privacy at no.5 Hills Street;
- Inconvenience to no.5 during excavation;
- New dwelling;
- Streetscape;
- Heritage value of dwelling;
- Rear setback (pool);
- Overdevelopment of a small site.

An analysis of the issues identified above is undertaken hereunder:

- Views

Comment: The submission received from no.5 Hill Street raised concerns regarding the loss of views from the main bedroom located on the upper level of their dwelling as a result of the proposed balcony at no.7 Hill Street. An inspection of the existing views from this upper level bedroom was made and it is apparent that views are available from the eastern and northern windows. The primary view is from the eastern window and approximately half of this will be impacted by the proposed balcony. While the view will be "impacted" it will not be entirely lost in this section as there are no walls proposed and only a roof and columns. The owner of no.7 has stated he is willing to place a covenant on his title to ensure no privacy screens would be constructed to further impact views. Given that views are to be shared, it is considered that the proposal is reasonable as efforts have been made in the design to set the balcony in near the subject window to ensure that view loss is minimized.

- Extent of Excavation

Comment: It is agreed that the extent of excavation is large for a single residential dwelling. However, the site does not suffer from stability issues and subject to appropriate engineering certification no issue is raised in this regard.

- Structural integrity and safety

Comment: The structural integrity and safety of no.5 Hill Street and no.7 Hill Street are critical to the development being approved. Conditions of consent ensuring engineering certification and details would be essential. Additionally, a dilapidation report would be required and a notice of works for the adjoining owners with regard to works relating to common property.

- Owner's consent

Comment: It is acknowledged that owner's consent has not been provided by no.5 Hills Street, Queenscliff in regard to works on the shared brick party wall and chimneys. It is believed that this consent is required and Council can not finalize determination of this application unless it is received.

- Landscape area

Comment: Council's landscape calculations differ from the applicants with a total of 33.2% being achieved. This is discussed in detail later in the report, but is grounds for refusal of the application.

- Height

Comment: The height appears to reach a maximum of 9.2 metres to the roof detail at the highest point of the dwelling. No RLs are provided at this point, so these figures have been scaled. This is non-compliant and this area needs to be reduced to be consistent with the neighbouring half of the semi-detached dwellings. This is grounds for refusal.

- Side setback to no. 9 Hill Street

Comment: The majority of the side setbacks fully comply. However, the entry stairs leading onto the front verandah sit at 600mm to the boundary which is non-compliant. This is grounds for refusal.

- Building envelope

Comment: The building envelope fully complies with the exception of the chimney and a small area of eaves. These exceptions are permitted by the LEP and are considered appropriate.

- Privacy at no.5 Hills Street

Comment: The neighbour at no.5 Hills Street is concerned about the privacy impacts resulting from the balcony on the proposed upper level. It is considered that the impacts are appropriate with no direct overlooking and the intention of the balcony to view the distant water views to the east.

- Inconvenience to no.5 during excavation

Comment: The proposed development will result in great inconvenience to no.5 Hill Street. Unfortunately, this is often the case for neighbours, and the impacts will be magnified for these neighbours due to the shared structures and extensive excavation. Conditions on the consent would ensure development hours and limited and that all care is taken to ensure that any impacts on no.5 are minimized. However, disruption to neighbours is not a reason to refuse the development application.

- New dwelling

Comment: It is agreed that very little of the existing dwelling will remain and the proposed development is essentially a new dwelling. However, the same development controls apply in either instance so this will not have an effect on the compliance or approval of the proposed development.

- Streetscape

Comment: The Hill Street streetscape is a mix of many styles both new and old. The proposed dwelling is of similar style to the recently constructed development at no.13 Hills Street. The dwelling style is therefore considered appropriate, with such a precedent already set. However, the additions must also blend with and complement the neighbouring semi-detached dwelling. The dwelling proposed is considered to complement the neighbouring property with the exception of the reduced front setback. This change will disturb the combined frontage and is not supported.

- Heritage value of dwelling

Comment: Council has not identified the site within its list of heritage items nominated in the Warringah LEP. Additionally, the original dwelling has been altered from its original design with the front verandah enclosed and the original architectural characteristics already partially lost. Accordingly, while the history of the site is acknowledged as important to other long time residents of the street, it is not a reason to refuse the proposed development.

- Rear setback (pool)

Comment: Swimming pools are permitted within the rear setback of the site if they do not take up more than 50% of the setback area. The proposed pool takes a lesser proportion of this area up and is accordingly appropriate. The rear setback is considered to comply with Council's controls.

- Overdevelopment of a small site

Comment: The inadequate landscaped area proposed on the site indicates that this development is too large for the site. Some alterations to allow for a slightly reduced building footprint and greater landscaped area would be a preferred outcome for the site.

MEDIATION

Has mediation been requested by the objectors?

No

LAND AND ENVIRONMENT COURT ACTION

N/A

REFERRALS

External Referrals

N/A

Internal Referrals

Landscape

Council's Landscape Officer has reviewed the proposal and raised no objections to the proposal, including the proposed tree removal, subject to a number of conditions being included in the consent if the application is approved.

Engineering

Council's Engineering Officer has reviewed the proposal and raised no objections to the proposal, including the proposed excavation, subject to a number of conditions being included in the consent if the application is approved.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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	<p>The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter has been address via a condition of consent.</p> <p>Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter has been address via a condition of consent.</p> <p>Clause 54 and 109 of the EPA Regulations 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations.</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)

State Environmental Planning Policy No 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.

State Environmental Planning Policy - Infrastructure

Clause 45 of SEPP Infrastructure 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 5m 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 5m of an overhead electricity power line.

The proposal is not within or immediately adjacent to any of the above electricity infrastructure and does not include a proposal for a swimming pool; as such the development application is not required to be referred to the electricity supply authority. In this regard, the subject application is considered to satisfy the provisions of Clause 45 SEPP Infrastructure.

State Environmental Planning Policy – BASIX

A BASIX certificate has been submitted with the application. All required BASIX commitments have been noted on the application plans. Furthermore a condition of consent has been imposed requiring compliance with the requirements of the applicable BASIX certificate.

Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

Desired Future Character (DFC)

The subject site is located in the H1 Freshwater Beach Locality under Warringah Local Environment Plan 2000. It comprises *housing* which is a 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. Notwithstanding Clause 12(3)(a) only requires the consideration of the DFC statement, the proposed development results in non-compliances with

the side setback, height and landscaped area Built Form Controls, as such pursuant to Clause 20(1) a higher test, i.e. a test of consistency against the Locality's DFC is required.

Accordingly, an assessment of consistency of the proposed development against the locality's DFC is provided hereunder:

"The Freshwater Beach locality will remain characterized by detached style housing in landscaped settings interspersed by existing apartment style housing and a range of complementary and compatible uses."

Comment:

Given that the surrounding area is characterized by detached-style housing and that the proposal is for the continuation of residential uses, it is considered that the proposal satisfies the above section of the Desired Future Character statement.

"Future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality except for the Harbord Diggers Club."

Comment:

The proposed dwelling additions are considered to marginally exceed the scale of development required for the locality.

"The streets will be characterized by landscaped front gardens and consistent front building setbacks. 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."

Comment: The front setback proposed is inconsistent with the adjoining semi-detached neighbour and is not appropriate. The area of landscaping in the front yard is minimal. However, this is primarily the result of a small block requiring vehicular access and not a design flaw.

"The locality contains hillsides and elevated landforms, prominent coastal headlands and cliffs and remnant vegetation. These elements will be protected from development that would detract from their visual and natural qualities, presenting in some parts of the locality a constraint to further development."

Comment: No landscape elements will be detrimentally impacted as a result of the proposed development.

"The Harbord Diggers Club will continue to cater for the recreational and leisure needs of the community. If the existing approved building and carparking areas are to be expanded, regard must be had to any approved and detailed master plan for the site. Such a master plan is to address issues such as views, visual impact, natural features, management of traffic and impact upon the amenity of the locality."

Comment: The proposed development will not impact on this area.

"The locality will continue to be served by the existing local retail centre shown on the map. Future development in this centre will be in accordance with the general principles of development control provided in clause 39."

Comment: The proposed development will not impact on existing retail and will not impact on the principles of clause 30 of the WLEP2000.

As detailed above the proposed development is considered to be inconsistent with the Locality's DFC statement.

Built Form Controls (Development Standards)

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

Built Form Compliance Table				
Built Form Standard	Required	Proposed Development	Compliance	If "No" % of variation
Building Height	8.5 metres to topmost point	9.2 metres to roof detail	No	8.2%
	7.2 metres to ceiling	7.2 metres	Yes	
Front Setback	6.5 metres	8 metres 7.35 metres to eave	Yes *While this numerically complies, it is not considered the best design to bring the front façade of the semi-detached dwelling forward of its adjoining neighbour. One side having a roofed veranda forward of the other side will not allow for appropriate continuity and balance between the two dwellings.	
Rear Setback	6 metres	9.6 metres – dwelling 8.1 metres – verandah 1.5 metres- pool	Yes Yes Yes- pool is permitted within rear setback if it does not exceed 50% of setback area. The proposed pool takes up approximately 32% of the 6 metre rear setback area.	
Side boundary envelope	45° – 5 metres	45° – 5metres -with the exception of chimney	Yes	
Side setback	0.9 metres	0.6m stair access on ground floor	No	33%
		1.572m – frontage	Yes	
		2.2 metres - rear	Yes	
Landscaped Open Space	40% site area	33.2%	No	6.8%

The proposed development is considered to fail to satisfy the Locality's Height, Side setback and Landscaped area Built Form Controls, accordingly, further assessment is provided against the provisions of Clause 20(1) hereunder.

Clause 20(1) stipulates:

“Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.”

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

(i) General Principles of Development Control

The proposal is inconsistent with regard to Clause 66 Building Bulk of the General Principles of Development Control and accordingly, fails to qualify to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

(ii) Desired Future Character of the Locality

The proposal is inconsistent with regard to the Locality’s Desired Future Character Statement and accordingly, fails to qualify to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “Desired Future Character” in this report for a detailed assessment of consistency).

(iii) Relevant State Environmental Planning Policies

The proposal has been considered consistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under ‘State Environmental Planning Policies’). Accordingly the proposal qualifies to qualify to be considered for a variation to the development standards, under the provisions of Clause 20(1).

Description of variations sought and reasons provided:

Landscaped Area Built Form Control

Required: 40% or 177m²

Proposed: 33.2% 147m²

Response: The applicant has provided landscaped details showing a landscaped area of 40%. However, their calculations have included the perimeter of the swimming pool and path ways which have been shown as pebbles and stepping stones. These are considered to be hard surface areas which will not contribute to the soft landscape of the site. These areas are needed on the site and accordingly the means to resolve the issue will be to decrease the building footprint. It is also noted that the landscaped plan and driveway plans do not correspond and accordingly an accurate figure is difficult to determine.

In assessing this non-compliant element of the proposal, it is necessary to consider the objectives of the Landscaped area Built Form Control. Accordingly, compliance with the objectives are addressed below:

Objective: *to provide adequate soft landscaping ensuring a green landscaped feel is available to the site*

Comment: An increased soft landscaped area is needed for this site.

Objective: *to provide an appropriate balance between hard and soft surfaces ensuring that the site is not overdeveloped.*

Comment: A reduction in built area is needed to aid in ensuring that the bulk of the structures on site are appropriate to the soft areas provided.

As detailed above the proposed development is considered to fail to satisfy the requirements to qualify for consideration under Clause 20(1), in addition the proposal is considered to be inconsistent with the underlying objectives of the Landscaped area Built Form Control. It is for these reasons that the variation to the Landscaped area Built Form Control (Development Standard) pursuant to Clause 20(1) is not supported.

Height Built Form Control

Required: 8.5 metres to highest point

Proposed: 9.2 metres

Response: The highest point of the roof scales at 9.2 metres on the plans provided to Council. No RL is provided for this component of the dwelling. Being a semi-detached dwelling, it is considered particularly crucial to have the two dwellings consistent, particularly with regard to height. No justification is seen to allow this variation. It is believed a revised design could alleviate this issue.

In assessing this non-compliant element of the proposal, it is necessary to consider the objectives of the Height Built Form Control. Accordingly, compliance with the objectives are addressed below:

Objective: *provide consistency of height in the locality and streetscape*

Comment: The height will be inconsistent. Minimal redesign could resolve this issue. It is an unnecessary non-compliance with no specific reasoning to support the departure from the control.

Objective: *preserve views for neighbouring properties.*

Comment: Views are unaffected by this non-compliance.

As detailed above the proposed development is considered to fail to satisfy the requirements to qualify for consideration under Clause 20(1), in addition the proposal is considered to be inconsistent with the underlying objectives of the Height Built Form Control. It is for these reasons that the variation to the # Built Form Control (Development Standard) pursuant to Clause 20(1) is Not Supported.

Side Setback Built Form Control

Required: 0.9 metres

Proposed: 0.6 metres

Response: A setback of 0.9 metres is required to the side boundary. An exception to this may be made for structures less than a metre in height including unroofed landings and steps. The development proposes stair access to a landing area at a setback of 0.6mm. The height of this

structure exceeds 1 metre and accordingly it does not fall within this exception and is not appropriate.

In assessing this non-compliant element of the proposal, it is necessary to consider the objectives of the setback Built Form Control. Accordingly, compliance with the objectives are addressed below:

Objective: *to provide adequate separation between adjoining dwellings*

Comment: No privacy issues are apparent.

Objective: *to allow for ample landscaped area on site*

Comment: This is demonstrated to be an issue. Some redesign could resolve this design problem.

As detailed above the proposed development is considered to fail to satisfy the requirements to qualify for consideration under Clause 20(1), in addition the proposal is considered to be inconsistent with the underlying objectives of the Side Setback Built Form Control. It is for these reasons that the variation to the Height Built Form Control (Development Standard) pursuant to Clause 20(1) is Not Supported.

General Principles of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	Yes	The proposal requires the use of various building elements that have reflective qualities such as glass and metal. However given the scope of the proposal and that roof is to be tiled it is considered that the proposal will not result in overspill or glare that unreasonably diminishes the amenity of the locality.	Yes
CL39 Local retail centres	NO	Not applicable	Not Applicable
CL40 Housing for Older People and People with Disabilities	NO	Not Applicable	Not Applicable
CL41 Brothels	NO	Not applicable	Not Applicable
CL42 Construction Sites	Yes	Construction and excavation is proposed for the site. Conditions may be imposed to maintain the amenity of neighbouring properties with regard to construction site access, sediment and erosion control, tree protection and hours of construction. The impacts on no.5 Hills Street are of particular concern and conditions in relation to the impact on this site maybe imposed.	Yes, subject to condition
CL43 Noise	Yes	The site will be a typical residential use in a built up urban area. The noise resulting from the finalised development is anticipated to be appropriate for its residential surrounds.	Yes
CL44 Pollutants		The proposed development is for a residential use which is not considered to result in emission of atmospheric, liquid or other pollutants.	Not Applicable
CL45 Hazardous Uses	No	The proposed use is residential which is not a hazardous use	Not applicable
CL46 Radiation Emission Levels	NO	Not applicable	Not Applicable

General Principles	Applies	Comments	Complies
CL47 Flood Affected Land	NO	Not applicable	Not applicable
CL48 Potentially Contaminated Land	Yes	The site has been used as residential for approximately 100 years with the existing dwelling being close to this age. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 49 of WLEP 2000 and under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the continued residential land use.	Not applicable
CL49 Remediation of Contaminated Land	No	Not applicable	Not applicable
CL49a Acid Sulphate Soils	No	No comment	Not applicable
CL50 Safety & Security	Yes	The proposed development allows for appropriate surveillance is well designed to ensure a safe house and street.	Yes
CL51 Front Fences and Walls	Yes	A low wire mesh fence exists on the site frontage. No details of proposed fencing is provided. However, the existing fencing will need to be removed to allow for the proposed driveway access.	Yes
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	NO	The site is not immediately adjacent any such land.	Not applicable
CL53 Signs	No	Not Applicable	Not Applicable
CL54 Provision and Location of Utility Services	Yes	The site is already occupied by an existing residence and accordingly all services already exist on site.	Yes
CL55 Site Consolidation in 'Medium Density Areas'	No	Not applicable	Not applicable
CL56 Retaining Unique Environmental Features on Site	Yes	The site sits within an existing residentially developed area and no particular unique environmental features are present.	Yes
CL57 Development on Sloping Land	Yes	The subject site has a minimal slope, which is not problematic.	Yes
CL58 Protection of Existing Flora	No	Not applicable	Not applicable
CL59 Koala Habitat Protection	No	Not applicable	Not applicable
CL60 Watercourses & Aquatic Habitats	No	Not applicable	Not applicable
CL61 Views		<p>Clause 61 stipulates 'Development is to allow for the reasonable sharing of views'.</p> <p>Council has received an objection from the owner of No 5 Hills Street. In particular the objector has raised concern to the loss of water views to the horizon from their eastern boundary.</p> <p>On 8 May 2009 Council's Development Assessment Officer conducted a site inspection from no. 5 Hill Street including</p>	Yes

General Principles	Applies	Comments	Complies
		<p>within the surrounding properties and the adjoining and nearby Council road reserve. The site inspection revealed that no property will experience any significant view loss as a result of the proposed development, due to the location and structure of the proposed additions with views to the northern side retained and views partially available through the proposed balcony.</p> <p>In determining significant view loss the principles outlined within the Land and Environment Court Case <i>Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140</i>, have been used.</p> <p>In <i>Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140</i> the Land and Environment Court provided a four (4) planning principles to be used in the assessment of view loss.</p> <p>These principles and an assessment of the proposed development against the principles are outlined as follows:</p> <ul style="list-style-type: none"> › The first step is to assess the nature of the views to be affected, water views are valued more highly than land views, iconic views (such as of the Opera House, the Sydney Harbour Bridge or North Head) are valued more highly than views without those icons, and whole views are valued more highly than partial views. For example, a water view in which the interface between the water and the land is visible is more valuable than one in which it is obscured. <p>Comment: The views are to distant water and are available over the top of roofs. The water does not meet the land.</p> <ul style="list-style-type: none"> › The second step is to consider from what part of the property affected the views are obtained. In this regard it is more difficult to protect views obtained across side boundaries than the protection of views from front and rear boundaries. Also, whether the view is obtained from a standing or sitting position may also be relevant. Sitting views being more difficult to protect. The Senior Commissioner noted that the expectation to retain side or sitting views is often unrealistic. <p>Comment: The view is across the side of the site and is from an upper level bedroom. It is noted that this is the only place in the dwelling where the view is available. The view is available sitting and standing and some view as described above will be retained from both positions.</p> <ul style="list-style-type: none"> › The third step is to assess the extent of the impact. This needs to be done for the whole of the property, and not just to that part of it from where the views are affected. The views from living areas (including kitchen areas) are more significant than from bedrooms or service areas. Whilst the impact could be assessed quantitatively, it is more useful to look at the issue in a qualitative sense and ask whether the view loss is negligible, minor, moderate, severe or devastating. <p>Comment: The view loss is considered to be moderate. The reasoning behind this conclusion is that more than half of the view will be retained, the view is not from a primary living area and the structure to be built is not solid i.e. it is a balcony.</p>	

General Principles	Applies	Comments	Complies
		<p>• The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all relevant planning controls would be considered more reasonable than one that breaches them. Importantly, the Senior Commissioner said that “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”. Where a development complies with the planning controls, the question is whether a more skilfully designed proposal could provide the same development potential whilst reducing the impact to neighbours. In that situation the view impact of a complying development would probably be considered acceptable, and the view sharing reasonable.</p> <p>Comment: This component of the proposed dwelling is compliant. It is considered reasonable for the developers to want to gain this view from their new development and they have taken care to recess the area closest to their neighbour and allow for a greater window of view retention than may have been provided in alternate designs.</p>	
CL62 Access to sunlight	Yes	Solar access available to the site and neighbouring properties will be appropriate and compliant with Council's controls.	Yes
CL63 Landscaped Open Space	Yes	<p>Greater landscaped area is needed on the site as is discussed earlier in the report.</p> <p>In particular, the applicant has calculated landscaped open space and included pathways, which are required to be excluded by the provisions of the WLEP. There are four key areas of pathways shown on the landscape plan, which have been excluded in Council's calculations. These include:</p> <ol style="list-style-type: none"> 1. The perimeter of the swimming pool in the rear yard. 2. The southern end of the eastern side path. The stepping stones within a gravel base are considered to be an access path. While the entire width would not be needed for a pathway, the remainder would be too narrow to include in the calculations. 3. The access pathway at the front of the property on the eastern side which is shown as pebbles/ gravel with stepping stones 4. The pebble area which on the basement level (western side) provides access to the lower level front door. <p>Some minimal reduction in the dwelling /verandah areas and alterations to the landscaping proposed would allow for a compliant development. As the development is currently proposed, the landscaped open space can not be supported.</p>	No
CL63A Rear Building Setback	Yes	It is considered that sufficient open space is retained at the rear of the subject site and that the requirements of this General Principle are achieved by the proposal.	Yes
CL64 Private open space		60m ² of private open space with minimum dimensions of 5 metres and ample solar access (2hrs between 9am- 3pm June 21 to 50% of area), directly accessible from a living area is to be provided on site. This would need to be provided in the rear yard. Due to the location of the pool, there is no area with a dimensions of 5 x 5 metres which could be used without incorporating the pool. However, the near south western corner of the site would have 2 hours of sunlight for half of the area required.	Yes (see comments)
CL65 Privacy	Yes	The proposed development is considered to satisfy the requirements for privacy.	Yes

General Principles	Applies	Comments	Complies
		A covenant requiring that no shutters or screens be provided on the upper level balcony would be required as a condition of consent, should the application be approved.	
CL66 Building bulk	Yes	Clause 66 requires that buildings are to have a visual bulk and architectural scale consistent with structures on adjoining or nearby land and are not to visually dominate the street or surrounding spaces, unless the applicable Locality Statement provides otherwise. In terms of infill development it is considered that the proposed development should not be out of keeping with the complexity and rhythm of existing streetscapes. The proposed development is considered to excessive in scale as is represented by the landscaped area calculations. Additionally, the increased front setback is not supported in terms of it's impact on the neighbouring dwelling and streetscape.	No
CL67 Roofs	Yes	The general principle requires that roofs are required to complement the local skyline. The surrounding roof forms within the immediate locality of the site are generally comprised of pitched tiled roofs. Proposed buildings are provided with tiled pitched roofs which are considered to be consistent with the adjoining developments design and form which will not unreasonably detract from the skyline or the amenity of the area. The proposed roof results in a height non-compliance. A redesign of this component of the dwelling is required.	No
CL68 Conservation of Energy and Water	Yes	The applicant has submitted a BASIX certificate for the proposal. Accordingly, subject to conditions requiring compliance with this BASIX certificate it is considered that the proposal satisfies Council's energy and water conservation controls stipulated under Clause 68 of WLEP 2000.	Yes
CL69 Accessibility – Public and Semi-Public Buildings	No	Not applicable	Not applicable
CL70 Site facilities	Yes	Site facilities could be provide on site. However a bin area and clothes drying area have not been allocated on the plans.	Yes
CL71 Parking facilities (visual impact)	Yes	A two car garage is proposed in a semi-basement level with direct access from a new driveway from Hill Street. This is an appropriate result for this site.	Yes
CL72 Traffic access & safety	Yes	No issues will be raised as a result of this development	Yes
CL73 On-site Loading and Unloading	No	Not applicable	Not applicable
CL74 Provision of Carparking	Yes	Appropriate parking is provided on site. In particular, Schedule 17 of the WLEP2000 requires that detached style housing provide 2 spaces per dwelling. The proposed dwelling incorporates a double garage as required.	Yes
CL75 Design of Carparking Areas	Yes	Parking is appropriately provided on site	Yes
CL76 Management of Stormwater	Yes	Council's engineers are satisfied with the proposed development in this regard	Yes
CL77 Landfill	No	Not applicable	Not applicable
CL78 Erosion & Sedimentation	Yes	Appropriate conditions of consent would ensure no issues	Yes
CL79 Heritage Control	No	Not applicable	Not applicable
CL80 Notice to Metropolitan Aboriginal Land Council and the	No	Not applicable	Not Applicable

General Principles	Applies	Comments	Complies
National Parks and Wildlife Service			
CL81 Notice to Heritage Council	No	Not Applicable	Not Applicable
CL82 Development in the Vicinity of Heritage Items	No	Not applicable	Not applicable
CL83 Development of Known or Potential Archaeological Sites	No	Not applicable	Not applicable

Other Relevant WLEP 2000 Clauses

Schedule 8 - Site analysis

Site Analysis	A satisfactory site analysis was submitted with the application.
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Warringah Section 94A Development Contribution Plan (adopted 14 November 2006)

The proposal is subject to the application of Council's Section 94A Development Contributions Plan as adopted by Council.

The following monetary contributions are applicable:

<i>Warringah Section 94A Development Contributions Plan</i>			
Contribution based on total development cost of		\$ 620,000.00	
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.95%	\$5,890	Rams
S94A Planning and Administration	0.05%	\$310	Rams
Total	1.0%	\$6,200	

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C 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.

The proposed development does not comply with the height and side setback controls. It also falls short of the landscaped area requirement resulting in an excessive building footprint and minimised soft green surfaces on the site. Concern is also raised regarding the decreased front setback proposed by the new dwelling. This will impact detrimentally on the adjoining semi-detached dwelling and accordingly will be to the detriment of the streetscape. The application is not able to be approved in its current form due to the combined impact of these non-compliances.

Additionally, owner's consent has not been provided by no.5 Hill Street, Queenscliff with regard to the works on the shared brick party wall and chimney. The development application can not be approved without provision of this consent to Council.

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

As a direct result of the application and the consideration of the matters detailed within this report it is considered that Council as the consent authority refuse the application for the reasons detailed within the "Recommendation" section of this report.

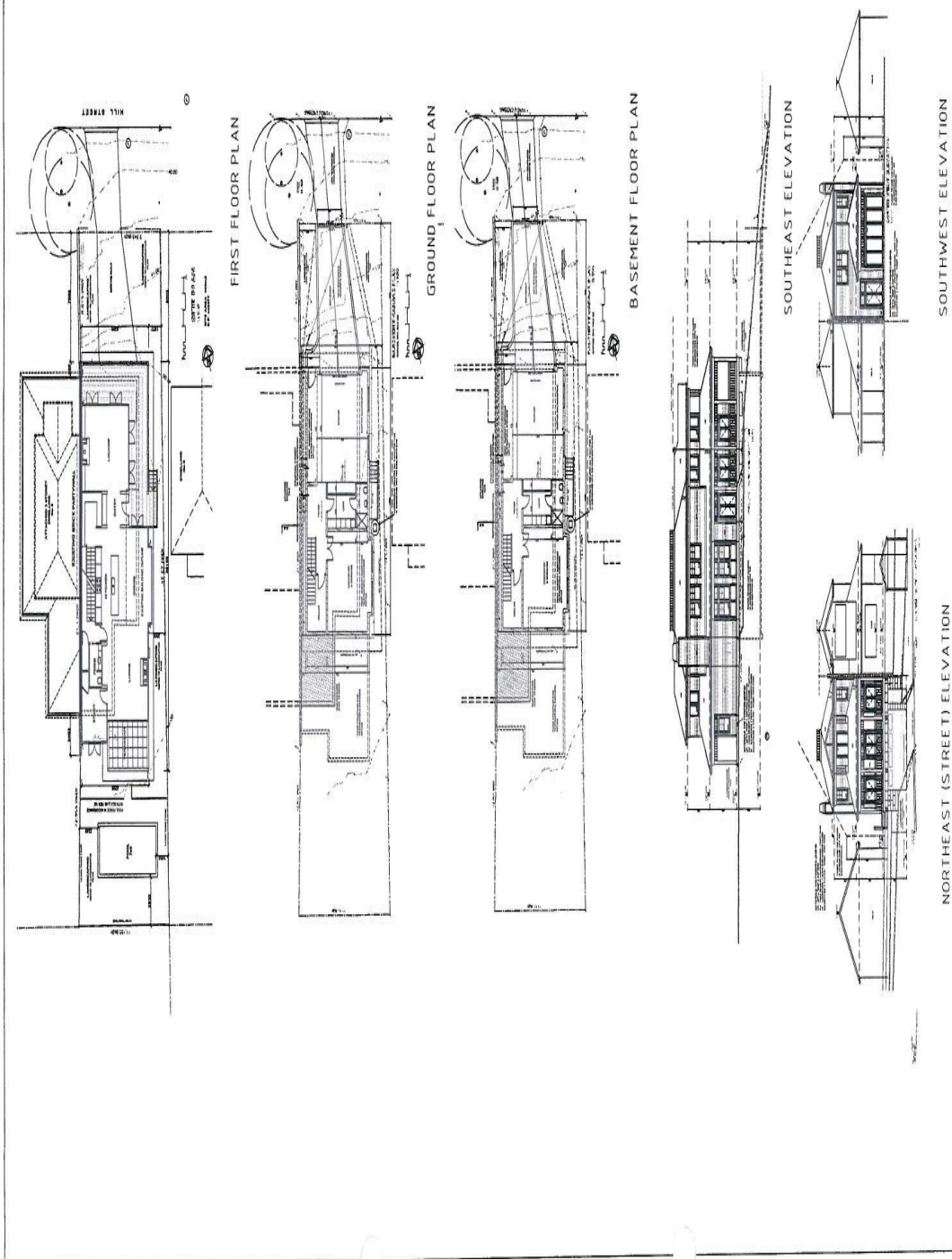
RECOMMENDATION

THAT Council, as the consent authority refuse Development Consent to Development Application No 2008/1773 for the alterations and additions to an existing dwelling and installation of an in-ground swimming pool on land at 7 Hill Street, Queenscliff subject to the reasons outlined as follows:

1. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with Clause 12(2)(b) and fails Clause 20(1) of Warringah Local Environment Plan 2000 (as amended) in that a portion of the proposed development (top most point of roof) is inconsistent with the Building Height development standards detailed under the applicable Built Form Controls for the H1 Freshwater Beach Locality. In this regard it is considered that the failure to comply with the development standard will:
 - Cause an undesirable precedent of development;
2. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with Clause 12(2)(b) and fails Clause 20(1) of Warringah Local Environment Plan 2000 (as amended) in that a portion of the proposed development (eastern entrance stairs and landing) are inconsistent with the Side Setback development standards detailed under the applicable Built Form Controls for the H1 Freshwater Beach Locality. In this regard it is considered that the failure to comply with the development standard will:
 - Cause an undesirable precedent of development;
3. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with Clause 12(2)(b) and fails Clause 20(1) of Warringah Local Environment Plan 2000 (as amended) in that a portion of the proposed development is inconsistent with the Landscaped Area development standards detailed under the applicable Built Form Controls for the H1 Freshwater Beach Locality. In this regard it is considered that the failure to comply with the development standard will:
 - Cause an undesirable precedent of development;
 - Result in an overdevelopment of the site;
 - Result in an insufficient soft landscaped area on site.
4. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with Clause 12(1)(a) and Clause 18(1) of Warringah Local Environment Plan 2000 (as amended) in that portions of the proposed development are inconsistent with the General Principles outlined under Part 4 of WLEP 2000 as follows:

- Clause 63 Landscaped open space is insufficient in area
 - Clause 66 Building Bulk is excessive
 - Clause 67 Roof as proposed is excessive in height and not characteristic of neighbourhood skyline.
5. Pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979 the proposed development is likely to have an adverse environmental impact upon the natural and/or built environment in that:
- the proposed front setback is inconsistent with existing attached semi-detached dwelling at no.5 Hill Street.
6. Appropriate owner's consent has not been provided to Council.

CD
2009/000960



PROPOSED ADDITIONS AND ALTERATIONS 7 HILL STREET QUEENSCLIFF		NOTIFICATION PLANS ELEVATIONS	
DRAWN TJP	APPROVED	PROJECT NO. 8008	SCALE NTS
DATE 13/12/08		DRAWING NO. DA000	