

AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL

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

WEDNESDAY 1 SEPTEMBER 2021

For the purpose of considering and determining matters included in this agenda.



Peter Robinson
Executive Manager Development Assessment

Panel Members

Peter Biscoe	Chair
Marcus Sainsbury	Environmental Expert
Brian Kirk	Town Planner
Phil Young	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 1 September 2021

1.0 APOLOGIES & DECLARATIONS OF INTEREST

2.0 MINUTES OF PREVIOUS MEETING

2.1 Minutes of Northern Beaches Local Planning Panel held 18 August 2021

3.0 PUBLIC MEETING ITEMS

Nil

4.0 NON PUBLIC MEETING ITEMS5

A statutory Direction by the Minister of Planning and Public Spaces states the panel is only required to hold a public meeting where the development application has attracted 10 or more unique submissions by way of objection. There applications do not satisfy that criterion.

4.1 DA2021/0532 - 42 North Steyne, Manly - Subdivision of land to consolidate two lots into one lot5

4.2 MOD2021/0314 - Manly Wharf Retail Wharves And Jetties, Manly - Modification of Development Consent DA2020/0962 granted for alterations and additions to Manly Wharf in association with Hugos restaurant24

4.3 DA2021/0965 - 11-13 Bellevue Street, Fairlight - Alterations and additions to existing semi-detached dwellings55

4.4 DA2021/0985 - Lot 100/ Meatworks Avenue, Oxford Falls - Subdivision of an industrial/warehouse development (strata subdivision)84

ACKNOWLEDGEMENT OF COUNTRY

As a sign of respect, the Northern Beaches Local Planning Panel acknowledges the traditional custodians of these lands on which we gather and pays respect to Elders past and present.

1.0 APOLOGIES & DECLARATIONS OF INTEREST

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 18 AUGUST 2021

The Panel note that the Minutes of the Northern Beaches Local Planning Panel held 18 August 2021 were adopted by the Chairperson and have been posted on Council's website.

4.0 NON PUBLIC MEETING ITEMS

ITEM 4.1	DA2021/0532 - 42 NORTH STEYNE, MANLY - SUBDIVISION OF LAND TO CONSOLIDATE TWO LOTS INTO ONE LOT
AUTHORISING MANAGER	Anna Williams
TRIM FILE REF	2021/595455
ATTACHMENTS	1 Assessment Report 2 Subdivision Plan

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/landowner 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. DA2021/0532 for Subdivision of land to consolidate two lots into one lot at Lot 1 DP 1034722 & Lot 1,2 & 3 DP 1042657, 42 North Steyne, Manly subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0532
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Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 1 DP 1042657, 42 North Steyne MANLY NSW 2095 Lot 3 DP 1042657, 42 North Steyne MANLY NSW 2095 Lot 1 DP 1034722, 42 North Steyne MANLY NSW 2095 Lot 2 DP 1042657, 42 North Steyne MANLY NSW 2095
Proposed Development:	Subdivision of land to consolidate two lots into one lot
Zoning:	Manly LEP2013 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Barecall Pty Ltd
Applicant:	Northern Beaches Council

Application Lodged:	06/05/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	30/07/2021 to 13/08/2021
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 0.00
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EXECUTIVE SUMMARY

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as Northern Beaches Council is the applicant and land owner.

The proposal seeks consent for the consolidation of two (2) parcels of land into one (1) at 42 North Steyne, Manly. No physical works are proposed.

The land currently owned by Council was previously acquired for road widening in accordance with the Manly DCP. As Council is no longer pursuing road widening in this area, it is seeking to transfer these lots back to private ownership.

One (1) submission was received from a neighbouring property in support of the application.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the consolidation of two (2) parcels of land into one (1) at 42 North Steyne, Manly

The land to be consolidated is as follows:

- Lot 1, DP 1034722.
- Lots 1, 2 and 3, DP 1042657.

The application does not propose any building works.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 4.4.8 Subdivision
Manly Development Control Plan - 5.5 Road Widening and Realignment

SITE DESCRIPTION

Property Description:	Lot 1 DP 1042657 , 42 North Steyne MANLY NSW 2095 Lot 3 DP 1042657 , 42 North Steyne MANLY NSW 2095 Lot 1 DP 1034722 , 42 North Steyne MANLY NSW 2095
Detailed Site Description:	The subject site consists of four (4) allotment located on the western side of North Steyne.

The site is regular in shape with a frontage of 12.09m along North Steyne and a depth of 39.11m. The site has a surveyed area of 408m².

The site is located within the B2 Local Centre zone and accommodates a mixed use building comprising a bar and restaurant on the lower levels and residential apartments on the upper levels. Car parking for seven (7) vehicles is provided at the basement level with access from Henrietta Lane (located at the rear of the building).

The site is flat and does not have any vegetation.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by a range of similar commercial and residential land uses. Immediately adjoining the subject site to the south is The Steyne Hotel, which is a licensed premises.

Map:



SITE HISTORY

The land has been subject to a variety of consents relating to both residential and commercial purposes for an extended period of time.

NOTIFICATION - 27 July 2021

The application was re-notified on 27 July 2021 due to a misdescription in the proposal wording in the original notification. The re-notification correctly described the works as "Lot Consolidation" to encompass all works proposed. No objections were received in the re-notification of the application.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

Section 4.15 Matters for Consideration'	Comments
	<p>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 (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 30/07/2021 to 13/08/2021 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:
Steyne Hotel Freehold Pty Ltd	GPO Box 5479 SYDNEY NSW 2001

The matters raised within the submissions are addressed as follows:

- Support of Application**

Comment:

A submission of support for the application was received from a neighbouring property.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	<p>The proposed consolidation of Lots 1 to 3 of DP 1042657 with Lot 1 of DP 1034722 is satisfactory. The owners consent for each of the lots have been provided with the application.</p> <p>No objection to approval, subject to conditions as recommended.</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 subject site is located adjacent to a heritage item, being Item I111 - Hotel Steyne - 75 The Corso and C2 - Manly Town Centre Conservation Area and. It is also in the vicinity of a number of heritage items:</p> <p>Item I168 - Ocean foreshores - Manly municipal area, boundary adjacent to the ocean</p> <p>Item I174 - Beach Reserve—Merrett Park North Steyne and South Steyne - Oceanside of North and South Steyne</p> <p>Details of heritage items affected</p> <p>Details of the heritage items as contained within the Manly Heritage inventory are as follows:</p> <p>Item I111 - Hotel Steyne <u>Statement of significance:</u> This building is a fine example of Inter-War Art Deco style Hotel. Landmark building on the corner of The Corso and South Steyne. <u>Physical description:</u> Original Hotel built 1862 and rebuilt in 1936 in Inter-war Art Deco Style of polychrome brickwork with heavy brick modelling along parapet and corrugated asbestos roof. Significant elements include: fan shaped lintels to windows; tile and brick detailing beneath windows; original tiling to ground floor, octagonal corner 'tower'.</p> <p>C2 - Manly Town Centre Conservation Area <u>Statement of significance:</u> The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling</p>

Internal Referral Body	Comments																					
	<p>colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today.</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. <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> <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 is for the consolidation of 2 blocks of land into 1 blocks of land. The subject site is located adjacent to the north of the heritage item, Hotel Steyne, on the western side of North Steyne. The lot to be consolidated is sited on the North Steyne frontage of the blocks that was previously created in the road enclosure by Council.</p> <p>Given that the proposed consolidation does not involve any changes to the established subdivision pattern of the surrounding area, it is considered that the proposal will not adversely impact the significance of the adjacent heritage item or the conservation area.</p> <p>Therefore, no objections are raised to this modification application on heritage grounds and no conditions required.</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</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
	Is a Heritage Impact Statement required? Has a Heritage Impact Statement been provided?
	Further Comments
	COMPLETED BY: Oya Guner, Heritage Advisor
	DATE: 28 July 2021
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 and commercial 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 and commercial 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 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.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject property is located within the Sydney Harbour Catchment therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(1) (aims of the SREP), Clause 13 (nominated planning principles) and Clause 21 (relating to biodiversity, ecology and environmental protection) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

SEPP (Coastal Management) 2018

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

13 Development on land within the coastal environment area

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

Comment:

The proposed lot consolidation will not impact upon the coastal environmental area.

- (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:
As above.

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:
No impacts to the coastal use area are expected as the proposed works relate only relate to the consolidation of lots. No physical works are proposed.

As such, it is considered that the application does 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
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Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision—consent requirements	Yes
6.9 Foreshore scenic protection area	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.16 Gross floor area in Zone B2	Yes

Manly Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
4.4.8 Subdivision	Yes	Yes
5.5 Road Widening and Realignment	N/A	N/A
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

4.4.8 Subdivision

The proposed lot consolidation will ensure greater compliance with 4.4.8.2 Prevailing Subdivision Pattern and natural features, allowing for a more conventional lot layout. The existing lot layout is inconsistent with neighbouring properties along North Steyne.

It is noted that consolidation of lots will enable amalgamation of land that was previously removed under a historic road widening scheme. The land currently owned by Council is built upon. The proposed consolidation of land will not create further development potential on the site for the private owners of the land.

5.5 Road Widening and Realignment

The site is no longer subject to this clause.

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 inconsistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

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

The application seeks consent for consolidation of lots at an existing shop top housing development.

The proposal does not propose any physical works and there are no key planning issues with the application. 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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2021/0532 for Subdivision of land to consolidate two lots into one lot on land at Lot 1 DP 1042657, 42 North Steyne, MANLY, Lot 3 DP 1042657, 42 North Steyne, MANLY, Lot 1 DP 1034722, 42 North Steyne, 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
Consolidation of Lot 1 in DP1034722 & Lots 1 to 3 in DP1042657	17 June 2021	Paul Byrne

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.

CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE

4. Subdivision Certificate Application (Consolidation)

The Applicant shall submit a Subdivision Certificate Application (Consolidation) to Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919, four copies of the final plan of subdivision and all relevant documents including electronic copies. This documentation is to be submitted to Council prior to the issue of the Subdivision Certificate. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

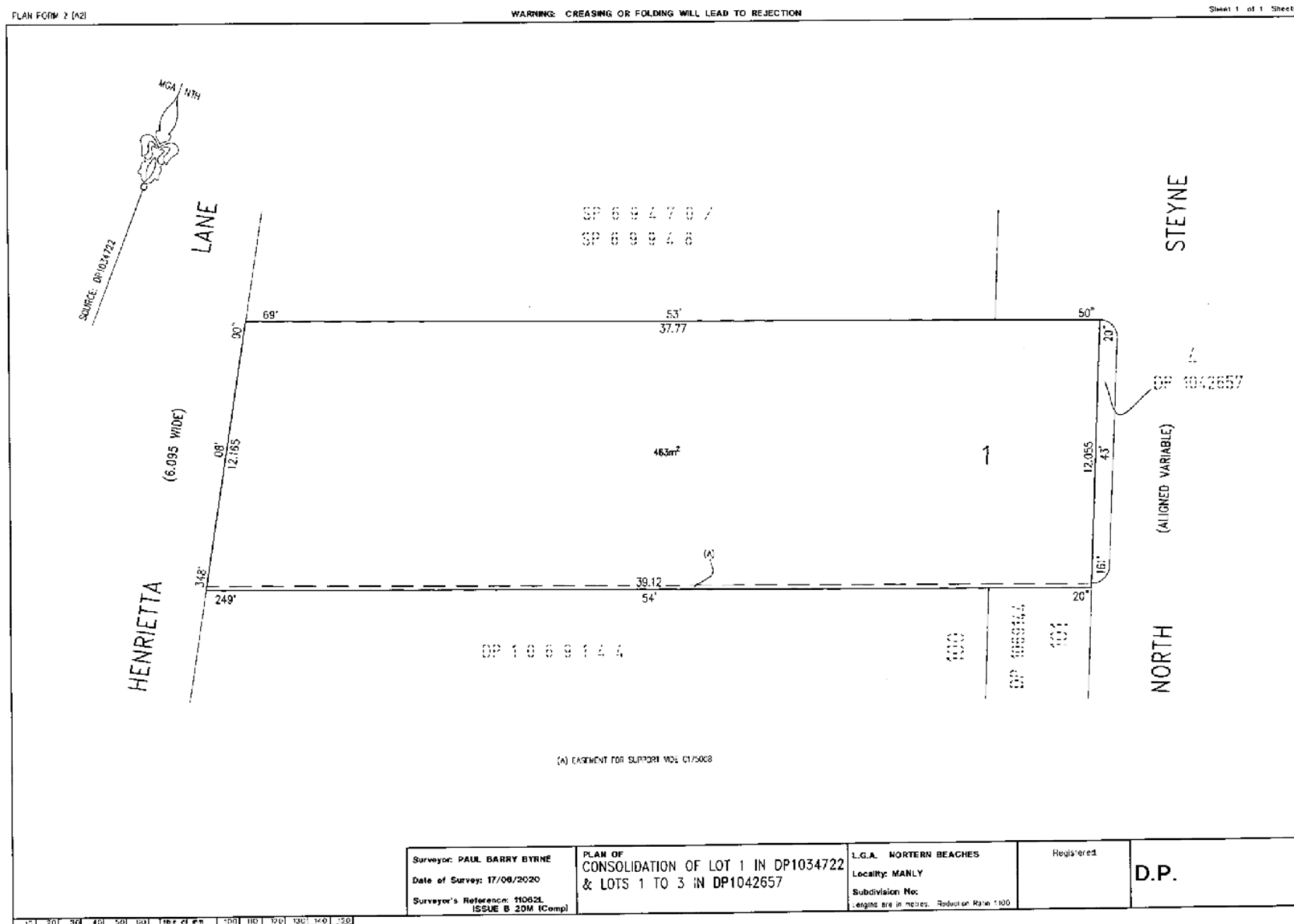
Reason: Statutory requirement of the Conveyancing Act 1919.

5. Survey Plan - Construction Identification

A declaration by a registered surveyor shall be provided to Council as evidence that the structures are located within the appropriate property and or easement boundaries. This shall be in the form of a copy of the final subdivision plan, with the distances from the boundaries to the edges of these structures endorsed in red thereon and signed by the registered surveyor.

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

Reason: To ensure accurate location of buildings.



ITEM 4.2

MOD2021/0314 - MANLY WHARF RETAIL WHARVES AND JETTIES, MANLY - MODIFICATION OF DEVELOPMENT CONSENT DA2020/0962 GRANTED FOR ALTERATIONS AND ADDITIONS TO MANLY WHARF IN ASSOCIATION WITH HUGOS RESTAURANT

AUTHORISING MANAGER Anna Williams

TRIM FILE REF 2021/595468

ATTACHMENTS

- 1** Assessment Report
- 2** Site Plan & Elevations

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is a modification of a determination or decision made by a local planning panel.

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. Mod2021/0314 for Modification of Development Consent DA2020/0962 granted for alterations and additions to Manly Wharf in association with Hugos restaurant at Lot 1 DP 1170245, Manly Wharf Retail Wharves And Jetties, Manly subject to the conditions set out in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0314
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Responsible Officer:	Rebecca Englund
Land to be developed (Address):	Lot 1 DP 1170245, 0 Wharves And Jetties MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA2020/0962 granted for alterations and additions to Manly Wharf in association with Hugos restaurant
Zoning:	SREP(Sydney Harbour Catchment)2005 - Land Zoned W2 Environmental Protection
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Transport for NSW TMG Developments Pty Ltd
Applicant:	Giovanni Cirillo

Application Lodged:	02/06/2021
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	09/06/2021 to 09/07/2021
Advertised:	09/06/2021
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Approval

EXECUTIVE SUMMARY

The modification application has been lodged under the provisions of s4.55(2) of the EP&A Act, seeking consent to modify DA2020/0962 to provide for an extension to an outdoor deck and additional outdoor seating in association with Hugos Restaurant at Manly Wharf.

The size and capacity of the deck was restricted via conditions imposed in the original consent due to concerns raised by Heritage NSW. The applicant has since consulted with Heritage NSW to develop a scheme with the same patron capacity as that previously proposed, albeit in an altered configuration. Heritage NSW has no objection to the modified scheme and modified general terms of approval have been issued.

Four submissions have been received in objection to the proposed modified development, primarily in relation to the increase size of the outdoor deck. As a result of the assessment of the proposal, the consent authority can be satisfied that the proposal is consistent with all relevant plans/policies, and that any environmental impacts associated with the enlarged deck and additional outdoor seating can be reasonably mitigated/managed with conditions of consent, as modified.

PROPOSED DEVELOPMENT IN DETAIL

Development Application DA2020/0962 was conditionally approved to facilitate additional outdoor dining associated with Hugos Restaurant at Manly Wharf, including extensions to the western deck area to accommodate 64 patrons and outdoor seating along the southern boardwalk for 36 patrons.

The primary focus of the subject application relates to the design and patronage of the western outdoor deck.

During the assessment of DA2020/0962, Heritage NSW raised concerns regarding the shape of the deck extension, and the interface with the adjacent public boardwalk. In issuing general terms of approval, Heritage NSW limited the scope of the approved works by virtue of the following conditions:

6. Compliance with requirements of Heritage NSW

Works Not Approved

- a. *The proposed extension of the existing (triangular) upper deck to the north which incorporates a section of the lower western deck and the proposed straightening of the curvilinear lower deck is not approved.*

Reason: To ensure that the proposed northern extension does not reduce the publicly accessible area of the lower deck and does not introduce insensitive additions to compensate for this loss. The proposed lower deck extension is unsympathetic to the curvilinear characteristic of Baldwinson design of the public space around the wharf.

- b. *The new planters, both on the western lower deck and the southern promenade are recommended not to be approved.*

Reason: The proposed lower deck planter box contributes to the visual separation between the lower deck and the upper triangular deck. It unnecessarily takes up the public space and highlights the physical and visual separation between the public and private space and are in contrast to the Baldwinson design that encouraged visual and physical openness along the promenade. The proposed planters to the south add to the clutter and unnecessarily divide the public promenade.

- c. *The heaters as proposed are not approved. Heaters that can be removed and stored must be used.*

Reason: The proposed heaters fixed to the deck are visually distracting and add significantly to the visual clutter.

The general terms of approval issued by Heritage NSW were also reinforced in Condition 9 of DA2020/0962, which reads as follows:

9. Amendments to the Approved Plans

The following amendments are to be made to the Approved Plans:

- a. *The proposed deck extension is to be a cantilevered structure, supported by existing piles. No new piles are permitted by this development consent.*
- b. *The proposed northern extension of the existing outdoor seating area, shown to comprise four x four seat tables, and all proposed works to the north of this area are not approved by this consent and are to be removed from the plans.*

c. Deletion of all proposed planter boxes.

d. Deletion of fixed heaters.

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

Reason: To ensure development minimises environmental impacts.

The amendments required by Conditions 6(a), 6(b) and 9(b) relate to the areas bordered in red in Image 1, below.

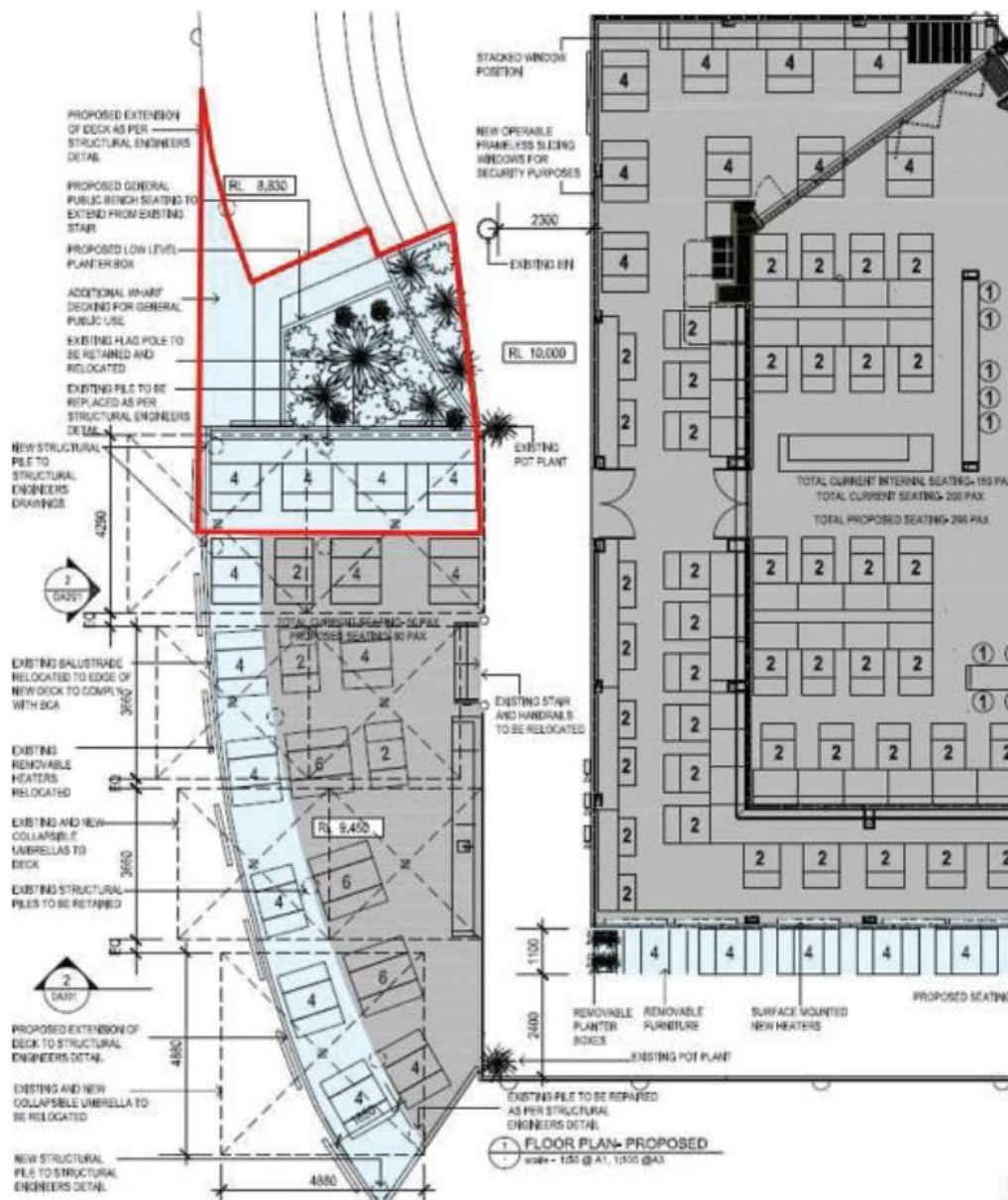


Image 1 - Approved Plans with area conditioned for removal bordered in red

The reduction to the size of the western deck impacted upon potential patronage/capacity, reducing the capacity of the western deck from 80 patrons to 64 patrons. As such, the reduction to the proposed capacity was prescribed in Condition 28(a) of DA2020/0962, which reads as follows:

28. Plan of Management

A Plan of Management is to be prepared for the use of the outdoor areas associated with Hugos in accordance with the following:

- a. A maximum of 64 patrons are allowed within the western outdoor dining area at any given time.*

...

The applicant has since engaged with Heritage NSW and now seeks to modify DA2020/0962 to facilitate a revised design and configuration of the western deck to accommodate 80 patrons, as shown in Image 2, below.

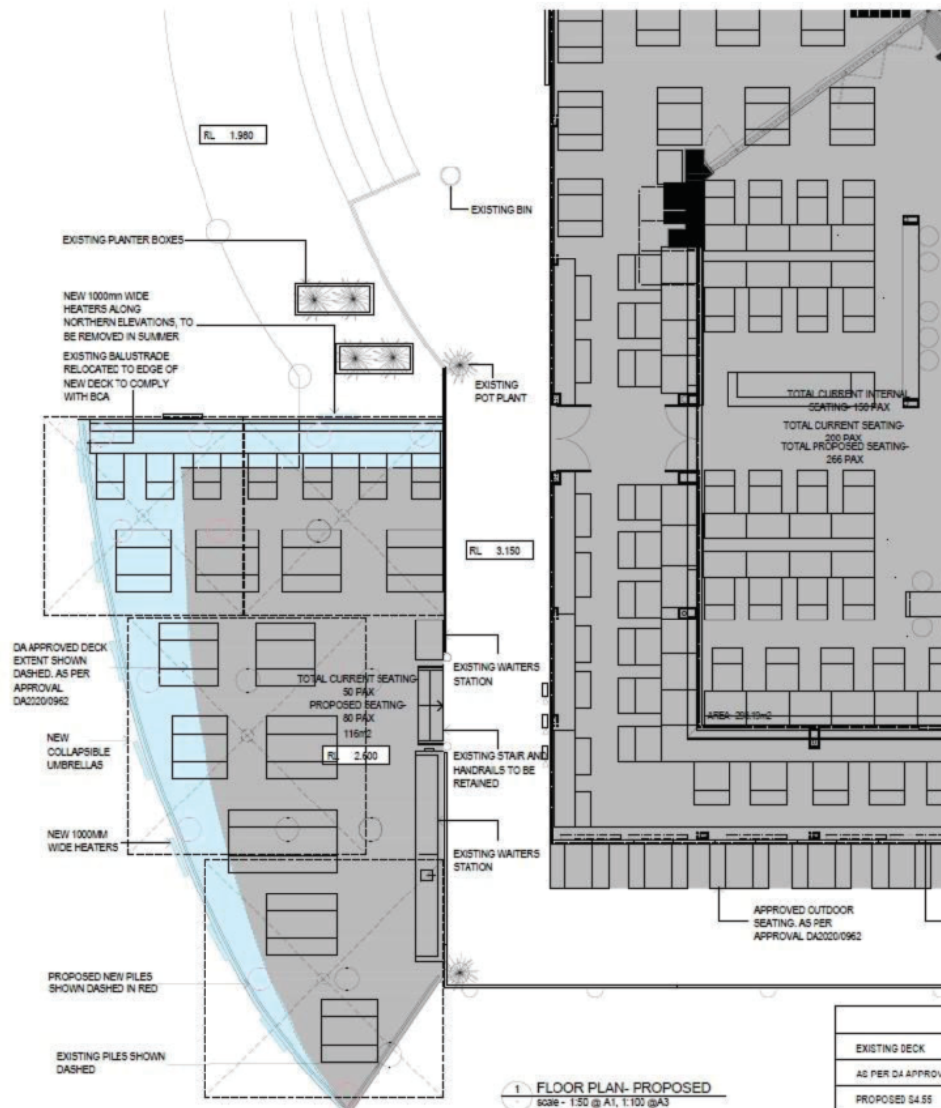


Image 2 - Modified Plans with extended area shown in blue

The comparison of the existing deck, the approved extended deck (blue outline) and the proposed extension (red outline) is shown in Image 3, below.

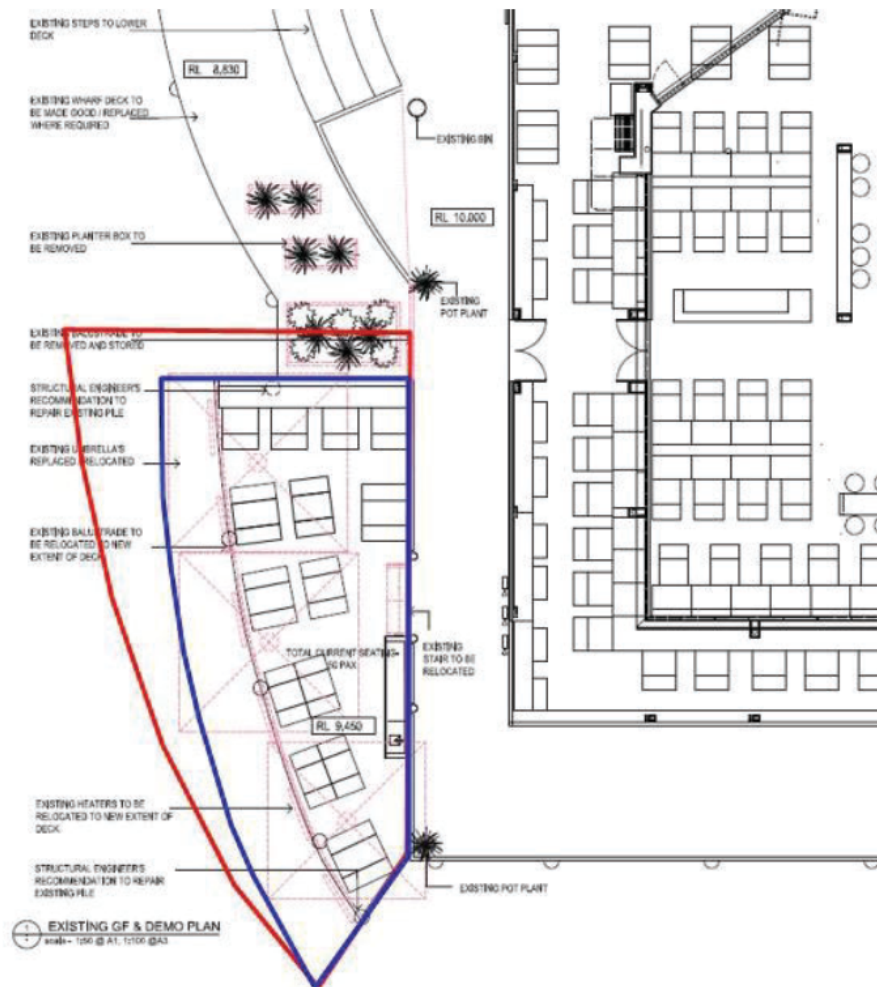


Image 3 - Comparison of existing, approved and modified deck arrangements.

Specifically, the Modified Plans demonstrate the following amendments to the approved development:

- Extension of the western deck to the north and north-west,
- Increased patronage of the western deck from 64 (approved) to 80,
- Installation of 10 new piles (the enlarged structure was previously proposed to be cantilevered)
- New 1m wide heaters around the perimeter of the western deck,
- New collapsible umbrellas, and
- Removal of a planter box on the lower deck.

The modification proposes amendments to Condition 9 and 28 to align with the Modified Plans. If approved, further amendments will also be required in relation to Condition 1, being the list of approved plans, and Condition 6, being the general terms of approval issued by Heritage NSW.

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 1 DP 1170245, 0 Wharves And Jetties MANLY NSW 2095
Detailed Site Description:	<p>The application relates to Manly Wharf and the waterway adjacent to the western side of the existing structure. Manly Wharf is located on the southern side of East Esplanade and West Esplanade, Manly, and is located at the southern end of Manly Corso. Manly Wharf comprises two separate lots, which generally align with the primary functions of the structure; Lot 1 being primarily commercial tenancies and Lot 2 being the ferry terminals. Manly Wharf is identified as an item of State Heritage significance.</p> <p>The works proposed are limited to the south-western most corner of Manly Wharf and the adjacent waterway and are associated with an existing tenancy, 'Hugos'. The works are proposed both within and beyond the existing lease boundary of Lot 1 and extend over the waterway. Hugos currently comprises both internal and external seating, with a portion of existing outdoor seating (existing deck area) separated from the main restaurant area by a pedestrian thoroughfare.</p> <p>The site is zoned W2 Environmental Protection under the provisions of the SREP. The surrounding waters and nearby harbour foreshore are known to provide habitat for Little Penguins, and seagrass has been identified within the vicinity of the site.</p>



Image 4: Aerial image of site

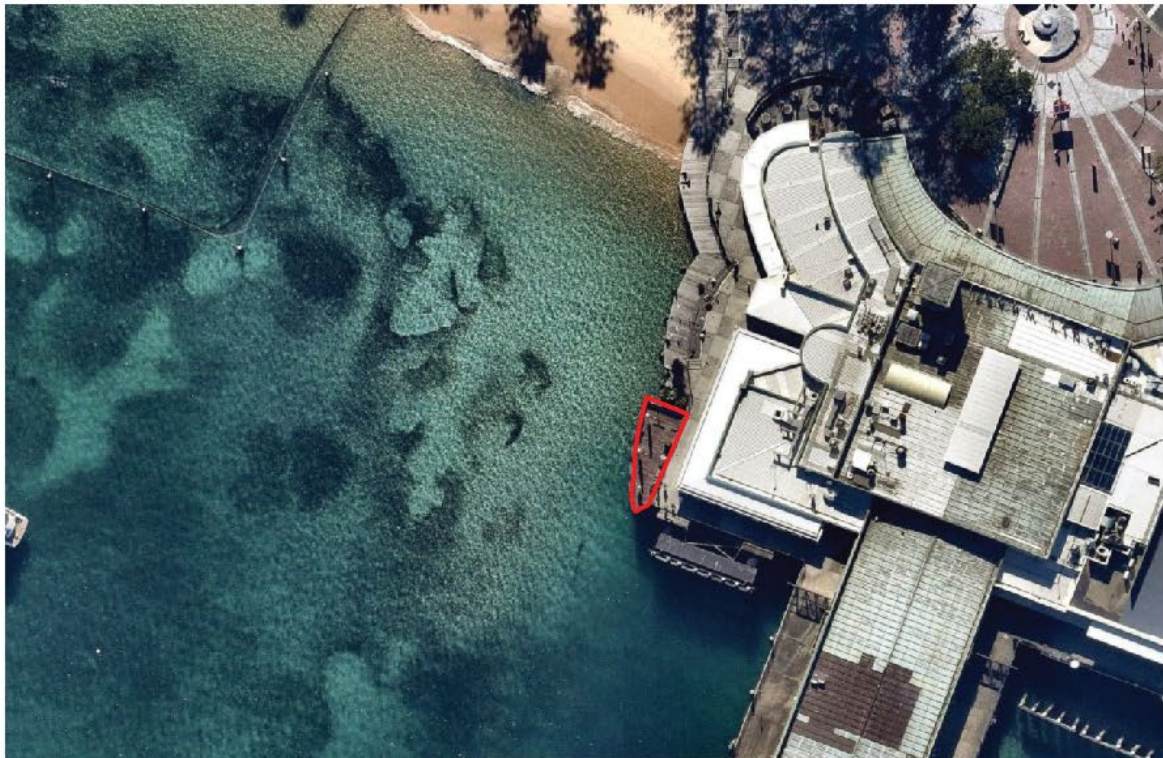


Image 5: Deck area the subject of this application.

SITE HISTORY

On 21 August 2014, Development Application 233/2013 for outdoor seating associated with Hugos Restaurant was approved by Council. The application provided for:

- the use of a portion of the existing wharf for the purpose of outdoor dining for 50 seats/people,
- the erection of four umbrellas, and
- alterations and additions to facilitate new access stairs, balustrades and the enclosure of the area from the public domain.

Of relevance, Development Consent 233/2013:

- restricted the hours of operation for the outdoor seating area to 11:00am to 11:30pm on all days, with patrons to leave within the following 30mins,
- limited the consent to 3 years, and
- prohibited the use of outdoor lighting to candlelight only.

On 23 May 2018, Development Consent 233/2013 was modified to remove the 3 year limitation initially imposed.

On 21 August 2020, Development Application DA2020/0962 was lodged with Council.

On 2 December 2020, a report was prepared and presented to the NBLPP recommending approval of DA2020/0962 as proposed.

On 7 December 2020, general terms of approval were issued by Heritage NSW limiting the scope of the works proposed by DA2020/0962. A memo was subsequently prepared and presented to the NBLPP outlining the position of Heritage NSW.

On 9 December 2020, the NBLPP approved DA2020/0962, inclusive of the general terms of approval issued by Heritage NSW.

On 2 June 2021, the subject modification application was lodged with Council.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.55 Assessment

The subject modification application has been lodged under the provisions of s4.55(2) of the EP&A Act, and the relevant matters for consideration are addressed, as follows:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	

<p>(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>Council can be satisfied that the modified development will result in a development that is substantially the same as that already approved under DA2020/0962 for the following reasons:</p> <ol style="list-style-type: none"> 1. The proposed modified design and increase to capacity will not result in a development that is radically different to that originally approved. 2. Whilst the additional capacity, being 16 patrons, is a 25% increase to the approved capacity of the western deck, it is only a 6.4% increase to the total patronage of the venue. 3. The additional capacity is consistent with that previously sought in DA2020/0962, which was reduced via conditions as a consequence of concerns relating to the design of the western deck and not the capacity/patronage of the area in question. 4. The additional patronage does not give rise to any unreasonable impacts upon the amenity of the locality. 5. The redesign of the western deck has been prepared in consultation with Heritage NSW to ensure that the enlarged structure does not detrimentally impact upon the heritage significance of Manly Wharf. 6. Further, the redesigned structure does not unreasonably impact upon the surrounding natural environment or the function of the public wharf.
<p>(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and</p>	<p>Development Application DA2020/0962 constituted integrated development with respect to s58 of the <i>Heritage Act 1997</i> (Heritage NSW) and s205 of the <i>Fisheries Management Act 1994</i> (DPI Fisheries).</p> <p>Heritage NSW and DPI Fisheries were consulted following the lodgement of the subject modification, with responses received confirming that there are no objections to the modified proposal, subject to existing and modified general terms of approval. See detailed discussion in relation to each individual referral further in the report.</p>

(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 Council's 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.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

In accordance with Section 4.55(3) of the EP&A Act, in determining a 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) of the EP&A Act as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the EP&A Act 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. Note: Manly Local Environmental Plan 2013 does not apply.
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 modified application proposes new piles into the sea bed. The application was supported by a Preliminary (Stage 1) Site Investigation in this regard and Council is satisfied that, subject to conditions, the proposal can be constructed to minimise contamination risks.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Sydney Harbour Foreshores and Waterways Area Development Control Plan and Manly Development Control Policy for Manly Cove 1996 applies to the proposal. Note: Manly Development Control Plan 2011 does not apply.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<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 in the original consent. <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. <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.
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 relevant 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	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 09/06/2021 to 09/07/2021 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 4 submission/s from:

Name:	Address:
Caroline Bussell	6 / 36 East Esplanade MANLY NSW 2095
Ann Elizabeth Sharp	77 Brighton Street CURL CURL NSW 2096
Mrs Denise Mary Keen	29 / 80 Evans Street FRESHWATER NSW 2096
Greater Manly Residents Forum	29 / 80 Evans Street FRESHWATER NSW 2096

Four submissions were received in objection to the development, inclusive of one submission from a community group (Greater Manly Residents Forum). The concerns raised in the submissions are addressed, as follows:

- **Loss of public area**

The submissions received object to the loss of a portion of the public wharf associated with the proposed modifications. The submissions suggest that the area in question is currently used as an area for relaxation and outdoor recreation, to observe marine life and to appreciate the views across the harbour. The proposed extension of the deck will partially encroach within an area currently occupied by an existing planter bed. The entirety of the planter bed is to be removed, resulting in a minor increase in usable public space in this area. Further, as a result of the advice of Heritage NSW, the two smaller planter boxes to the north are also to be removed.

- **Inconsistency with intended use**

Submissions received object to the proposed expansion of the western deck on the basis that the use of the area for a restaurant is inconsistent with the intended use of the ferry wharf. The proposed development, being a 'land/water interface development' is permitted and anticipated within the W2 zone and is consistent with the objectives of the zone and the provisions of the SREP.

- **Loss of public views**

Submissions have been received in objection to the resultant impact upon views from the public domain. The proposal will result in the obstruction of a comparably minor portion of views available from specific vantage points. As discussed in detail within this report, the impact upon public views is not significant and does not warrant the refusal of the application in this regard.

- **Encroachment of the boardwalk**

Submissions have been received in objection to the proposal and the impact of seating along the southern boardwalk. The seating along the southern boardwalk was approved pursuant to DA2020/0962 and no changes are proposed in this regard.

- **Reinstatement of aspects previously rejected**

Submissions have been received in objection to the proposed reinstatement of aspects of the development that were removed via condition when the original consent was granted. The submissions state that these elements were refused on reasonable grounds, and their reintroduction warrants the refusal of the subject modification application. The three key areas raised are addressed, as follows:

1. The addition of 10 new piles, despite a condition restricting new piles.

The original application sought consent for the installation of new piles to support the proposed deck extension. Whilst the concept of additional piles was not of concern, the proposal lacked sufficient information in relation to the substrate of the seabed or any consideration of potential contamination. To avoid delays associated with the procurement of this information, the application was amended to allow for the structure to be cantilevered from the existing structure and conditions were imposed in this regard.

The applicant has since procured and presented the necessary information relating to the seabed and potential contamination, and no objection is raised in relation to the installation of additional piles. The cantilevered structure was not an intrinsic or fundamental aspect of the original grant of consent, and the altered structural design of the deck extension does not result in any unreasonable or unmanageable environmental impacts.

2. The extension of the deck to the north, despite a condition to delete the northern extension.

The northern extension of the deck was not supported by Heritage NSW on heritage grounds, and as such, conditions of consent were imposed to remove this aspect of the development. The applicant has since engaged with Heritage NSW and has developed a scheme that is now supported by Heritage NSW. It appears that the primary area of concern was the previously proposed straightening of the public area to the north of the proposed deck, which is now no longer proposed.

3. The deletion of one planter box, despite a condition requiring the removal of all proposed planters.

The original application proposed new planters throughout the development area. Conditions 6(b) and 9(c) were imposed to restrict the introduction of these newly proposed planters and did not relate to existing planters.

The subject application proposes the deletion of one large existing planter box to the north of the western deck area and in response to comments from Heritage NSW, the two smaller existing planter boxes are also required to be removed.

Nothing prevents an applicant from seeking consent to modify aspects of a development that were amended or removed by virtue of conditions imposed in the original consent, so long as the development remains substantially the same as that which was originally approved. As discussed with regard to s4.55 of the EP&A Act, the proposed modifications do not radically alter the development such that it could be suggested that the modified development is not essentially or materially the same as that which was originally approved.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Contaminated Lands)	<p>No objection - no conditions.</p> <p><i>Environmental Health have reviewed the provided documentation and are of the opinion that the modification does not change any of the existing comments and proposed conditions provided through the initial development application. The conditions proposed to be amended do not affect contamination. Environmental Health does note that a phase 1 Preliminary contamination report was provided with the proposed modification which included measures to be included into the CEMP (Construction Environmental Management Plan) in line with condition 10, 22 & 25 of the initial DA, the report and its findings appear to have been developed in accordance with standard practice including a search of relevant databases and historical uses. Environmental Health have no objections to the modification in regards to contamination.</i></p>

Environmental Health (Industrial)	<p>No objection - no conditions.</p> <p><i>Environmental Health have reviewed the provided documentation and are of the opinion that the modification does not change any of the existing comments and proposed conditions provided through the initial development application. The conditions proposed to be amended do not affect the determination surrounding noise and the previous acoustic report. The previous report was modelled on 80 patrons and the inclusion of a plan of management controls any concerns surrounding acoustics.</i></p>
Environmental Health (Food Premises, Skin Pen.)	<p>No objection - no conditions.</p> <p><i>Environmental Health have reviewed the provided documentation and are of the opinion that the modification does not change any of the existing comments and proposed conditions provided through the initial development application. The conditions proposed to be amended do not affect food premise fit out as it relates to the outdoor dining area.</i></p>
NECC (Bushland and Biodiversity)	<p>No objection - no conditions.</p> <p><i>This referral is based upon previous reports submitted in support of the original DA and an additional biodiversity assessment (ERM, 27 May 2021) submitted with the modification proposal.</i></p> <p><i>Existing conditions of consent applied to the original DA will serve to mitigate impacts to the endangered population of Little Penguin. It is assumed that impacts associated with overshadowing and disturbance of seagrass adjoining the subject site will be assessed by Council's riparian referrals body.</i></p>
NECC (Coast and Catchments)	<p>No objection - no conditions.</p> <p><i>The modification application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018, Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. The Manly Wharf is excluded from the Manly LEP 2013 and Manly DCP 2013 and the applicable controls are from the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, the Sydney Harbour Foreshores and Waterways Area Development Control Plan. It has also been assessed against requirements of the Manly Development Control Policy for Manly Cove, 1996</i></p> <p><i>The application has been assessed using Northern Beaches SREP assessment template.</i></p> <p><u>Coastal Management Act 2016</u> <i>The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed modifications are in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</i></p>

	<p><u>State Environmental Planning Policy (Coastal Management) 2018</u> The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Clauses 13(coastal environment area) and 14 (coastal use area) do not apply as the site is also located within the SREP area. Hence, only Clause 15 of the CM SEPP apply for this DA.</p> <p>On internal assessment, the DA satisfies requirements under Clause 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><u>Sydney Regional Environment Plan (Sydney Harbour Catchment), 2005</u> The subject site is located within/adjacent to the W2 (Environmental Protection) Zone.</p> <p>As assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Planning Lab Pty. Ltd. dated April 2021 and Council accepts the assessment that it will not have any adverse impact on the waters and adjoining foreshores, it is determined that the objectives and assessment criteria of the zone have been met.</p>
NECC (Development Engineering)	<p>No objection - no conditions.</p> <p>No objection to the application which has no impact on stormwater, vehicle access and Council's infrastructures.</p>
NECC (Riparian Lands and Creeks)	<p>No objection - no conditions.</p> <p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater.</p> <p>The site sits within Sydney Harbour which supports a diverse range of environmentally sensitive aquatic flora and fauna. The development must not significantly impact on the biophysical, hydrological or ecological integrity of these waters. The environmental protection controls and mitigation measures recommended in the Biodiversity Assessment Report prepared by ERM must be installed and maintained until all work is complete.</p> <p>This application is recommended for approval, subject to existing conditions, as it is unlikely to have an adverse effect on the integrity and resilience of the biophysical, ecological and hydrological environment around Manly Wharf in Sydney Harbour if conditions are adhered to. The proposal is therefore supported.</p>
Strategic and Place Planning(Heritage Officer)	<p>No objection - with conditions.</p> <p>The proposal has been referred to Heritage as it is contained within a State heritage item, being Item I145 - Manly Wharf, listed in Schedule 5 of Manly Local Environmental Plan 2013 and also listed in the State Heritage Register. It is also in the vicinity of a number of heritage items:</p>

	<ul style="list-style-type: none"> • <i>Item I248 - Governor Phillip Monument - West Esplanade Reserve</i> • <i>Item I251 - Park - West Esplanade</i> • <i>Item I1 - Harbour foreshores - Manly municipal area boundary adjacent to the Harbour</i> • <i>C2 - Manly Town Centre Conservation Area</i> <p><u><i>Item I145 - Manly Wharf</i></u></p> <p><i>Statement of Significance: Of environmental significance as a visually prominent man-made feature. Of historical significance for its association with the maritime activities at Manly as a tourist destination and suburb of Sydney, dependent on the ferry link to the CBD. (Anglin 1990:2033) Together with Circular Quay, the wharf is the only substantial older style ferry wharf surviving in Port Jackson: association with Manly's history as a recreational centre. (Blackmore, Ashton, Higginbotham, Rich, Burton, Maitland, Pike 1985)</i></p> <p><i>Physical Description: A broad wharf supported on timber piers and with a concrete platform. The superstructure is constructed of steel and timber. The facade and side walls form an important architectural design, similar to the Circular Quay ferry terminals. (Blackmore, Ashton, Higginbotham, Rich, Burton, Maitland, Pike, 1985).</i></p> <p><i>The original part of the wharf was built in a modernistic transport idiom, with typical stylistic features of era including play of circular and rectangular geometric terms, bayed facade to the water (marine connotations), wide arc plan at entrance, clock tower with "fins", flat roofing marked by wide fascia board. The current entrance was originally designed as a tram terminus and turning area. Timber clad framed structure opening and large internal spaces, concrete deck to west enclosed by "ship" railing. Some original shop fittings, signage etc. Subjected to major alterations to the wharf wings involving a T-shaped clerestory (Stapleton, 1981).</i></p> <p><u><i>Assessment</i></u></p> <p><i>Heritage Council of NSW (the Heritage Council) have considered the modification (Mod2021/0314) to the integrated development application (IDA2020/113) and in accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, the approval has been granted.</i></p> <p><i>It is noted in the approval that, "the two existing planters shown on the lower deck on the plans are not part of this development application and therefore they are not a part of this consent. The planter boxes must be removed from the drawings to be submitted with the section 60 application".</i></p> <p><i>Therefore, no objections are raised on heritage grounds, subject to all terms of approval (conditions) required by Heritage NSW being included in any consent.</i></p>
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External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>No objection - no conditions.</p> <p>The modification application was referred to Ausgrid, who provided conditions of consent in relation to the original application. On 16 June 2021, Ausgrid advised that no response was necessary.</p>
Foreshore and Waterways Planning and Development Advisory Committee	<p>No objection - no conditions.</p> <p><i>The Foreshores and Waterways Planning and Development Advisory Committee (the Committee) has reviewed the referral in accordance with Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (the SREP), and given that it is considered a regionally significant development, considers it to be a 'Category 1' matter.</i></p> <p><i>The advisory committee recommends that the following be taken into consideration during the assessment of the development application:</i></p> <ul style="list-style-type: none"> <i>a. the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 specifically</i> <ul style="list-style-type: none"> <i>- Part 3, Division 1, Clause 17 Zone objectives of the W8 Scenic Waters: Passive Use Zone</i> <i>- Part 3, Division 2 Matters for consideration</i> <i>- Part 5 Heritage provisions</i> <i>b. the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005</i> <p><i>In referring the proposal to the Committee, Mosman Council [sic] has satisfied its statutory obligation as required under the SREP. The committee has no additional matters it wishes to raise with respect to the proposed development.</i></p> <p><i>Please Note: For the Committee's purposes, 'Category 1' matters are those which are of regional or state planning significance, in the public's interest, or a matter for which the Committee can offer technical or expert advice.</i></p>
NSW Police – Licensing (Clubs, Hotels, Pubs)	<p>No objection - no conditions.</p> <p><i>No objection is raised as to the redesign to the deck and increase capacity as a result of the increase in deck size.</i></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. The application was supported by a Preliminary Site Investigation, prepared by JK Environments, as the installation of new piles will disturb the substrate of the seabed.

In its conclusion, the investigation states:

The historical assessment did not identify any potentially contaminating activities (as listed in Table 1 of the SEPP55 Planning Guidelines) at the site or in the immediate vicinity.

The sediment has been identified as an AEC due to the general history of sediment impact throughout Sydney Harbour. However, as the site is located over water and there is/will be no complete Source-Pathway- Receptor (SPR) linkage to the sediment during the current or proposed use of the site, the sediments do not pose a risk in the context of the current or proposed land use.

The potential for exposure to sediments (i.e. to construction workers and ecological receptors) will increase during the construction phase of the proposed development. Contamination-related risks during these works are likely to be low as the extent of sediment disturbance should be minimal. Nevertheless, JKE recommend that suitable measures be integrated into the CEMP to mitigate risks associated with the minor disturbance of sediment that will occur. These measures should include (but not necessarily be limited to):

- *Use of construction methods that minimise disturbance of the sediments (e.g. driven piles);*
- *Use of a floating boom with a silt curtain around the work area;*
- *Mooring to the existing wharf during construction and eliminating (where possible) the use of anchors that disturb the seabed;*
- *Development of procedures for handling waste, including construction waste any residual sediment that may come to the surface on construction equipment or during demolition/removal of existing piles; and*
- *Completion of works during favourable weather conditions for tide, wind and waves.*

We are of the opinion that contamination poses a low risk in the context of the proposed development. The site is therefore considered to be suitable for the proposed development from a contamination viewpoint and remediation is not required, subject to the implementation of the above recommendations.

In accordance with clause 7(1)(b) of SEPP 55, the consent authority can be satisfied that the land is in a suitable state for the purpose for which the development is proposed to be carried out. It is recommended that Condition 10, which requires the preparation of a CEMP, be amended to include the recommendations of the Detailed Site Investigation.

Clause 7(1)(c) stipulates that "if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose". No remediation is required or proposed as part of subject modification application.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject property is located within the Foreshores and Waterways Area and the provisions of the SREP are applicable to this development.

In accordance with clause 5(1) of the SREP, Council remains the consent authority for the proposed modified development.

The site is zoned W2 Environmental Protection under the provisions of the SREP. The modified proposal remains consistent with the objectives of the zone, and in accordance with the provisions of clause 18(2), the proposed modified development remains permitted with consent.

The consent authority can be satisfied that the assessment has considered all necessary matters prescribed by the SREP, as follows:

21 Biodiversity, ecology and environmental protection

The application was supported by an amended Biodiversity Report, confirming that the modified development will not result in any unreasonable impacts upon surrounding and nearby flora or fauna, including nearby seagrass and the Little Penguin population that is known to nest and forage beneath the wharf. The proposed modifications have been reviewed by Council's Biodiversity Officers who raise no objection in this regard.

22 Public access to, and use of, foreshores and waterways

The proposed modified development does not restrict access to or along the foreshore.

24 Interrelationship of waterway and foreshore uses

The proposed modified development does not cause conflict between land and water uses and does not create excessive congestion in the waterway or along the foreshore.

25 Foreshore and waterways scenic quality

The form, scale, design and siting of the proposed modified development is appropriate with regard to the scenic quality of the locality.

26 Maintenance, protection and enhancement of views

Clause 26 of the SREP prescribes the following matters to be taken into consideration in relation to the maintenance, protection and enhancement of views:

- a) development should maintain, protect and enhance views (including night views) to and from Sydney Harbour,*
- b) development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items,*
- c) the cumulative impact of development on views should be minimised.*

As addressed in *Rose Bay Marina Pty Limited v Woollahra Municipal Council and anor [2013] NSWLEC 1046* ("Rose Bay Marina"), it is noted that the provisions of clause 26(a) are "in tension" with the provisions of clauses 26(b) and (c), in so far as the requirement to maintain, protect and conserve views does not align with the requirement to minimise impacts upon views. Clause 26(a) acts to prevent development that will impact upon views, irrespective of the level of impact, whereas clauses 26(b) and (c) seemingly acknowledge some level of impact, as long as it is minor in nature.

The proposed modified development will result in the obstruction of minor elements of views available from limited vantage points along the wharf. The reasonableness of this impact is considered with regard to the planning principle for public domain views developed by the NSW LEC in *Rose Bay Marina*.

Identification Stage

Views of Sydney Harbour are available from Manly Cove, the boardwalk surrounding Manly Wharf and the promenade that extends around Manly Cove from Manly Wharf (east) to the old aquarium site (west). The view is both static and dynamic: with the movement of people and boats interrelating with fixed land massings and buildings. The view is also both proximate and distant: with immediate views of the water and closer land/water interfaces, and distant views of the eastern suburbs and city skyline.

The proposed modified development has the potential to impact a portion of the views available from the boardwalk immediately to the north of the proposed development. The level of impact is generally consistent whether in a seated or standing position. The area in question is predominantly used for fishing, for observing marine life below/around the wharf, for basking in the sunshine, and for taking in the available views. In consideration of the public area as a whole, the intensity of public use of the location affected by the development is low.

The need to consider the maintenance, preservation and enhancement of the views in question is outlined in the SREP (as above). The cumulative impact upon views is also identified as a matter of consideration in the Sydney Harbour Development Control Plan.

Analysis

The impact associated with the modified proposal is generally limited to views obtained from the area of the wharf immediately to the north of the proposed deck, as demonstrated in the images below.



Image 6 - Approximate extent of view corridor impacted by proposal



Image 7 - Approximate outline of proposed modified deck extension

The views from this area are reduced in a south-westerly direction, however the primary view across the cove to the west remains. The portion of the view affected does not contain any iconic elements and is not known to be significant to any organisation or person. Further, if it was of particular significance, the view is reclaimed by moving only a few steps further along the boardwalk to the north and from the wider public area to the north-west.

The unaffected portion of the view remains expansive and the proposed modified development will not detrimentally impact upon the amenity of the area of the wharf in question. The level of impact associated with the proposed modified development is considered to be reasonably minimised.

The proposal was referred to the Foreshores and Waterways Planning and Development Advisory Committee in accordance with clause 29 of the SREP.

Manly Wharf is nominated as a heritage item under the provisions of the SREP. Heritage NSW has provided general terms of approval for the proposed modified development, and as such, the consent authority can be satisfied that an assessment of any potential impact of the heritage item has been undertaken.

Overall, the proposal is consistent with the relevant provisions of the SREP.

SEPP (Coastal Management) 2018

The site is identified as being within both the Coastal Use Area and Coastal Environment Area under the provisions of SEPP (Coastal Management) ('CM SEPP'). Noting that the site is also within the Foreshores and Waterways Area under the provisions of the SREP, a number of the provisions of the CM SEPP do not apply.

| | | | |

Clause 15 remains the only provision relevant to the proposal. Clause 15 of the CM SEPP prescribes that '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'. The application has been reviewed by Council's Coast and Catchments team who are satisfied that the proposal will not cause increased risk of coastal hazards at the site or surrounding land.

As such, the proposal is consistent with the relevant provisions of the CM SEPP.

Development Control Plans & Other Policies/Plans

Sydney Harbour Development Control Plan

The proposed development, being a 'land/water interface development' as defined by the SREP, is subject to the provisions of the Sydney Harbour Development Control Plan ('the DCP'). The proposed modified development remains consistent with the relevant provisions of the DCP.

Manly Development Control Policy for Manly Cove

The proposed modified development has been assessed with respect to the provisions of the Manly Development Control Policy for Manly Cove, as follows:

Clause	Control	Compliance	Comment
2.1	Building Location	On merit	Clause 2.1 states that no new building work is anticipated beyond the location of existing buildings. The modification application proposes a minor extension of the existing approved deck structure, that will not unreasonably impact upon public waterfront access or the provision of open space.
2.2	Building Height	Yes	
2.3	Building Scale	Yes	
3.1	Design for Townscape	Yes	
3.2	Design Principles	Yes	
3.3	Design Considerations	Yes	
4.1	General	N/A	The monetary requirement to offset any parking shortfall prescribed by clause 4.1 is no longer applicable, and is not a requirement of Council's current Contributions Plan.
4.2	Access	N/A	
4.3	Loading Facilities	N/A	
4.4	Vehicular Parking	On merit	The proposed development does not provide any additional parking. Nonetheless, the proposal is supported by Council's Traffic Engineer, noting that the site is located at a public transport hub.
5	Drainage/Water Quality	N/A	
6	Waste Management	Yes	

Manly West Esplanade Heritage Activation Plan

The subject site is located within the area considered by the Manly West Esplanade Heritage Activation Plan. The proposed works do not conflict with any of the recommendations of this plan and will not impact upon the implementation of this plan.

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.

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;
- 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 all relevant planning instruments.

Development Consent DA2020/0962 includes conditions of consent that restrict the size and capacity of the western deck compared to that initially proposed. These conditions were imposed due to concerns raised by Heritage NSW in relation to the shape of the deck and the way it relates to the greater wharf structure. The applicant has worked with Heritage NSW to address these concerns and has developed a modified scheme that is now supported by Heritage NSW.

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. Mod2021/0314 for Modification of Development Consent DA2020/0962 granted for alterations and additions to Manly Wharf in association with Hugos restaurant on land at Lot 1 DP 1170245,0 Wharves And Jetties, 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 in accordance with the plans and documents listed in Condition 1, except as amended by any other condition of consent or the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA 100, Floor Plan - Proposed, issue P13	31 March 2021	Squillace
DA 201, Proposed West Elevation, issue C	31 March 2021	Squillace
DA 301, Proposed South Elevation / Section AA, issue C	31 March 2021	Squillace

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary (Stage 1) Site Investigation, reference E33925rpt	6 April 2021	JK Environments
Biodiversity Assessment, reference 0148219	27 May 2021	Environmental Resources Management Australia Pty Ltd

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

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

B. Modify Condition 6 'Compliance with requirements of Heritage NSW' to read as follows:

Heritage Consultant

- a) A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.

Site Protection

- b) Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

Reason: To ensure significant fabric including vegetation is protected during construction.

Photographic Archival Recording

- c) A photographic archival recording of the areas proposed to be modified must be prepared prior to the commencement of works and at the completion of works. This recording must be in accordance with the Heritage NSW publication 'Photographic Recording of Heritage Items using Film or Digital Capture' (2006). The digital copy of the archival record must be provided to Heritage NSW, Department of Premier and Cabinet.

Reason: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.

Unexpected Historical Archaeological Relics

- d) The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works.

Compliance

- e) If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

Section 60 Application

- f) An application under section 60 of the Heritage Act 1977 must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

Reason: To meet legislative requirements.

C. Modify Condition 9 'Amended to the Approved Plans' to read as follows:

The following amendments are to be made to the Approved Modified Plans:

- a) Deleted.
- b) Deleted.
- c) Deleted.
- d) Deleted.
- e) **The two 'existing planter boxes' to the north of the extended western deck are to be removed.**

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

Reason: Consistency with requirements of Heritage NSW.

D. Modify Condition 10 'Construction Environment Management Plan' to read as follows:

A Construction Environmental Management Plan (CEMP) must be prepared with respect to the approved development. The CEMP is to be prepared by a suitably qualified person and must address:

- a) all measures for the protection of native flora and fauna during construction,
- b) the requirements and general terms of approval of DPI Fisheries,
- c) a risk assessment of all environmental aspects and impacts to the site and surrounding properties or waterbodies associated with:
 - i. hazardous substances
 - ii. water
 - iii. air
 - iv. noise
 - v. vibration
 - vi. waste and litter
 - vii. environmental protection objectives and control strategies
 - viii. environmental conditions using measurable indicators and standards
 - ix. emergency response plan
 - x. environmental monitoring and reporting plan
- d) Any other matters specifically highlighted in conditions of this consent.
- e) Use of construction methods that minimise disturbance of the sediments (e.g. driven piles).**
- f) Use of a floating boom with a silt curtain around the work area.**
- g) Mooring to the existing wharf during construction and eliminating (where possible) the use of anchors that disturb the seabed.**
- h) Development of procedures for handling waste, including construction waste any residual sediment that may come to the surface on construction equipment or during demolition/removal of existing piles.**
- i) Completion of works during favourable weather conditions for tide, wind and waves.**

An induction plan for site personnel must be prepared that addresses the CEMP.

The CEMP and site induction plan must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure the appropriate operation and management of the site and to protect native vegetation, wildlife, habitats and receiving waterways.

E. Modify Condition 28 'Plan of Management' to read as follows:

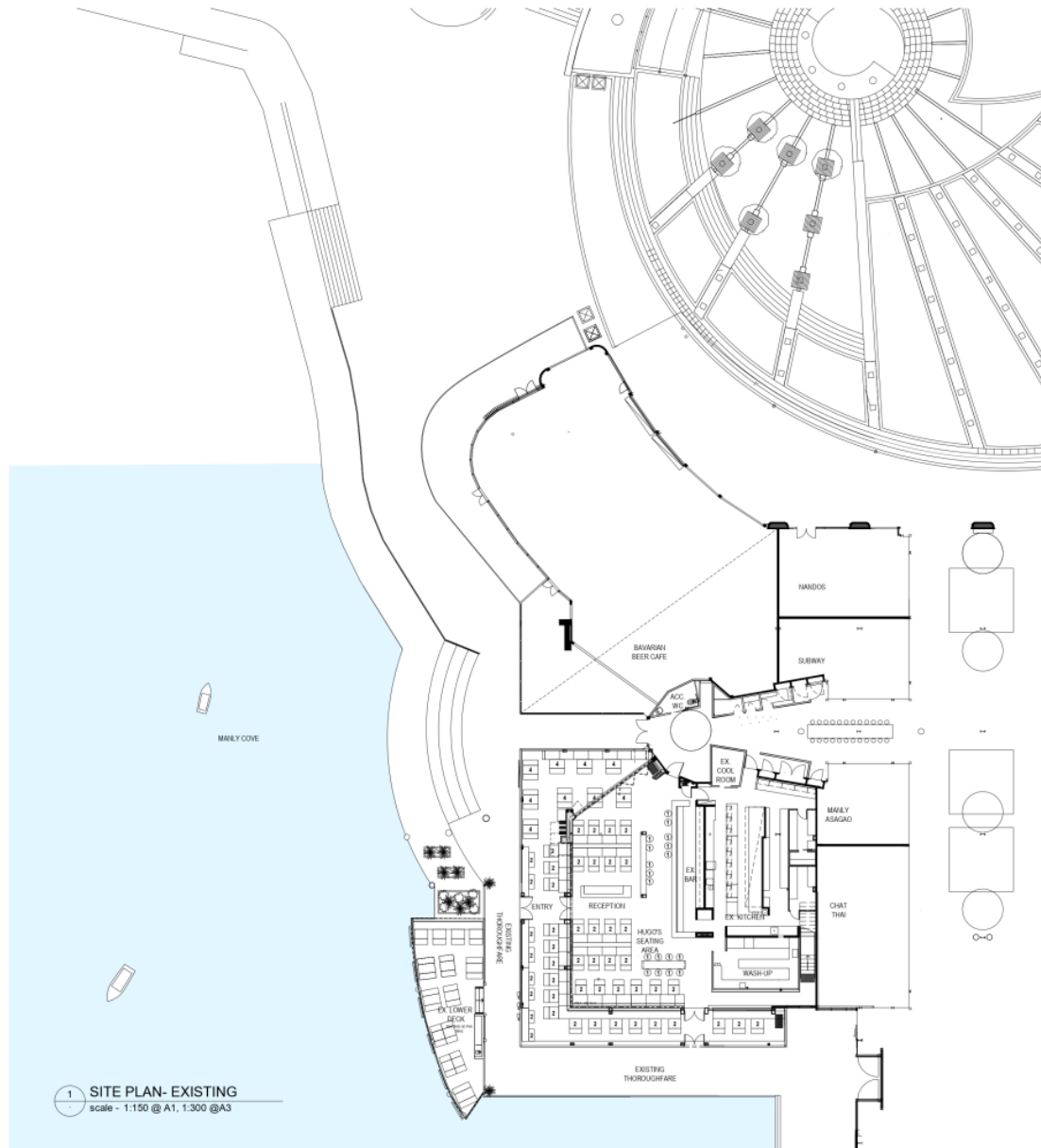
A Plan of Management is to be prepared for the use of the outdoor areas associated with Hugos Restaurant in accordance with the following:

- a) A maximum of **80** patrons are allowed within the western outdoor dining area at any given time.
- b) A maximum of 36 patrons are allowed within the southern outdoor dining area at any given time.
- c) All patrons within the western outdoor dining area and the southern outdoor dining area are to be seated.
- d) No amplified music or live entertainment is permitted at either the western or southern outdoor dining area.
- e) The outdoor areas are not to be used between the hours of 12am midnight to 11am.
- f) Management is to ensure that patrons departing the premises do so in an orderly manner to minimise noise impacts (especially after 10pm)
- g) Garbage and bottle disposal should be undertaken prior to 10pm and not before 7am.
- h) A register of any complaints and any actions made in response to such complaints is to be maintained on site and produced upon request from Council.

- i) Tables must be cleared in a timely manner so items are not blown into the waterway.
- j) Disposable items such as plastic or polystyrene cups, containers and straws are not to be used in outdoor dining areas.
- k) With the exception of candles, no external lighting is permitted.
- l) Hours of operation for the outdoor dining areas are limited to 11:00am to 11:30pm on all days, with all restaurant services to cease and all customers to vacate within 30 minutes.
- m) A 1m wide service area is to be outlined on the ground immediately adjacent to the southern outdoor dining area, with staff servicing the southern outdoor dining area to be generally limited to this area.

The Plan of Management is to be submitted to the Principal Certifying Authority prior to the issuance of the occupation certificate.

Reason: To ensure appropriate management of outdoor areas to minimise impacts upon the surrounding environment.



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**STATUS
DEVELOPMENT
APPLICATION**

Do not scale drawing. Verify all dimensions on site. Report any discrepancies in documentation immediately. This drawing is for the purpose of council approval and is not to be used for construction.

NOTES

B 31.05.21 S-455 SUBMISSION
A 09.07.20 DA SUBMISSION
P4 12.06.20 DA SUBMISSION
P3 26.05.20 DA SUBMISSION
P2 18.04.20 DA SUBMISSION
P1 13.03.20 FOR CLIENT REVIEW
05 DATE PURPOSE OF ISSUE

CLIENT
**THE HUGOS GROUP
CLIENT**

squillace

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D229 (NCL 3677 JCLD)

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PROJECT
HUGOS MANLY

DRAWING NO. **DA 001** SCALE **B**

JOB NO. **HUG0704** SCALE **1:150 @A1** DATE **12.06.20**
1:300 @A3

DRAWING TITLE
**SITE PLAN
EXISTING**

DRAWN BY **GC** CHECKED BY **V5**



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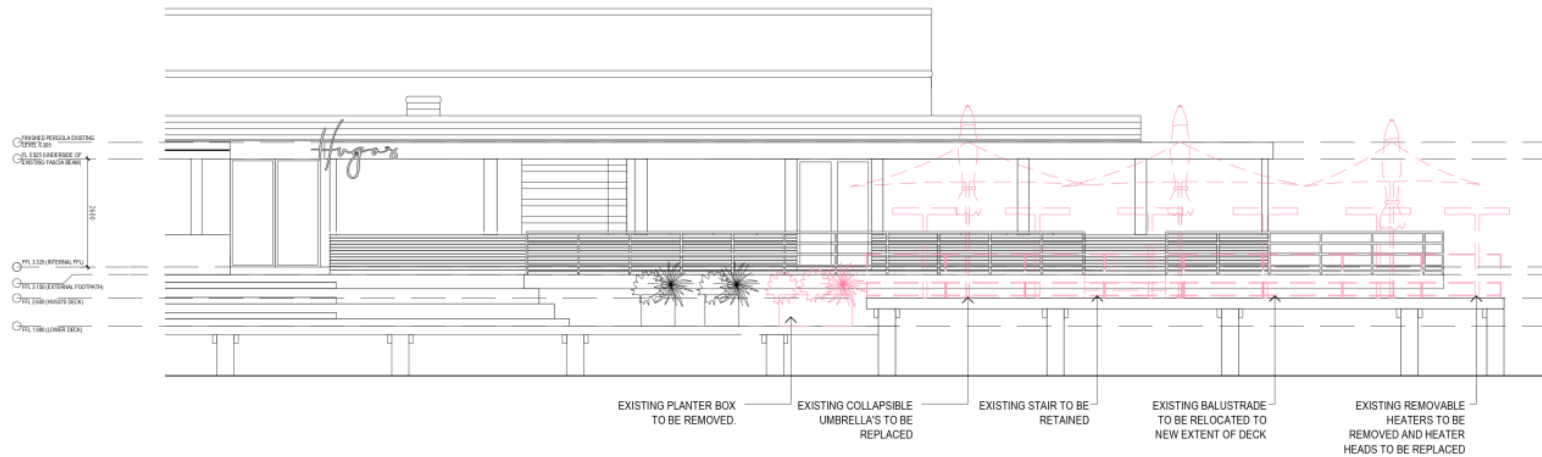


**STATUS
DEVELOPMENT
APPLICATION**

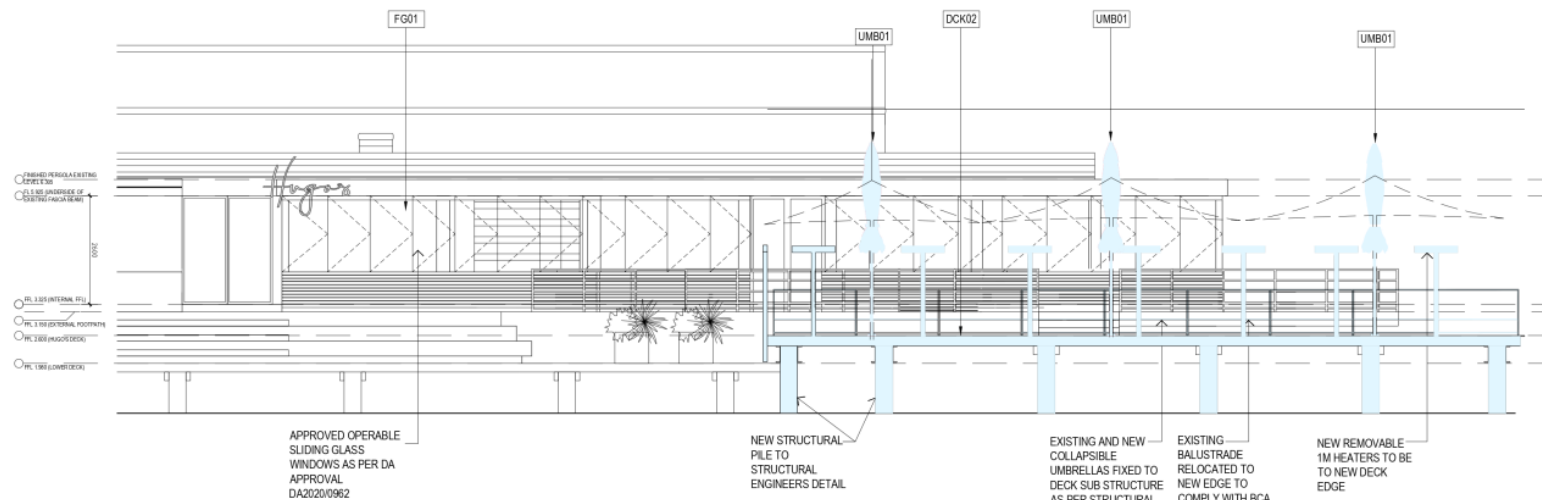
Do not scale drawing. Verify all dimensions on site. Report any discrepancies in documentation to architect. This drawing is for the purpose of council approval and is not suitable for construction.

NOTES

- EXISTING CONSTRUCTION
- NEW CONSTRUCTION
- ITEMS TO BE DEMOLISHED



1 EXISTING WEST ELEVATION
scale - 1:50 @ A1



2 PROPOSED WEST ELEVATION
scale - 1:50 @ A1

C 31.03.21 S485 SUBMISSION
B 02.10.20 SUBMISSION TO THW
A 09.07.20 DA SUBMISSION
P4 12.06.20 DA SUBMISSION
P3 26.05.20 DA SUBMISSION
P2 16.04.20 DA SUBMISSION
P1 29.08.19 FOR CLIENT REVIEW
SS DATE PURPOSE OF ISSUE

CLIENT
THE HUGOS GROUP
CLIENT

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PROJECT
HUGOS MANLY

DRAWING NO. **DA 201 C**
JOB NO. HUGO704 SCALE 1:50 @ A1 DATE 12.06.20
DRAWING TITLE EXISTING / PROPOSED ELEVATION
DRAWN BY GC / AE CHECKED BY VS

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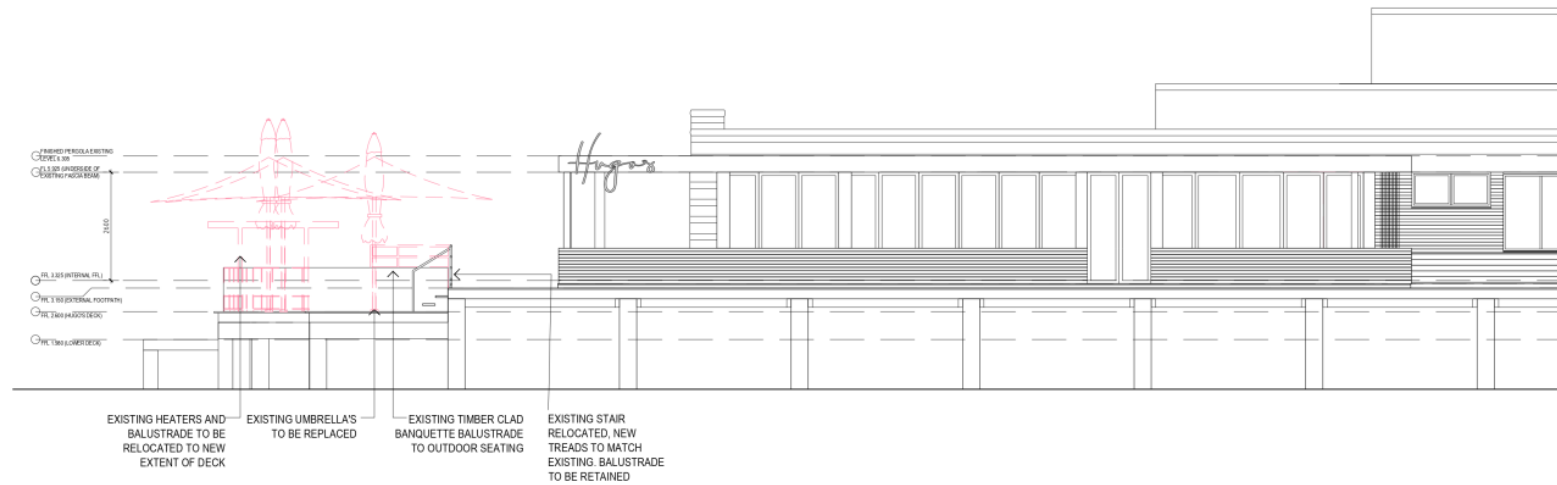


**STATUS
DEVELOPMENT
APPLICATION**

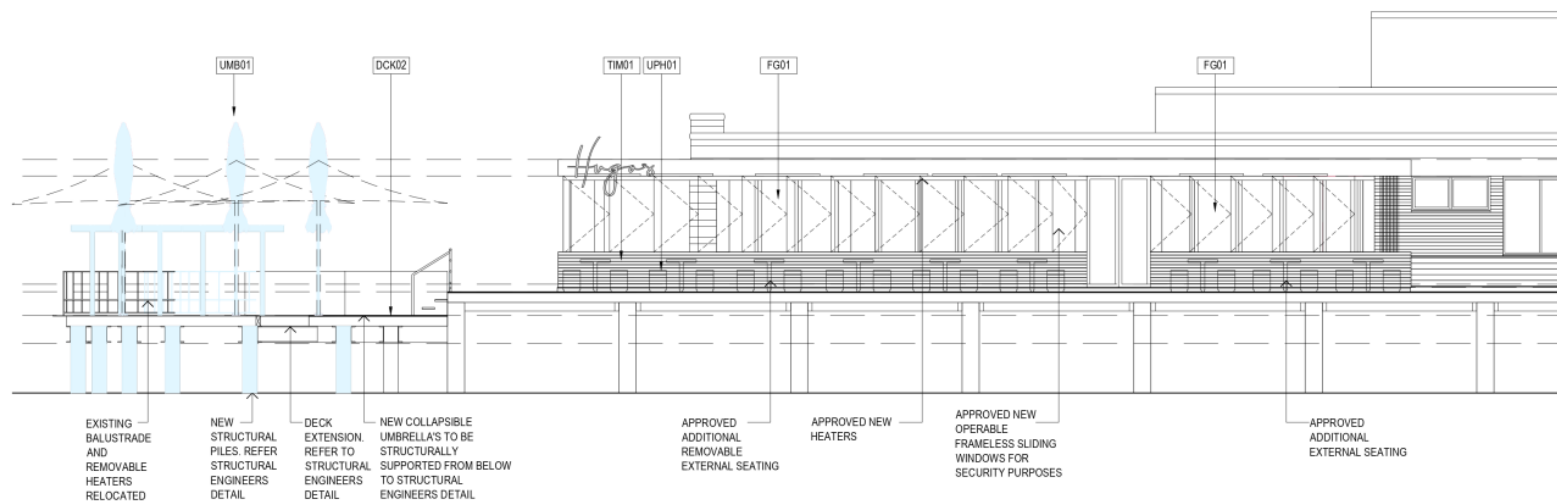
Do not scale drawing. Verify all dimensions on site. Report any discrepancies in documentation to architect. The drawing is for the purpose of council approval and is not suitable for construction.

NOTES

 	EXISTING CONSTRUCTION
 	NEW CONSTRUCTION
 	ITEMS TO BE DEMOLISHED



1 EXISTING SOUTH ELEVATION / SECTION AA'
scale - 1:50 @ A1



2 PROPOSED SOUTH ELEVATION / SECTION AA'
scale - 1:50 @ A1

C 31.03.21 S 445 SUBMISSION
B 02.10.20 SUBMISSION TO TSHW
A 09.07.20 DA SUBMISSION
P4 12.06.20 DA SUBMISSION
P3 26.05.20 DA SUBMISSION
P2 16.04.20 DA SUBMISSION
P1 29.08.19 FOR CLIENT REVIEW
SS DATE PURPOSE OF ISSUE

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PROJECT
HUGOS MANLY

DRAWING NO. **DA 301** SCALE **C**
JOB NO. **HUG0704** SCALE **1:50 @ A1** DATE **12.06.20**
DRAWING TITLE **EXISTING / PROPOSED SECTION**
DRAWN BY **GC / AE** CHECKED BY **VS**

ITEM 4.3

DETACHED DWELLINGS

AUTHORISING MANAGER Rodney Piggott

TRIM FILE REF **2021/595900**

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0965
Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot Y DP 106688, 13 Bellevue Street FAIRLIGHT NSW 2094 Lot X DP 106688, 11 Bellevue Street FAIRLIGHT NSW 2094
Proposed Development:	Alterations and additions to existing semi-detached dwellings.
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:	Richard Michael Linstead Francesca Louise Linstead
Applicant:	Richard Michael Linstead Francesca Louise Linstead
Application Lodged:	02/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	08/07/2021 to 22/07/2021
Advertised:	08/07/2021
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 15,400.00

This report has been submitted to the Northern Beaches Local Planning Panel (NBLPP) for consideration of Development Application DA2021/0965 for alterations and additions to existing semi-detached dwellings, specifically to include a shared vehicle crossover, driveway and two separate hardstand parking spaces at 11 and 13 Bellevue Street, Fairlight.

The proposal involves the removal of a brush box street tree, which forms part of Heritage Item No. 15 'Street trees' located between Sydney Road to Griffiths Street. The nature of the works constitute 'sensitive development', which is required to be determined by the NBLPP as the application seeks the

demolition of a heritage item, or in this case the removal of a tree which forms part of a heritage item. A condition has been included with this consent to ensure the brushbox tree proposed for removal is replaced with the same species, with the replacement tree to be planted to the south of the proposed vehicle crossing and driveway.

The location of the proposed hardstand parking platforms are consistent with surrounding parking structures along Bellevue Hill. Whilst the works require the removal of a significant street tree, the proposed development will result in an improved planning outcome through the provision of off-street parking for the two existing semi-detached dwellings, noting the limited available on-street parking within the vicinity of the site. It is also noted that Council's Landscape Officer has advised that the condition of the tree proposed to be removed is in poor condition and retention of the tree is not viable.

The application was advertised for 14 days and received no submissions.

When assessed on its merits, the proposal is found to be acceptable and suitable in the context of the site. Therefore, it is recommended that the NBLPP approve the application, subject to the conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to two existing semi-detached dwellings located at 11 and 13 Bellevue Street, Fairlight. Specifically, the proposal consists of a common vehicle crossover, driveway and hard stand parking spaces on each allotment, with associated tree removal.

The tree proposal for removal is brushbox tree located in Council's road reserve. To offset the tree removal, a condition has been included with this consent requiring a replacement brushbox tree to be planted within the road reserve to the south of the proposed driveway. It is noted that a similar brushbox street tree located to the north of the proposed driveway will be retained, with tree protection measures conditioned to ensure this.

AMENDED PLANS

Council requested that the applicant submit a site plan for each property to allow Council to calculate the total open space and landscaped area for each site. The additional plans were subsequently submitted to Council's satisfaction. The additional site plans did not result in design amendments to the proposed scope of works. Therefore, the application was not required to be re-advertised, in accordance with the Northern Beaches Community Participation Plan.

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 - 5.10 Heritage conservation
 Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping
 Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

SITE DESCRIPTION

Property Description:	<p>Lot Y DP 106688 , 13 Bellevue Street FAIRLIGHT NSW 2094</p> <p>Lot X DP 106688 , 11 Bellevue Street FAIRLIGHT NSW 2094</p>
Detailed Site Description:	<p>The sites consists of two allotments, legally described as Lots X and Y of D.P. 106688, located on the western side of Bellevue Street, Fairlight. Both sites are rectangular in shape with respective areas of 231.4sqm and 232.9sqm for No. 11 and No. 13.</p> <p>The sites are located within the R1 General Residential zone pursuant to Manly LEP 2013 and accommodate single storey semi-detached dwellings on each allotment. Both sites are devoid of vehicular access and off-street parking. Access to the sites is provided via pedestrian gates at the front boundaries.</p> <p>Both properties are devoid of canopy trees and contain small landscaped areas (i.e. garden beds) within the front and rear yards.</p> <p>The natural topography falls away from the south-east towards the north-west, representing an approximate slope of 6 degrees.</p> <p>Description of Surrounding Development</p> <p>Development in this area of Bellevue Street consists of a mix of one and two storey detached and semi-detached dwellings, and two and three storey residential flat buildings.</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:

11 Bellevue Street

- Development Application No. 120/08 for alterations and additions to rear of existing dwelling including reconfiguring of internal walls, highlight windows, timber deck and new raised metal roof approved by Council on 30 June 2008.

13 Bellevue Street

- Development Application No. DA93/03 for a carport and landscape works refused by Council on 9 July 2003.
- Development Application No. 236/2016 for alterations and additions to an existing semi-detached dwelling house including first floor addition and ground floor internal reconfiguration with rear deck approved by Council on 15 December 2016. It is noted that the consent has not been activated at the time this application was made.

Both Properties

- Pre-lodgement Meeting PLM2021/0076 to discuss the proposed development subject to this application.

APPLICATION HISTORY

The Assessment Officer examined the two properties and the surrounding built environment on 19 July 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 2013 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<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 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 Manly Development Control Plan 2013 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	The application was advertised for 14 days and received no submissions.
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 08/07/2021 to 22/07/2021 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
Landscape Officer	<p>The proposed development is for alterations and additions to the existing semi-detached dwelling to provide for the construction of a crossover, driveway and hard stand parking area within the frontage of properties No. 11 and No. 13.</p> <p>Council's Landscape Referral has considered the application against the Manly Local Environment Plan, and the following Manly DCP 2013 controls:</p> <ul style="list-style-type: none"> • 3.3.1 Landscaping Design • 3.3.2 Preservation of Trees or Bushland Vegetation • 4.1.5 Open Space and Landscaping <p>No Landscape Plan is provided with the application, whilst an Arboricultural Impact Assessment is provided. Two existing Brushbox street trees identified as tree 1 and tree 2 are located in close proximity to the proposed driveway.</p> <p>The proposal requires the removal of one existing Brushbox street tree as identified on the Site Plans and the Arboricultural Impact Assessment. Tree root investigations have been undertaken to assess the impact to the street trees and existing tree 2 is not impacted by the proposed driveway works with one minor and non-critical root to be removed, and as such the driveway alignment is able to be supported. Tree 1 investigations reveal that five critical tree roots will be impacted upon, and in consideration of the poor condition</p>

Internal Referral Body	Comments																																										
	<p>of the tree, retention is not viable and removal is unavoidable due to the extent of impact from the proposed driveway works.</p> <p>The existing street trees along Bellevue Street are a prominent streetscape element and a replacement street tree is required. The proposed works within the front setback reduce the landscape area capable of supporting planting to soften development in accordance with clauses 3.3.1 and 4.1.5, and therefore to each lot one small native tree shall be provided to satisfy the landscape controls.</p>																																										
NECC (Development Engineering)	<p>The applicant proposed to amend the existing footpath to accommodate the proposed driveway crossing. The existing footpath will be lowered about 300mm at the left hand side of the crossing. It means the longitudinal gradient of the footpath will exceed the maximum allowable gradient in 1V: 6 H.</p> <p>The footpath shall be at least RL 34.77 on the left hand side of the proposed driveway crossing to ensure the gradient of the footpath is less than 1V: 6H. A condition has been placed to ensure the level of the footpath in the suggested consent. As such, Development Engineering has no objection to the application subject to the following conditions of consent.</p>																																										
Strategic and Place Planning (Heritage Officer)	<table><tr><th colspan="3">HERITAGE COMMENTS</th></tr><tr><th colspan="3">Discussion of reason for referral</th></tr><tr><td colspan="3">The proposal has been referred to Heritage as the subject property is within proximity to a heritage item:</td></tr><tr><td colspan="3">Item I5 - Street Trees - Bellevue Street (from Sydney Road to Griffiths St)</td></tr><tr><th colspan="3">Details of heritage items affected</th></tr><tr><td colspan="3">Details of the heritage item as contained within the Manly inventory is as follows:</td></tr><tr><td colspan="3">Item I5 - Street Trees</td></tr><tr><td colspan="3"><u>Statement of significance:</u></td></tr><tr><td colspan="3">Listed for its aesthetic importance to the streetscape. Principal street of Bellevue Estate</td></tr><tr><td colspan="3"><u>Physical description:</u></td></tr><tr><td colspan="3">Mixed planting mainly Brush Box trees (<i>Lophostemon confertus</i>)</td></tr><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></td><td></td><td></td></tr></table>	HERITAGE COMMENTS			Discussion of reason for referral			The proposal has been referred to Heritage as the subject property is within proximity to a heritage item:			Item I5 - Street Trees - Bellevue Street (from Sydney Road to Griffiths St)			Details of heritage items affected			Details of the heritage item as contained within the Manly inventory is as follows:			Item I5 - Street Trees			<u>Statement of significance:</u>			Listed for its aesthetic importance to the streetscape. Principal street of Bellevue Estate			<u>Physical description:</u>			Mixed planting mainly Brush Box trees (<i>Lophostemon confertus</i>)			Other relevant heritage listings			Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No				
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Internal Referral Body	Comments		
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	Consideration of Application		
	<p>The proposal seeks consent for two parking spaces for the semi detached dwellings at 11 and 13 Bellevue Street and the construction of a shared vehicle crossover. The proposal also seeks the removal of the southern brushbox tree (T1) outside number 11 . Another brushbox tree (T2) located outside number 13 is proposed to be retained. Both trees form part of the heritage listing on Bellevue Street.</p> <p>An arborist report has been submitted with the proposal (Hugh The Arborist, 28 May 2021). This report has assessed the impact of the proposal on the street trees and considered that T1 will be required to be removed due to the impact of the vehicle crossover. The arborist report has also identified some signs of deterioration in T1's health. It has considered that T2 can be safely retained with a number of protection measures. The report goes on to recommend a replacement brushbox in the road reserve outside number 11 to offset the removal of T1.</p> <p>On balance, Heritage can support the proposal. While it will see the removal of heritage listed street T1, this tree is noted as showing signs of decline and would likely require a replacement planting anyway due to the severance of a number of roots by the crossover. Its removal tied to a replacement street tree planting of the same species is considered an appropriate way to ameliorate the impact of the proposal on the heritage item. Heritage notes the conditions recommended by Landscape to ensure the replacement street tree planting happens, as well as the protection of T2 during works, and considered them appropriate. Heritage raises no concerns with the parking spaces.</p> <p>Therefore Heritage raises no objections, and requires no further conditions beyond those recommended by Landscape.</p> <p>Consider against the provisions of CL5.10 of Manly LEP 2013.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No - The arborist report is considered sufficient in this case.</p>		

Internal Referral Body	Comments
	Has a Heritage Impact Statement been provided? No
	Further Comments
	COMPLETED BY: Brendan Gavin, Principal Planner
	DATE: 20 July 2021

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	Ausgrid have reviewed the proposed development and raised no objections, with no conditions of approval 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 (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:

Ausgrid have reviewed the proposed development and raised no objections, with no conditions of approval recommended.

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	2.06m (boundary wall)	-	Yes
Floor Space Ratio	FSR: 0.6:1	FSR: no change to FSR	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes

Detailed Assessment

5.10 Heritage conservation

The proposal involves the removal of a brush box street tree, which forms part of Heritage Item No. 15 'Street trees' located between Sydney Road to Griffiths Street. Therefore, the provisions of this clause must be considered.

Council's Heritage Officer has assessed the proposed development in accordance with Clause 5.10 of Manly LEP 2013 and concluded as follows:

"On balance, Heritage can support the proposal. While it will see the removal of heritage listed street T1, this tree is noted as showing signs of decline and would likely require a replacement planting anyway due to the severance of a number of roots by the crossover. Its removal tied to a replacement street tree planting of the same species is considered an appropriate way to ameliorate the impact of the proposal on the heritage item. Heritage notes the conditions recommended by Landscape to ensure the replacement street tree planting happens, as well as the protection of T2 during works, and considered them appropriate. Heritage raises no concerns with the parking spaces".

Given the above comments, Council is satisfied that the proposed development is consistent with the objectives and requirements set out within Clause 5.10 of Manly LEP 2013.

Manly Development Control Plan

Built Form Controls

Built Form Controls	Requirement	Proposed	% Variation*	Complies
4.1.4.1 Street Front Setbacks	prevailing building line or 6m	nil setback, consistent with established streetscape pattern	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	North (No. 13): 0.9m (for structures/walls less than 3m in height)	3.44m (hardstand)	-	Yes
	South (No. 11): 0.9m (for structures/walls less than 3m in height)	3.35m (hardstand)	-	Yes
4.1.4.4 Rear Setbacks	8m	no change and over 8m from rear boundary	-	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	No. 11: Open space 55% (127.27sqm) of site area No. 13: Open space 55% (128.1sqm) of site area	No. 11: 27.74% (64.2sqm) No. 13: 35.85% (83.5sqm)	50.44% 34.81%	No No
	No. 11: Open space above ground 25% (16.05sqm) of total open space No. 13: Open space above ground 25% (20.88sqm) of total open space	No. 11: 13.4% (8.6sqm) No. 13: 18.32% (15.3sqm)	- -	Yes Yes
	No. 11: Landscaped area 35% (22.47sqm) of proposed open space No. 13: Landscaped area 35% (29.23sqm) of proposed open space	No. 11: 21.34% (13.7sqm) No. 13: 23.1% (19.29sqm)	39.03% 34%	No No
4.1.5.2 Landscaped Area	1 native tree per allotment	1 native tree on each lot has been conditioned	-	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	> 18sqm on each allotment	-	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	No. 11: 3.03m (50% of frontage) No. 13: 3.07m (50% of frontage)	No. 11: 2.7m No. 13: 2.7m	-	Yes
Schedule 3 Parking and Access	2 spaces per allotment	1 space on each allotment	50%	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
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	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
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

3.1.1 Streetscape (Residential areas)

The Manly DCP 2013 streetscape provisions contain the following requirements for parking structures:

3.1.1.4 Garages, Carports and Hardstand Areas

a) *Garages, carports and hardstand areas must be designed and sited in a manner that does not to dominate the street frontage by:*

- i) *its roof form, material choice, and detailing by being subservient to the associated dwelling; and*
- ii) *being compatible with the streetscape and the location in relation to the front setback criteria.*

b) *Exceptions to the setback criteria referred to in this paragraph may be considered where parking structures are a positive element of the streetscape.*

Comment:

Whilst located forward of the semi-detached dwellings, the proposed hardstand areas maintain consistency with the established building line along Bellevue Street, noting there are numerous examples of parking structures (i.e. garages, carports and hardstands) with nil front setbacks. Furthermore, the hardstand areas are open structures and will not be visually imposing within the streetscape. For these reasons, it is considered that the proposal satisfies the Manly DCP 2013 streetscape requirements.

4.1.5 Open Space and LandscapingDescription of non-compliance

The control requires at least 55% of the site to comprise total open space (TOS). The proposed TOS for No's 11 and 13 are as follows:

- 11 Bellevue Street: 27.74% (64.2sqm). The existing TOS equates to 35.48% (82.1sqm) of the site and therefore, the proposal results in a 7.74% (17.9sqm) reduction of TOS.
- 13 Bellevue Street: 35.85% (83.5sqm). The existing TOS equates to 43.84% (102.1sqm) of the site and therefore, the proposal results in a 7.99% (18.6sqm) reduction in TOS.

Furthermore, the policy requires at least 35% of the nominated total open space for each allotment to consist of landscaping. The proposed landscaped area for No's 11 and 13 are as follows:

- 11 Bellevue Street: 21.34% (13.7sqm) of proposed total open space. The proposal results in a 6.9sqm reduction in landscaping.
- 13 Bellevue Street: 23.1% (19.29sqm) of proposed total open space. The proposal results in a 9.2sqm reduction in landscaping.

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 brushbox street tree proposed for removal will be offset by a suitable replacement street tree. Furthermore, suitable conditions have been imposed requiring one small native tree to be planted within the front yard of each allotment, which will result in an improved landscaping outcome for each site.

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

Comment:

Whilst numerically non-compliant with the landscaped area requirement, the provision of additional planting within the front setback area, as required by conditions, will maximise planting on each

allotment and result in an acceptable landscaping outcome for the sites.

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 hardstand spaces and associated works are located in close proximity to ground level and will not compromise any significant view lines from adjoining properties or the public domain. Furthermore, the parking structures are adequately setback from the side boundaries and are not located in close proximity to noise sensitive rooms on adjacent dwellings, thereby minimising potential privacy impacts. It is further noted that the works will not result significant shadowing of windows and private open space on adjoining sites.

The proposed hardstand areas maintain consistency with the established building line along Bellevue Street, noting there are numerous examples of parking structures (i.e. garages, carports and hardstands) with nil front setbacks. Furthermore, the hardstand areas are open structures and will not be visually imposing within the streetscape.

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

Comment:

Suitable conditions have been included with this consent to ensure that stormwater is appropriately managed on the site.

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

Comment:

The proposal will not lead to a significant spread of weeds.

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

Comment:

The provision of additional canopy trees on each allotment will increase potential wildlife habitat.

Conclusion

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

Description of non-compliance

The control requires at least 2 off-street parking spaces to be provided on each allotment. The proposal provides 1 off-street parking space for each allotment, which fails to satisfy the prerequisite. It is important to note that both No. 11 and 13 do not currently benefit from off-street parking.

Merit consideration:

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

Objective 1) To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).

Comment:

The proposed hardstand spaces will be directly accessible from the street via the proposed vehicle crossover. Council's Development Engineers have reviewed the proposal in relation to vehicular access and off-street parking and raised no objections, subject to conditions. In this regard, Council is satisfied that the proposal will provide accessible and adequate parking to serve both semi-detached dwellings.

Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.

Comment:

Both allotments are devoid of off-street parking. Therefore, the provision of 1 off-street parking space on each site will reduce the demand for on-street parking.

Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.

Comment:

The proposed parking spaces comprise open hardstand areas, which will not be visually imposing within the streetscape. As noted above, Council's Development Engineers have found the proposal to be acceptable in regards to off-street parking and vehicular access.

Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.

Comment:

The proposal involves minimal excavation and no significant fill is proposed.

Objective 5) To ensure the width and number of footpath crossings is minimised.

Comment:

The proposal utilises one vehicle crossover to service each allotment. Council's Development Engineers have imposed a condition limiting the width of the vehicle crossover to 5.4m.

Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.

Comment:

Council's Landscape Officer has included conditions requiring one canopy tree to be planted within the

front yard of each allotment, which will ensure adequate landscape treatment is integrated with the parking structures.

Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.

Comment:

The site is not located within a local centre and as such, this objective is not of relevance.

Conclusion

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit 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 2021

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

The proposed development involves alterations and additions to existing semi-detached dwellings, specifically to include vehicular access and off-street parking for both allotments.

The proposed hardstand spaces maintain consistency with the prevailing building line along Bellevue Street and the provision of off-street parking on each allotment will decrease the demand for on-street parking.

The proposal involves the removal of a brush box street tree, which forms part of Heritage Item No. 15 'Street trees'. Council's Heritage Officer has reviewed the proposal and considers the impact upon the heritage item to be acceptable, subject to a condition requiring the street tree to be replaced with a similar species.

Accordingly, it is recommended that the NBLPP approve the application, subject to the conditions attached to this report.

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 DA2021/0965 for Alterations and additions to existing semi-detached dwellings. on land at Lot Y DP 106688, 13 Bellevue Street, FAIRLIGHT, Lot X DP 106688, 11 Bellevue Street, FAIRLIGHT, 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
A1 - Proposed Driveway and Hardstand Plan	25/05/2021	Sally Gardner Design and Draft
A2 - Proposed Driveway Profiles	25/05/2021	Sally Gardner Design and Draft
A3 - Sections	27/01/2021	Sally Gardner Design and Draft
S2 - Site Plan & Calculations	19/07/2021	Sally Gardner Design and Draft

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary Geotechnical Assessment Ref. J3524	25/06/2021	White Geotechnical Group
Arboricultural Impact Assessment	29/05/2021	Hugh the Arborist

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	15/06/2021	Vaughan Milligan Development Consulting

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. 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. 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 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.

6. 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 proposed footpath level shall be RL34.77 on the left hand (southern) side of the proposed driveway crossing.

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.

7. 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.

8. 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 THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**9. Tree Removal Within the Road Reserve**

This consent approves the removal of the following tree(s) within the road reserve (as recommended in the Arboricultural Impact Assessment):

- i) tree 1 - Brushbox, located south of the proposed driveway, subject to replacement.

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services Section prior to removal.

Reason: Public liability.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**10. 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, identified as tree 2 - Brushbox, located north of the proposed driveway, 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.

11. 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, unless approved for removal.
- 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) or vi) 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.
- c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

- d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.
- e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

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.

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. **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.

14. **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.

15. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 5.4 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and the driveway levels application approval. The footpath level shall not be lower than RL 34.77 on the left hand side of the proposed crossing.

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.

16. **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.

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

17. **Required Tree Planting**

Trees shall be planted in accordance with the following:

- i) one small native tree to each lot shall be installed within the front setback, and installed at a minimum 75 litre pot size and capable of attaining a mature height of 6 metres minimum, and selected from Northern Beaches Council's Native Plant Species Guide - Manly Ward,
- ii) 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.

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

Reason: To maintain environmental amenity.

18. **Street Tree Planting**

Street trees shall be planted in accordance with the following:

- i) one *Lophostemon confertus* (Brushbox) street tree shall be located south of the proposed driveway, installed at a pre-ordered minimum 200 litre container size, and shall meet the requirements of Natspec - Specifying Trees,
- ii) the street tree shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained to achieve establishment, and shall be located at least 2 metres from the driveway edge and shall be centrally located between the footpath and road kerb,
- iii) tree protection shall be a timber guard consisting of four 50 x 50 x 1800 posts, top and mid rails, and hessian ties to the tree.

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

Reason: To maintain environmental amenity.

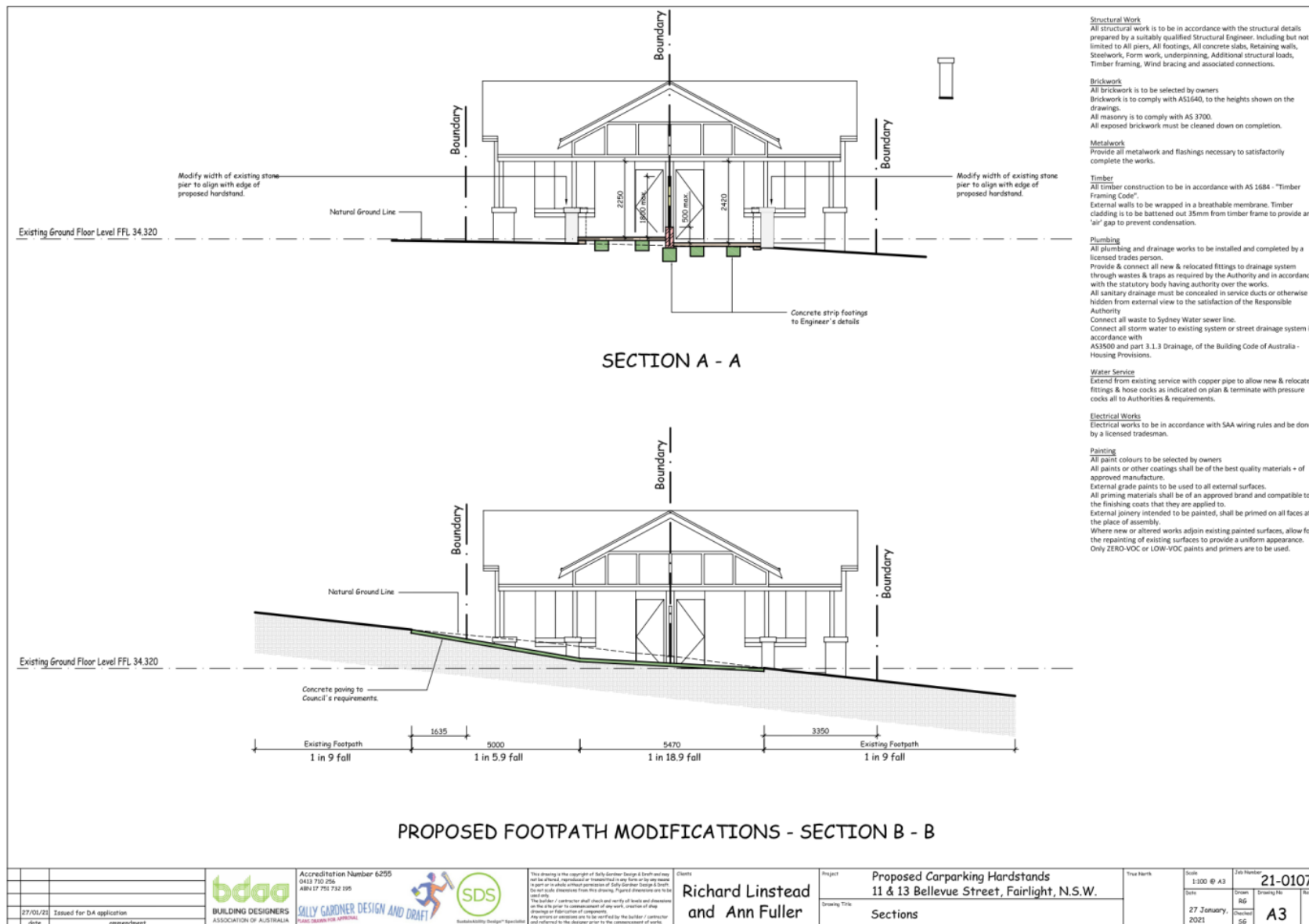
Note: Please consider registering your new tree through the link below to be counted as part of the NSW State Governments 5 Million trees initiative

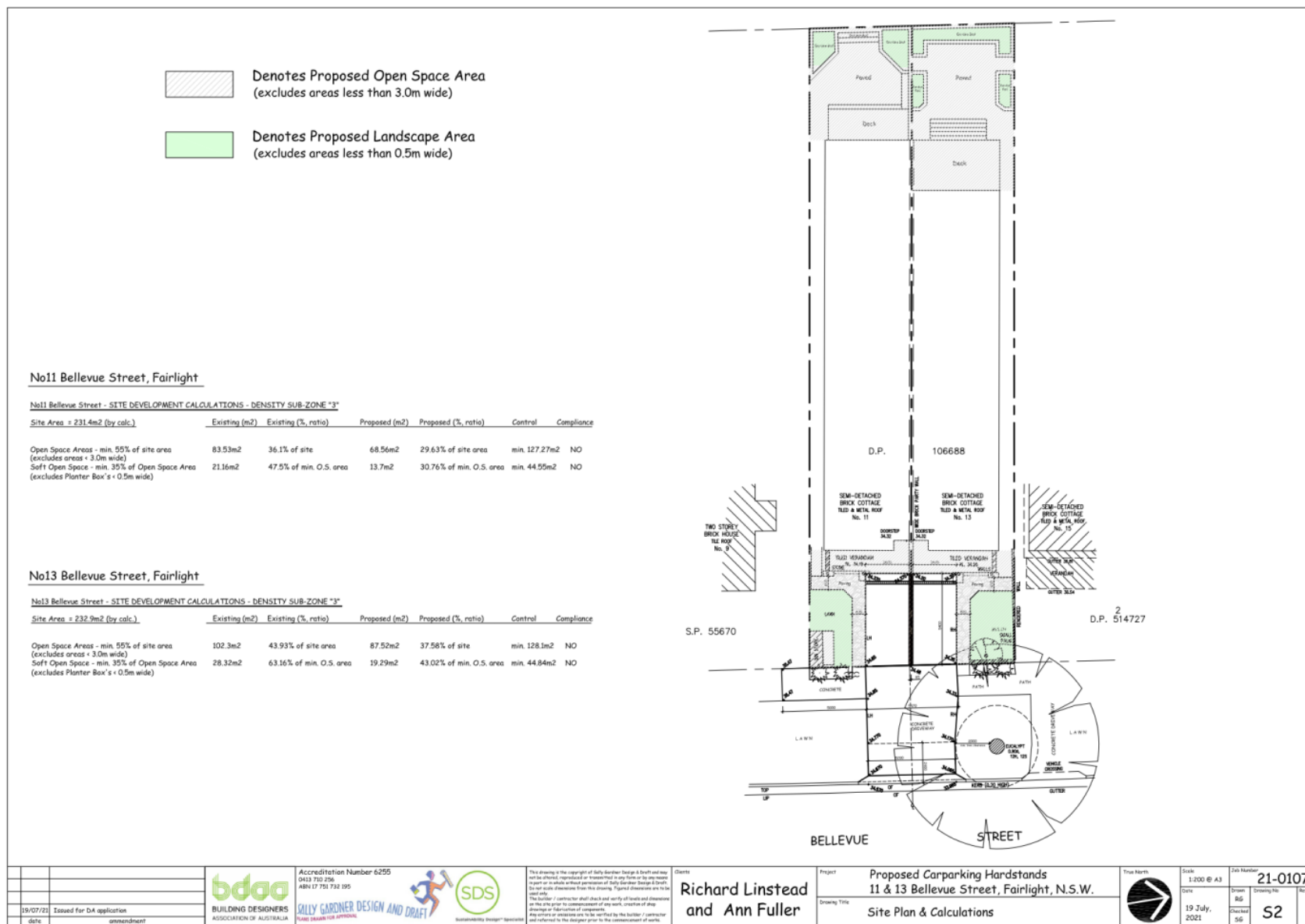
<https://5milliontrees.nsw.gov.au/>

19. **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.





ITEM 4.4	DA2021/0985 - LOT 100/ MEATWORKS AVENUE, OXFORD FALLS - SUBDIVISION OF AN INDUSTRIAL/WAREHOUSE DEVELOPMENT (STRATA SUBDIVISION)
AUTHORISING MANAGER	Lashta Haidari
TRIM FILE REF	2021/611677
ATTACHMENTS	1 Assessment Report 2 Subdivision Plans

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is a relative of 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. DA2021/0985 for subdivision of an industrial/warehouse development (strata subdivision) at Lot 100 DP 1023183 & Lot 1053, Lot 1047 & Lot 1046 DP 752038, Lot 100/ Meatworks Avenue, Oxford Falls subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0985
Responsible Officer:	Adam Mitchell
Land to be developed (Address):	Lot 100 DP 1023183, Meatworks Avenue, Oxford Falls
Proposed Development	Strata subdivision of an industrial warehouse development
Locality:	B2 Oxford Falls Valley - WLEP 2000
Category of Development:	Category 2 (subdivision)
Consent Authority:	Northern Beaches Council
Delegation Level:	Northern Beaches Council
Land and Environment Court:	No
Owner:	Numeve Pty Ltd
Applicant:	Gelder Group Architects
Application Lodged:	5 July 2021
Integrated Development	No
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	Not notified
Advertised:	Not advertised
Submission Received:	Nil
Clause 20 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	Nil

EXECUTIVE SUMMARY

Development Consent is sought for the staged strata subdivision of an approved industrial warehouse development at Lot 100, Meatworks Avenue, Oxford Falls (the Meatworks site).

This application is referred to the Local Planning Panel for determination due to a conflict of interest between the applicant and a member of planning staff.

The consent sought relates to the subdivision of a series of industrial buildings approved by the Land and Environment Court of NSW relating to development applications DA2011/0985 (26 April 2013) and DA2019/1340 (26 March 2021). The consent sought does not seek, nor authorise any physical changes to the development already approved.

The application seeks four stages of strata subdivision as illustrated in the accompanying strata plan. Stage 1 of consists of the original plan creating the scheme and contains lots 1 to 21. Upon registration of Stage 1 it is intended to create development lots 22, 23 and 24 (respectively Stages 2, 3 and 4).

The subdivision constitutes *Authorised Proposal* pursuant to Section 73 of the Strata Schemes Development Act 2015, meaning that a developer is authorised, but cannot be compelled to carry out the development described in the accompanying Strata Development Contract. *Warranted Development* is not required to carry out the staged

development of this consent. Both Warranted Development and Authorised Proposals are a form of Permitted Development.

Section 75 of the Strata Schemes Development Act 2015 outlines the obligations of a planning authority which includes (but is not limited to) the certification on the 'Approved Form' that the carrying out of the permitted development would not contravene any condition subject to which the approval granted. That is, the description of development on the Strata Development Contract must be consistent with a development consent.

The 'Approved Form' is in respect to an Approved Form 8 from the Registrar General of the NSW Land Registry Services and contains a 'Certificate of Planning Authority' which a delegate of the planning authority must certify.

Should the Panel determine this application by way of approval, the Council will seek for the relevant delegate to sign the Certificate of Planning Authority, to be issued concurrently to the applicant.

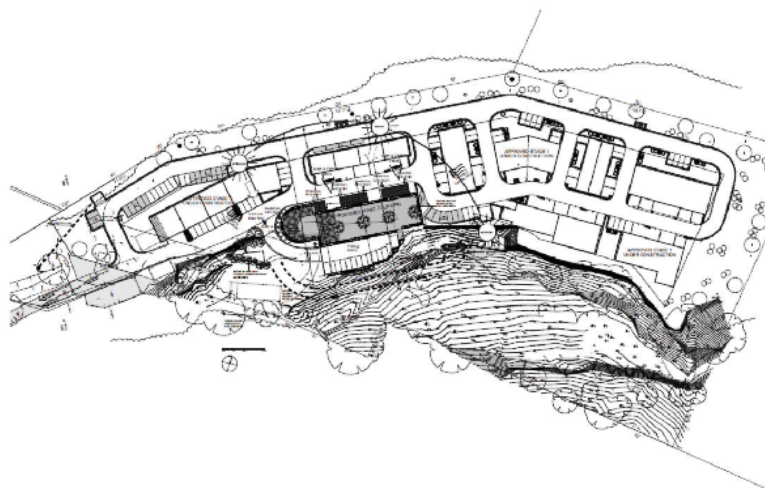
The assessment of this application has found that the strata subdivision of the land shall have no environmental impact on the land, nor amenity impact to neighbouring occupiers (present or future). The exercise of strata subdivision is administrative and is recommended for approval.

PROPOSED DEVELOPMENT IN DETAIL

Development Consent is sought for the staged strata subdivision of the site. The development scheme of the strata subdivision is described in the accompanying Strata Development Contract and will be completed over several stages.

Stage 1 of the development is illustrated in the strata plan, shall be completed upon registration of the plan, and contains lots 1 to 21. Upon registration of Stage 1 it is intended to create development lot(s) 22, 23 and 24 (being Stages 2, 3 and 4 respectively). The subdivision of those lots is in accordance with the built form approved on site.

An extract of the site plan as approved is shown below:



These nine buildings are approved via two different NSW Land and Environment Court consents described in the Site History section of this report.

Whilst the concept of a staged strata subdivision is seldom utilised, the end result (for both Council and the public) is the same as a regular strata subdivision. Subdivision in this fashion simply permits the developer to carry out the works described in the Strata Development Contract without seeking the resolution of an owner's corporation. Nothing in a Strata Development Contract implies that development consent has been granted by the consent authority, and the endorsement of that Contract does not imply development consent for the carrying out of physical works.

AMENDED PLANS

Upon lodgement of the development application there was a proposed 'Stage 5' subdivision to create 'Lot 25'. Lot 25 can generally be described as the sloping bushland area shown on the above graphic to be vacant of buildings. That land is subject to a bushland covenant pursuant to development consent DA2011/0985 and was therefore unsuitable to be identified as a 'Development Lot', earmarked for the *construction of industrial units*.

This concern was discussed with the applicant and it was agreed that Lot 25 would not be identified as a Development Lot and shall remain as a lot within the strata plan. The terms of the bushland covenant remain applicable to the site (Lot 100) as a whole.

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

The subject site is legally described as Lot 100 DP 1023183 and is known as Lot 100 Meatworks Avenue, Oxford Falls identified with a yellow flag below. The subject site forms part of a larger collective of lots, identified with red hatching under a Permissive Occupancy of 3 parcels (Lots 1046, 1047 and 1053) of Crown land. The proposed development is only

located on Lot 100. The subject site is an irregularly shaped allotment with the total site area of 34,120m² (3.412ha) and is located at the northern end of Meatworks Avenue, as shown in Figure 3 below.



Figure 3 - Site Map

The subject site is a sloping allotment having a fall from south to north and from west to east, with a large rock escarpment traversing the southern portion of the site. The area to the south of the escarpment comprises dense remnant bushland. The northern part of the site is under construction as part of Development Consent No. DA2011/0985 and contains a number of other buildings and uses, comprising:

- Public Weighbridge
- Dwelling House
- Administration Building
- A storage building

The existing dwelling house (brick building) is located adjacent to the southern boundary of the site and a fibro building used for storage is situated to its north, which are both proposed to be demolished as part of this application.

Vehicular access to the site is currently via Meatworks Avenue, which terminates at the front boundary of the site. A central driveway traverses the centre of the site then gives access through the newly constructed development with secondary access roads accessing the upper and lower portions of the site.

The subject site is surrounded by large vacant allotments that are covered in dense bushland. Immediately to the northwest of the site is Public Open Space, which is also located within the B2 Locality and is an identified Conservation Area. The B2 locality is

generally rural/residential in character in the immediate vicinity of the subject site and contains a range of other land uses comprising:

- Undeveloped native bushland to the north and east of the site.
- Detached dwelling houses on large allotments to the south and west of the site.
- Educational establishments fronting Wakehurst Parkway to the south and south-west of the site.

Site History

2013 Court Approval (DA2011/0985)

On 26 April 2013, the Land and Environment Court (LEC) granted development consent to an application proposing the construction of a light industrial/ warehouse development with ancillary office space on the subject site (proceedings 10526 of 2012). The works associated with this consent have been physically commenced and are well advanced. The relevant Construction Certificates are CC2018/0420 and CC2019/0078.

Development Application DA2019/1340

Development Application DA2019/1340 for demolition works and construction of additions to an approved industrial and warehouse development refused by the Northern Beaches Local Planning Panel on 22 May 2020. This application was subject to an appeal in the NSW Land and Environment Court, which was upheld with amended plans. The consent was issued on 26 March 2021.

Development Application DA2021/0385

Development Application DA2021/0385 for alterations and additions to a warehouse and ancillary office was recommended approval by the Independent Assessment Panel and endorsed by the Director Place and Planning, with consent issued on 21 June 2021.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The relevant matters for consideration 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 within this report
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None Applicable
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	None Applicable
Section 4.15 (1) (a)(iia) - Provisions of any Planning Agreement or Draft Planning Agreement	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 site is the subject of an approval for industrial/warehouse development.

Section 4.15 'Matters for Consideration'	Comments
	The proposed development retains the approved industrial use of the site, and is not considered a contamination risk, as discussed under SEPP 55 of this report.
Section 4.15 (1) (a)(iv) - Provisions of the regulations	<p>Clause 98 of the Environmental Planning and Assessment Regulation 2000 states that a prescribed condition of consent is that the work is to be undertaken in accordance with the Building Code of Australia (BCA). If the application is approved a condition of consent could be included in the recommendation to ensure that the proposal complies with the BCA.</p> <p>Clause 93 and 94 of the EPA Regulations 2000 requires the consent authority to consider fire safety and structural issues. Accordingly, appropriate conditions of consent are recommended for imposition should this application be considered worthy of approval for existing buildings that are proposed to be retained.</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) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control table in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact on the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the industrial nature of the proposed land use.</p>
Section 4.15 (1) (c) – The suitability of the site for the development.	The site is considered suitable for the strata subdivision of the approved industrial development.
Section 4.15 (1) (d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The application did not require notification.
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 do not apply to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has not been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Northern Beaches Community Participation Plan as the proposal only involves the strata subdivision of the approved development.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	Comments incoming.
Traffic Engineering	Supported No objections are raised to the subdivision of the site, subject to consideration being given to the parking allocations in accordance with the WDCP 2000.

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.

Strata Schemes Development Act 2015

The Strata Schemes Development Act 2015 repeals the Strata Schemes (Freehold Development) Act 1973 and the Strata Schemes (Leasehold Development) Act 1986.

This application pertains to the staged development of strata subdivision of an approved industrial warehouse complex.

Section 73(1) of the Strata Development Schemes Act 2015 provides the following explanation of staged development:

- (1) The proposed development in stages of a parcel subject to a strata scheme consists of—*
- (a) the progressive improvement of the parcel by the construction of buildings or the carrying out of works on development lots, and*
 - (b) the subsequent subdivision of each development lot and the consequential adjustment of the unit entitlement of lots in the scheme.*

A staged development strata plan requires the developer to provide a disclosure document which indicates the proposed approved future developments within a scheme. The disclosure document is called a *Strata Development Contract (SDC)*, prepared in the Approved Form from the Registrar General of the NSW Land Registry Services.

The SDC provides details of the future subdivision of the parcel of land. All developments will have at least 2 stages and 1 development lot. Stage 1 is the original plan creating the scheme and includes the SDC. The stages described in the contract begin with Stage 2. Each new stage must be a subdivision of a development lot. A new development lot may be created at each stage and must be indicated in the strata plan of subdivision in accordance with the SDC.

There can be 2 types of development identified in an SDC, Warranted Development and Authorised Proposals. Section 73(3) – (4) of the Act describes these as:

- (3) *The development is carried out subject to a strata development contract that describes separately—*
- (a) *any proposed development that the developer for the development lot warrants will be carried out and may be compelled to carry out (**warranted development**), and*
 - (b) *any other proposed development that the developer will be authorised but cannot be compelled to carry out (**authorised proposals**).*
- (4) *Warranted development and authorised proposals are referred to as **permitted development** because the owners corporation of the strata scheme and other persons having estates or interests in lots included in the parcel must allow it to be carried out in accordance with the strata development contract.*

There is no Warranted development to be carry out in this consent.

An SDC must include a concept plan. The concept plan is required to separately illustrate the sites proposed for and the nature of building works that will result in the carrying out of permitted development and identifying what is warranted development.

This development application seeks Council to endorse an SDC by way of signing a Certificate of Planning Authority attached to that SDC.

Clause 75 of the Strata Schemes Development Act 2015 (**SSD Act**) outlines the obligations of planning authorities in relation to an SDC as follows:

75 Obligations of planning authorities

- (1) *A planning authority must not grant planning approval for the subdivision of land by a strata plan for the purposes of the development in stages of a parcel under this Part unless—*
- (a) *the proposed strata plan includes a development lot, and*
 - (b) *the application for the planning approval is accompanied by a proposed strata development contract.*
- (2) *When a planning authority grants a planning approval in accordance with this section, it must certify in the approved form that carrying out the permitted development would not contravene—*
- (a) *any condition subject to which the approval was granted, or*
 - (b) *the provisions of any environmental planning instrument in force when the approval was granted, except to the extent, if any, specified in the certificate.*

(3) A planning approval that purports to have been granted in contravention of this section is invalid.

This current development application is accompanied by a Strata Development Contract prepared in the Approved Form and includes a concept strata plan.

The SDC details that Stage 1 of the development:

- Is illustrated in the accompanying strata plan;
- Will be completed upon registration of the plan;
- Contains lots 1 to 21;
- Upon registration of Stage 1 it is intended to create development lot(s) 22, 23 & 24 (being Stages 2, 3 and 4):
 - Stage 2 – Lot 22
 - Stage 3 – Lot 23
 - Stage 4 – Lot 24

The developer has detailed that Stages 2, 3 and 4 are Authorised Proposals – proposed development not subject to a warranty. The approval of this application does not include nor imply the granting of development consent for the construction of buildings or removal of any vegetation.

The land (Lot 100 in DP 1023183) is burdened by a Positive Covenant. The terms of that Positive Covenant require the bushland on site to be managed, conserved, rehabilitated and protected as documented in an approved Biodiversity Management Plan. The carrying out of the strata subdivision as sought does not impact the terms of the Positive Covenant and the consent authority may be satisfied that the bushland will be maintained as intended by the parent development consent. A condition shall be applied to highlight this and ensure it is captured in the strata plan.

The consent authority is satisfied that carrying out of permitted development as detailed on the SDC would not contravene any condition subject to which the approval was granted, nor the provisions of any environmental planning instrument. The terms of the Positive Covenant remain and the protection of bushland must continue.

State Environmental Planning Policy (SEPP) 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 and approved for industrial/warehouse purposes. 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 strata subdivision land use.

SEPP 44 – Koala Habitat Protection

The provisions of this policy apply as the site is greater than one hectare in size. The site does not represent potential or core koala habitat. The development sought does not constitute the carrying out of physical works which may endanger koala habitat.

Accordingly, no further consideration of the policy is required

Warringah Local Environmental Plan 2011 (WLEP 2011)

The B2 Oxford Falls Valley locality (which cover the land subject to this Application) under the WLEP 2000 were proposed to be zoned E3 Environmental Management in the draft 2009 version of Warringah's standard instrument. This was based on a detailed translation methodology that was applied to all land within the former Warringah LGA.

In December 2011, the Minister for Planning, Industry and Environment deferred land in the Oxford Falls Valley and Belrose North areas from the Warringah Local Environmental Plan 2011 (WLEP 2011) in response to stakeholder concern regarding the adequacy of consultation during the preparation of WLEP 2011.

Accordingly, WLEP 2011 and the current Warringah Development Control Plan 2011 do not apply to this application.

Warringah Local Environmental Plan 2000 (WLEP 2000)

Clause 14(2) classifies *subdivision* as Category 2 development and as such, no Independent Public Hearing is required for the proposed Strata subdivision of the approved development. The application is referred to the Local Planning Panel for determination due a staff conflict of interest.

Desired Future Character

WLEP 2000 applies to the subject land and the DA is made pursuant to this instrument. Under WLEP 2000, the subject site is within the B2 Oxford Falls Valley Locality and the proposed development, being development for the strata subdivision of the industrial/warehouse development, is classified as a Category 2 Development.

Pursuant to clause 12 of WLEP 2000, before granting consent for development, the consent authority must be satisfied that the development is consistent with any relevant General Principles of Development Control in Part 4 of WLEP 2000, and any relevant State Environmental Planning Policy described in Schedule 5 (State Policies).

Furthermore, clause 12 indicates that before granting consent for development, the consent authority must be satisfied that the development will comply with the relevant requirements made by Parts 2 and 3, and the development standards for the development set out in the Locality Statement for the locality in which the development will be carried out.

Finally, clause 12 states that before granting consent for development classified as Category Two or Three, the consent authority must be satisfied that the development is consistent with the Desired Future Character (DFC) described in the relevant Locality Statement.

The DFC statement for the B2 locality states as follows:

B2 Oxford Falls Valley Locality

The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.

Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There

will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its Catchment and will ensure that ecological values of natural watercourses are maintained.

The proposed development, being for strata subdivision of the already approved industrial/warehouse development, will not alter the developments compliance with the desired future character statement of the locality, change the existing character of Oxford Falls Valley, nor compliance with the general principles of development control.

The proposal for strata subdivision does not involve any physical works, and does not change any physical characteristics of the locality, simply a legal division of the development for separate ownership of individual units and land.

Built Form Controls

The proposed development is for strata subdivision of the approved development, therefore no changes are proposed to the built form controls.

The housing density requirements apply only to Torrens Title Subdivision and is not applicable to strata subdivision.

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

The General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development. The relevant general principles are addressed below.

General Principles	Applies	Comments	Complies
CL38 Glare & reflection	No	No changes are proposed to the approved development.	Not Applicable
CL39 Local retail centres	No	The site is not located within a Local Retail Centre.	Not Applicable
CL40 Housing for Older People and People with Disabilities	No	No Comment	Not Applicable
CL41 Brothels	No	No Comment	Not Applicable
CL42 Construction Sites	No	No construction work is proposed as part of this application.	Not Applicable
CL43 Noise	No	No changes are proposed to the approved	Not Applicable

General Principles	Applies	Comments	Complies
		development.	
CL44 Pollutants	No	No Comment	Not Applicable
CL45 Hazardous Uses	No	No Comment	Not Applicable
CL46 Radiation Emission Levels	No	No Comment	Not Applicable
CL47 Flood Affected Land	No	The site is not located within, or near to, any identified flood affected land.	Not Applicable
CL48 Potentially Contaminated Land	Yes	The requirements of Clause 48 have been addressed under 'State Environmental Planning Policy No.55 – Remediation of Land' in this report.	Yes
CL49 Remediation of Contaminated Land	No	No Comment	Not Applicable
CL49a Acid Sulfate Soils	No	The site is not located within, or near to, any land categorised as containing acid sulphate soil.	Not Applicable
CL50 Safety & Security	No	No comment	Not Applicable
CL51 Front Fences and Walls	No	No front fence is proposed.	Not Applicable
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	No	No changes are proposed to the approved built form.	Yes
CL53 Signs	No	No signage is proposed as part of this application.	Not Applicable
CL54 Provision and Location of Utility Services	No	No Comment	Not Applicable
CL55 Site Consolidation in 'Medium Density Areas'	No	No Comment	Not Applicable
CL56 Retaining Unique Environmental Features on Site & CL58 Protection of Existing Flora	No	No vegetation are proposed to be removed as part of this application.	Not Applicable
CL57 Development on Sloping Land	No	No comment	Not Applicable
CL59 Koala Habitat Protection	Yes	There no koala activities identified on site and therefore the proposed development is consistent with the requirement of this Clause.	Yes
CL60 Watercourses & Aquatic Habitats	No	No comment	Not Applicable
CL61 Views	No	No new buildings are proposed	Not Applicable
CL62 Access to sunlight	No	No new buildings are proposed	No Applicable
CL63 Landscaped Open Space	No	No comment	No Applicable
CL63A Rear Building Setback	No	No comment	No Applicable

General Principles	Applies	Comments	Complies
CL64 Private open space	No	No comment	Not Applicable
CL65 Privacy	No	No comment	No Applicable
CL66 Building bulk	No	No comment	No Applicable
CL67 Roofs	No	No comment	No Applicable
CL68 Conservation of Energy and Water	No	No comment	Not Applicable
CL69 Accessibility – Public and Semi-Public Buildings	No	There are no public or semi-public buildings in the development	Not Applicable
CL70 Site facilities	No	No comment	Not Applicable
CL71 Parking facilities (visual impact)	No	No change are proposed to the approved parking facilities.	Not Applicable
CL72 Traffic access & safety	No	No comment	Not Applicable
CL73 On-site Loading and Unloading	No	No comment	Not Applicable
CL74 Provision of Car parking	No	No comment	Not Applicable
CL75 Design of Carparking Areas	No	No comment	Not Applicable
CL76 Management of Stormwater	No	No comment	Not Applicable
CL77 Landfill	No	No comment	Not Applicable
CL78 Erosion & Sedimentation	No	No comment	Not Applicable
CL79 Heritage Control	No	No Comment	Not Applicable
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	No	No Comment	Not Applicable
CL81 Notice to Heritage Council	No	No Comment	Not Applicable
CL82 Development in the Vicinity of Heritage Items	Yes	The adjoining land on the northwest of the subject site is identified as Conservation Area. The proposed development does not extend into the Conservation area and therefore, the proposal will have no impact upon the significance of the heritage conversation area. The proposed development is consistent with the requirement of this Clause.	Yes
CL83 Development of Known or Potential Archaeological Sites	No	No comment	Not Applicable

Schedule 8 - Site analysis

Adequate site analysis documentation has been submitted with this application.

Schedule 17 – Car parking Provision

No changes are proposed to the approved car parking scheme.

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;
- Warringah Local Environment Plan 2000;
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects and all other documentation supporting the application and public submissions.

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

- 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 Local Planning Panel as the consent authority grant Development Consent to DA2020/0437 for Strata Subdivision of the approved industrial/warehouse development at Lot 100 DP 1023183 Part Lot 1046 DP 752038 Part Lot 1047 DP 752038 Part Lot 1053 DP 752038 Permissive Occupancy 88/31 A/C 174235 Closed Crown Road Licence 199961, 100 / 0 Meatworks Avenue, Oxford Falls subject to the conditions printed below.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed:

Adam Mitchell, Principal Planner

The application is determined under the delegated authority of:

Peter Robinson, Executive Manager Development Assessments

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
Location Plan	26 November 2020	Paul Anthony Cechellero
Location Plan (Easements) (Part 1 of 2)	26 November 2020	Paul Anthony Cechellero
Location Plan (Easements) (Part 2 of 2)	26 November 2020	Paul Anthony Cechellero
Ground Floor Plan (Part 1 of 3)	26 November 2020	Paul Anthony Cechellero
Ground Floor Plan (Part 2 of 3)	26 November 2020	Paul Anthony Cechellero
Ground Floor Plan (Part 3 of 3)	26 November 2020	Paul Anthony Cechellero
Ground Floor Plan (Easements)	26 November 2020	Paul Anthony Cechellero
Mezzanine Floor Plan (Part 1 of 2)	26 November 2020	Paul Anthony Cechellero
Mezzanine Floor Plan (Part 1 of 2)	26 November 2020	Paul Anthony Cechellero

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Strata Development Contract (Approved Form 8, 27 sheets)	Undated	Unspecified

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

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,
 - 1(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.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE

3. Provision of Services for Subdivision

The applicant is to ensure all services including water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan of subdivision. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that utility services have been provided to the newly created lots.

4. Right of Carriageway

The Applicant shall create a right of carriageway (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision and accompanying 88B instrument, to include all vehicular access and manoeuvring areas. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919.

5. Sydney Water Compliance Certification

The Applicant shall submit a Section 73 Compliance Certificate under the Sydney Water Act 1994 issued by Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and fees to be paid. Please make early contact with the coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

Reason: To ensure compliance with the statutory requirements of Sydney Water.

6. Easement for Services

The Applicant shall create an easement for services (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision, to accompany the Section 88B instrument to ensure all utility services are located within the appropriate easement(s).

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

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.

7. Release of Subdivision Certificate

The final plan of subdivision will not be issued by Council until the development has been completed in accordance with terms and conditions of the development consent DA2011/0985.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919.

8. Subdivision Certificate Application

The Applicant shall submit a Subdivision Certificate Application to Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919, four copies of the final plan of subdivision and all relevant documents including electronic copies. This documentation is to be submitted to Council prior to the issue

of the Subdivision Certificate. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919.

9. Survey Plan – Construction Identification

The Applicant shall submit a declaration by a registered surveyor shall be provided as evidence that all construction has been effected within the appropriate property, easement boundaries and rights of carriageway. This shall be in the form of a copy of the final subdivision or easement plan, with the distances from the boundaries to the edges of these structures endorsed in red thereon and signed by the surveyor. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure accurate location of buildings, access and services.

10. Title Encumbrances

The Applicant shall ensure all easements, rights of carriageway, positive covenants and restrictions as to user as detailed on the plans and required by the development consent are to be created on the title naming Council as the sole authority empowered to release or modify.

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

Reason: To ensure proper management of land.

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

11. Allocation of parking spaces (strata title)

All carparking spaces are to be assigned to individual units. All units must be assigned a minimum of one parking space. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability for residents in accordance with section C3 of Warringah Council's Development Control Plan.

12. Allocated Parking Spaces (retail/commercial)

Parking allocated to this development must be clearly signposted and linemarked as being for the exclusive use of this development. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability.

13. Bushland Lot

The residual lot 25 is to be incorporated as a lot into the Strata Plan, either as common property or as a private lot.

The Bushland Covenant applying to the land pursuant to Condition 26 of Development Consent DA2011/0985 shall remain in force. For clarity, nothing in this consent revokes, terminates or modifies the terms of that covenant.

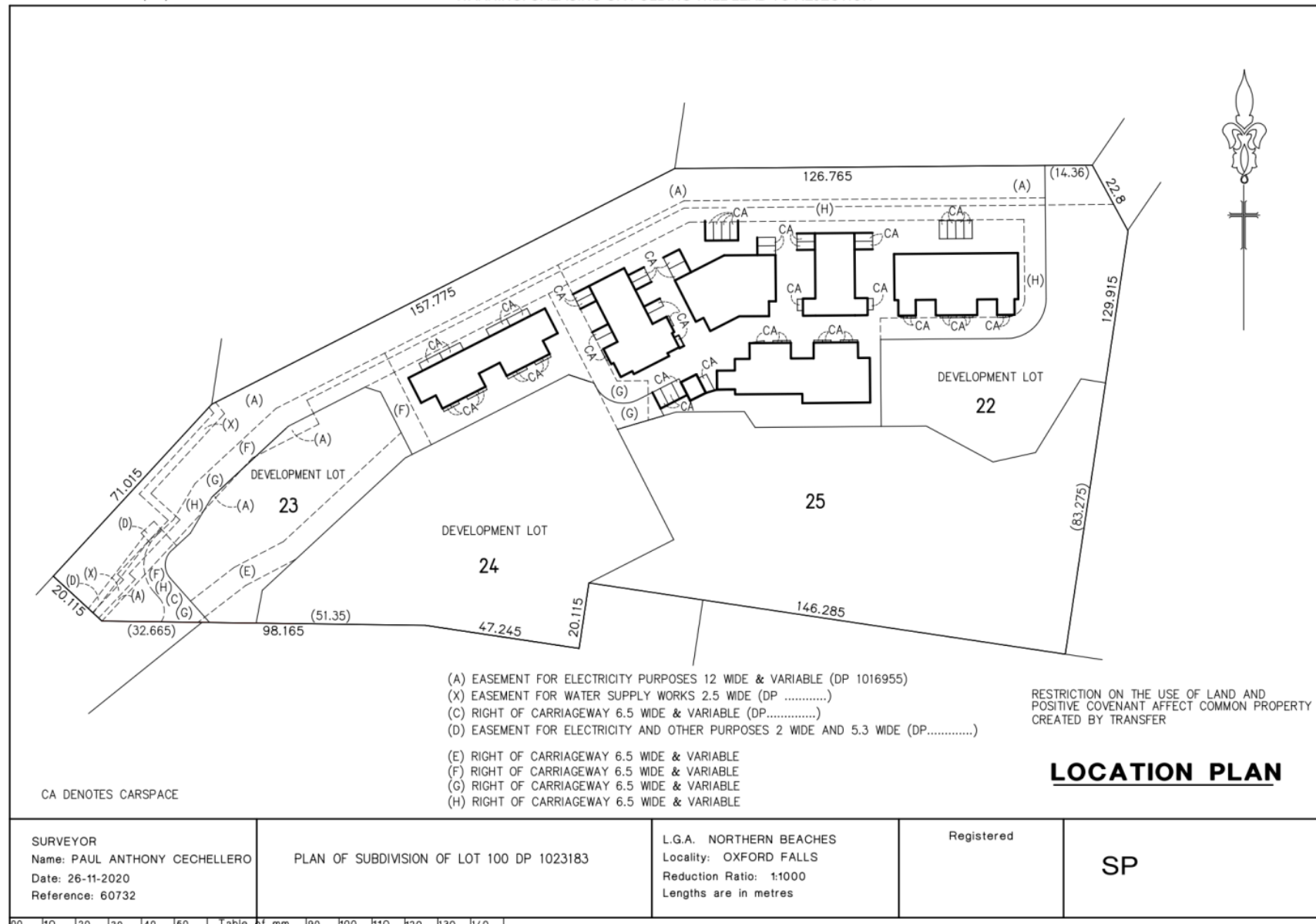
Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Subdivision Certificate.

Reason: To ensure the management and conservation of bushland.

PLAN FORM 1 (A3)

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

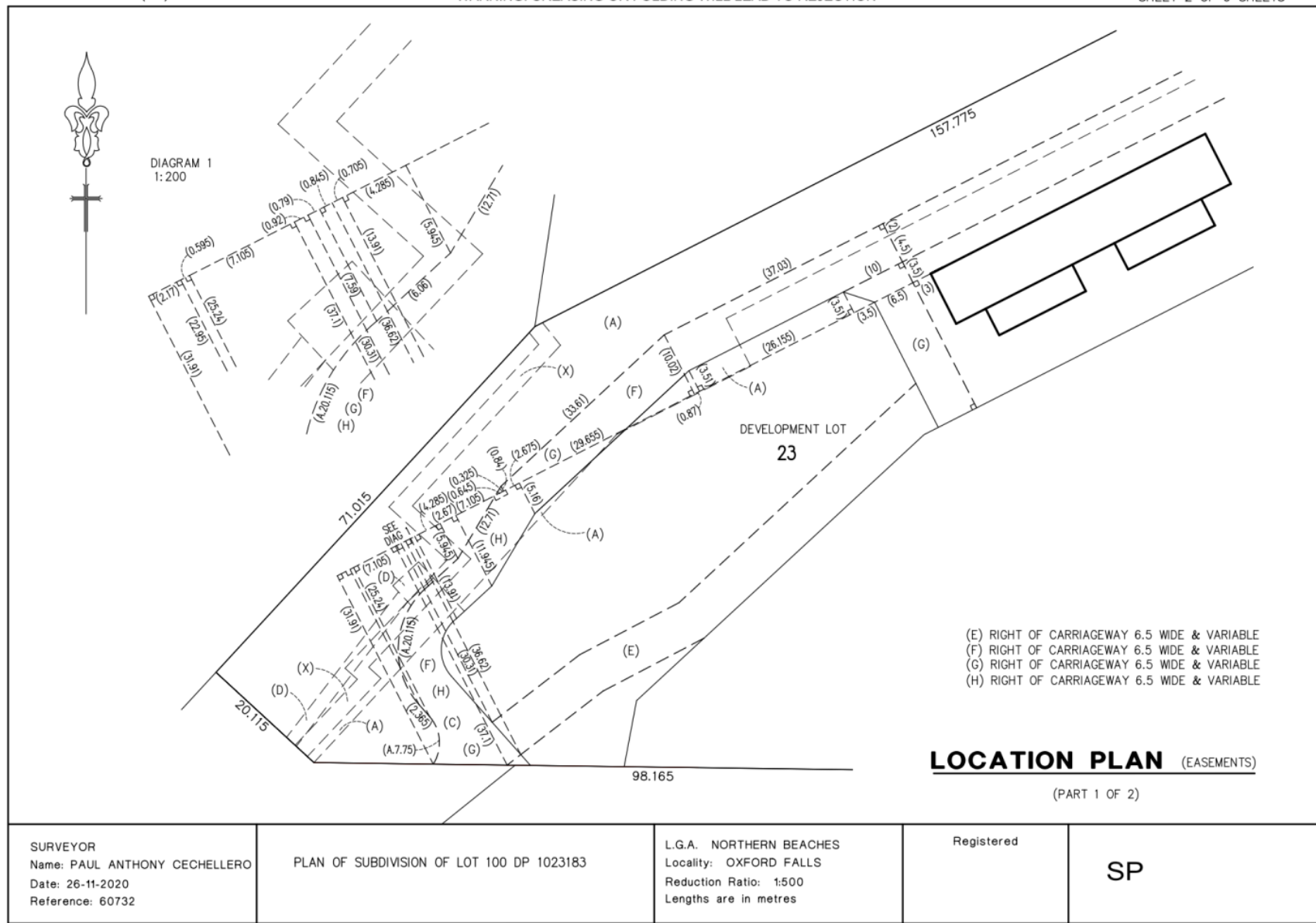
SHEET 1 OF 9 SHEETS



PLAN FORM 1 (A3)

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

SHEET 2 OF 9 SHEETS



PLAN FORM 1 (A3)

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

SHEET 3 OF 9 SHEETS

