

AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL

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

WEDNESDAY 6 JULY 2022

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



Peter Robinson
Executive Manager Development Assessment

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 6 July 2022

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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

Nil

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 15 JUNE 2022

RECOMMENDATION

That the Panel note that the minutes of the Northern Beaches Local Planning Panel held 15 June 2022 were adopted by the Chairperson and have been posted on Council's website.

4.0 PUBLIC MEETING ITEMS

ITEM 4.1	DA2021/1841 - 7 - 8 CORONATION STREET, MONA VALE - DEMOLITION WORKS AND CONSTRUCTION OF A SENIORS HOUSING DEVELOPMENT.
AUTHORISING MANAGER	Steve Findlay
TRIM FILE REF	2022/379711
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plans & Elevations 3 ↓ Design & Sustainability Advisory Panel Report

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2021/1841 for Demolition works and construction of a seniors housing development on land at Lot 35 DP 25446, 8 Coronation Street, MONA VALE, Lot 34 DP 25446, 7 Coronation Street, MONA VALE, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1841
Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 35 DP 25446, 8 Coronation Street MONA VALE NSW 2103 Lot 34 DP 25446, 7 Coronation Street MONA VALE NSW 2103
Proposed Development:	Demolition works and construction of a seniors housing development
Zoning:	R2 Low Density Residential
Development Permissible:	Yes, under SEPP (Seniors or Persons with a Disability) 2004
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	Yes
Owner:	Rosina Josephine Schraner
Applicant:	Gartner Trovato Architects
Application Lodged:	08/10/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	12/05/2022 to 26/05/2022
Advertised:	Not Advertised
Submissions Received:	31
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 4,632,564.00

EXECUTIVE SUMMARY

This application seeks consent for the demolition of two existing dwellings and pool and the construction of eight (8) independent living apartments with a single level of basement car parking for sixteen (16) cars. The proposed development is defined as Seniors Housing, which is permissible by virtue of the now repealed State Environmental Planning Policy (SEPP) Housing for Seniors or Persons with a Disability (HSPD) 2004, however the new "SEPP Housing" 2021 contained a relevant savings provision which affects this application.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as more than ten (10) submissions have been received.

The application was referred to the Design and Sustainability Advisory Panel (DSAP) on 16 December 2021, who advised that they supported the proposal subject to a number of specific recommendations. The application has been amended to address the DSAP recommendations, including; the deletion of the projecting balcony from the established building line along Coronation Street and the introduction of a break in the centre of the front facade to modulate the development into two separate pavilions to ensure the building is compatible with the low-density character of the locality which comprises detached dwellings in single lots. The proposal exceeds the 30% landscape area requirement under SEPP (HSPD) and the development is well articulated and setback between 10m and 16.8m from the street frontage in a landscape setting comparable with the surrounding residential area.

The height, density, bulk and scale of the proposal generally meets the PLEP 2014 and P21DCP built form controls and the proposal is considered to be a compatible with the character of the Mona Vale locality. As such, the design appropriately responds to the built form and landscape character despite the FSR of 0.63:1, which exceeds the 0.5:1 SEPP (HSPD) standard. The SEPP (HSPD) FSR standard is not a development standard which must be complied with and the development, as amended, demonstrates that adequate regard has been given to the design principles set out in Clause 31 of SEPP (HSPD).

The internal amenity of the apartments comply with the relevant provision of SEPP (HSPD) and P21 DCP with good levels of sunlight access, natural ventilation and large usable areas of private open space. Conditions are recommended to require external privacy screens to habitable windows on the side elevations to ensure that there are no unreasonable impacts on neighbouring amenity by way of overlooking or cross-viewing. The height of the development has been reduced 700mm at the rear of the site to minimise impacts on views and a condition requires the solar panels on the roof to Units 07 and 08 to be re-located to the lower roof. The proposal complies with the solar access provisions of SEPP (HSPD) and the P21 DCP and will not result in unreasonable overshadowing to neighbouring properties.

The development provides compliant car parking and, subject to conditions, a safe accessible pedestrian footpath and crossing is provided to the bus stops on both sides of Coronation Street.

The public exhibition of the application resulted in twenty-eight (28) unique submissions being received to the original notification, all of which raised issues and concerns in relation to; overdevelopment of the site (excessive height, FSR and excavation), out of character with the locality due to density, bulk and scale issues, amenity impacts (overshadowing, view loss and visual and acoustic privacy), transport (parking, road safety and not accessible), excavation and construction impacts.

The amended plans were re-notified, resulting in an additional six (6) submissions which are from those that made a submission to the original notification, plus one (1) new submission. The matters raised in the submissions are detailed in this report, and in summary, it is found that the matters raised are not of such severity or consequence that would warrant further amendments or the refusal of the application.

On balance, the assessment of the proposed development against the applicable planning controls and related legislation concludes with a recommendation that the NBLPP should grant approval to the development application, subject to the set of conditions provided.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for demolition works and construction of a two (2) storey building over a

single level of basement car parking, accommodating sixteen (16) car parking spaces and eight (8) self-containing x three (3) bedroom apartments pursuant to the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

In detail the application seeks consent for:

Basement RL21.67

- excavation to a depth of 6.7m
- new driveway
- sixteen (16) car parking spaces with EV charge stations
- bike store
- bulky goods store
- gas and electrical metre store
- OSD tank
- lobby and lift access
- fire stair

Lower Ground Floor RL24.6

- two (2) x three (3) bedroom apartments
- lobby and lift access
- six (6) storage rooms (below ground)
- water storage tank

Ground Floor RL27.7

- four (4) x three (3) bedroom apartments
- lobby and lift access

First Floor RL30.8

- two (2) x three (3) bedroom apartments with 23sqm west facing terrace
- lobby and lift access

Roof RL27.67 - RL33.8

- solar panels
- skylights
- lift shaft RL34.35

External

- pedestrian footpath within the western boundary
- covered bin-store
- covered letterboxes
- landscaping - including the removal of two (2) protected trees and planting of four (4) new canopy trees
- materials - weatherboard cladding (dark and mid grey), stone cladding, painted render (warm dark grey, light grey and off white), roof - standing seam metal roof (basalt), off form concrete

and pebble roof balast (river pebble), metalwork - fences and pergolas (monument) and timber screens.

Other

- pedestrian footpath to the northern street frontage
- re-located existing bus stop along eastern side of Coronation Street from the frontage of No. 11 to the frontage of No. 9 Coronation Street
- new pedestrian refuge along Coronation Street

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
Pittwater 21 Development Control Plan - A4.9 Mona Vale Locality
Pittwater 21 Development Control Plan - C1.3 View Sharing
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - D9.3 Building colours and materials
Pittwater 21 Development Control Plan - D9.9 Building envelope
Pittwater 21 Development Control Plan - D9.12 Fences - General

SITE DESCRIPTION

Property Description:	Lot 35 DP 25446, 8 Coronation Street MONA VALE NSW 2103 Lot 34 DP 25446, 7 Coronation Street MONA VALE NSW 2103
Detailed Site Description:	The subject site consists of two (2) allotments located on the south-western side of Coronation Street, Mona Vale.

The consolidated site is regular in shape with a frontage of 33.5m along Coronation Street and a depth of 45.8m. The site has a surveyed area of 1,533m².

The site is located within the R2 Low Density Residential zone from Pittwater Local Environmental Plan 2014. Each lot accommodates a detached part two storey brick and tiled roofed dwelling with a garage below. A swimming pool is located in the rear yard of No. 7 Coronation Street. There is no significant vegetation on the site and there is a fall approximately 3.5m across the site in a northerly direction.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by detached one and two storey detached dwellings in single lots set back from the road in landscape settings. Mona Vale Hospital is located directly across the road to the north-east which has range of buildings which vary in height from two (2) storey to six (6) storey. South Mona Vale Headland Park is located approximately 180m to the east and Pittwater Road is located approximately 190m to the west.

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:

DA2021/1841 (Current Application)

On 5 October 2021, the subject application was lodged.

Design and Sustainability Advisory Panel (DSAP)

On 16 December 2021, the application was presented to the Design and Sustainability Advisory Panel (DSAP). DSAP advised that they are generally supportive of the proposal subject to a number of specific recommendations. Refer to the detailed discussion of DSAP recommendations in the Referral section of this report.

On 10 January 2022, a letter was sent to the applicant raising issues with respect to the density, scale and character / streetscape impacts, amenity impacts, including view sharing and privacy and issues raised by DSAP and others Council Departments including Transport, Engineering and Waste Management.

On 21 February 2022, amended plans were received in response to the issues raised. The amended plans were assessed as not satisfying the concerns.

On 25 March 2022, a further set of amended plans were received, which were also assessed as not satisfying the concerns.

On 22 April 2022, a final set of amended plans were received, which were uploaded on the NSW Planning Portal on 28 April 2022. The amended plans included the following:

- increased building setback to the street boundary
- relocate decks from within the 12.2m front setback
- revised internal layout, re-orient lift and reduce foyer size
- revised layout to lift lobby and bulky goods store in basement
- increase in bin store and extension of roof over entry pavilion to cover bin storage area
- revised materials and finishes
- reduction in the rear roof by 700mm over units 07 and 08
- relocation of solar panels from the lower roof to the upper roof
- redesign of the street frontage to provide a break in the building 4m wide and 6.5m deep
- increased windows to the rear setback and reduced windows to the side setback
- amendments to the accessible path and pedestrian refuge to the southbound bus service crossing Coronation Street and amended Traffic report
- amended stormwater drainage plan

On 9 May 2022, the application was re-notified in accordance with the Northern Beaches Community Participation Plan (NBCPP) for fourteen (14) days to all those that were originally notified and all those that made a submission to the original notification.

On 6 June 2022, a revised Site Analysis plan was submitted to Council detailing some minor changes to the infrastructure works relating to pedestrian paths and crossing to the bus stops on Coronation Street. The revised plan was uploaded on the NSW Planning Portal on 21 June 2022.

This Assessment Report is based on an assessment of the final set of amended plans and supporting information uploaded on the NSW Planning Portal on 28 April and 21 June 2022.

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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(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 of consent. <u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested to address issues with the design (scale and character /font setback), accessibility requirements and amenity impacts (privacy and view loss sharing). <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <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. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. <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. <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.

Section 4.15 Matters for Consideration	Comments
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 12/05/2022 to 26/05/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

Name:	Address:
Ms Joanne Lesley Louder	12 Coronation Street MONA VALE NSW 2103
Mr Andrew Peter Prentice	46 Cook Terrace MONA VALE NSW 2103
Mr Graham Gordon Taylor	5 Coronation Street MONA VALE NSW 2103
Dr Andrew John Black	12 Coronation Street MONA VALE NSW 2103
Ms Sally Anne Hunt	16 Cook Terrace MONA VALE NSW 2103
Mrs Roslyn Annette Black	34 Cook Terrace MONA VALE NSW 2103

Name:	Address:
Mr Mark James Williams	170 Narrabeen Park Parade MONA VALE NSW 2103
Mr Christopher Mark Logan	123 Narrabeen Park Parade MONA VALE NSW 2103
Mr Christopher Raymond Anscomb	30 Cook Terrace MONA VALE NSW 2103
Mrs Susan Gale Miller	13 Cook Terrace MONA VALE NSW 2103
Ms Hilary Anne Doling	188 Narrabeen Park Parade MONA VALE NSW 2103
Mr Mark Klass Wysman	PO Box 870 NARRABEEN NSW 2101
Mr Kevin Francis Shanahan	162 Narrabeen Park Parade MONA VALE NSW 2103
Mr Darrel Leonard Hannam	32 Cook Terrace MONA VALE NSW 2103
Mrs Caroline Diane Hare	26 Cook Terrace MONA VALE NSW 2103
Mr Robert Donald Davis Mrs Carole Ann Davis	140 Narrabeen Park Parade MONA VALE NSW 2103
Ms Joanne Frances Trevitt Mr R Trevitt	39 Cook Terrace MONA VALE NSW 2103
Mrs Marja-Leena Keeping	44 Cook Terrace MONA VALE NSW 2103
Mrs Julie Claire Loud	10 Coronation Street MONA VALE NSW 2103
Michael Wall	176 Narrabeen Park Parade MONA VALE NSW 2103
Mr Philip Thomas Gough	4 Coronation Street MONA VALE NSW 2103
Ms Dimity Jane Sawyer	156 Narrabeen Park Parade MONA VALE NSW 2103
Mr Howard Fraser McIntosh	3 Coronation Street MONA VALE NSW 2103
Mr Dieter Stoecker	37 Cook Terrace MONA VALE NSW 2103
Martin Kuskis	2 / 178 Narrabeen Park Parade MONA VALE NSW 2103
Mr Jeffrey David Raubal Mrs Gayleen Raubal	158 Narrabeen Park Parade MONA VALE NSW 2103
Mrs Suzanne Margaret Taylor	5 Coronation Street MONA VALE NSW 2103
Mr David William Couldwell	9 Coronation Street MONA VALE NSW 2103
Mr Tristian Loud	10 Coronation Street MONA VALE NSW 2103
Mr Mark Hendrik Einspinner	48 Elimatta Road MONA VALE NSW 2103
Northern Beaches Designs	PO Box 870 NARRABEEN NSW 2101

It is noted that multiple submissions have been received from the same address, which in accordance with the Northern Beaches Community Consultation Plan (NBCPP) are counted as one (1) unique submission. Therefore, it is calculated that twenty-eight (28) submissions have been received. In addition, it is noted that a number of submissions are pro-forma letters.

The following issues were raised in the submissions and are addressed as follows:

- **Land Use - Does not comply with the R2 Low Density Zone and is inconsistent with the Northern Beaches Housing Strategy and SEPP (Housing) 2021.**

Comment:

Seniors Housing developments are prohibited in the R2 Low Density Residential zone under the PLEP 2014, however, the development is made permissible under the provisions of SEPP

(HSPD) 2004 which overrides the PLEP. The superseding SEPP (Housing) 2021 contains a general savings provision (Schedule 7(2)) for development applications made, but not yet determined, prior to the Policy's commencement (1 March 2022). As the subject application was lodged in October 2021, SEPP (HSPD) 2004 still applies. It is also noted that the Northern Beaches Housing Strategy is not a relevant matter in assessment of this application.

The proposal has been assessed under the applicable planning controls relating to the development application at the time of lodgement.

- **FSR - Exceeds the SEPP (HSPD) 0.5:1 FSR control. The density, bulk and scale is inappropriate and the development represents over-development.**

Comment:

The proposed development, as amended, has an FSR of 0.63:1. As discussed within the SEPP (HSPD) section of this report, the 0.5:1 FSR is not a development standard, but a standard that cannot be used to refuse a Development Application should it not exceed that standard. The development has adequate regard to the design principles set out in Clause 31 of the SEPP (HSPD). Refer to detailed discussion in the SEPP (HSPD) section of this report.

Furthermore, the application was considered by the DSAP who confirmed that, subject to minor design changes in respect of the front setback and materials, there will be no unreasonable impact on neighbouring amenity or the built form or landscape character of the locality. It is noted that the development complies with the maximum height limit and exceeds the minimum P21 DCP requirements for side and rear setback and the SEPP (HSPD) landscape open provisions, as such, the density of the development has been assessed as appropriate.

- **Height - Exceeds the SEPP (HSPD) 2 storey limit (clause 40), the proposal is for a 4 storey building.**

Comment:

No part of the development exceeds two storeys in height.

- **Development within rear 25% - Part of the building is located within the rear 25% area of the site contrary to Clause 40 of the SEPP (HSPD).**

Comment:

The only portion of the building within the 25% rear area is an ancillary pergola above the ground level rear terraces to Units 05 and 06. As such, the proposal complies with this standard.

- **Character - the proposal is in-consistent with desired character of area which presents low density one (1) dwelling per lot. The proposal breaches the established front building line and represents a medium density apartment block rather than a detached dwelling contrary to SEPP (HSPD).**

The proposal is out of character with the Mona Vale locality and streetscape and will have a negative visual impact on the public domain street and when viewed from neighbouring properties. Medium density housing should be located within and around commercial centres consistent with the Mona Vale Locality statement.

Comment:

SEPP (HSPD) allows for a greater density of development in the R2 Low Density Residential zone. Despite this, the proposal has been amended to remove the elevated front balconies from the established building line and the development, as amended, is setback from the street in a landscape setting to respect the landscape character of the area. In addition, the amended design introduces a significant break in the front elevation to ensure that the building is modulated into two separate pavilions to respond to the character of the area which comprises detached dwellings in single lots.

The front facade is articulated with balconies and a varied materials palette to reduce the perceived bulk of the development in the streetscape and the landscaping softens the built form. In addition, the bulk and scale of the development, as observed from the neighbouring properties has also been reduced with the amended plan lowering the height over Unit 07 and Unit 08. In summary, the proposal has been assessed as being compliant with Clause 31 of SEPP (HSPD) and is consistent with the desired future character of the Mona Vale locality.

- **Parking and road safety - Insufficient on-site car parking (including visitors) and impacts on availability of on street parking. Road safety issues, particular concern expressed in respect of impacts on access to the urgent care centre at Mona Vale hospital.**

Comment:

The proposal provides compliant car parking and will not result in a loss of on-street public parking. Subject to conditions, the proposal as amended, will not result in road safety issues. Please refer to the comments from Council's Transport in the referral section of this report.

- **Accessible - more than 400m from Mona Vale shops, no suitable footpath or pedestrian crossing.**

Comment:

Bus stops are located along Coronation Street within a distance of less than 400m of the site which will provide access to the services in Mona Vale. The amended plan includes details of a safe pedestrian footpath and crossing to the bus services. Council's Transport Engineer has confirmed that the proposal is acceptable subject to conditions.

- **Amenity impacts:**

Visual privacy impacts with windows to habitable rooms overlooking windows and area of private open space to neighbouring dwellings.

Acoustic privacy impacts, including noise mechanical plant and air conditioning.

View loss to properties in Cook Terrace, height poles are required to be installed and a view analysis should be prepared.

Overshadowing impacts to southern neighbours.

Comment:

Visual Privacy - the proposal includes details of external privacy screens to some of the habitable windows on the south elevation. Conditions are recommended to require privacy

screens to other upper floor habitable windows to ensure that there is no unreasonable overlooking or cross-viewing, refer to detailed discussion under Clause C1.5 of the P21 DCP.

Acoustic Privacy - Council's Environmental Health Section have confirmed that an exhaust output is located near the centre of the roof and would be unlikely to cause noise nuisance for surrounding residents.

Any air conditioning plant installed after the development has been completed according to current plans is legislated to comply with Exempt and Complying Development Code and Protection of Environment Operations (Noise Control) Regulation 2017, thus general consent conditions of this nature (background +5 dB(A)) would be superfluous.

View loss - the proposal reduces the height of the development by 700mm to the rear. A condition requires the solar panels on the roof of Units 07 and 08 to be relocated to the lower roof to ensure there is no unreasonable view loss, refer to detailed discussion under Clause C1.3 of the P21 DCP.

Overshadowing - shadow diagrams have been submitted which confirm that the proposal complies with the solar access provisions of SEPP (HSPD) and Clause C1.4 of the P21DCP.

- **Excavation - Impacts of excessive 7m deep excavation on neighbouring properties are not addressed in the SEE in accordance with Clause 7.2 of PLEP. Conditions are required to be imposed to ensure there are no impacts to neighbours including dilapidation reports.**

Comment:

The application is supported with a Geotechnical Report prepared by White Geotechnical Group, which refers to a maximum depth of excavation of 6.7m. The report confirms that the proposed development, including excavation, is suitable for the site and that subject to compliance with the recommendations in the report, that no geotechnical hazards will be created. Conditions are included in the recommendation requiring compliance with the Geotechnical Report, which are required to be incorporated into the construction plans and certified at all stages of the development. In addition, conditions are recommended requiring a Dilapidation Report to be prepared addressing all adjoining properties.

- **Landscaping is undesirable some of the proposed trees will grow to 25m in height and further impacts views and access to sunlight.**

Comment:

Council's Landscape Officer has no objections to the landscape plan submitted and provided advice that; the adjoining rear properties at No. 30 and 32 Cooks Terrace have existing tree planting along the rear boundary ranging in height from 5m to 8m and some species are likely to reach 10m - 12m in maturity. The rear of property at 8 Coronation Street has existing trees along the rear of the property that are between 5m -7m in height and are capable of attaining up to 10m in height if retained. The existing landscaping, including vegetation on other adjoining sites, currently impacts on solar access.

The tree planting to the rear of the proposed development comprises one (1) eucalyptus haemastoma (Scribbly Gum) which is a small sized open canopy tree at best seen to a mature height of 8m -12m, and two (2) x eucalyptus capitellata which is a medium sized open canopy tree at best seen to a mature height of 10m-15m. The open canopy of both trees is unlikely to

represent overshadowing over and above the presence of the existing trees on adjoining properties. Likewise, the proposed planting is unlikely to result in any additional view loss issues.

The proposed landscape planting is consistent with the provisions of SEPP (HSPD) and the P21DCP. The planting will help reduce the visual bulk of the development and will help enhance visual and acoustic privacy between the future residents of the development and neighbouring residents.

- **Roof materials - there is a conflict with the details on the plans and sections. Clarification is sought.**

Comment:

It is noted that the amended plans included a change in the location of the solar panels from the lower roof above Units 03 and 04 to the higher roof above Units 07 and 08 which in turn has resulted in a change in the material of the lower roof to pebbles on concrete roof. In order to ensure that view sharing is maintained, a condition requires the solar panels to be re-located back to the original position on the lower roof. The higher roof is proposed to be metal and a condition requires the material to be non-reflective to avoid glare nuisance.

- **Precedent - approval will allow other medium density developments to be constructed in the area.**

Comment:

It is not expected that the proposal will result in a precedent for other Senior Developments in the surrounding area, particularly in light of the new SEPP (Housing) 2021 which prohibits such development in R2 Low Density Residential zones.

- **Construction impacts - noise, dust and traffic.**

Comment:

Conditions are recommended to manage construction impacts, including but not limited to conditions that restrict the construction hours, the requirement for an approved Construction Traffic Management Plan (CTMP) and a Demolition Traffic Management Plan and a condition requiring dust to be managed. Conditions require respite periods to be provided to ensure breaks from noise generating activities during excavation.

- **Utility and service impacts.**

Comment:

Conditions are recommended to ensure that utility services are not impacted.

- **Devalue property.**

Comment:

This is not a material planning consideration under S4.5 of the EPA Act, 1979.

Amended Plans

On 9 May 2022, the application was re-notified in accordance with the Northern Beaches Community Participation Plan (NBCPP) and the amended plans were placed on exhibition for fourteen (14) days to all those that were originally notified and all those that made a submission to the original scheme. An additional six (6) letters of objections were received from persons that lodged a submission in response to the original notification, plus one (1) new submission. The letters re-iterated the above issues and also raised the following new issues:

- **The amended plans reduce the roof height by 700mm, however, the reduction in height has been replaced with solar panels which result in the same net effect of view loss. No RLs have been provided for the solar panels.**

Comment:

As discussed above, a condition is recommended requiring the solar panels to be re-located back to the lower roof to ensure that view sharing is maintained. While no RL's have been included for the solar panels the architectural plans are to scale which enable the height of the angled solar panels to be calculated at a maximum height of 400mm.

- **The re-location of the bus stop in front of the neighbouring dwelling is not supported as it will add to acoustic impacts with buses stopping and people gathering to use the bus service and road safety issues. The proposed paths and re-located bus stops will result in a loss of on street parking. The public domain infrastructure works will impact on road safety particularly with respect of view lines.**

Comment:

Council's Transport Engineer has confirmed that the proposed infrastructure works relating to pedestrian paths, crossing and the re-located bus stops will not have unreasonable impacts on road safety. In addition, the proposal will result in no net loss of on street car parking spaces.

Buses will only stop briefly when passengers board or alight at the new bus stop. Buses will not idle for long periods of time as the bus stop is not at the start or end of the route. It is not expected that the re-location of the bus stop will result in unreasonable acoustic impacts to No. 9 Coronation Street, given that it is setback 13m from the frontage of the dwelling. The new restrictions near the relocated bus stop will improve visibility for vehicles exiting the driveway at No. 9 as currently parked vehicles can obstruct sightlines. The proposed pedestrian refuge will also have traffic calming effects by narrowing the road for approaching traffic.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	Supported (Subject to Specific Recommendations) The application was presented to the DSAP on 16 December 2021. The Panel generally indicated support for the proposal, subject to the following specific recommendations:

Internal Referral Body	Comments
	Scale, built form and articulation <i>1. Consideration should be given to setting the front of the building further back into the site. Ideally it should be brought in line with the established building line of neighbouring properties. Failing that, the balconies could be made lighter weight.</i> <u>Response:</u> The proposal has been amended to delete the projecting elevated front balconies from the ground floor to respond to the established building setback in the street to comply with Recommendation No. 1. Access, vehicular movement and car parking <i>2. Consideration should be given to moving the basement entry further to the north-east along the street frontage and relocating parking bays for units 01 & 08 perpendicular to the western side boundary. Any reduction in the overall width of the basement would be beneficial.</i> <u>Response:</u> The applicant has confirmed that options have been considered to address the recommendation, however, have not been considered feasible due to the topography of the site. The applicant notes that the alternative design will not result in any further reduction to the basement size and would require a relocation of the lift shaft / increase the height of the lift shaft, increase in the building footprint and require a steeper decent into the garage. The applicant's justification is supported, and Council's Transport Engineer has no objections, subject to conditions, to the basement design, access and car parking which is compliant. The basement is setbacks from all boundaries in compliance with the P21DCP setback controls and the geotechnical report includes recommendations to ensure there are no unreasonable impacts on the excavation to neighbouring properties. Landscape <i>3. The proponent could consider a light-weight non-habitable green roof above units 07 & 08 in order to minimise heat gain and potentially mitigate potential residents to the South of the site from Cooks Terrace looking over metal roof expanses.</i> <u>Response:</u> The amended plans re-locate the solar panels to the roof above Units 07 and 08, which sit at a higher level than the roof above Units 03 and 04. A condition requires the solar panels to be re-located back to the lower roof to minimise view loss and visual impacts to the properties

Internal Referral Body	Comments
	along Cooks Terrace to the rear. It is not considered necessary to have a green roof above Units 07 and 08 which may add extra depth to the roof slab and as a consequence extra height to the overall development. It is noted that the BASIX certificates confirms that the proposal exceeds the energy rating. In terms of view impacts to the neighbouring properties to the rear of the metal roof view loss inspections confirm that the views over the roof will be filtered with the with existing and proposed planting. Amenity <i>4. Consideration should be given to enlarging some of the living rooms in several apartments.</i> <i>5. Consideration should be given to relocating the projecting balconies to apartments 03 & 04 into the recess at the centre of the building on either side of gridline B.</i> <u>Response:</u> The lobby to all levels has been reduced and the internal layout of the units has been amended with the generous living areas. All units have good access to natural light and ventilation in compliance with the relevant SEPP (HSPD) standards. The projecting front balconies have been removed to respond to the established building line and in turn the perceived bulk and massing of the development has been reduced. In addition, a break in the building has been introduced to the frontage to ensure that the development reads as two separate well articulated modules / pavilions which also breaks up the bulk and scale of the development. The amended plans adequately address the requirement of Recommendations 4 and 5. Facade treatment / aesthetics <i>6. Consideration should be given to simplifying the façades and reducing the number of materials and colours;</i> <i>7. Consideration should be given to making elements on the front façade, like the balconies, less dominant.</i> <u>Response:</u> The materiality of the facades has been simplified with the relocation of the projecting balconies and an appropriate varied palette of materials using dark natural colours is proposed which helps articulate the building to reduce the perceived visual bulk. The amended plans address the requirements of Recommendations 6 and 7. Sustainability <i>8. Target electrification by changing to heat pump hot water;</i> <i>9. Create a natural ventilation path in the common lobby areas from the ground floor through to the windows in the top floor;</i> <i>10. Consideration should be given to linking the photovoltaics direct to</i>

Internal Referral Body	Comments
	<i>some of the apartments to maximize use of the produced energy</i> <u>Response:</u> The BASIX certificate confirms that the proposal achieves an energy rating of 93 which surpasses the target of 50 and a condition requires compliance with the BASIX certificate. The proposal includes sustainability measures including solar panels on the roof and EV charging points for the car parking spaces in the basement.
Building Assessment - Fire and Disability upgrades	Supported, subject to conditions No objections to proposed demolition of existing site structures and construction of 8 x 3 bedroom seniors house dwellings with associated basement parking a pursuant to SEPP (Housing for Seniors or People with a Disability) 2004 subject to conditions.
Environmental Health (Acid Sulphate)	Supported, subject without conditions Acid sulfate soils unlikely in this location, we agree with the conclusions in section 4.2.2 of the SEE. Geotech report photos of soil samples also clearly demonstrate orange clay and dark top-soil, no yellow sulfuric colouration. The proposal is supported without further investigation.
Environmental Health (Industrial)	Supported, subject without conditions We have no objection to the proposal. Of concern are acoustic amenity impacts, but there is no air conditioning or mechanical plant identified in the documentation. An exhaust output is located near the centre of the roof and would be unlikely to cause noise nuisance for surrounding residents. Any air conditioning plant installed after the development has been completed according to current plans is legislated to comply with Exempt and Complying Development Code and Protection of Environment Operations (Noise Control) Regulation 2017, thus general consent conditions of this nature (background +5 dB(A)) would be superfluous.
Landscape Officer	Supported, subject to conditions The development application is for the demolition of the existing site structures, and the construction of 8 x 3 bedroom seniors house dwellings with basement parking, and associated external works. Council's Landscape Referral section have assessed the application against the following relevant landscape controls and policies: • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004: clause 33 Neighbourhood amenity and streetscape, and clause 34 Visual and acoustic privacy. • Seniors Living Policy: clause 2. Site Planning and Design; and clause 3. Impacts on Streetscape.

Internal Referral Body	Comments
	• Pittwater 21 DCP including: B4.22 Preservation of Trees and Bushland Vegetation; C1.1 Landscaping; C1.21 Seniors Housing; C1.24 Public Road Reserve - Landscaping and Infrastructure, and D9 Mona Vale Locality. Under clause 33 of Housing for Seniors or People with a Disability, development should - (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and (f) retain, wherever reasonable, major existing trees, and (g) be designed so that no building is constructed in a riparian zone. Under clause 34 of Housing for Seniors or People with a Disability, development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping. The application documents note that the total landscaped area of 794m² or 51.8% of the site exceeds the minimum requirement, and the total deep soil landscaped area exceeds the required 15%, under the Seniors Living Policy controls. A Landscape Plan and a Arboricultural Impact Assessment is submitted with the application. The existing site contains many exempt species as listed in the DCP that do not require Council consent for management or removal, and the site also supports five prescribed trees protected under the DCP that requiring consent if proposed for removal. The proposal requires the removal two prescribed trees and proposes to retain three. All exempt species are recommended for removal in the Arboricultural Impact Assessment and in this instance, Council raise no concerns, including the removal of the two nominated prescribed trees, subject to tree replacement throughout the site. All existing street trees including within the road verge frontage of the site, and all existing trees and vegetation within adjoining properties shall be protected, and conditions of consent shall be imposed. The submitted Landscape Plan is generally acceptable subject to conditions including: appropriate location of trees away from the proposed basement, building structures and from other trees; selection of alternative tree planting species; addition of small trees along boundaries in areas, and density of landscape planting.
NECC (Development Engineering)	Supported, subject to conditions <u>Updated Comments dated 17 June 2022</u> The proposed stormwater plan with the proposed extension of the Council pipeline along the southern side of Coronation Street is satisfactory. No objections to approval subject to conditions as recommended.

Internal Referral Body	Comments
	<u>Original Comments</u> Stormwater The stormwater plan proposing to discharge to the council system across Coronation Street is not satisfactory as there is no pipeline on the northern side in the location shown. The pipe connection across Coronation Street is not supported. The site discharge shall be connected to the Council system on the southern side of Coronation Street. This will require extending the council pipeline up to the subject site on the southern side. Details of the extension of the Council system shall be provided including conflicts with other services in the road reserve. The OSD design is satisfactory subject to conditions. Driveway Access The proposed width and internal driveway gradients are satisfactory. Footpath Access to Bus Stops Traffic engineer has raised concerns regarding the footpath access to the bus stops which are to be resolved before Development Engineering can provide conditions. The proposed application cannot be supported by Development Engineering due to lack of information to address: • <i>Stormwater drainage for the development in accordance with clause B5.15 Stormwater</i>
NECC (Water Management)	Supported, subject to conditions The application meets the minimum requirements of the relevant Environmental Planning Instruments and policies. Stormwater harvesting (rainwater tanks) and reuse for irrigation of the landscape area is highly recommended.
Road Reserve	Supported, subject to conditions There is limited impact on existing road infrastructure assets. The construction of new footpath to provide connectivity to public transport is supported subject to a s138 Road Act application. The footpath alignment may need modification to ensure excessive crossfalls at driveway intersections are avoided.

Internal Referral Body	Comments
	Transport Network Team to give consideration to providing a pedestrian refuge island for the crossing of Coronation Street at a suitable location given the width of the carriageway. Given the development is for housing for Seniors or People with a Disability, the outbound bus stop shall be reconstructed to comply with Disability Standards for Accessible Public Transport and a standard Council bus shelter provided for the protection of the elderly and/or disabled whilst waiting for bus services. Development Engineering Team to provide condition regarding same as part of S138 application.
Traffic Engineer	Supported, subject to conditions <u>Updated Comments 16/6/22</u> The Applicant has considered Council's comments and has modified the proposal to further address safe pedestrian access to the bus stop and minimise the impacts to the existing parking. The additional information provided and amended proposal satisfactorily addresses the concerns raised with respect to traffic and parking. The proposal is considered acceptable, subject to the recommended conditions. <u>Previous Comments 4/3/22</u> The Applicant's traffic consultant has provided a number of Options for the pedestrian crossing treatment, to facilitate access between the Development and the bus stop on the northern side of Coronation Street. Council has reviewed each of the Options with the following comments: Option 1 - Kerb Extension in front of site - This is indicated in the Traffic Assessment as the preferred Option, as the proposed kerb extensions narrows the roadway to approximately 7m and does not require lengthy 'No Stopping' restrictions on the southern side of the road. Coronation Street is a collector road which carries higher traffic volumes and the roadway is too wide for pedestrians, especially more vulnerable users. A pedestrian refuge which enables pedestrians to cross the road in two stages, is considered safer for seniors or people with a disability than the proposed kerb extensions that only reduces the roadway to 7m. The location of the crossing point is also of concern as it is near one of the main entrances to the Hospital, where there is additional conflict with vehicles turning in and out of the access driveway. The proposal will also result in the loss of 2 on-

Internal Referral Body	Comments
	street parking spaces on the southern side between the new driveway and the driveway to No.9. <i>Option 2 - Pedestrian Refuge in front of site</i> - This Option incorporates a pedestrian refuge and 'No Stopping' restrictions (103m) along the southern side of the road. It is noted that the proposal would affect parking on both sides of the road but in particular the southern side. Council notes that the proposed pedestrian refuge island would also impact driveway access to the development, and agrees that this location is not suitable for a pedestrian refuge. <i>Option 3 - Pedestrian Refuge and Kerb Extension near northern Bus Stop</i> - This Option incorporates a pedestrian refuge, kerb extensions and relocation of the bus stop on the southern side of the road. The Traffic Assessment mentions that the proposal impacts access to No.9 Coronation Street, however the proposed location of the pedestrian refuge islands will actually affect the driveway access to No.10. Parking is affected on both sides of the road. Council believes that Option 3 could be modified to address some of the deficiencies highlighted and minimise impacts to parking. The crossing point for the pedestrian refuge islands could be situated approximately 5m east of the driveway to No.10 to maintain access to the property, along with a new kerb extension to reduce the crossing points to 3.7m from each side to the pedestrian refuge. The existing angled parking on the northern side of Coronation Street is currently 90 degree angled parking. The parking between the Bus Stop ID: 210381 and the driveway at Gate No.3 to the Hospital, should be changed from 90 to 60 degree angled parking to assist entry and exit into the parking area, especially the spaces closest to the pedestrian refuge. The changes would result in the loss of 2 car park spaces, however it may be possible to create an additional parking space in the parking area located immediately west of the driveway at Gate No.2, by modifying the existing kerb extension and converting the last three spaces from 90 to 60 degree angled parking. A swept path analysis using a 12.5m bus is required to check that the suggested changes can maintain access to the Bus Stop ID: 210381.

Internal Referral Body	Comments
	Bus Stop ID: 210386 on the southern side of the road should be located immediately east of the driveway to No.9, so that the bus can stand between the driveways of No.9 and 10 to pickup/dropoff passengers. The 'No Stopping' restrictions will need to be installed from the new 'Bus Zone' to the property boundary of No.11 and 12. The relocation of the bus stop and new restrictions will result in the loss of only 1 on-street parking space compared to the existing restrictions. The bus stop locations would also need to be upgraded to meet the Disability Standards for Accessible Transport. Council notes that the Applicant's preferred proposal is Option 1 with kerb extensions in front of the site, however does not consider that the use of kerb extensions is adequate to provide safe pedestrian access to public transport for seniors or people with a disability, due to the road width and proposed location between the driveway to the Development and the driveway at Gate No.2 to the Hospital. The original Site Analysis Plan shows the crossing point located further east near the northern Bus Stop ID: 210381. This is considered a better location closer to both bus stops and midway between Gates No.2 and 3. Council believes that a pedestrian refuge would be more appropriate for a collector road and would accept the provision of a pedestrian refuge as a suitable treatment. The Applicant should therefore consider the suggested changes to Option 3 - Pedestrian Refuge and Kerb Extension near northern Bus Stop, and provide an updated plan with a swept path analysis so that it can be reviewed for further consideration. Design constraints for pedestrian refuge in Coronation Street Traffic lane (adjacent to refuge) - 3.7m Refuge island width - 2m Refuge island length - 3.5m Spacing between refuge islands - 3m (located 20m west of the property boundary of No.11 and 12) Relocated Bus Stop - East of driveway to No.9 <u>Original Comments 10/12/21</u>

Internal Referral Body	Comments
	The proposal is not acceptable in its current form as there are no convenient pedestrian facilities to assist seniors to safely cross the road to access the bus stop on the northern side of Coronation Street. However, the proposal may be acceptable with the provision of a suitably located pedestrian refuge to enable pedestrians to cross the road in two stages when there is a gap in traffic. Parking space numbers comply with SEPP 2004 requirements as well as the Pittwater 21 DCP with respect to 2 spaces provided for each dwelling with 2 or more bedrooms. The traffic generation from the proposal is considered to be of low impact. The proposal will generate 3 vehicle trips during the peak hours, which is an increase of 1 vehicle compared to the existing situation. <u>SEPP 2004 Requirements</u> The State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, requires that the proposed development should have obvious and safe pedestrian links that provide access to public transport services or local facilities. The proposed walking route to access the bus stop on the northern side of the road is located 80m from the site and requires pedestrians to cross the Coronation Street where the new kerb ramps are located. The 15m wide crossing point is not considered to be a suitable or safe access pathway for seniors. There is a signalised pedestrian crossing at the intersection of Pittwater Road and Coronation Street, however in order to use this facility a senior resident would be required to walk more than 200m on the southern side of the road, where there is no constructed footpath east of Melbourne Avenue and also no pedestrian refuge to assist crossing Melbourne Avenue. The existing pedestrian volumes (along with any future increase from the development) at the proposed crossing point are unlikely to meet the pedestrian numbers required by TfNSW guidelines for the approval of a marked pedestrian crossing and therefore the provision of a pedestrian refuge can only be considered.

Internal Referral Body	Comments
	<i>Design constraints for pedestrian refuge in Coronation Street</i> Traffic lane (adjacent to refuge) - 3.7m (maximum) Refuge island width - 2m (minimum) Spacing between refuge islands - 3m (minimum) Bus Stop relocation - permitted within 30m of existing location The provision of the required traffic and pedestrian facilities will impact the existing on-street parking, and hence the location and design of all facilities must be considered to minimise any overall loss of parking. A swept path analysis is required to demonstrate that a bus (minimum 12.5m in length) can safely access the bus stop and pass the new pedestrian refuge. Bus stops which are not currently DDA compliant would also need to be upgraded accordingly. It is also noted that Road Assets have also commented that the outbound bus stop should be reconstructed to be DDA compliant and that consideration be given for a pedestrian refuge due to the width of the carriageway. It is therefore requested that the Applicant consider the above comments regarding the required traffic and pedestrian facilities and provide an updated plan so that it can be reviewed for further consideration.
Waste Officer	Supported, subject to condition <u>Updated Comments February 2022</u> <i>Recommendation - Approval</i> <i>Information to be passed to applicant:</i>

Internal Referral Body	Comments
	Doors are not required on the bin enclosure as the bins cannot be viewed from the street. <u>Original comments</u> <i>Recommendation – Refusal</i> As this is a multiple occupancy proposal, Council will be providing a “wheel out / wheel in” service from Coronation Street. The owners corporation / building occupants are not to place the bins at the kerbside for collection. The bin storage facility is to be provided in accordance with Councils design guidelines. Specifically: <i>Residential waste storage room design and access</i> Service access for Council waste collection staff must be via a pathway that is separate to the vehicular driveway. Waste collection staff should not have to walk on the driveway to service the bins, nor should residents/visitors accessing the building. This will be resolved if the pathway to the building entrance leads directly to the property boundary. The gate providing access the waste storage area must be: a) Able to be latched in an open position to the wall for servicing without obstructing access and maneuvering of bins b) Unobstructed by any locks and security devices c) Minimum 1.2 metres wide It is not clear if there is a roof covering all of the bins in the Waste Storage Area. An external Waste Storage Area must: a) Have a minimum wall height of 1600mm. b) Be roofed with a minimum ceiling height of 2100mm throughout and clear of any obstructions. Please provide Council with detailed plan and section showing the roof on the

Internal Referral Body	Comments
	Waste Storage Area. <i>Bin allocation</i> The residential waste storage area must be able to accommodate 9 x 240 litre residential bins: 3 x garbage, 2 x paper recycling, 2 container recycling bins, 2 x vegetation bin. The dimensions for each bin are: · Depth: 750mm · Width: 600mm · Height: 1080mm <i>Bin room facilities</i> A tap for washing out the waste storage room is to be provided. The tap must not obstruct access ways and placement of bins. Wash water to be drained to the garden or sewer. The Waste storage area must not be used to store any other items including bulky goods and can't be used for any other infrastructure including gas meters, water meters, air con plant, etc. <u>Waste Management requires clarification of the following:</u> · Is the bin storage area level with the pedestrian pathway to the building <u>or</u> is there a kerb above which the bins are stored? (To comply with Council requirements access to the bin storage area must have no steps or gradients steeper than 1 in 8).

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.124461M dated 30 September 2021 prepared by Gartner Trovato Architects)
The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	44
Thermal Comfort	Pass	Pass
Energy	50	93

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

SEPP (Housing for Seniors or People with a Disability) 2004

The development application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) as the development is for in-fill self care housing.

Chapter 1 – Preliminary

The aims of the Policy are set out in Clause 2 and are as follows;

This Policy aims to encourage the provision of housing (including residential care facilities) that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and
- (b) make efficient use of existing infrastructure and services, and
- (c) be of good design.

Comment:

The proposed development will increase the supply and diversity of residences that meet the needs of seniors or people with a disability. The proposal has been amended to include revised pedestrian access to bus stops to address the concerns from Council's Transport Officer.

When considering the development against the aims of achieving good design, the development must be considered in context with the other provisions of the SEPP.

In order to ensure that the development exhibits good design, the application was referred to the

Design and Sustainability Advisory Panel (DSAP). The Panel generally supports the proposal subject to minor design amendments to address the established building line / character of the locality which are referenced in the discussion below.

Chapter 2 – Key Concepts

Comment:

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

Chapter 3 – Development for Seniors Housing

Chapter 3 of SEPP HSPD contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Clause 18 of SEPP HSPD outlines the restrictions on the occupation of seniors housing and requires a condition to be included in the consent if the application is approved to restrict the kinds of people which can occupy the development. If the application is approved the required condition would need to be included in the consent. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	The proposal has been amended to revise the pedestrian access path to bus stops that provided safe access to these services. Council's Transport Officer supports the amended design subject to conditions.	Yes
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400metres away.	Bus stops are located within a distance of less than 400m of the site and the amended design includes details of pedestrian paths to access the bus stops to the satisfaction of Council's Transport Engineer.	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	The site is not Bush Fire prone land.	N/A
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and	Given the existing residential use of the site, there is suitable access to water and sewerage infrastructure.	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
	sewerage infrastructure.		
29	Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b) (i), 25(5)(b)(iii), and 25(5)(b) (v): i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision, v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.	The proposed development is compatible with the surrounding residential use and was not subject to the requirements of Clause 25 for the attainment of a Site Compatibility Certificate. i) The DSAP note that there are sufficient areas of deep soil for canopy trees and significant trees are retained on the site which add to the character of the streetscape. iii) The site is serviced by existing infrastructure (electricity, water and sewerage). v) the proposal, as amended, reduces the bulk and scale of the development to respond to the character of the Locality. Subject to conditions relating to privacy the density, bulk and scale of the proposal will not have unreasonable impacts on the amenity of future occupants and neighbouring residents.	Yes
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A detailed site analysis plan has been provided and further details in the SEE which satisfactorily address this requirement.	Yes

Clause 31 Design of in-fill Self-Care Housing

Pursuant to Clause 31, in determining a development application to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the former NSW Department of Infrastructure, Planning and Natural Resources dated March 2004.

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

Section	Requirements	Comment
1. Responding to	Built Environment – New	The established built form in the

Section	Requirements	Comment
context	development is to follow the patterns of the existing residential neighbourhood in terms of built form. Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.	neighbourhood is characterised by low density detached one and two storey dwellings on single lots set back from the street frontage within a landscape setting. It is noted that Mona Vale Hospital is also located directly across the road to the north which is a development which varies in height from two (2) to six (6) storeys. The proposed development has been amended to increase the front setback of the development so as to respond to the established building line in the street, which is noted to be a desirable element of the location's character. In addition, a significant break (4.0m wide 6.5m deep) has been introduced in the centre of the front facade. The revised design separates the building into two modules/pavilions fronting the street, in order to ensure that the proposal responds to the low density character of the locality with detached dwellings on single lots. The front facade is articulated through the use of balconies, windows and a varied and appropriate palette of materials and finishes. The proposal, as amended, breaks up the mass of the building and the deep soil zones and landscape planting will help to soften the visual bulk of the development to ensure the development responds to the landscape and streetscape character of the locality.
2. Site Planning and design	Objectives of this section are to: -Minimise the impact of new development on neighbourhood character -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation.	As discussed above, the proposal as amended, minimises the impact of the development on the neighbourhood character. The proposed two storey development is setback from the street to respect the established building line within a landscape setting designed to minimise the visual impact on the neighbourhood character.

Section	Requirements	Comment
		The bulk and scale of the development has been broken up with a break in the front facade to help modulate the built form and the front elevation is articulated through the use of balconies and a varied materials palette. As discussed elsewhere in this report, DSAP supported the built form subject to a change in the front setback to reflect the established pattern. Car parking is provided within the basement which will have no visual impact on the surrounding area.
3. Impacts on streetscape	Objectives of this section are to: -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Minimise dominance of driveways and car park entries in streetscape.	The desirable characteristics of the existing streetscape include the established building line of approximately 11.0m and the low density residential character to Coronation Street, with one and two storey dwellings well setback in landscaped settings in larger single lots. As discussed under clause 2 above, the development, as amended, is setback from the street in a landscape setting to respond to the established front building line. A break has been introduced into the front elevation which ensures that the building reads as two separate articulated pavilions to break up the bulk and mass of the building.
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	Solar - Shadow diagrams have been submitted which confirm that the proposal complies with Clause 35 of the SEPP (HSPD) and Clause C1.4 of the P21DCP. The proposal will not result in unreasonable impacts of additional shadow on the private open space / windows to the neighbouring dwellings. Privacy - Conditions are included in the recommendation to ensure privacy screens are incorporated into the design of the upper floor windows on the north and south

Section	Requirements	Comment
		elevation to protect visual privacy to neighbouring residents. Refer to detailed discussion under Clause C1.5 of the P21 DCP. View loss - The height of the development to the rear and southern side has been reduced to allow for view sharing and reduce bulk. The proposal, as amended, will not result in any unreasonable view loss impacts. Refer to detailed discussion under Clause C1.3 of the P21 DCP.
5. Internal site amenity	Objectives of this section are to: -Provide safe and distinct pedestrian routes to all dwellings and communal facilities.	Subject to conditions, the proposal provides a safe distinct pedestrian access to the bus stops which are located on Coronation Street to the immediate north of the site.

Clause 32 Design of residential development In accordance with Clause 32 of SEPP HSPD a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 of Part 2.

The following table outlines compliance with the principles set out in Division 2, Part 3 of SEPP HSPD.

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	The site is located within a R2 Low Density Residential area. The desirable elements of the locations current character is the distinct pattern of detached low scale one and two storey dwelling dwellings set back approximately 11.0m from the frontage on single lots within a landscape setting. Mona Vale Hospital is located directly across the street which has a higher density and scale. The development, as amended, recognises the desirable elements of the locality. The setback to the frontage has been increased to respect the established building line and a break has been introduced to the frontage to respond to the low density character.	Yes

Control	Requirement	Proposed	Compliance
		The DSAP considers that the development responds appropriately to the locality subject to an increase setback to the frontage which has been adopted in the revised proposal as discussed above.	
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.	The subject site is not located in close proximity to any heritage items or a heritage conservation area.	N/A
	c. Maintain reasonable neighbour amenity and appropriate residential character by; (i) providing building setbacks to reduce bulk and overshadowing (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, (iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbors.	(i) Setbacks - A 10m - 13.2m setback is provided to the frontage to respond to the established building line. The building has a staggered setback to the side boundaries and a 11.7m - 13.8m rear setback all in excess of the minimum P21DCP requirement. The proposal, as amended, reduces the bulk and scale of the development to the sides and will not result in unreasonable overshadowing in compliance with the solar access SEPP (HSPD) and P21DCP provisions. (ii) Built Form - As discussed above, the built form has been assessed by DSAP to be contextually appropriate subject to recommendations which have been addressed in the amended plans. (iii) Heights - The development adopts a two storey built form that is consistent with the height of surrounding dwellings and compliant with the maximum	Yes

Control	Requirement	Proposed	Compliance
	d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape. f. retain , wherever reasonable, major existing trees, and g. be designed so that no building is constructed in a riparian zone.	height limit prescribed in the SEPP(HSPD) and the PLEP. (iv) Siting - As discussed above, the siting of the development responds to the establish front building line and exceeds the minimum side and rear setbacks. Subject to conditions, there are no unreasonable impacts on neighbouring amenity. As discussed above, the development has been amended to respond to the existing building line. The proposal retains significant canopy trees which will be enhanced with additional planting. Subject to conditions Council's Landscape Officer has no objections and the proposal adequately responds to the landscape character of the locality. As noted above, the proposal retains major existing canopy trees. The site is not mapped as being in a riparian zone.	Yes Yes Yes N/A
CL 34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in	The proposal includes privacy screens to some habitable room windows and conditions are recommended requiring privacy screens to other habitable windows located in the east and west elevations. The proposal is unlikely to result in unreasonable acoustic privacy impacts. The elevated terrace to Units 07 and 08 are set back from the side boundaries and the planter bed proposed around	Yes, subject to conditions.

Control	Requirement	Proposed	Compliance
	bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	the edge will help minimise acoustic and visual privacy impacts.	
CL35 Solar access and design for climate	The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	The proposal achieves compliant daylight access to the main living areas of the proposed units. As discussed above, the proposal complies with the solar access provisions of clause 35 and Clause C1.4 of the P21DCP. The site planning, design and landscaping reduces energy use with adequate natural ventilation and the use of solar panels on the roof. The BASIX certificate confirms that the proposal achieves an energy rate of 93 (target is 50).	Yes
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	Council's Development Engineer has confirmed that the drainage and stormwater plans are acceptable.	Yes
CL 37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins	The proposed development has been designed to meet the requirements of CPTED. The units to the front will overlook the public domain allowing for passive surveillance. The shared entries provide access to a maximum of four (4) units.	Yes

Control	Requirement	Proposed	Compliance
	any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.		
CL 38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	The proposed development has been amended to provide a safe pedestrian link from the site to the bus stops located along Coronation Street. The proposal provides a safe attractive environment for pedestrians and motorists with convenient access and parking for residents.	Yes
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The proposal has been amended to provide sufficient waste facilities to the satisfaction of Council's Waste Officer.	Yes

Part 4 - Development standards to be complied with

Clause 40 – Development standards – minimum sizes and building height

Pursuant to Clause 40(1) of SEPP HSPD a consent authority must not consent to a development application made pursuant to Chapter 3 unless the proposed development complies with the standards specified in the Clause. The following table outlines compliance with standards specified in Clause 40 of SEPP HSPD.

Control	Required	Proposed	Compliance
Site Size	1,000 sqm	1,533sqm	Yes
Site Frontage	20 metres	33.5m	Yes

Control	Required	Proposed	Compliance
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	7.1m 7.8m to the top of the solar panel	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	The building does not exceed two storeys in height	Yes
	A building located in the rear 25% of the site must not exceed 1 storey in height (development within 15.51 metres of the rear boundary).	No portion of the building is located within the rear 25% portion of the site.	Yes

Clause 41 Standards for hostels and self contained dwellings

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

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10 or 50% whichever is the greater.	The development is capable of complying with this requirement.	Yes, subject to conditions.
Security	Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings,	The development is capable of complying with this requirement.	

Control	Required	Proposed	Compliance
	and (b) Must provide at least 20 lux at ground level		
Letterboxes	Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel, and (b) must be lockable, and (c) must be located together in a central location adjacent to the street entry.	Letterboxes are shown adjacent to the pedestrian path at the entrance to the development.	Yes
Private car accommodation	(a) Carparking space must comply with AS2890 (b) One space must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power operated door or there must be a power point and an area for motor or control rods to enable a power operated door to be installed at a later date.	The parking space numbers comply with the SEPP (HSPD requirements with two (2) car parking spaces provided for each three (3) bedroom dwellings requiring a total of sixteen (16) spaces. Sixteen (16) car parking spaces are provided in the basement.	Yes
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	The development is capable of complying with this requirement.	Yes
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	The development is capable of complying with this requirement.	Yes
Bedroom	At least one bedroom within each welling must have: (a) An area sufficient to accommodate a wardrobe and a queen size bed (b) A clear area for the bed of at least 1200	The development is capable of complying with this requirement.	Yes

Control	Required	Proposed	Compliance
	mm wide at the foot of the bed and 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction. (c) Power and telephone outlets and wiring described in Clause 8 of Schedule 3.		
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	The development is capable of complying with this requirement.	Yes
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	The development is capable of complying with this requirement.	Yes
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	The development is capable of complying with this requirement.	Yes
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	The development is capable of complying with this requirement.	Yes
Ancillary items	Switches and power points must be provided in accordance with AS4299.	The development is capable of complying with this requirement.	Yes
Living & dining room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a general power outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.	The development is capable of complying with this requirement.	Yes
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	The development is capable of complying with this requirement.	Yes
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry	The development is capable of complying with this requirement.	Yes

Control	Required	Proposed	Compliance
	level.		
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	The development is capable of complying with this requirement.	Yes
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	The development is capable of complying with this requirement.	Yes
Garbage	A garbage storage area must be provided in an accessible location.	A suitable garage storage area is located at the frontage of the development in an accessible location.	Yes

Part 5 Development on land adjoining land zoned primarily for urban purposes

This part is not applicable to the subject site.

Part 6 Development for vertical villages

This part is not applicable to the proposed development.

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

Clause 46 Inter relationship of Part with design principles in Part 3. Clause 46 states that nothing in Part 7 permits the granting of consent pursuant to the Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.

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

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

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

Control	Required	Proposed	Compliance
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	7.1m to the ceiling of the topmost floor 7.8m to the top of the solar panels	Yes
Density and Scale	0.5:1 (766.5sqm)	0.63:1 (970.2sqm) breach 0.12:1 (203.7sqm) the amended proposal	Satisfactory on merit *Refer to detailed discussion below

Control	Required	Proposed	Compliance
		reduces the breach by 33.8sqm as compared to the original scheme	
Landscaped Area	30% of the site area is to be landscaped	50.5% (775.08sqm)	Yes
Deep Soil Zone	15% of the site area Two thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	44.5%	Yes
Solar Access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter	75% of units achieve solar access the remaining units (05 and 06) receive approximately 2 hours solar access through the north facing windows of the living area.	Yes
Private Open Space (POS)	(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and (ii) in the case of any other dwelling, there is a balcony with an	All areas of POS exceed the minimum requirement and the dimensions are compliant.	Yes

Control	Required	Proposed	Compliance
	area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area		
Parking	(10 bedrooms proposed – 5 carparking spaces required)	Eight (8) x three (3) bedroom units are proposed and eighteen (18) compliant car parking spaces are provided within the basement.	Yes
Visitor Parking	None required if less than 8 dwellings	Visitor parking is not provide which has been assessed by Council's Transport Engineer as acceptable.	Yes

Density and Scale

The Density and Scale standard is not a "Development Standard" for the purpose of Clause 4.6 and does not require a written request to vary this control. It is also noted that the PLEP 2014 does not have an FSR control.

Part 7, Clause 78 states: *"nothing in Part 7 permits the granting of consent pursuant to the Chapter if the Consent Authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3."*

In considering the inter-relationship between FSR and the design requirements set out in Part 3 Clause 31, the DSAP did not raise any issues in respect of impacts on neighbouring amenity. Despite this, conditions are recommended requiring external privacy screens to be attached to some windows to ensure that there are no unreasonable impacts in terms of overlooking. As discussed above, the proposal complies with the solar access provisions of SEPP (HSPD) and the P21DCP.

In terms of character, subject to front setback being amended to respond to the established building line, the DSAP did not have any issue with the density of the development in respect of it being contextually appropriate to the built form and landscape character of the locality. The proposal has been amended to incorporate the changes to the front setback as recommended by the DSAP. In addition, a break in the building has been introduced in order to ensure that an adequately articulated and modulated built form is presented to the street, to respond to the low density character of the area, with detached dwellings on single lots. The amended proposal results in a 33.9sqm reduction in the floorspace of the building.

The setback of the building exceeds the minimum side and rear setbacks and 50.5% of the site is retained as landscaped open space, which exceeds the 30% required under SEPP (HSPD). On balance, despite the proposed FSR of 0.63:1, the proposal complies with the design requirements set out in Clause 31 of the SEPP and the density and scale will not result in unreasonable impacts on

neighbouring amenity.

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 was received and therefore, it is assumed that no objections are raised, and no conditions are recommended.

Pittwater Local Environmental Plan 2014

Is the development permissible?	No (permissible via SEPP)
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	7.6m *7.8m to the top of the solar panels	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Detailed Assessment

7.2 Earthworks

Clause 7.2 (3) requires the consent authority to consider the following matters in deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks)

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

Comment:

The Geotechnical Report confirms that subject to compliance with the recommended conditions that the site is suitable for the development and will not result in any geotechnical hazards, impacts on drainage or soil stability or the amenity of adjoining properties. Conditions are included requiring compliance with the recommendations of the Geotechnical Report. In addition, conditions have been imposed requiring pre and post construction / excavation dilapidation reports to be prepared for adjoining properties.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front Building Line	6.5m or established building line which ever is greater Established building line approx 11.0m	Basement = 8.0m	N/A	Yes
		Lower Ground and Ground Level = 10.1m - 13.2m	N/A	Yes
		First Floor = 16.3 to terrace and 20.2m - 22.3m to external wall	N/A	Yes
		*Bin store 1.5m		Minor ancillary structure assessed as acceptable
Rear Building Line	6.5m	Ground level terrace 9.3m External wall 11.7m - 13.8m	N/A N/A	Yes Yes
Side Building Line	North 2.5m	Min 3.0m	N/A	Yes
	South 1.0m	Min 3.0m	N/A	Yes
Building	North 3.5m	Outside envelope	Refer to	No

Envelope		Breach 0.2m - 1.1m in height for a length of 7.3m	detailed discussion	
	South 3.5m	Outside envelope Breach 0.9m - 2.1m in height for a length of 7.3m	Refer to detailed discussion	No
Landscaped Area	60%	775.08sqm (inclusive of 6% variation) = 50.5%	9.5%	No *Complies with SEPP (HSPD) which overrides P21 DCP

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.21 Seniors Housing	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	Yes	Yes
D9.7 Side and rear building line	Yes	Yes
D9.9 Building envelope	No	Yes
D9.10 Landscaped Area - General	No	Yes
D9.12 Fences - General	No	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

A4.9 Mona Vale Locality

The Desired Character of the Mona Vale Locality requires:

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

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

As discussed under the heading "SEPP (HSPD)", the proposal, as amended, adequately responds to the built form and landscape character of the Mona Vale Locality. The development is setback in a landscape setting to respond to the established building line and the mass and bulk of the development is reduced with a "cut-out" in the centre of the front facade to ensure the design responds favourably to the low density pattern of detached low density dwellings on single lots.

The proposal generally complies with the built form controls and maintains a building height limit below the tree canopy. The facade is modulated and articulated through the use of balconies and use of the materials and detailing and the existing and proposed landscaping will help reduce soften the bulk and scale of the development.

C1.3 View Sharing

Merit Consideration

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

- A reasonable sharing of views amongst dwellings.

Comment:

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

1. Nature of the views affected

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

Comment to Principle 1:

View loss issues have been raised in submissions from neighbouring properties to the rear of the site at No. 28, 30, 32 and 39 Cook Terrace and height poles have been installed to assess the impacts. View loss inspections were offered to all neighbours that raised view loss concerns, however, access for inspections was only made available to No. 28 and 32 Cook Terrace.

The inspections confirms that the views that will potentially be affected from the proposal are views enjoyed from the rear windows and area of private open space at No. 28 and 32 Cook Terrace. The views are distant district views across Mona Vale golf course to the Mona Vale valley. Submissions also note that views towards the headland and foreshore to the north-west, north and north-east will also be affected, although this was not observed as being an issue at the time of the view loss inspection.

Whilst it was not possible to do a view loss inspection from No. 30 Cook Terrace, it is anticipated that the view impact will be similar to that from No. 28 and 32 Cook Terrace. No. 39 Cook Terrace (also known as 186 Narrabeen Park Parade) is located 115m to the east of the site and an external inspection from the street confirmed that there will no view loss impacts as a result of the proposal to this property given its location.

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

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

Comment to Principle 2:

As discussed above, views are enjoyed from the windows in the rear elevation of No. 28 and 32 Cook Terrace and the area of private open space (balconies). Views are enjoyed from both a standing and sitting position and are obtained across the rear and side boundary of the subject site as detailed below:

No. 28 Cook Terrace

District northern views are enjoyed towards Mona Vale golf course and Mona Vale valley on the diagonal across the rear and side of the site from the ground level open plan living, dining room and kitchen, the adjoining deck and a secondary living room, refer to photos below.

A secondary dwelling is located within the rear yard of No. 28 Cook Terrace. Mature vegetation is provided as boundary treatment along the rear boundary and the site inspection confirmed that there will be no views loss impacts from the secondary dwelling.



View from ground level open plan living room, dining room and kitchen



Siting view from rear deck looking diagonally across the site to the north-east



Siting view from secondary living room



View from secondary dwelling

No. 32 Cook Terrace

Significant mature vegetation is provided along the rear boundary of No. 28 Cook Terrace, which generally screens the proposed development from the ground floor window to the open plan living room and the rear deck and garden. In this regard, there is no view loss from the ground floor, refer to photos below.



View from ground level living room

Distant district views are enjoyed looking towards Mona Vale golf course and Mona Vale Valley from the upper floor bedroom, office and balcony, refer to photos below.



View from first floor office



View from first floor master-bedroom / balcony

- **3. Extent of impact**

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

Comment to Principle 3:

No. 28 Cook Terrace

It is agreed that the original design had the potential to result in some view loss from the open plan living / dining room adjoining deck and secondary living room.

While the original proposal generally complied with the built form controls, including maximum building height and minimum setbacks, the 3.4m high floor to ceiling height to the living area of Unit 08 was assessed as being excessive and contributed to view loss and unreasonable bulk and scale as viewed from neighbouring properties. In order to address this issue, the application has been amended to reduce the floor to ceiling height of Unit 08 to a 2.7m which results in a 700mm reduction to the overall height of the development to the rear.

However, the amended development also included the relocation of the solar panels from the lower roof above Units 03 and 04 to the higher roof above Units 07 and 08. The panels sit at an angle with a maximum height of 400mm above the roof level. The re-located solar panels will result in a similar net effect on view loss in addition to creating new issues with respect to visual clutter of the roof impacting the properties to the rear. In order to address this new issue, a condition is included in the recommendation requiring the solar panels to be re-located back onto the lower roof. Subject to this condition the view loss impact from No. 28 Cook Terrace has been assessed as **minor**.

No. 30 Cook Terrace

The established landscape screening along the rear boundary helps reduce the visual impact of the development to the ground floor and no likely view loss impacts were observed at the time of the inspection. Views from the upper floor bedroom, office and balcony will generally be retained over the roof of the proposed development, subject to a condition requiring the re-location of the solar panels to the lower roof, refer above.

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

As discussed above, the proposal is generally compliant with the built form controls with the exception of a minor breach in the building envelope which will not in itself contribute to view loss impacts. The original proposal including a 3.4m high floor to ceiling height to the living area of Unit 08, was assessed as being excessive and contributed to view loss impacts as viewed from neighbouring properties to the rear. The application has been amended to reduce the height of the development by 700mm to the rear and subject to a condition requiring the re-location of the solar panels to the lower level roof the design of the development is assessed as acceptable in terms of addressing principle 4. It is not considered that a more skilful design would produce a superior outcome as the view loss impacts are assessed as **minor**.

- *Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.*

Comment:

The proposal will not result in any unreasonable impacts on views from roads, water, the headland or beach.

- *Canopy trees take priority over views.*

Comment:

Canopy trees are retained where possible and re-planting included the planting of four (4) new canopy trees which take priority over views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C1.5 Visual Privacy

Clause C1.5 requires:

Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).

Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.

Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

Comment:

The following windows and elevated balconies are sited less than 9.0m from the existing windows in the neighbouring dwellings:

North Elevation

Level 1 (Unit 07)

- Dining room window 6.8m and balcony 7.8m to the northern boundary - assessed as acceptable as it overlooks the roof of No. 9 Coronation Street
- Bedroom windows 4.7m to the northern boundary - assessed as acceptable as this is small secondary window which will overlook part of the rear garden to No. 9 Coronation Street

Ground Level (Unit 04)

- Bedroom window 3.6m to northern boundary - assessed as acceptable as this is small secondary window which will overlook part of the rear garden to No. 9 Coronation Street
- Bedroom windows 3.6m to the northern boundary - privacy screens are required to this window as it is the only window to the bedroom

Ground Level (Unit 05)

- Bedroom windows 6.7m to the northern boundary - privacy screens are required to this window as it is the only window to the bedroom

Southern Elevation**Level 1 (Unit 08)**

- Dining room window 6.2m to the southern boundary - assessed as acceptable as it includes an external privacy screen.
- Balcony - 7.2m to the southern boundary - assessed as acceptable as it will over look the roof of No. 6 Coronation Street.
- Bedroom window 4.2m to the southern boundary - assessed as acceptable as this is small secondary window which will over look the neighbouring rear garden to No. 6 Coronation Street.

Ground Level (Unit 03)

- Bedroom window 3.6m to the southern boundary - assessed as acceptable as this is small secondary window

Ground Level (Unit 06)

- Bedroom window 6.2m to the southern boundary - privacy screens are required to this window
- Dining room window 4.2m to the southern boundary - privacy screens are required to this window

In summary, the location of the windows and elevated terraces are generally satisfactory and are orientated to the front and rear of the units. Where necessary, conditions are recommended requiring privacy screens to windows on the side elevations, which combined with the proposed landscaping planting, will ensure that there are no unreasonable impacts on neighbouring amenity in terms of overlooking consistent with the following outcomes of the control:

Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.

A sense of territory and safety is provided for residents.

D9.3 Building colours and materials

The proposed external palette of materials includes a combination of natural stone and timber in dark and earthy tones in compliance with the control.

D9.9 Building envelope

Clause D9.9 requires buildings to be sited within an envelope that measures vertically 3.5m on the boundary and a 45 degree angle.

Comment:

The proposal breach of the building envelope on the north and south elevation as detailed below:

North Elevation - breach (0.2m - 1.1m in height for a length of 7.3m) refer to image below:



North Elevation envelope breach (source Gartner Trovato)

South Elevation - breach (0.9m - 2.1m in height for a length of 7.3m) refer to image below:



South Elevation envelope breach (source Gartner Trovato)

A merit assessment of the development against the outcomes of the control is provided below:

To achieve the desired future character of the Locality.

Comment

As discussed throughout this report the proposal, as amended, responds to the desired future character of the locality.

To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.

Comment:

The elements that breach the building envelope are located to the side and rear of the building and will not be visible from the street.

The proposal has been amended to delete the projecting elevated balconies from the established

building line and introduce a break in the front facade, so that the building is modulated into two separate pavilions to reduce the density of the development having regard to the character of the locality. The proposal, as amended, presents an appropriate scale and density to the streetscape that sits below the height of the canopy trees and will have no adverse impacts on the visual quality of the streetscape.

To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.

Comment:

The proposal will have no unreasonable impact on the characteristics of the natural environment.

The bulk and scale of the built form is minimised.

Comment:

The bulk and scale has been assessed as acceptable noting that it generally complies with all other built form PLEP and P21DCP controls. The amended design presents an articulated and modulated facade and the built form is softened / minimised with landscaping planting.

Equitable preservation of views and vistas to and/or from public/private places.

Comment:

The height of the development has been reduced to the rear and subject to a condition requiring the re-location of the solar panels from the upper roof level the proposal, as amended, will not result in unreasonable view loss impacts.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.

Comment:

Subject to conditions requiring privacy screens to some of the habitable windows in the side elevation, the proposal will not result in unreasonable impacts on visual privacy. The proposal is consistent with the solar access provisions of the SEPP(HSPD) and P21DCP.

Vegetation is retained and enhanced to visually reduce the built form.

The proposal retains the significant canopy trees where possible and includes replacement planting for the trees that are required to be removed. The existing and proposed landscape planting will help reduce any perceived visual impact of the built form.

Comment:

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the relevant outcomes of clause D9.9 of the P21DCP.

D9.12 Fences - General

Clause D9.12 requires:

a. Front fences and side fences (within the front building setback)

Front and side fences (within the front building setback) shall:

*not exceed a maximum height of 1 metre above existing ground level,
be compatible with the streetscape character, and
not obstruct views available from the road.*

Fences are to be constructed of open, see-through, dark-coloured materials.

Landscaping is to screen the fence on the roadside. Such landscaping is to be trimmed to ensure clear view of pedestrians and vehicles travelling along the roadway, for vehicles and pedestrians exiting the site.

Original stone fences or stone fence posts shall be conserved.

b. Rear fences and side fences (to the front building line)

Fencing is permitted along the rear and side boundaries (other than within the front building setback) to a maximum height of 1.8 metres.

Comment:

The proposed boundary treatment to Coronation Street comprises a combination of low brick and sandstone walls and a dark coloured open see-through vertical metal fence. The combined height of the fence and wall vary between 1.1m and 1.9m in height. Despite the minor breach in the recommended 1.0m maximum height of the fence, the materials are acceptable and landscaping planting is proposed to the front of the fence which will reduce any perceived visual impact. The boundary treatment is generally consistent with the streetscape character which comprises low walls and screen planting.

The side fences along the northern boundary are compliant with the control being less than 1.0m in height. The southern boundary treatment comprises a combination of low brick and stone walls with dark coloured open / see-through vertical metal fences. In response to the changes in level, the fence and wall varies in height to between 600mm to 1.2m. Despite the minor 200mm breach in height, the design, materiality and location of the side fence is assessed as acceptable and is softened with landscape planting along the side boundary of the site.

A retaining wall is retained and new retaining walls are proposed to the rear of the site to create level gardens with a diving walls proposed between the ground floor gardens to Units 05 and 06.

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 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$46,326 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,632,564.

CONCLUSION

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

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

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

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

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

Overall Planning Conclusions

Height, Bulk, Scale and Character

The proposal generally complies with the built form controls of the SEPP (HSPD), PLEP 2014 and the P21 DCP, with the exception of the FSR and building envelope. The application was presented to the DSAP who supported the proposal, subject to a number of recommendations, and raised no issues with the height, bulk and scale of the development, despite the higher FSR. It is noted that the envelope breach will not result in any visual impacts to the street or unreasonable impacts on neighbouring amenity.

The DSAP recommendations have generally been incorporated into the amended plans, which included the removal of the projecting elevated balcony from the established building line and introduction of a physical break in the front facade to ensure that the development is modulated into two pavilions to respond to the desired characteristics of the Coronation Street streetscape and the Mona Vale Locality. The development is adequately articulated and a generous landscape setback is provided to ensure that the proposal is compatible with the built form and landscaped character of the locality.

Amenity

The internal amenity of the apartments is of a standard that complies with the relevant SEPP (HSPD) and P21DCP provisions and access to natural ventilation and solar access is provided to the apartments. The amended plans include privacy screens to upper floor habitable rooms on the southern elevation. Conditions require screens to be applied to other upper floor habitable windows on the north and south elevation, which together with landscape planting, will ensure that there is no unreasonable impact on neighbouring amenity in relation to privacy.

The proposal complies with the solar access provisions of SEPP (HSPD) and P21DCP. The height of the development has been reduced by 700mm to the rear and is subject to a condition to relocate the solar panels to the lower roof, so there will be no unreasonable impacts on view sharing to the properties to the rear in Cook Terrace.

Traffic, Parking and Road Safety

The amended proposal provides for a safe pedestrian access (footpath and crossing) to the bus stops located on Coronation Street in compliance with the accessibility requirements of SEPP (HSPD). The proposal provides compliant carparking and there will be no net loss of on-street parking as a result of the infrastructure works to the public domain.

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 DA2021/1841 for Demolition works and Construction of a seniors housing development on land at Lot 35 DP 25446, 8 Coronation Street, MONA VALE, Lot 34 DP 25446, 7 Coronation Street, MONA VALE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A00 Rev C Cover Page	April 2022	Gartner Trovato Architecture
A01 Rev D Site Analysis Plan	June 2022	Gartner Trovato Architecture
A02 Rev C Site Plan	April 2022	Gartner Trovato Architecture
A03 Rev C Basement Plan	April 2022	Gartner Trovato Architecture
A04 Rev C Lower Ground Floor Plan April 2022	April 2022	Gartner Trovato Architecture
A05 Rev C Ground Floor Plan	April 2022	Gartner Trovato Architecture
A06 Rev C First Floor Plan	April 2022	Gartner Trovato Architecture
A07 Rev C Elevations - North and South	April 2022	Gartner Trovato Architecture
A08 Rev C Elevations - East and West	April 2022	Gartner Trovato Architecture
A09 Rev C Sections	April 2022	Gartner Trovato Architecture

Engineering Plans		
Drawing No.	Dated	Prepared By
SW1 Stormwater Management Plan	12.01.2022	Barrenjoey Consulting Engineers
SW2 Basement Drainage Plan	12.01.2022	Barrenjoey Consulting Engineers
SW3 Stormwater Management Detailing 1	12.01.2022	Barrenjoey Consulting Engineers

SW4 Stormwater Management Detailing 2	12.01.2022	Barrenjoey Consulting Engineers
SW5 Stormwater Management Detailing 3	12.01.2022	Barrenjoey Consulting Engineers
CIV1 Sediment and Erosion Control Plan and Detailing	27.09.2019	Barrenjoey Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report Ref J3726	29.09.2021	White Geotechnical Group
Arboricultural Report	30.09.2021	Jacksons Nature Works
Transport Report Ref: 21063	28.09.2021	Terraffic Pty Ltd
Transport Report Ref 21063 Pedestrian Crossing Treatment*	29.01.2022	Terraffic Pty Ltd
Transport Letter Ref 21063	29.04.2022	Terraffic Pty Ltd
Accessibility Report Ref 21416	22.09.2021	ABE Consulting
BCA Assessment Report Ref 114700-BCA-r2	28.09.2021	BCA Logic

*Note: Option 3, as modified by Site Analysis Plan, Rev D, prepared by Gartner Trovato Architects dated June 2022 is approved

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
LA 01 Rev B Landscape Plan	19.04.2021	Gartner Trovato Architecture
LA 02 Rev B Landscape Plan	19.04.2021	Gartner Trovato Architecture

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	30.09.2021	Sean Gartner

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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a Seniors Housing development.

Seniors Housing is defined as:

a building or place that is:

- (a) a residential care facility, or
- (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or
- (c) a group of self-contained dwellings, or
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c), and that is, or is intended to be, used permanently for:
- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital.

*Note. Seniors housing is a type of residential accommodation—see the definition of that term in this Dictionary.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

3. **Prescribed conditions (Demolition):**

- (a) 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 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
 - (ii) 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.

- (b) 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.

- (c) 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.

Reason: Legislative Requirement.

4. **Telecommunications in New Developments**

Prior to the issue of the Construction Certificate in connection with the development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

and

- (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

Reason: To ensure that telecommunications infrastructure is considered early in the planning process.

5. **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.

6. **General requirements (Demolition):**

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- o 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) At all times after the submission a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.

(c) 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.

(d) 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.

(e) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

(i) 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.

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

7. 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.
*In accordance with the requirements of the CTMP (condition 18) respite periods shall be provided to ensure breaks from noise generating activities during excavation.

(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.

Reason: To ensure that works do not interfere with reasonable amenity expectations of

residents and the community.

FEES / CHARGES / CONTRIBUTIONS

8. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$46,325.64 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$4,632,564.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

9. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

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

10. **Construction, Excavation and Associated Works Security Bond (Road works)**

The applicant is to lodge a bond with Council of \$50 000 as security against any damage or failure to complete the construction of road pavement/shoulder reconstruction, footpath, driveway crossing, relocation of bus stops, line markings and kerb and gutter works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

The applicant is to lodge a bond of \$35 000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

12. **Construction, Excavation and Associated Works Bond (Maintenance for civil works)**

The developer/applicant must lodge with Council a maintenance bond of \$20 000 for the construction of civil works in the road reserve. The maintenance bond will only be refunded upon completion of the six month maintenance period, if work has been completed in accordance with the approved plans and to the satisfaction of Council. The maintenance bond is to be paid prior to Council issuing practical completion.

Reason: To ensure adequate protection of Council infrastructure.

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

13. **Tree Protection Plan**

a) A Tree Protection Plan shall be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate, demonstrating tree protection measures to protect the following trees as identified in the Arboricultural Impact Assessment:

i) tree numbers 1, 2, 5, 6, 7, 7A, 8, 9, 10, 11, 23, 24, and 25.

b) The Tree Protection Plan shall be prepared by an Arborist with minimum AQF Level 5 in arboriculture, incorporating the following:

- i) layout of the development, including existing and proposed underground services,
- ii) location of all trees identified for retention, including extent of canopy,
- iii) access routes throughout the site for construction activity,
- iv) location of tree protection fencing / barriers,
- v) root protection in the form of mulching or boards proposed within the tree protection zone,
- vi) trunk and branch protection within the tree protection zone,
- vii) location of stockpile areas and materials storage,
- viii) inspection hold points,
- ix) other general tree protection measures.

c) Tree protection methods are to be in accordance with AS4970-2009 Protection of Trees on

Development Sites.

Reason: Tree protection

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 29/9/2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

15. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

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

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

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

Reason: Protection of the receiving environment.

17. **Car Parking Standards**

The driveway/access ramp grades, access and car parking facilities must comply with the

Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1:2004.

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

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

18. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- Respite periods shall be detailed to ensure breaks from noise generating activities during excavation
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and

consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site

- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

19. **Vehicle Access & Parking**

All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

With respect to this, the following revision(s) must be undertaken;

All internal driveways and vehicle access ramps must have ramp grades and transitions complying with AS 2890.1. To ensure the gradient requirements and height clearances are satisfied, a driveway profile must be prepared for all internal ramps showing ramp lengths, grades, surface RL’s and overhead clearances, taken from the crest of the ramp to the base. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

Plans prepared by a suitably qualified Engineer shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

20. **On-Street Work Zone**

The applicant shall lodge an application for a work zone for the frontage of the site to Council for consideration and approval. The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Application forms for work zones are available on Council’s website or at the Customer Service section at Council’s administration building. Applications

shall be lodged at least 4 weeks prior to work commencing.

An application must be lodged with Council for consideration and approval for a work zone for the frontage of the site.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.

21. **Pedestrian sight distance at property boundary**

A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To maintain pedestrian safety.

22. **Amendments to the approved plans**

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

- (a) Fixed and angled external privacy screens shall be installed to the north facing bedroom window to unit 04 and unit 05 and the south facing bedroom and dining room window to unit 6
- (b) The solar panels on the roof of unit 07 and 08 shall be re-located to the lower level roof above units 03 and 04.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

24. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

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

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Barrenjoey Consulting Engineers, job number 210903, drawing number SW1 to SW5, dated 12/1/2022. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

26. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for Infrastructure Works in the Public Road Reserve, for Council approval.

Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans, generally in accordance with the Site Analysis Plan - Drawing No.A01 Revision D; for the design of the footpaths, angle parking, bus stop, kerb extension, pram ramps, and pedestrian refuge and concept drainage plans prepared by Barrenjoey Consulting Engineers, job number 210903, drawing number SW1 to SW5, dated 12/1/2022 for the extension of the Council pipeline.

The Plans are to be updated in accordance with Council's Standards and specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer.

The design must include the following information

- (a) Construct a pedestrian refuge in Coronation Street, with islands 2m wide and 3m spacing in accordance with Council standard drawings.
- (b) Construct a new kerb extension, west of Bus Stop (ID: 210381) on the northern side of the road.
- (c) New pram ramps are to be provide at the road crossing points with footpath connections in accordance with Council standard drawings.
- (d) Construct a 1.5 m wide concrete footpath connecting the development with the new pedestrian facilities.
- (e) Provide 8 parking spaces east of the new kerb extension, by converting 90 to 60 degree angled parking.
- (f) Provide 1 new parking space in the 90 degree angled parking area located west of Gate No.2 to Mona Vale Hospital.
- (g) Relocate Bus Stop (ID: 210386) on the southern side of the road, immediately east of the driveway to No.9 Coronation Street, with new 'Bus Zone' between the driveways of No.9 and 10

Coronation Street. 'No Stopping' restrictions are to be installed from the new 'Bus Zone' to the property boundary of No.11 and 12. All bus stops must be upgraded to meet the Disability Standards for Accessible Transport.

(h) Relocate existing signage and make adjustments to linemarking, where required, to accommodate the changes.

(i) The installation of traffic control devices and facilities requires the approval of Council and the Northern Beaches Local Traffic Committee prior to commencement of installation. A plan providing details of the proposed signage, line marking, and dimensions of the traffic facility must be lodged for consideration at least twelve (12) weeks prior to work commencing.

(i) A 6.0 meter wide vehicular crossing in accordance with Northern Beaches Council Drawing No A4-3330/ 1N

(ii) 1.5m wide concrete footpath along the entire Coronation Street frontage to the new pedestrian facilities.

(iii) 1.8 metre lintel and grate kerb inlet pit in front of the subject site with a Ø 375mm RRJ RCP extension to the existing council pit in front of No 1 Coronation Street.

Details demonstrating compliance are to be submitted to Council for approval prior to the issue of the Construction Certificate.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

27. **Structural Adequacy and Excavation Work**

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

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

Reason: To provide public and private safety.

28. **Sub-Soil Seepage**

The Applicant is to submit plans demonstrating that all sub-soil seepage drainage is discharged via a suitable silt arrester pit, directly to Council's nearest stormwater drainage line being the proposed kerb inlet pit in Coronation Street and is to be carried out in accordance with relevant Australian Standards. (Note: At the time of determination the following (but not limited to) Standards applied:

- Australian/New Zealand Standard AS/NZS 3500.3 - 2003 Plumbing and drainage - Stormwater drainage
- Australian/New Zealand Standard AS/NZS 3500.3 - 2003 / Amdt 1 - 2006 Plumbing and drainage - Stormwater drainage.

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

Reason: To ensure appropriate drainage and Stormwater management on site to protect amenity of residents.

29. **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:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- 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.

30. **External finishes of roof**

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

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03).

31. **Traffic Management**

Traffic management procedures and systems must be in place and practised during the course of the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

Note: A plan of traffic management is to be submitted to and approved by the Consent Authority.

Reason: To ensure pedestrian safety and continued efficient network operation.

32. **Waste and Recycling Requirements**

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

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

Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

33. **Tree Removal Within the Property**

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

- Tree number 15 - Eucalyptus leucoxylon 'Rosea', and Tree number 17 - Thuja arborvitae.

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal, and within this site these include the following identified tree numbers as reported in the Arboricultural Impact Assessment: Tree numbers 3, 4, 12, 13, 14, 16, 18, 19, 20, 21, and 22.

Reason: To enable authorised development works.

34. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

35. **Demolition Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by a suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- No heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.

- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

36. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

6 Coronation Street, Mona Vale
9 Coronation Street, Mona Vale
28 Cook Terrace, Mona Vale
32 Cook Terrace, Mona Vale
34 Cook Terrace, Mona Vale

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage

rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

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

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

38. **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 tree fronting the development site identified as Tree number 10 - Eucalyptus robusta, shall be protected in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

The street tree protection measures shall satisfy the Arboricultural Impact Assessment requirements under section 4 Recommendations, items h) and i), requiring temporary fencing and trunk protection.

All tree protection measures 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: Street tree protection.

39. **Tree and Vegetation Protection**

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

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

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation

with an Arborist with minimum AQF Level 5 in arboriculture,
 iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
 vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 vii) should either or all of v) 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,
 viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
 ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
 x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
 xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment, as listed in the following sections:
 i) section 4 Recommendations.

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

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

Council proactively regulates construction sites for sediment management.

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

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

Reason: Protection of the receiving environment.

41. **Substitution of Stormwater Treatment Measures**

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must be submitted to the Principal Certifying Authority for approval prior to installation.

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

42. **Dewatering Management**

Tailwater (surface water and rainwater): Please contact catchment@northernbeaches.nsw.gov.au for advice on Council's water quality requirements for a single instance of dewatering tailwater that collects in an excavation during works. A dewatering permit application must be made for expected multiple instances or continuous dewatering of tailwater.

Groundwater: A permit from Council is required for any dewatering of groundwater. An application for interference with an aquifer is required to the Natural Resources Access Regulator. Contact catchment@northernbeaches.nsw.gov.au for more information about permits.

The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources.

43. **Implementation of Demolition Traffic Management Plan**

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

44. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

45. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

46. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

47. **Geotechnical Requirements**

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

48. **Demolition Works - Asbestos**

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

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

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

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

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

49. **Survey Certificate**

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

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

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

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

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

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

50. **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.

51. **Civil Works Supervision**

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

52. **Footpath Construction**

The applicant shall 1.5 metre concrete footpath along the Coronation Street frontage to the new pedestrian facilities. The works shall be in accordance with the following:

(a) All footpath works are to be constructed in accordance with Section 138 Road Act approval

(b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in

accordance with Section 138 Road Act approval for footpath. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of footpath works with Council's specification for engineering works.

53. **Notification of Inspections (infrastructure works to be handed over to Council)**

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater pits
- (d) Prior to pouring of kerb and gutter, driveway crossing
- (e) Subgrade level / basecourse level / subbase
- (f) Sealing road pavement

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

54. **Dust**

Measures shall be documented and be undertaken to minimise any dust created as a result of excavation, vehicle movements and construction so as not to impact on neighbouring premises or create air pollution at any time.

Reason: To prevent air pollution from dust and comply with legislation.

55. **Staff and Contractor Parking**

The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. All Staff and Contractors are to use the basement parking once available. All necessary facilities are to be provided to accommodate this requirement including lighting in the basement, security cameras, etc.

Reason: To ensure minimum impact of construction activity on local parking amenity.

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan dated 30/9/2021.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

57. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

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

OCCUPATION CERTIFICATE

58. Landscape Completion

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

- i) the proposed *Eucalyptus piperita* (shown on the Landscape Plan as symbol Ep), located within proximity of the eastern basement is to be planted within in front of the property, and shall be replaced with *Eucalyptus gummifera* (Red Bloodwood),
- ii) the proposed *Eucalyptus haemastoma* (shown on the Landscape Plan as symbol Eh), located within proximity of the basement at the rear of property, shall be located in rear garden or lawn area, and at least 2 metres from the rear boundary,
- iii) the proposed *Banksia integrifolia* (shown on the Landscape Plan as symbol Bi) are to be spaced at a regular distance apart, and at least 4 metres from each other,
- iv) three (3) *Syzygium leuhmannii* (Cherry Alder Lillypilly) small trees shall be provided along both side boundaries and the rear boundary, planted at least 3 metres from each other and from other trees,
- v) the proposed *Livistona australis* shall be planted with clear 2 metre tall trunks,
- vi) all tree planting shall be a minimum planting size of 75 litres or larger, and shall meet the requirements of Natspec - Specifying Trees,
- vii) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for accent and groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch.

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

Reason: Environmental amenity.

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/>

59. Condition of Retained Vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

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

Reason: Tree and vegetation protection.

60. Certification for the Installation of Stormwater Treatment Measures

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

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

Reason: Protection of the receiving environment.

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

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

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

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

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

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

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

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

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

2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:

- a) Activity description, and duration and frequency of visits

Additionally for vegetated devices:

- b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
 - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure

3. Maintenance schedule and procedure - ongoing

- a) Activity description, and duration and frequency of visits
- b) Routine maintenance requirements
- c) Work Health and Safety requirements
- d) Waste management and disposal
- e) Traffic control (if required)
- f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

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

Reason: Protection of the receiving environment.

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

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

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

Reason: Protection of the receiving environment.

64. **Strata Management Statement**

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

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

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

65. **Signage and Linemarking – Implementation**

The applicant is to install all signage and linemarking, as per any Roads Act approval. These works are to be completed prior to the issue of any Occupation Certificate.

Reason: To ensure compliance with the Road Act.

66. **Allocation of parking spaces (strata title)**

All carparking spaces are to be assigned to individual units. All residential 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.

67. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of

inspection, must be submitted after the completion of works. The report must:

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

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

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

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

68. **Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

69. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

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

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

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

71. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/guide-submitting-ldaa-nov19.pdf>

The form for the application can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/4023-legal-documents-authorisation-oct19.pdf>

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered.

72. **Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

73. **Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets)**

The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines

for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council's acceptance of the Dilapidation Survey is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure.

74. Certification of Civil Works and Works as Executed Data on Council Land

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 138 plans. Works as Executed data certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data (details overdrawn on a copy of the approved civil plans) for Council Assets' in an approved format shall be submitted to Council for approval prior to the release of any security deposits.

Reason: To ensure compliance of works with Council's specification for engineering works.

75. Environmental Reports Certification

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

- (a) Geotechnical Report Ref J3726, dated 29.09.2021, prepared by White Geotechnical Group
- (b) Arboricultural Report, dated 30.09.2021, prepared by Jacksons Nature Works
- (c) Transport Report Ref: 21063, dated 28.09.2021, prepared by Terraffic Pty Ltd
- (d) Accessibility Report Ref 21416, dated 22.09.2021, prepared by ABE Consulting
- (e) BCA Assessment Report Ref 114700-BCA-r2, dated 28.09.2021, prepared by BCA Logic

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

Reason: To ensure compliance with standards.

76. Garbage and Recycling Facilities

All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the

floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.
Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

77. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

78. **Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)**

The units within the development are to be numbered in accordance with NSW Address Policy and User Manual.

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website Unit Numbering for Multi-Unit Developments Form

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with any Interim/Final Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access.

79. **Undergrounding of Telecommunications Services**

Arrangements are to be made for the provision of underground telecommunications services to the building.

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

Reason: Provision of telecommunication facilities in a manner that facilitates the future underground provision of cable services. (DACPLF06)

80. **Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from 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 charges to be paid. Please make early contact with the Co-ordinator, 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 any interim / final Occupation Certificate.

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

81. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Occupation Certificate (or where applicable, relating to the part of the building, being the subject of this Consent).

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

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

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

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

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

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

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

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

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

Reason: Statutory requirements.

83. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

84. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

85. **Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of an Interim/Final Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

86. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

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

87. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be

planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

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

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

Reason: To maintain local environmental amenity.

88. **Maintenance of Stormwater Treatment Measures - Major**

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

89. **Landscaping adjoining vehicular access**

The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1,140mm

Reason: To maintain unobstructed sight distance for motorists.

90. **Sight lines within carparks**

The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by landscaping or signage.

Reason: To maintain unobstructed sight distance for motorists.

91. **Geotechnical Recommendations**

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

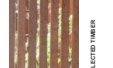
Reason: To ensure geotechnical risk is mitigated appropriately.





EXTERNAL FINISHES
NOTE: FINISHES AND IMAGES SHOWN ARE INDICATIVE OF DESIGN INTENT ONLY



100



Design + Sustainability Advisory Panel Meeting Report – Date 16 December 2021

4 - DA2021 1841 - 7 Coronation Street MONA VALE

PANEL COMMENT AND RECOMMENDATIONS

General

The Panel is generally supportive of the application but feels that improvements could be made.

Strategic context, urban context: surrounding area character

The proposal is generally in keeping with the surrounding character. The applicant's architect and landscape architect demonstrated a well-considered understanding of the site's opportunities and constraints.

Scale, built form and articulation

The Panel notes several non-compliances with setbacks in the Pittwater DCP 2014, of which the breach to the front setback is the most notable. The Panel is of the view that compliance with these setbacks would result in a better built form outcome.

Recommendations

1. Consideration should be given to setting the front of the building further back into the site. Ideally it should be brought in line with the established building line of neighbouring properties. Failing that, the balconies could be made lighter weight.

Access, vehicular movement and car parking

The Panel noted that the location of the vehicle entry ramp, at the corner of the carpark, results in some inefficiencies in terms of circulation and overall basement size. A more centralized entry point might facilitate a better layout and result in less excavation.

Recommendations

2. Consideration should be given to moving the basement entry further to the north-east along the street frontage and relocating parking bays for units 01 & 08 perpendicular to the western side boundary. Any reduction in the overall width of the basement would be beneficial.

Landscape

The Panel notes that although the deep soil metric is under the required area in the rear gardens of the development the area of viable soil for canopy trees is sufficient due to the depth of the basement below.

The Panel acknowledge the efforts that the consultant team have made in retaining significant existing trees on site in particular trees T1, T3, T2 & T4 which add to the character of the streetscape.

Recommendations

3. The proponent could consider a light-weight non-habitable green roof above units 07 & 08 in order to minimise heat gain and potentially mitigate potential residents to the South of the site from Cooks Terrace looking over metal roof expanses.



Amenity

The apartment layouts are generally well-considered. Some living rooms could benefit from being made slightly bigger. A rationalization of storage and circulation space in adjacent bedrooms could help to facilitate this. Bedrooms on the north-east side in apartments 02 & 04 would benefit from larger windows to the north.

Recommendations

4. Consideration should be given to enlarging some of the living rooms in several apartments.
5. Consideration should be given to relocating the projecting balconies to apartments 03 & 04 into the recess at the centre of the building on either side of gridline B.

Façade treatment/Aesthetics

The Panel notes that there are 12 different external finishes and materials proposed which seems excessive for such a relatively small and compact building and where there is ample articulation and variation in built form. The Panel endorses the use of face-brick but would discourage the use of cement render.

Recommendations

6. Consideration should be given to simplifying the façades and reducing the number of materials and colours;
7. Consideration should be given to making elements on the front façade, like the balconies, less dominant.

Sustainability

The Panel supports the initiatives that are proposed in terms of photovoltaics and EV vehicle charging. However further improvements could be made.

Recommendations

8. Target electrification by changing to heat pump hot water;
9. Create a natural ventilation path in the common lobby areas from the ground floor through to the windows in the top floor;
10. Consideration should be given to linking the photovoltaics direct to some of the apartments to maximize use of the produced energy.

PANEL CONCLUSION

The Panel is generally supportive of the proposal with amendments as outlined above.

The Panel refer the applicant to the Apartment Design Guide for aspects related to amenity and internal planning of apartments.

ITEM 4.2	DA2021/2590 - 40 PINE STREET, MANLY - CONSTRUCTION OF A DWELLING HOUSE.
AUTHORISING MANAGER	Phil Lane
TRIM FILE REF	2022/379727
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plans & Elevations

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2021/2590 for the construction of a dwelling house on land at Lot 5 DP 939161, 40 Pine Street, MANLY, for the reasons for refusal set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2590
Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 5 DP 939161, 40 Pine Street MANLY NSW 2095
Proposed Development:	Construction of a dwelling house
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:	James Frederick Bell
Applicant:	Carlisle Architects
Application Lodged:	10/01/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	20/01/2022 to 03/02/2022
Advertised:	Not Advertised
Submissions Received:	16
Clause 4.6 Variation:	Nil
Recommendation:	Refusal
Estimated Cost of Works:	\$ 686,000.00

EXECUTIVE SUMMARY

This report has been submitted to the Northern Beaches Local Planning Panel (NBLPP) for consideration of Development Application DA2021/2590 for the construction of a single storey dwelling house on a vacant allotment.

The application was exhibited for 14 days and received a total of 16 individual submissions objecting to the proposal. Given the number of objections exceeded 10 unique submissions, the proposal is categorised as 'contentious development', which must be determined by the NBLPP.

The key concerns raised within the submissions pertain to the undersized nature of the allotment, the lack of vehicular access/off-street parking, impacts of the built form on the adjacent public footpath, amenity impacts on adjacent residential properties, construction management impacts, landslip hazards and stormwater management. A number of the concerns raised within the submissions have merit and

warrant refusal of the application.

The site was subdivided from the downslope properties (9 and 11 Pacific Parade) in 1908 and is yet to be developed. The site is a significantly undersized allotment, being 99.4sqm in area, and is located on the northern side of a public walkway located within the unmade section of Pine Street that extends from the constructed section of Pine Street and Birkley Road. The public walkway adjacent to the subject site is zoned RE1 Public Recreation under Manly LEP 2013, which is Council land. The site does not have vehicular access and is located approximately 45m to the north of Kangaroo Street and approximately 60m to the west of the constructed part of Pine Street.

Whilst the R1 General Residential zoning of the site permits development for the purposes of a dwelling house, it is considered that the access constraints and significantly undersized nature of the allotment prevents the land from being development in an environmentally acceptable manner. The access constraints make performing day-to-day functions, such as unloading shopping or receiving deliveries, difficult, whereas the undersized nature of the allotment precludes the development from complying with a number of Council's primary planning controls (i.e. setbacks, total open space, landscaped area etc.).

When assessing the proposal on its merits, the assessment has concluded that the development will have an unreasonable amenity impact on downslope properties at Pacific Parade as a consequence of the minimal rear setback proposed, window placement and lack of landscape treatment to visually reduce the built form. Additionally, as the development is unable to provide off-street parking and convenient access, the development is not consistent with what would be reasonably expected of a new dwelling house. The lack of outdoor open space and functional private open space on the site would also result in poor amenity outcome for future occupants of the dwelling house. Additionally, the applicant has not provided sufficient information to demonstrate that stormwater generated from the development can be appropriately managed and disposed of.

The site has been subject to a previous development application for a two storey dwelling house. Council's refusal of this application was the subject of a Class 1 appeal in the NSW Land and Environment Court (refer to *Goarin v Manly Council [2014] NSWLEC 1108*), which was ultimately dismissed on appeal. A number of the issues raised within the appeal are still pertinent to the subject development application before the NBLPP.

On this basis, it is recommended that the NBLPP refuse the development application for the reasons set out within the assessment report.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for construction of a single storey dwelling house on a vacant lot including tree removal (exempt species), landscaping works and access stairs from the footpath.

The proposed dwelling house contains the following:

- One bedroom.
- Open plan kitchen and living area.
- Bathroom/laundry.
- Covered deck on front elevation with enclosed bin storage.
- Entry area with stairs to footpath.

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 - 6.1 Acid sulfate soils
 Manly Local Environmental Plan 2013 - 6.2 Earthworks
 Manly Local Environmental Plan 2013 - 6.4 Stormwater management
 Manly Local Environmental Plan 2013 - 6.12 Essential services
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 3.7 Stormwater Management
 Manly Development Control Plan - 4.1.1.1 Residential Density and Dwelling Size
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping
 Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

SITE DESCRIPTION

Property Description:	Lot 5 DP 939161 , 40 Pine Street MANLY NSW 2095
Detailed Site Description:	The subject site consists of one allotment located on the northern side of a public walkway located within the unmade section of Pine Street that extends from the constructed section of Pine Street and Birkley Road. The site does not have vehicular access and is located approximately 45m to the north of Kangaroo Street and approximately 60m to the west of the constructed part of Pine Street. The site is rectangular in shape with a frontage of 12.19m and respective depths of 8.165m and 8.145m along the eastern and western side boundaries. The site has a surveyed area of 99.4sqm. The site is atypical to the size and configuration of surrounding private properties.

The site is located within the R1 General Residential zone pursuant to Manly LEP 2013 and is currently vacant. The site consists of a grassed area, rocky outcrops, native trees and is located on top of a cliff elevated above 9 and 11 Pacific Parade and overlooks properties with a frontage to Pacific Parade.

The front of the site is situated approximately 1.9m below the public walkway. The site experiences a fall of approximately 4.5m that slopes away from the front boundary towards the rear. This represents an approximate slope of 55%.

Description of Surrounding Development

Development located downslope (north) of the site is characterised by either semi-detached dwellings or dwelling houses, typically 1-2 storeys in height. Development located upslope (south) of the site is characterised by 1-2 storey dwelling houses and 3-4 storey residential flat buildings. The land directly adjoining the front of the site (south) is zoned RE1 Public Recreation and contains a public walkway that provides a pedestrian link between the made sections of Pine Street and Birkley Road.

Map:



SITE HISTORY

The site was subdivided in 1908 from the rear of 9 and 11 Pacific Parade. The site was acquired by Council as the previous owner had not paid Council rates. The site was then sold by Council and has not been developed.

A search of Council's records has revealed the following relevant applications:

Development Applicant No. 60/13

Development Application No. 60/13 for construction of a two (2) storey dwelling including side balcony, courtyard, retaining walls, tree removal, landscaping, front and rear decks was refused by the Manly Independent Assessment Panel (equivalent to current LPP) in June 2014. The reasons for refusal were as follows:

- Visual impacts on the wider locale from the two storey built form.
- Inadequate total open space.
- Impacts on existing natural features on the site (i.e. rock outcrops).
- Impacts on the amenity of downslope properties at Pacific Parade.
- Inadequate essential services (i.e. stormwater management, access, waste management, off-street parking etc.).
- Insufficient landscaping.
- Inability to comply with Council's controls as a consequence of the size and configuration of the site.
- Not in the public interest.
- Insufficient information.

The refusal of Development Application No. 60/13 was the subject of a Class 1 appeal in the NSW Land and Environment Court (refer to *Goarin v Manly Council [2014] NSWLEC 1108*).

The appeal was dismissed by Commissioner Brown in June 2014, who cited the following issues with the proposed development:

- Visual impacts on the wider locale from the two storey built form (due to the front setback non-compliance).
- Insufficient rear setback to provide effective landscape treatment to screen the built form from downslope properties.
- Inadequate open space and landscaping to enhance the amenity of the surrounds and meet the recreational needs of future occupants of the dwelling house.
- Site suitability due to lack of off-street parking, including constraints with access to the site for both the future occupants of the dwelling and external parties (i.e. deliveries, waste services, emergency services etc.).
- No arrangements for water and wastewater services.
- Overlooking to downslope properties. However, Commissioner Brown noted that this could be addressed through conditional approval.
- Insufficient information relating to construction management, access to the site from the footpath, geotechnical management, and stormwater disposal.

An assessment of the issues raised within the LEC judgement is provided below to determine whether any of these issues applies to the subject development application.

- *Visual impacts on the wider locale from the two storey built form (due to the front setback non-compliance).*

Comment:

The dwelling house proposed under this current application is a single storey building, as

opposed to a two storey dwelling house. In examining the front setback issue, it is noted that there are no examples of development directly adjoining the northern side of the footpath, which makes it difficult to determine whether the proposed front setback maintains an appropriate level of separation from the public footpath to maintain the character of the streetscape (i.e. public footpath). Notwithstanding, there are two residential flat buildings and a number of dwelling houses located on Kangaroo Street can be viewed from the footpath when looking upslope towards the south. When viewed the public footpath the proposed single storey built form will not look overbearing when compared to these nearby developments on the southern side of the footpath, primarily due to the fact that the roofline of the dwelling house is sited 1.3m above the footpath level due to the significant slope that falls towards the north. Therefore, it is considered that the proposal will not detract from the streetscape (i.e. public footpath).

Accordingly, this issue is no longer applicable for the subject development application.

- *Insufficient rear setback to provide effective landscape treatment to screen the built form from downslope properties.*

Comment:

The current proposal is setback between 0.95m - 1.29m from the rear boundary, which does not meet the prescribed rear setback requirement of 8m. When considering the rear setback non-compliance, it is considered that the rear setback is inadequate to allow for the establishment of sufficient planting, including canopy trees, to mitigate the height and bulk of the development from downslope properties (i.e. 9 and 11 Pacific Parade). Furthermore, as the development is situated on top of a rock outcrop it is unlikely that there would be adequate soil depth within the rear portion of the site to accommodate for sufficient planting to mitigate the height and bulk of the development, notwithstanding the minimal rear setback. Given the elevated nature of the proposed dwelling in relation to the downslope properties on Pacific Parade, coupled with the minimal rear setback and lack of landscape treatment within the rear yard, the proposed development will have an unreasonable visual impact when viewed from the downslope properties. Additionally, the minimal rear setback also encourages unreasonable levels of overlooking from north facing windows of the proposed dwelling.

Accordingly, this issue still remains pertinent to the subject development application.

- *Inadequate open space and landscaping to enhance the amenity of the surrounds and meet the recreational needs of future occupants of the dwelling house.*

Comment:

The proposal only proposes 33sqm of landscaping throughout the site. Due to the footprint of the dwelling and significantly undersized nature of the allotment, there is insufficient landscaped/open space areas around the curtilage of the building to enable the establishment of further vegetation, including canopy trees, to enable the dwelling to integrate with the natural setting. Furthermore, the proposal does not provide any total open space in accordance with the Manly DCP 2013 requirements and only provides 8.3sqm of usable decking as private open space. This is not sufficient to meet the recreational needs of the future occupants of the dwelling.

Accordingly, this issue still remains pertinent to the subject development application.

- *Site suitability due to lack of off-street parking, including constraints with access to the site for*

both the future occupants of the dwelling and external parties (i.e. deliveries, waste services, emergency services etc.).

Comment:

The applicant has demonstrated that suitable arrangements have been made to address waste management on the site. However, Council still contents that the isolated nature of the site and lack of vehicular access or available parking makes it difficult for the occupants of the dwelling and external parties (i.e. deliveries, emergency services etc.) to conveniently access the property. A new dwelling should not be so difficult to access.

Accordingly, this issue still remains pertinent to the subject development application.

- *No arrangements for water and wastewater services.*

Comment:

The applicant has now made suitable arrangements to ensure that a future dwelling on the site has water and wastewater services.

Accordingly, this issue is no longer applicable for the subject development application.

- *Overlooking to downslope properties*

Comment:

The proposal includes a number of north facing windows that would provide direct sight lines into private open space at 9 and 11 Pacific Parade. Given the minimal separation proposed, coupled with the fact that the overlooking can occur from a high trafficable area (i.e. living area), the impact is not considered to be reasonable within a residential setting. Effective design treatments to the windows have not been employed to alleviate this issue.

Accordingly, this issue still remains pertinent to the subject development application.

- *Insufficient information relating to construction management, access to the site from the footpath, geotechnical management, and stormwater disposal.*

Comment:

The application has provided sufficient information to address geotechnical matters. Additionally, appropriate conditions could be imposed requiring a construction management plan to be prepared and approved by Council prior to works commencing. It is further noted that pedestrian access stairs have been proposed to provide access from the footpath to the site. Council's Roads and Assets team have reviewed this and raised no objections. In the event the application was approved, the applicant would need to submit a Minor Encroachments/Constructions Within Road Reserve Application with Council's Roads and Assets Team for approval. However, the applicant has not provided sufficient information to demonstrate that the proposal can adequately manage and dispose stormwater.

Accordingly, this issue still remains pertinent to the subject development application.

Pre-lodgement Meeting No. PLM2021/0247

A pre-lodgement meeting (PLM) was held on 14 October 2021 to discuss a future development application on the site for the construction of a single storey dwelling house. Representatives of Council's Planning Division and the owner and applicant were in attendance.

The PLM written notes were generally supportive of the proposal, subject to minor amendments to the design to remove elements of the decking and retention of soft landscaping. The works proposed under the subject development application reflect the advice provided in the PLM.

It is important to note that the Development Assessment Planner responsible for the subject development application was not in attendance for the aforementioned PLM.

APPLICATION HISTORY

The Development Assessment Planner examined the subject site and surrounding area on 17 February 2022. Additional site inspections were also undertaken at 9 and 11 Pacific Parade (downslope adjoining properties) on 18 May 2022 in response to concerns raised by the property owners within the submissions.

On 18 May 2022, Council provided written correspondence to the applicant advising that the proposed development could not be supported for the following reasons:

- Access and off-street parking.
- Inability to reasonably comply with Council's controls as a consequence of the constrained allotment size.
- Insufficient rear setback to enable the establishment of sufficient landscape treatment to mitigate height and bulk of the development when viewed from downslope properties at 9 and 11 Pacific Parade.
- Privacy impacts to 9 and 11 Pacific Parade as a consequence of north facing windows.
- Insufficient private open space to meet the recreational needs of future occupants of the dwelling house. It was also noted that the nominated decking adjacent to the front boundary can be overlooked from the public footpath and does not provide reasonable private open space on the site.
- Insufficient information regarding stormwater management/geotechnical certification.

The applicant was afforded the opportunity to withdraw the application and receive a partial refund of assessment fees. On 23 May 2022, the applicant provided written correspondence confirming that they will not withdraw the development application and requested that the application proceed to determination.

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	There are no current draft environmental planning

Section 4.15 Matters for Consideration	Comments
draft environmental planning instrument	instruments.
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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters could be addressed via conditions of consent. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. The applicant submitted additional stormwater plans and geotechnical certification to respond to concerns raised by Council's Development Engineers. <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 could be addressed via conditions of 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 could be addressed via conditions of 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	(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. (ii) Social Impact The proposed development will have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	This assessment has found the proposal to be contrary to the relevant requirements of the Manly Local Environmental Plan 2013 and Manly Development Control Plan 2013. The proposal is contrary to the expectations of the community

Section 4.15 Matters for Consideration	Comments
	and is not considered to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 20/01/2022 to 03/02/2022 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 16 submission/s from:

Name:	Address:
Ms Sarah Burke	4 Kangaroo To Pine Pathway MANLY NSW 2095
Mr Robert O'Brien	1/1 Herbert Street MANLY NSW 2095
Ms Rebecca Joy McKenzie	9 Pacific Parade MANLY NSW 2095
Mrs Anna Martine Littleboy	10 Kangaroo Street MANLY NSW 2095
Mrs Jennifer Anne Barr	23 Kangaroo Street MANLY NSW 2095
Mr Donald Mark Sillar Mrs Jenny Elizabeth Sillar	14 Kangaroo Street MANLY NSW 2095
Mr Kenneth Robert Arthur Grieves	12 Kangaroo Street MANLY NSW 2095
Mr Duncan Charles Young	75 Kangaroo Street MANLY NSW 2095
Mr Alan George Yuille	PO Box 444 CHURCH POINT NSW 2105
Ms Miriam Rihani	49 Pine Street MANLY NSW 2095
Mrs Katrina Marie Horner	8 Kangaroo Street MANLY NSW 2095
Mrs Pamela Eileen Jackson	16 Kangaroo Street MANLY NSW 2095
Mrs Paula Katalin Martin	6 Kangaroo Street MANLY NSW 2095
Mr Edward Alexander Whiteley	11 Pacific Parade MANLY NSW 2095
Mr Kurt James Green Jeston	7 Pacific Parade MANLY NSW 2095
Mr Robin Hamilton Bell	15 Pacific Parade MANLY NSW 2095

Following the public exhibition period numerous pieces of correspondence amounting to 16 individual submissions were received from surrounding properties. All submissions objected to the proposed development. The following issues were raised in the submissions:

- **Access for Emergency Services**

The submissions raised concerns that the proposal does not have suitable access for emergency services.

Comment:

The applicant has submitted written correspondence from NSW Ambulance, which stipulates that NSW Ambulance can place an access note on the subject site to inform paramedics of an appropriate access route to the site. However, the correspondence indicates that this will need to be updated every 12 months by the future occupants. Moreover, the applicant has not provided correspondence from other emergency services, such as Fire and Rescue NSW. It is also considered that given the only means of access to the site is via flights of stairs and a public footpath, it would be difficult for emergency services to access the site within a reasonable time. Overall, the site's inability to provide off-street parking or appropriate access forms a reason for refusal.

- **Waste Collection**

The submissions raised concerns that the site provides inadequate access for waste collection.

Comment:

The applicant has provided correspondence to confirm that they will engage a bin collection service to transport the bins to and from Kangaroo Street from the subject site. Council's Waste team have reviewed the proposal and raised no objections in this regard.

- **Inappropriate Land Zoning**

The submissions raised concerns that the site should not be zoned for residential development.

Comment:

This is not a matter for consideration under the subject application as the site is currently zoned R1 General Residential. Notwithstanding, when assessed on its merits the proposal is found to be contrary to the requirements and objectives with a number of primary planning controls, including relevant considerations under Section 4.15 of the EP&A Act 1979. Accordingly, the proposal is recommended for refusal.

- **Access for Future Occupants of Dwelling**

The submissions raised concerns that the proposed development does not provide off-street parking or benefit from vehicular access.

Comment:

Council notes that the site is constrained in this regard and must be accessed via a public footpath from Kangaroo Street or the constructed part of Pine Street. The assessment has concluded that a new dwelling should not be so difficult to access for future occupants of the dwelling and external parties (i.e. deliveries, emergency services etc.). As such, the proposal is recommended for refusal.

- **Landslip Concerns**

The submissions raised concerns that the proposed development would create potential landslip issues due to the steep topography.

Comment:

The application has been accompanied by Geotechnical Reports (prepared by White Geotechnical Group), which indicate that the level of geotechnical risk associated with the dwelling house is acceptable. Thus, this concern does not warrant refusal of the application.

- **Stormwater Management**

The submissions raised concerns that adequate arrangements have not been made for the disposal of stormwater.

Comment:

Council's Development Engineers have provided written email correspondence indicating that the revised stormwater management plans are not sufficient. Thus, this concern warrants refusal of the application.

- **Amenity Impacts on Downslope Properties**

The submissions raised concerns that the proposed development will have an unreasonable amenity impact on downslope properties (i.e. 9 and 11 Pacific Parade) as a consequence of the minimal rear setback and lack of landscape treatment within the rear yard to soften the built form.

Comment:

This matter has been discussed in detail within the sections of this report relating to Clauses 4.1.4 and 4.1.5 of the Manly DCP 2013, which relate to the setback and total open space/landscaping provisions. In summary, it is concluded that the rear setback and total open space non-compliances create unreasonable amenity impacts to the neighbouring properties to the north (9 and 11 Pacific Parade), specifically with regards to visual bulk and visual privacy. Accordingly, the proposal is recommended for refusal in this regard.

- **Dwelling to be used for Air BnB**

The submissions raised concerns that the dwelling house will be used for temporary accommodation such as Air BnB.

Comment:

Current state legislation permits new dwellings to be used for short term rental accommodation (i.e. such as Air BnB), subject to strict conditions. Hence, this concern has not been included as a recommended reason for refusal.

- **Council should Acquire the Land**

The submissions raised concerns that the site should be acquired by Council.

Comment:

This is not a relevant consideration for this development application under Section 4.15 of the EP&A Act 1979. Furthermore, the site is not identified in the Manly LEP 2013 for the purpose of acquisition by Council.

- **Impacts of Vegetation and Wildlife**

The submissions raised concerns that the proposal would have an adverse impact upon existing vegetation and local wildlife/biodiversity.

Comment:

Council's Landscape Officers have reviewed the application and are satisfied that the proposal will not have an adverse impact upon existing vegetation within the vicinity of the development. Furthermore, the site is not identified within a local wildlife corridor (i.e. Manly LEP 2013 Biodiversity Map). As such, Council is satisfied that the proposal will not have an adverse impact upon local biodiversity. This concern does not warrant refusal of the application.

- **Impacts of the Built Form on the Public Footpath**

The submissions raised concerns that the built form will have an adverse impact upon the public footpath.

Comment:

The proposed dwelling is a single storey built form and the roofline is only situated 1.3m above the footpath level due to the significant slope of the land that falls towards the north. When considered against surrounding developments that can be viewed when standing on the footpath looking towards the south (upslope), the proposal will not look overbearing or dominant within the public domain.

- **Setting and Precedent for unsuitable development across the entire Local Government Area (LGA)**

The submissions raised concerns that if the proposal were to be approved, this would set an undesirable precedent for unsuitable development across the entire LGA.

Comment:

The Development Assessment Planner disagrees with this assertion. Each development application is assessed on its merits and on a site-by-site basis. This concern does not warrant refusal of the application.

- **Construction Management**

The submissions raised concerns that the construction process would create nuisances for surrounding properties, in terms of the supply of building equipment, the parking of construction vehicles etc.

Comment:

Council's Traffic Engineers have recommended a condition that in the event the application is approved, a Construction Management Plan must be prepared by the applicant and submitted to Council for approval prior to the issue of the Construction Certificate. As such, this concern can be appropriately managed if the application was approved.

- **Undersized Allotment**

The submissions raised concerns that the 99sqm allotment is too small to be reasonably developed.

Comment:

It is noted that the Manly DCP 2013 stipulates that the site shall be at least 250sqm in area to accommodate for a new dwelling. The site is significantly undersized, being 99.4sqm in area, and does not comply with this requirement. Overall, it is considered that a 99.4sqm allotment is not suitable to be developed in an environmentally acceptable manner, given the undersized nature of the site precludes any development from reasonably complying with Council's primary planning controls, such as the setback, open space and landscaped area provisions.

- **Insufficient Off-Street Parking**

The submissions raised concerns that the proposal does not provide any off-street parking.

Comment:

This matter has been discussed in detail within the sections of this report that relate to Clause 6.10 - Essential Services of Manly LEP 2013 and Clause 4.1.6 - Parking, Vehicular Access and Loading of the Manly DCP 2013. In summary, as a consequence of the site's inability to provide suitable off-street parking and access, the proposal is recommended for refusal.

- **Previous Land and Environment Court Case Refusal**

The submissions argued that the subject application should be refused as a similar development for a two storey dwelling house was refused in the NSW Land and Environment Court (refer to *Goarin v Manly Council [2014] NSWLEC 1108*).

Comment:

As this a separate application, the merits of the current proposal has been subject to its own

assessment. Nevertheless, issues raised within the LEC judgement that pertained to access, parking, rear setback, landscaping and privacy still remain current issues to the proposal. Thus, the proposal is recommended for refusal for these reasons.

Conclusion

The concerns raised in the submissions have been addressed above. A number of the concerns raised within the submissions have merit and warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	Supported, subject to conditions General Comments The subject site is mapped as being within class 4 and 5 acid sulfate soils and the applicant confirms that the works are not more than 2 metres below the natural ground surface and are not works by which the water table is likely to be lowered more than 2 metres below the natural ground surface. The Geological report states that no excavation is proposed with the exception of footings to bedrock. Environmental Health supports the proposal subject to conditions.
Landscape Officer	Supported, subject to conditions The development application is for the construction of a new dwelling and associated works, as described and illustrated in the reports and plans. Landscape Plans and a Arboricultural Impact Assessment accompany the application and are assessed as part of this Landscape Referral. Council's Landscape Referral section have considered the application against the Manly Local Environment Plan, and the following Manly DCP 2013 controls (but not limited to): • 3.3.1 Landscaping Design • 3.3.2 Preservation of Trees or Bushland Vegetation • 4.1.5 Open Space and Landscaping, including 4.1.5.2 (c) Minimum Tree Plantings where applicable The dwelling construction is proposed above natural ground and thus the proposal incorporates the retention of a large existing Sydney Blue Gum and rock outcrops within the property. The landscape area available in area is such that any landscape planting is limited to shrub planting at best. The Landscape Plan proposes the retention of the large Sydney Blue Gum and planting along the rear and side boundaries to enhance the landscape setting. The Arboricultural Impact Assessment includes the recommendations

Internal Referral Body	Comments
	to retain and protect the Sydney Blue Gum and provides tree protection measures. As raised in the Pre Lodgement landscape comments concern is expressed on the proposal to retain the Sydney Blue Gum with a proposed building in close proximity. However as a Arboricultural Impact Assessment is provided with the recommendation to retain and protect the Sydney Blue Gum, Council raises no objections and the recommended tree protection measures shall be the subject of imposed conditions. The Arboricultural Impact Assessment additionally includes tree protection measures for trees within adjoining properties and the public road reserve. As reported a Cocus Palm located within the property is required to be removed and as an Exempt Species under the Development Control Plan, Council consent is not required. The Landscape Plans provide shrub screen planting to the side boundaries, garden planting to the front setback under the Sydney Blue Gum, and trellis climber planting to the rear setback, utilising the available landscape area, and no additional or substantial planting is viable within the landscape areas. Additionally the Landscape Plan includes landscape works (timber and stone stairs and landscape planting) within the public road reserve and this is not approved under this development application, and shall be part of the proposed road reserve works application under section 138 and 139 of the Roads Act, for approval or otherwise. Should the application be approved, Landscape Referral provide conditions of consent to be satisfied.
NECC (Development Engineering)	Updated referral yet to be provided Development Engineering has no particular objection to the application. However, the proposed level spreader is discharging into the surface of the site. As a steep and undeveloped land, a geotechnical assessment/ recommendation may be obtained subject to the proposed stormwater discharge method to confirm the stability of the land. Development Engineering can condition the above concern if required. However, we prefer the information can be provided prior to the determination of the application. <u>Planner Comment - dated 16 June 2022</u> Subsequent to the Development Engineering referral comments requesting geotechnical certification to address the proposed level spreader for the superseded stormwater management plans, the applicant submitted an amended stormwater management plan (prepared by Structerre Consulting Engineers, dated 7 June 2022), which aims to convey stormwater into a rainwater tank and charge the

Internal Referral Body	Comments
	overflow into a pipe adjacent to the public footpath. At the time of writing this assessment report Council's Development Engineers are yet to formally complete the referral comments for the revised stormwater management plans. Nevertheless, Council's Development Engineer has provided written email correspondence to the applicant (dated 15 June 2022) stipulating that the pipe adjacent to the footpath is not a Council stormwater pipeline and that the ownership of the pipeline must be established. Furthermore, the email correspondence indicates that the pipe in question may not have enough capacity to take additional stormwater. Consequently, there is insufficient information to determine whether the proposal can adequately manage stormwater from the development. The application is recommended for refusal in this regard.
NECC (Water Management)	Supported, subject to conditions The property is in the catchment for Manly Beach. It is important to maintain a high level of water quality at Manly Beach and so to minimise impervious surfaces that prevent infiltration where possible. The proposal increases the impervious surface area on site by 50 or more square metres. The increase in impervious surface area triggers the provision of water quality controls to reduce organic matter and coarse sediments from entering the stormwater system and local waterways. A filtration device must be installed to remove organic matter and coarse sediments from stormwater prior to discharge from the land. Sediment and erosion controls must be installed prior to disturbing any soil and maintained for the duration of work. On assessment, the proposal includes these features to achieve the requirements.
Road Reserve	Supported, subject to conditions There is limited impact on existing public road infrastructure assets. The proposed stairs are to be subject to a separate Road Act approval (Minor Encroachment Application and shall comply with the required standards for stairways including the provision of handrails.
Traffic Engineer	Supported, subject to conditions The proposed residential home does not have any street frontage and no realistic prospect of providing driveway access to the site. It is therefore not possible to provide any offstreet parking. As most families own one or more cars there is potential for the development to add to existing issues regarding the lack of available on-street parking. The development is however supportable noting the proximity of the address to a car share pod on Pine Street and subject to a consent condition preventing residents from obtaining resident parking permits.
Waste Officer	Supported, subject to conditions

Internal Referral Body	Comments
	Waste Management Assessment Recommendation - Acceptable, subject to conditions. Ray Creer Waste Services Officer

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1227505S_02, dated 9 December 2021).

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

Commitment	Required Target	Proposed
Water	40	51
Thermal Comfort	Pass	Pass
Energy	50	50

SEPP (Biodiversity and Conservation) 2021

Chapter 6 - Bushland in Urban Areas

The front boundary adjoins land zoned RE1 Public Recreation. The unconstructed part of Pine Street is all zoned RE1 land. Thus, the provisions of this SEPP apply to this assessment.

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

- a) *the need to retain any bushland on the land,*
- b) *the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and*

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

Comment:

The proposed development does not necessitate the removal of bushland within the RE1 zone. It is noted that appropriate conditions could be enforced to mitigate any impacts on bushland within the RE1 zone during construction works. The proposal is not inconsistent with the provisions within Chapter 6 of SEPP (Biodiversity and Conservation) 2021.

SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been undeveloped for a significant period of time. Thus, the site not likely to be contaminated and further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter.

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?	No
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.33m	-	Yes
Floor Space Ratio	0.6:1 (59.64sqm GFA)	0.49:1 (49sqm GFA)	-	Yes

Note: GFA refers to gross floor area.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	No
6.12 Essential services	No

Detailed Assessment

6.1 Acid sulfate soils

Clause 6.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 4 and 5, as indicated on the Manly LEP 2013 Acid Sulfate Soils Map.

Works at depths beyond 2m below the natural ground surface and/or works by which the watertable is likely to be lowered more than 2m below the natural ground surface within a Class 4 acid sulfate soil area are required to be assessed to determine if any impact will occur.

The application has been referred to Council's Environmental Health Officer for assessment, who responded confirming that the works are not more than 2m below the ground surface and are not works by which the water table is likely to be lowered more than 2m below the natural ground surface.

Therefore, it is concluded that the proposed development satisfies the requirements within Clause 6.1 of Manly LEP 2013.

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*
- (b) to allow earthworks of a minor nature without requiring separate development consent.*

In this regard, before granting development consent for earthworks, Council must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*

Comment:

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

- (b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment:

The proposal will not unreasonably limit the likely future use or redevelopment of the land.

- (c) the quality of the fill or the soil to be excavated, or both*

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. The proposal does not involve substantial fill.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment:

The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions could be imposed to limit the impacts of any earthworks during construction.

(e) the source of any fill material and the destination of any excavated material

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. The proposal does not involve substantial fill.

(f) the likelihood of disturbing relics

Comment:

The site is not mapped as being a potential location of Aboriginal or other relics.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment:

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment:

Conditions could be imposed to minimise the impacts of the development.

Conclusion

Having regard to the above assessment, it is concluded that the proposal satisfies the requirements within Clause 6.2 of Manly LEP 2013.

6.4 Stormwater management

Subsequent to the Development Engineering referral comments requesting geotechnical certification to address the proposed level spreader for the superseded stormwater management plans, the applicant submitted an amended stormwater management plan (prepared by Structerre Consulting Engineers, dated 7 June 2022), which aims to convey stormwater into a rainwater tank and charge the overflow into a pipe adjacent to the public footpath.

At the time of writing this assessment report Council's Development Engineers are yet to formally complete the referral comments for the revised stormwater management plans. Nevertheless, Council's Development Engineer has provided written email correspondence to the applicant (dated 15 June

2022) stipulating that the pipe adjacent to the footpath is not a Council stormwater pipeline and that the ownership of the pipeline must be established. Furthermore, the email correspondence indicates that the pipe in question may not have enough capacity to take additional stormwater.

Consequently, there is insufficient information to determine whether stormwater generated from the development can be appropriately managed and disposed of. The application is recommended for refusal in this regard.

6.12 Essential services

Under this clause, development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

Comment:

The applicant has provided sufficient information to demonstrate that adequate arrangements have been made to make the supply of water and electricity, including the disposal and management of sewage.

However, the site is located adjacent to the unformed section of Pine Street and does not have any suitable vehicular access. The site is located approximately 45m to the north of Kangaroo Street and must be accessed via a flight of stairs. Alternatively, access to the site is provided through a flight of stairs via the constructed part of Pine Street, which is located approximately 60m to the east of the site. Thus, the future occupants would be required to utilise on-street parking at least 45m away from the subject site.

It is considered that a new dwelling should not be so difficult to access for future occupants of the site. The difficulty in performing simple day-to-day functions, such as unloading shopping or receiving deliveries, is not consistent with what would be reasonably expected of a new dwelling.

Notwithstanding the above, Council's Traffic Engineers have recommended a condition that in the event the application was approved, future occupants of the site would be precluded from obtaining a resident parking permit to utilise on-street parking within restricted area. It is noted that on-street parking within the Kangaroo Street catchment is restricted to 2 hours between 8am – 6pm for non-permit holders, whilst on-street parking within the Pine Street catchment is restricted to 2 hours between 8am – 10pm for non-permit holders. Thus, any future occupants of the development would not be permitted to park within these restricted areas for more than 2 hours during the core hours. This would create additional inconveniences for future occupants, which includes constantly relocating on-street vehicles on a 2 hour basis during core hours or parking vehicles further away from the site within an unrestricted area.

It is further noted that the unformed area of Pine Street, which is adjacent to the site, is zoned RE1 Public Recreation under Manly LEP 2013 and this area is not likely to be redevelopment for the purpose of a road to serve the subject site.

The site's limited access also raises concern over the ability of emergency services, such as ambulance and fire fighting services, to access the property in a reasonable time.

Furthermore, the applicant has not provided sufficient to determine whether stormwater generated from the development can be appropriately managed and disposed of.

As a consequence of the site's inability to provide suitable off-street parking and access or provide suitable arrangements to manage and dispose stormwater, the proposed development fails to satisfy the requirements of Clause 6.10 of Manly LEP 2013. This forms a reason for refusal.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 99.4sqm	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling per 250sqm of site area	1 dwelling on 99.4sqm site	60.24%	No
	Dwelling Size: minimum 50sqm of GFA required based off one bedroom and bathroom	49sqm	2%	No
4.1.2.1 Wall Height	East: 8m (based on gradient 1:3)	6.2m	-	Yes
	West: 8m (based on gradient 1:3)	6.45m	-	Yes
4.1.2.2 Number of Storeys	2 storeys	1 storey	-	Yes
4.1.2.3 Roof Height	Height: 2.5m	0.27m	-	Yes
	Pitch: maximum 35 degrees	5 degrees	-	Yes
4.1.4.1 Street Front Setbacks	6m	0m - 2.43m	up to 100%	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	East: 2.07m (1/3 of wall height)	0m - 0.9m	up to 100%	No
	West: 2.15m (1/3 of wall height)	0.9m - 4m	up to 58.14%	No
	Windows: no windows within 3m of side boundaries	2x windows within 3m of side boundaries	70%	No
4.1.4.4 Rear Setbacks	8m	0.95m - 1.29m	up to 88.13%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% (54.67sqm) of site area (open space needs 3m x 3m dimensions)	0% of open space has 3m x 3m dimensions	100%	No
	Open space above ground 25% of total open space	nil	-	Yes

4.1.5.2 Landscaped Area	Landscaped area 35% of proposed open space	>100% of open space (33sqm of site area) - as no open space proposed	-	Yes
	1 native tree	1 native tree	-	Yes
4.1.5.3 Private Open Space	18sqm	8.3sqm (area of deck that can be reasonably used as private open space - excludes bin storage area and entry decking)	53.89%	No
Schedule 3 Parking and Access	Dwelling 2 spaces	no off-street parking	100%	No

***Note:** To be included as total open space, open space areas must have a minimum dimension of 3m x 3m, with an unbroken area of 12sqm.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	No	No
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	No	No
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	No	No
4.1.1.1 Residential Density and Dwelling Size	No	No
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	No
4.1.5 Open Space and Landscaping	No	No
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	No
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

Description of non-compliance

The control aims to minimise a loss of privacy to surrounding development through good design. The rear façade of the dwelling is setback between 0.95m and 1.29m from the rear boundary. It is noted that the rear boundary directly adjoins private open space on the two northern adjacent properties (9 and 11 Pacific Parade).

The private open space at 11 Pacific Parade consists of an elevated terrace and level landscaped area directly accessible from the living space on the first floor of the adjacent semi-detached dwelling. The private open space at 9 Pacific Parade consists of terraced lawn areas within the rear yard.

The proposal includes three north facing windows that would allow the future occupants of the dwelling to directly overlook into private open space at 9 and 11 Pacific Parade. Whilst the windows are noted for containing louvre screens with 80mm openings to a height of 1.44m above the finished floor level, this privacy mitigation measure is not sufficient to prevent direct overlooking into the rear adjacent properties.

Thus, the proposal fails to meet the requirements of this control.

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 minimise loss of privacy to adjacent and nearby development by:

- *appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings; and*
- *mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*

Comment:

As noted above, the privacy screening proposed on the windows is not sufficient to mitigate downward overlooking into the rear adjacent private open space. The 80mm spaced louvres do not prevent one from viewing between the louvres towards the adjacent private open space. Given the minimal rear setback, coupled with the fact that two of the windows adjoin the open plan living area (i.e. high trafficable area), the overlooking that would occur is not considered to be reasonable within a residential setting.

Whilst design treatments could be employed to the windows to alleviate the overlooking, the current proposal has not explored a more appropriate design to minimise loss of privacy to the downslope properties. As a consequence, the proposal fails to satisfy this objective.

Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.

Comment:

It is considered that there are feasible design alternatives that would minimise overlooking to the neighbouring properties to the north without compromising the proposed dwelling's ability to obtain

adequate solar access and a reasonable outlook. The current proposal has not demonstrated an acceptable design to conserve the privacy of the adjoining properties to the north. Consequently, the proposal fails to satisfy this objective.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposed development will allow for passive surveillance of the public footpath.

Conclusion

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the objectives of this control. This matter forms a reason for refusal.

3.7 Stormwater Management

Please refer to the commentary under Clause 6.4 of Manly LEP 2013 for matters pertaining to stormwater management. As discussed earlier within this report, there is insufficient information provided to determine whether stormwater generated from the proposal can be appropriately managed and disposed of. This matter forms a reason for refusal.

4.1.1.1 Residential Density and Dwelling Size

Description of non-compliance

The control requires at least 250sqm of site area to provide a single dwelling. The site is significantly undersized, being 99.4sqm in area, and the application proposes to construct a single dwelling house on the vacant allotment. Therefore, the proposal does not satisfy the minimum site density requirement.

In addition, the control further states that dwellings with a single bedroom and bathroom shall have a minimum gross floor area of 50sqm. The gross floor area of the proposed dwelling house is 49sqm, which represents a minor departure from the numeric requirement.

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 promote a variety of dwelling types, allotment sizes and residential environments in Manly.

Comment:

The size and configuration of the allotment is atypical to the surrounding character. It is noted that the allotment was subdivided from 9 and 11 Pacific Parade in 1908 and has not been developed. It is considered that a 99.4sqm allotment is not suitable to be developed in an environmentally acceptable manner, given the undersized nature of the site precludes any development from reasonably complying with Council's primary planning controls, such as the setback, open space and landscaped area provisions. A general level of compliance with such controls is integral to negating unreasonable impacts to the existing character of the area and surrounding built environment. The

undersized nature of the site also prevent development from being designed in an acceptable manner that provides adequate internal amenity for the future occupants of the dwelling. Consequently, the proposed development fails to satisfy this objective.

Objective 2) To limit the impact of residential development on existing vegetation, waterways, riparian land and the topography.

Comment:

Council's Landscape Officer has reviewed the application and is satisfied that trees and vegetation within the vicinity of the development could be retained, subject to the imposition of controls. It is noted that the proposal would necessitate the removal of existing rock outcrops. However, these rock outcrops do not form distinct natural features within the public domain and therefore, no objections are raised of this impact.

Objective 3) To promote housing diversity and a variety of dwelling sizes to provide an acceptable level of internal amenity.

Comment:

The undersized nature of the allotment makes it difficult for a dwelling to be designed with a reasonable level of internal amenity. Whilst the proposal utilises a number of north facing windows to provide adequate solar access to the living room, the small decking adjacent to the front boundary is inadequate in size to meet the recreational needs of future occupants within the dwelling. It is also noted that this decking is located adjacent to the public footpath and is not designed to maximise privacy for the occupants of the development. For these reasons, the proposal fails to provide an acceptable level of internal amenity, which is contrary to this objective.

Objective 4) To maintain the character of the locality and streetscape.

Comment:

There are no examples of development directly adjoining the northern side of the footpath. However, it is noted that two residential flat buildings and a number of dwelling houses located on Kangaroo Street can be viewed from the footpath when looking upslope towards the south. The proposed single storey built form will not look overbearing when compared to these nearby developments on the southern side of the footpath.

Objective 5) To maximise the use of existing infrastructure.

Comment:

As discussed earlier within this report, the site does not contain vehicular access and is located 45m from the nearest road. As a consequence of the isolated nature of the site, amongst other key issues, it is considered that the site is not suitable for development.

Conclusion

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the objectives of this control. This matter forms a reason for refusal.

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

Description of non-compliance

Front Setback

The control stipulates that development adjacent to land zoned RE1 Public Recreation shall be setback at least 6m from the shared boundary. It is noted that the front boundary of the site adjoins land zoned RE1 Public Recreation and thus, this control applies.

The proposed decking presents a nil front setback, whilst the front façade is setback between 0.9m - 2.43m from the front boundary. Consequently, the proposal fails to meet the prescribed requirement.

Side Setback

The control stipulates that development shall be setback at least 1/3 of the adjacent wall height from side boundaries. In applying this principle, the dwelling house should be setback at least 2.07m from the eastern side boundary and 2.14m from the western side boundary.

The proposed dwelling house is setback between 0m (bin storage and decking) - 0.9m (façade) from the eastern side boundary, which does not satisfy the numeric requirement.

Additionally, the dwelling house is setback between 0.9m - 4m from the western side boundary, which represents a partial non-compliance.

Rear Setback

The control stipulates that development shall be setback at least 8m from the rear boundary. The rear façade (excluding window hoods) of the dwelling house is setback between 0.95m - 1.29m from the rear boundary, which is a significant departure from the numeric requirement.

Windows

The control stipulates that windows serving habitable rooms must be setback at least 3m from side boundaries. The proposal includes two windows serving habitable rooms (bedroom and living room) within 3m of the eastern and western side boundaries, which does not satisfy the prescribed requirement.

Merit consideration:

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

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

There are no examples of development directly adjoining the northern side of the footpath, which makes it difficult to determine whether the proposed front setback maintains an appropriate level of separation from the public footpath to maintain the character of the streetscape (i.e. public footpath). Notwithstanding, there are two residential flat buildings and a number of dwelling houses located on Kangaroo Street can be viewed from the footpath when looking upslope towards the south. When viewed the public footpath the proposed single storey built form will not look overbearing when compared to these nearby developments on the southern side of the footpath, primarily due to the fact

that the roofline of the dwelling house is sited 1.3m above the footpath level due to the significant slope that falls towards the north. Therefore, it is considered that the proposal will not detract from the streetscape (i.e. public footpath).

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment:

In considering the front setback non-compliance, it is noted that adequate separation has been afforded from nearby residential developments to the south of the site to conserve the amenity of this adjacent land. However, the placement of the decking (private open space) directly adjacent to the public walkway does not provide an adequate level of privacy for the future occupants of the building.

The side setback and side window placement non-compliances do not create any adverse amenity implications as there are no adjoining buildings directly to the east or west of the proposed dwelling house.

When considering the rear setback non-compliance, it is considered that the rear setback is inadequate to allow for the establishment of sufficient planting, including canopy trees, to mitigate the height and bulk of the development from downslope properties (i.e. 9 and 11 Pacific Parade). Furthermore, as the development is situated on top of a rock outcrop it is unlikely that there would be adequate soil depth within the rear portion of the site to accommodate for sufficient planting to mitigate the height and bulk of the development, notwithstanding the minimal rear setback. Given the elevated nature of the proposed dwelling in relation to the downslope properties on Pacific Parade, coupled with the minimal rear setback and lack of landscape treatment within the rear yard, the proposed development will have an unreasonable visual impact when viewed from the downslope properties. Additionally, the minimal rear setback also encourages unreasonable levels of overlooking towards adjacent private open space from north facing windows of the proposed dwelling.

For the reasons outlined above, the proposal fails to maintain a reasonable level of amenity for the subject site and adjoining properties, which is contrary to this objective.

Objective 3) To promote flexibility in the siting of buildings.

Comment:

Flexibility should not be afforded with regards to the setback provisions as the front setback non-compliance creates unreasonable privacy impacts for the future occupants of the dwelling, whilst the rear setback non-compliance creates unreasonable amenity impacts to the neighbouring properties to the north (9 and 11 Pacific Parade), specifically with regards to visual bulk and visual privacy.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

Given the undersized nature of the site, there is limited opportunity to provide sufficient landscape treatment, particularly within the rear yard, to mitigate the height and bulk of the dwelling house when viewed from downslope properties. Moreover, the proposal does not provide any open space areas that meet the minimum dimensions required by the Manly DCP 2013. Thus, the proposal fails to meet this objective.

Objective 5) To assist in appropriate bush fire asset protection zones.

Comment:

The site is not bushfire prone.

Conclusion

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the objectives of this control. This matter forms a reason for refusal.

4.1.5 Open Space and Landscaping

Description of non-compliance

The control requires at least 55% (54.67sqm) of the site to consist of total open space (TOS). To be included as TOS open space areas must be at least 3m x 3m in dimension, with a minimum unbroken area of 12sqm. The proposed development does not provide any TOS in accordance with this requirement.

Furthermore, the control stipulates that dwelling houses shall provide at least 18sqm of private open space. The proposed front decking, which is nominated as the private open space, only has a trafficable area of 8.3sqm that can be reasonably used as private open space. Thus, the proposal fails to meet this requirement.

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 proposal retains the existing canopy tree on the site and only necessitates the removal of an

exempt tree (palm tree). Whilst the proposal necessitates the removal of rock outcrops on the site, these features do not form distinct natural features within the streetscape and thus, the impact is not considered unreasonable.

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

Comment:

The proposal only proposes 33sqm of landscaping throughout the site. Due to the footprint of the dwelling and significantly undersized nature of the allotment, there is insufficient landscaped/open space areas around the curtilage of the building to enable the establishment of further vegetation, including canopy trees, to enable the dwelling to integrate with the natural setting. As a consequence of the proposal's inability to provide sufficient landscaped treatment, particularly within the rear yard, the development will have an unreasonable visual impact when viewed from downslope properties (i.e. 9 and 11 Pacific Parade) due to the building being elevated on a rock outcrop. Consequently, the proposal fails to satisfy this objective.

Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.

Comment:

As discussed earlier within this report, the proposed dwelling house will have an unreasonable impact upon the amenity of the downslope properties. This is a consequence of the minimal rear setback proposed, window placements and lack of effective landscape treatment within the rear yard.

Additionally, there is insufficient areas of TOS and private open space to meet the recreational needs of future occupants of the dwelling house. The 8.3sqm of usable decking is not sufficient to meet the recreational needs of future occupants. Additionally, the decking is located directly adjacent to the public walkway and is not conducive to serve as private open space, given it will be viewed from the public domain.

The proposal does not satisfy this objective.

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

Comment:

There is insufficient information provided to determine whether the proposal can adequately manage and dispose of stormwater.

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

Comment:

The proposal is not likely to lead to a significant spread of weeds.

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

Comment:

The existing canopy tree on the site is being retained, with the only tree removal being an exempt species. It is considered that the proposal will not have an adverse impact upon wildlife habitat and corridors.

Conclusion

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the objectives of this control. This matter forms a reason for refusal.

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

Description of non-compliance

The Manly DCP 2013 stipulates that dwelling houses shall provide at least 2 off-street parking spaces on the site. The site does not have vehicular access and is located 45m from the nearest road (Kangaroo Street). Thus, the proposal is unable to provide any off-street parking, which is contrary to this requirement.

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 site is located directly adjacent to a public footpath within the unconstructed part of Pine Street. The site is located approximately 45m to the north of Kangaroo Street and must be accessed via a flight of stairs. Alternatively, access to the site is provided through a flight of stairs via the formed part of Pine Street, which is located approximately 60m to the east of the site. Thus, the future occupants would be required to utilise on-street parking at least 45m away from the subject site.

It is considered that a new dwelling should not be so difficult to access for future occupants of the site. The difficulty in performing simple day-to-day functions, such as unloading shopping or receiving deliveries, is not consistent with what would be reasonably expected of a new dwelling.

Notwithstanding the above, Council's Traffic Engineers have recommended a condition that in the event the application was approved, future occupants of the site would be precluded from obtaining a resident parking permit to utilise on-street parking within restricted area. It is noted that on-street parking within the Kangaroo Street catchment is restricted to 2 hours between 8am – 6pm for non-permit holders, whilst on-street parking within the Pine Street catchment is restricted to 2 hours between 8am – 10pm for non-permit holders. Thus, any future occupants of the development would not be permitted to park within these restricted areas for more than 2 hours during the core hours. This would create additional inconveniences for future occupants, which includes constantly relocating on-street vehicles on a 2 hour basis during core hours or parking vehicles further away from the site within an unrestricted area.

It is further noted that the unformed area of Pine Street, which is adjacent to the site, is zoned RE1 Public Recreation under Manly LEP 2013 and this area is not likely to be redevelopment for the purpose of a road to serve the subject site.

Consequently, the proposal does not provide accessible and adequate parking relative to what one could reasonably expect for a new dwelling house, which is contrary to this objective.

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:

The proposal would increase the demand for on-street parking as no off-street parking has been provided. Thus, the proposal fails to achieve this objective.

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 proposal does not provide driveways, parking spaces or other vehicular access areas.

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 does not provide driveways, parking spaces or other vehicular access areas.

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

Comment:

The proposal does not provide a vehicular crossover or off-street parking.

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:

The proposal does not provide a vehicular crossover or off-street parking.

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.

Conclusion

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the objectives of this control. This matter forms a reason for refusal.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$6,860 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$686,000.

CONCLUSION

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

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

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

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

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

The proposed development involves the construction of a single storey dwelling house including landscaping works and tree removal (exempt species only).

The assessment has concluded that the site is not suitable for development as the significantly undersized allotment prevents the site from being developed in an environmentally acceptable manner, whilst the isolated nature of the site prevents the development from being able to provide adequate off-street parking and access to meet the needs of the future occupants of the dwelling and external

parties.

Following the public exhibition period a total of 16 individual submissions were received objecting to the proposal. The key concerns raised within the submissions pertain to the undersized nature of the allotment, the lack of vehicular access/off-street parking, impacts of the built form on the adjacent public footpath, amenity impacts on adjacent residential properties, construction management impacts, landslip hazards and stormwater management. A number of the concerns raised within the submissions have merit and warrant refusal of the application.

It is recommended that the NBLPP refuse the development application for the reasons set out within the assessment report.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority REFUSE Development Consent to Development Application No DA2021/2590 for the Construction of a dwelling house on land at Lot 5 DP 939161,40 Pine Street, MANLY, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 the site is not considered to be suitable for the proposed development.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Manly Local Environmental Plan 2013.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 6.4 Stormwater Management of the Manly Local Environmental Plan 2013 as there is insufficient information to determine whether stormwater generated from the development can be appropriately managed and disposed of.
4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 6.12 Essential Services of the Manly Local Environmental Plan 2013 as the site is unable to provide adequate off-street parking and access to meet the needs of the future occupants of the dwelling and external parties. Furthermore, the applicant has not been able to demonstrate that the proposed development can adequately manage and dispose stormwater generated from the development.
5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.4.2 Privacy and Security of the Manly Development Control Plan as the proposed dwelling would allow the future occupants to directly overlook into private open space at 9 and 11 Pacific Parade.
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.7 Stormwater Management of the Manly Development Control Plan 2013 as there is insufficient information to determine whether stormwater generated from the proposal can be appropriately managed and disposed of.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.1.1.1 Residential Density and Dwelling Size of the Manly Development Control Plan as the undersized nature of the allotment makes it difficult for the development to comply with a number of Council's primary planning controls or provide an acceptable level of internal amenity for the future occupants of the dwelling.
8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.1.4 Setbacks (front, side and rear) and Building Separation of the Manly Development Control Plan 2013 as the front and rear setback non-compliances will create adverse amenity impacts for adjacent properties and the future occupants of the dwelling house.
9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the

proposed development is inconsistent with the provisions of Clause 4.1.5 Open Space and Landscaping of the Manly Development Control Plan as the proposal provides insufficient total open space and landscaping to enable the establishment of adequate landscape treatment to screen the built form from downslope properties. Furthermore, the proposal provides inadequate areas of private open space to meet the recreational needs of the future occupants of the dwelling house.

10. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities) of the Manly Development Control Plan as the proposed development fails to provide adequate off-street parking and access to meet the needs of the future occupants of the dwelling house and external parties. Additionally, the proposal would increase the demand for on-street parking.
11. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 the proposed development is not in the public interest.

[illegible]



Drawing:

[illegible]

5.0 NON PUBLIC MEETING ITEMS

ITEM 5.1	DA2022/0036 - 0 GRIFFITHS STREET, FAIRLIGHT - CONSTRUCTION OF COLUMBARIUM WALLS, A MEMORIAL GARDEN AND SIGNAGE WITHIN MANLY CEMETERY.
AUTHORISING MANAGER	Phil Lane
TRIM FILE REF	2022/379743
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plans & Elevations

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant and 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. DA2022/0036 for the construction of columbarium walls, memorial garden and signage at Lot 1 DP 1121171, 0 Griffiths Street, Lot 1 DP 117863, 0 Hill Street, Lot 1 DP 34468, 38A Hill Street, Lots 7322,7323 and 7324 DP 1154744, Griffiths Street, and Lot 7006 DP 1023270, 0 Griffiths Street FAIRLIGHT NSW 2094, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0036
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Responsible officer:	Geoff Goodyer, Independent Planning Consultant, Symons Goodyer Pty Ltd
Land to be developed (address):	Lot 1 DP 1121171, 0 Griffiths Street FAIRLIGHT NSW 2094; Lot 1 DP 117863, 0 Hill Street FAIRLIGHT NSW 2094; Lot 1 DP 34468, 38A Hill Street FAIRLIGHT NSW 2094; Lots 7322,7323 and 7324 DP 1154744, 0 Griffiths Street FAIRLIGHT NSW 2094; Lot 7006 DP 1023270, 0 Griffiths Street FAIRLIGHT NSW 2094
Proposed development:	Construction of columbarium walls, memorial garden and signage.
Zoning:	Manly LEP 2013 – Land zoned SP2 Infrastructure (Cemetery)
Development permissible:	Yes
Existing use rights:	No
Consent authority:	Northern Beaches Council
Delegation level:	Northern Beaches Local Planning Panel
Land and Environment Court action:	No
Owner:	Crown land
Applicant:	Northern Beaches Council

Application lodged:	14 April 2022
Integrated development:	No
Designated development:	No
State reporting category:	Infrastructure
Notified:	25 April 2022 – 9 May 2022
Advertised:	No
Submissions received:	Three (3)
Recommendation:	Approval

Estimated cost of works:	\$440,056
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EXECUTIVE SUMMARY

The proposal involves the construction of a columbarium and memorial garden on the eastern side of the cemetery and updating existing signage around the cemetery.

The columbarium comprises four freestanding walls in which niches are provided for funeral urns to be stored. The walls range in length from 4.24m to 5.3m and in height from 1.32m to 1.575m and are all 0.7m wide.

There is an existing columbarium at Manly Cemetery, opened in 2000 with 512 niches. The proposal will result in an additional 698 niches/plaques.

Manly Cemetery is listed as a heritage item of local significance in Manly LEP 2013. A number of trees are included in the heritage listing. A Conservation Management Plan for the Manly Cemetery was prepared in 2006.

It is considered that the proposal maintains the character, amenity and heritage significance of the Manly Cemetery. It has no impact on the amenity of any nearby residences, public open spaces or streetscapes.

The signage will improve legibility for visitors to the cemetery. The columbarium will provide space for memorials consistent with the desires of the local community

Three submissions were received in response to the notification proposal. No issues are raised that are considered to be determinative.

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

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be approved.

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 (ie: this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- An inspection of the subject site and neighbouring sites 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 and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Community Participation Plan;
- A review and consideration of all submissions made by the public in relation to the application;



- A review and consideration of all documentation provided with the application (up to the time of determination); 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 2013 – 3.2 Heritage Considerations

STATUTORY CONTROLS

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- Manly Local Environmental Plan 2013
- Manly Development Control Plan 2013

SITE DESCRIPTION

Property description:	Lot 1 DP 1121171, 0 Griffiths Street FAIRLIGHT NSW 2094 Lot 1 DP 117863, 0 Hill Street FAIRLIGHT NSW 2094 Lot 1 DP 34468, 38 A Hill Street FAIRLIGHT NSW 2094 Lots 7322, 7323 and 7324, DP 1154744, 0 Griffiths Street FAIRLIGHT NSW 2094 Lot 7006 DP 1023270, 0 Griffiths Street FAIRLIGHT NSW 2094
Detailed site description:	The site is located in the block bounded by Harland Road to the north, Hill Street to the west, Griffiths Street to the south and Weeroona Park to the east. It covers an area of approximately 2.7 hectares. The site is mostly covered with gravestones of varying ages and condition, although there is a columbarium in the south eastern corner of the site, which was opened in 2000. There are a number of mature trees scattered around the site, and the site is traversed by two drainage swales. The site has a gentle slope from the north west to the south east corner. The park to the east of the site has play equipment and gentle mounding between it and the cemetery. Opposite the cemetery to the west is Manly West Public School and to the north and south are a variety of residential buildings.

LOCALITY PLAN (not to scale)





Figure 1 – Location of Site (source: <https://maps.six.nsw.gov.au>)



Photo 1 – Location of proposed columbarium, with existing columbarium visible in background

SITE HISTORY

Development Application 293/97 was approved on 6 November 1997 for the construction of a columbarium wall and path and has since been built.



Development Application DA271/2008 for a 1.8m high tubular steel fence around the cemetery was refused on 5 January 2009 because it was considered to be out of keeping with the heritage nature of the cemetery.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for the construction of a columbarium and memorial garden on the eastern side of the cemetery and updating signage around the cemetery.

The columbarium will consist of four (4) double sided walls with dimensions (mm) as follows:

- Wall 1: 1320(h) x 5200(l) x 700(w)
- Wall 2: 1565(h) x 4240(l) x 700(w)
- Wall 3: 1575(h) x 4240(l) x 700(w)
- Wall 4: 1515(h) x 5300(l) x 700(w)

There will be a gap of 1485mm between each section with the walls to be prefabricated and made of granite. The columbarium walls have been designed so that sightlines can be preserved to and from the adjacent Weeroona Park. It is also proposed to raise the existing Psalm 23 (Lord is my shepherd) plaque, which is currently set into the ground in front of the existing columbarium on a 750mm plinth.

In total, there will be 698 additional niche spaces / memorial plaques available between the new columbarium walls and the garden memorial.

The signage is intended to update the existing signage which dates back to Manly Council and will be as follows:

- 3 x "park identification" signs saying "Manly Cemetery" with dimensions 1200mm W x 500mm H on posts standing a maximum of 950mm H to be located at the Hill St entrance, the Harland Rd entrance and the Griffiths St entrance.
- 6 x "totem directional" signs indicating pictorially prohibitions and hazards, dimensions 150mm W x 1100mm H to be located at various points around the cemetery.

All signage will be in a heritage colour palette of charcoal grey with natural timber posts.

The plans show landscaping, a pathway and seating on the eastern side of the proposed columbarium; however, these works do not form part of the DA and will be approved under exempt development legislation.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 4.15 of the EPAA 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	See discussion on "Environmental Planning Instruments" in this report.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	See discussion on “Manly Development Control Plan 2013” in this report.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters can be addressed via a condition of consent. <u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, enable Council to request additional information in relation to a development application. No additional information was requested. <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 can be addressed via a condition of consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter can be addressed via a condition of consent. <u>Clause 98(1)(b)</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. <u>Clause 98(1)(a)</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter can be addressed via a condition of consent. <u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design

Section 4.15 'Matters for Consideration'	Comments
	verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
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	(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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the proposed works.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered to be suitable for the proposed columbarium and signage. It has been used historically as a cemetery and the proposal complements the historical use of the site.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 4.15 (1) (e) – the public interest	The public interest is considered to be served by providing for the opportunity for members of the community to have memorials plaques erected to loved ones who have passed away.

EXISTING USE RIGHTS

Existing use rights are not applicable to this application.

INTEGRATED DEVELOPMENT

Section 4.46(1) of the EP&A Act 1979 prescribes certain development to be “Integrated Development”. Integrated Development requires consultation with relevant authorities to obtain general terms of approval prior to the granting of consent.

The proposal is not Integrated Development.

BUSHFIRE PRONE LAND



The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS

The subject application was notified to surrounding and nearby properties in accordance with the EPA Regulation 2000 and the Northern Beaches Community Participation Plan.

In response, Council received three (3) submissions, two of which specifically supported the proposal and one of which raised no objections.

Submissions were received from the following:

Name:	Address:
Malcolm Conn	24 Austin Street, Fairlight, NSW 2094
Daniel Sealey	36 Bellevue Street, Fairlight, NSW 2094
Barry Smith	7 Waterview Street, Seaforth, NSW 2092
John Levett	6 Grover Avenue, Cromer, NSW, 2099

One objection questioned whether a fence was included in the proposal. It can be confirmed that the proposal does not include a fence.

One submission questioned why they were not notified of the proposal. In this regard, the proposal was notified in accordance with the Northern Beaches Community Participation, and the submitter's concern has not been given weight in the recommendation of this assessment report.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal referrals

Internal Referral Body	Comments
Environmental Health – Industrial Use	Supported, no conditions.
Landscape	Supported, subject to conditions. Council's Landscape Referral section have considered the application against the Manly Local Environment Plan, and the following Manly DCP 2013 controls (but not limited to): • 3.3.1 Landscaping Design • 3.3.2 Preservation of Trees or Bushland Vegetation It is noted the design has been located to minimise impacts to the surrounding landscape and vegetation. A Landscape Plan and Arboricultural Impact Assessment (AIA) is included in the

Internal Referral Body	Comments
	application and will be assessed as part of the Landscape Referral. No trees are proposed to be removed, however tree 71 has been recommended for removal in the AIA. Upon investigation of the available satellite imagery, tree 71 has been removed since the assessment. All trees to be retained shall be protected and the tree protection measures outlined in the AIA are supported, subject to the imposed conditions. Works within the tree protection zone of tree 69 have been identified in the AIA as a major encroachment, therefore a Project Arborist shall be engaged to supervise these works and all tree protection measures, subject to the imposed conditions. Any signage installed within the tree protection zone of trees to be retained shall comply with the tree protection conditions of consent. All works outside the boundary of the cemetery have been identified as excluded from this development application, thus have not been assessed in this referral. The proposal is therefore supported.
NECC (Development Engineering)	Supported, no conditions.
Parks, Reserves and Foreshores	Supported, subject to conditions. The development application is for construction of columbarium walls, a memorial garden and signage within Manly Cemetery, as described and illustrated in the reports and plans. The property is located downslope of Weeroona Reserve. The plans indicate that the works on the public reserve do not form part of this application thus no encroachment beyond the property boundaries is permitted. The proposal is therefore supported.
Strategic and Place Planning (Heritage Officer)	Discussion of reason for referral The proposal has been referred to Heritage as the subject site is a heritage item. I58 - Manly General Cemetery and Vegetation (including corner Moreton Bay Fig, row of Camphor Laurel trees along Harland Street and a row of Monterey Pines along Hill Street – Hill Street (corner Harland and Griffiths Street), Fairlight. Details of heritage items affected

Internal Referral Body	Comments																		
	Details of the item as contained within the Manly inventory is as follows: Statement of Significance Major significance. Important for the historical evidence concerning Manly residents recorded on gravestones. A Significant evidence of 19th century burial practices. Balgowlah (Manly) Church of England Burial Ground. Physical Description A generally well-tended cemetery with some tree and bush planting's especially in the older Church of England area. Some vandalism and breakage of older gravestones. Mostly masonry grave markers with use of cast iron, and rare wooden markers. Gravestones of some interest include one of a trinity Bay Aborigine aged 17 in 1891, and another for George and Martha Pickering, 1867 and 1874 respectively, stating that they "were the first white people to settle at Manly, March 1814". Arris Fence on south side. Plantings include camphor laurels, brush box, Norfolk Island Pines, yucca, other australian natives. Other relevant heritage listings <table><tr><td>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td><td>No</td><td></td></tr><tr><td>Australian Heritage Register</td><td>No</td><td></td></tr><tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr><tr><td>National Trust of Aust (NSW) Register</td><td>Yes</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>No</td><td></td></tr></table> Consideration of Application Manly Cemetery and its vegetation is a heritage listed site under the Manly Local Environmental Plan 2013. It is a significant site containing some of the earliest European burials in the area. It is bounded on three sides by tree lined streets and to the east by Weeroona Park. It is not an enclosed cemetery with only a light weight fence to the Griffiths Street boundary. These all contribute to the open park like character of the site. A Conservation Management Plan (CMP) was produced for the site in 2006 and contains a number of policies to maintain the heritage significance of the site. The proposal is for the creation a new columbarium wall along the eastern boundary of the site adjoining Weeroona Park. The wall will be comprised of four double side panels ranging in	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register	Yes		RAIA Register of 20th Century Buildings of Significance	No		Other	No	
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No																		
Australian Heritage Register	No																		
NSW State Heritage Register	No																		
National Trust of Aust (NSW) Register	Yes																		
RAIA Register of 20th Century Buildings of Significance	No																		
Other	No																		

Internal Referral Body	Comments
	height from 1.3 at the northern end to almost 1.8m at the southern end where views will be obscured by existing vegetation. There will be gaps of 1.4m between each panel. Other proposed work includes changes to the existing semi-circular columbarium wall, landscaping, pathways and the installation of 9 new Council signs to replace existing outdated signs. Works within Weeroona Park do not form part of this proposal. A Heritage Impact Statement (HIS) from Urbis has also been included within the application documents. The HIS has assessed the proposal against the identified heritage significance of the site. The HIS has determined that the proposal is supportable on Heritage grounds as the new wall allows for the primary purpose of the cemetery, as a place for the internment of human remains, to continue. It goes on to state that while recognisable as a new element with the cemetery, the wall will not impact upon the existing graves and monuments and does not impact upon the historic arrangement and layout of the cemetery. It does indicate that there will be a minor tolerable impact when views are considered as the new panels will slightly interrupt views to Weeroona Park, however the height of the panels and separation between them will mean that it does not become a dominant detracting feature. Heritage can agree with this conclusion. The lowered heights of the panels and increased spacing between as compared to the original exhibited proposal from 2021 reduces the sense of enclosure, maintains views to Weeroona Park and maintains the open park like character of the site. The HIS then goes on to consider the primary related policies of the CMP. 6.3.1 Management and Use of Manly Cemetery indicates that the site should remain primarily as a site for the burial and commemoration of deceased people, with secondary uses for education, interpretation, conservation and passive recreation. The HIS has determined that the proposal meets these policies through the provision of more internment spaces and continued use a working cemetery. Heritage can agree with this conclusion. The HIS has also considered the proposal against 6.4.1 of the CMP for new work or fabric and considers because it adopts materials already prevalent in the cemetery that it will meet the aims of this policy. Heritage raises no objections to this conclusion. In contrast to the previous two CMP policies, 6.4.4 Columbarium is very specific in its direction that no new columbaria should be considered other than completing the existing one. The HIS notes that while not strictly complying with this policy of the CMP, the proposal is consistent with the overall aims and intent of the CMP to preserve and maintain the ongoing use of the site. It additionally goes on to state that the CMP has not been updated since its finalisation in 2006, and was prepared on the

Internal Referral Body	Comments
	basis that the site was to not accept new burials and become an archaeological relic site with an emphasis on the preservation of a 20th century character. The HIS has recommended that the CMP be updated in line with a new Plan of Management to account for the continued internment of human remains in the new Columbarium. Heritage can agree with the conclusions of the HIS on 6.4.4. The CMP was prepared some time ago on the basis the cemetery would close to burials and does not reflect an increasing use an acceptance of well-designed columbaria or niche walls in historical cemeteries. In this regard, the direction of the NSW Branch of the National Trust is noted through their Guidelines for Cemetery Conservation (2009), which provides direction for columbaria. In summary new proposals should consider the setting and character of the cemetery and design accordingly to reflect the values and significance of the place. They should not be designed for maximum contrast but rather to fit their context. This proposal has been designed to reflect its location and its lowered and broken massing reduces the impact as opposed to a higher solid design that would be in severe contrast to the established character of the site. The changes to the existing columbarium wall, pathways, seating and replacement signs are acceptable to Heritage without comment. In summary, Heritage can support the proposal and the conclusions of the Heritage Impact Statement. The new Columbarium will allow for the continued internment of human remains with only minor tolerable impacts upon the character of the site through a slight reduction in views to Weeroona Reserve. Therefore, Heritage raises no objections to the proposal and requires only one condition. The provision of simple archival recording of the site of the proposed works to capture its current state. Heritage also strongly supports the recommendation for the updating of the 2006 CMP and the preparation of a new Plan of Management informed by appropriate heritage advice. Consider against the provisions of CL5.10 of MLEP. Is a Conservation Management Plan (CMP) Required? A CMP was adopted for the cemetery in 2006. Has a CMP been provided? The development application refers to the 2006 CMP. Is a Heritage Impact Statement required? Yes



Internal Referral Body	Comments
	Has a Heritage Impact Statement been provided? Yes (refers to the 2006 CMP)
	Further Comments
	COMPLETED BY: Brendan Gavin, Principal Planner DATE: 9 June 2022

External referrals

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

ENVIRONMENTAL PLANNING INSTRUMENTS

SEPP (Infrastructure) 2007

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

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

Comment:

The proposal was referred to Ausgrid, who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP 55 (Biodiversity and Conservation) 2021

Vegetation in Non-Rural Areas

The provisions of Chapter 2 of this policy are applicable to all non-rural land across the state and aim to protect the biodiversity values of trees and other vegetation in non-rural areas and



to preserve the amenity of non-rural areas through the preservation of trees and other vegetation.

The application is accompanied by an Arboricultural Impact Assessment and Tree Management Plan (Redgum Horticultural, 22 February 2021). The report assesses the potential impact on a number of trees and concludes that the development, if carried out appropriately, will not impact the health of those trees. It is considered that the recommendations of the arborist's report should form conditions of development consent if this application is approved.

The report recommends that Tree 71 be removed as it is in decline. The tree was removed sometime between the date of that report and site inspection by the assessment officer.

SEPP 55 (Industry and Employment) 2021

Advertising and Signage

The proposal includes the replacement of nine (9) existing signs, as follows:

- 3 x "park identification" signs saying "Manly Cemetery" with dimensions 1200mm W x 500mm H on posts standing a maximum of 950mm H to be located at the Hill St entrance, the Harland Rd entrance and the Griffiths St entrance.
- 6 x "totem directional" signs indicating pictorially prohibitions and hazards, dimensions 150mm W x 1100mm H to be located at various points around the cemetery.

The signs fall within the definition of "building identification of signs" for the purposes of this policy.

The signs are considered to be consistent with the objectives of this part of the policy (clause 3.1(1)(a)) and to satisfy the Assessment Criteria in Schedule 5 of the policy.

Local Environment Plans (LEP's)

Manly Local Environmental Plan 2013 (MLEP 2013)

Consideration of proposal against Manly Local Environment Plan 2013:

Definition of proposed development: (ref. MLEP 2013 Dictionary)	Cemetery
Zone:	SP2 Infrastructure (Cemetery)
Permitted with Consent or Prohibited:	Permissible with consent

Objectives of the Zone
• To provide for infrastructure and related uses. • To prevent development that is not compatible with or that may detract from the provision of infrastructure. • To minimise loss of views to, from and within heritage items and minimising intrusion on the heritage landscape and visual curtilage of heritage items.

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Objectives of the Zone

The development is considered to be consistent with the relevant objectives of the zone for the following reasons:

- The proposal supplements the use of the site as a cemetery.
- The proposal maintains the use of the site for infrastructure (cemetery).
- The proposal maintains the heritage significance of the site, as discussed within the Heritage Impact Statement and the comments of Council's Heritage Officer quoted above.

Principal Development Standards:

Standard	Permitted	Proposed	Complies
None applicable	-	-	N/A

Compliance Assessment

Clause	Compliance with Requirements
2.7 Development requires consent	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes

Detailed Assessment

Zone SP2 Infrastructure

The site is identified on the zoning map as being for the purposes of a cemetery. The proposed works are considered to be commonly associated with a cemetery usage and are permissible with consent.

5.10 Heritage conservation

The site is identified as being a heritage item of local significance and also contains a number trees that are identified as landscape heritage items.

Council's Heritage Officer has carefully reviewed the proposal and concludes:

In summary, Heritage can support the proposal and the conclusions of the Heritage Impact Statement. The new Columbarium will allow for the continued internment of human remains with only minor tolerable impacts upon the character of the site through a slight reduction in views to Weeroona Reserve. Therefore, Heritage raises no objections to the proposal and requires only one condition. The provision of simple archival recording of the site of the proposed works to capture its current state.

These comments are concurred with. A condition of consent is included in the recommendation of this assessment report requiring an archival record be provided. The proposal has no impact on any existing trees on site.

6.1 Acid sulfate soils

The site is partly within an area identified as Class 5 and partly Class 4 on the Acid Sulfate Soils map. The proposal involves the disturbance of less than 1 tonne of soil and will not



lower the water table and, pursuant to clause 6.1(6) of MLEP 2013, the provisions relating to acid sulfate soils are not applicable to this development.

Manly Development Control Plan 2013 (MDCP 2013)

Detailed Assessment

Part 3.2 Heritage Considerations

The site is identified as being a heritage item of local significance and also contains a number of trees that are identified as landscape heritage items.

Council's Heritage Officer has carefully reviewed the proposal and concludes:

In summary, Heritage can support the proposal and the conclusions of the Heritage Impact Statement. The new Columbarium will allow for the continued internment of human remains with only minor tolerable impacts upon the character of the site through a slight reduction in views to Weeroona Reserve. Therefore, Heritage raises no objections to the proposal and requires only one condition. The provision of simple archival recording of the site of the proposed works to capture its current state.

These comments are concurred with. A condition of consent is included in the recommendation of this assessment report requiring an archival record be provided. The proposal has no impact on any existing trees on site.

Part 3.3 Landscaping

The proposal has been designed to incorporate landscaping to complement the existing columbarium and the proposed columbarium.

All existing trees are retained. Landscaping to integrate the proposed works with the adjacent public open space.

Part 3.4 Amenity (Views, Overshadowing, Overlooking/Privacy, Noise)

The proposed columbarium wall, signage and associated landscaping has minimal impact on public and private views. The nearest dwellings are elevated above the site of the proposed columbarium walls and will retain all existing views of the cemetery and existing landscape.

The proposal will create no overshadowing or overlooking. No noise will be created other than during construction, which can be managed through appropriate conditions of development consent.

Part 3.6 Accessibility

The cemetery is currently not fully accessible, however when development consent was granted for the existing columbarium, it included an accessible path designed in accordance with Australian Standard 1428.2 and suitable for wheelchair access. This will be continued along the western side of the proposed columbarium.

Part 3.8 Waste Management



A Waste Management Plan has been submitted with the development application, which details how waste associated with construction of the columbarium will be managed.

Part 4.4.3 Signage

The proposal includes the replacement of nine (9) existing signs. The proposed signs are essentially the same size and in the same location as the existing signs. They are designed to be simple, neutral and recessive and maintain the heritage significance of the site whilst providing public legibility regarding movement through the site and are considered to be appropriate and consistent with the relevant controls.

Schedule 3 Parking and Access

There are no stated carparking requirements in either the DCP of the RMS Guide to Traffic Generating Developments for cemeteries. Currently parking at the cemetery is provided by 25 nose/rear to kerb spaces in Harland Road close to the intersection with Hill Street and street parking along Harland Street, Hill Road and Griffiths Street.

No additional carparking is proposed. It is noted that there is no additional space where it could be located. Unlike the traditional burial ceremony, where a graveside ceremony is held, ashes are generally interred in a columbarium or within family graves some days, months or even years following a funeral at a private, more informal occasion. As such, the need for parking to accommodate funeral attendees is minimal.

The cemetery is served by public transport, including the Council run "Hop, Skip & Jump" bus service, with the Manly-Swim Centre and Manly – Fairy Bower circuits running along Griffith St.

In the circumstances of the case, it is considered that there is adequate on-street parking available in the vicinity of the site.

POLICY CONTROLS

Northern Beaches Section 7.12 Contribution Plan 2022

No contribution is payable under the Northern Beaches Section 7.12 Contributions Plan 2022 because clause 2.5 of the Plan exempts local infrastructure carried out by or on behalf of the Council.

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;
- Manly Local Environmental Plan 2013
- Manly Development Control Plan 2013

The proposal has been assessed against the relevant matters for consideration under Sections 4.15 of the EP&A Act 1979. This assessment has taken into consideration the



submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions.

The proposal was notified and three (3) submissions were received, two of which supported the proposal and one of which raised no objections.

The site is identified as a heritage item. A Conservation Management Plan for the cemetery was prepared in 2006 and includes provisions that effectively prevent further development of the cemetery, including the proposed columbarium wall. However, more recent heritage advice from Council's Heritage Officer acknowledges that the Conservation Management Plan is now outdated and should be reviewed. In particular, the comments of the Heritage Officer recognise the ongoing use of the cemetery and that the proposed columbarium and signage have been sensitively designed to maintain the heritage significance of the cemetery.

Accordingly, the application is recommended for approval.

RECOMMENDATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, grant Development Consent to DA2022/0036 for the construction of columbarium walls, memorial garden and signage at Lot 1 DP 1121171, 0 Griffiths Street, Lot 1 DP 117863, 0 Hill Street, Lot 1 DP 34468, 38A Hill Street, Lots 7322, 7323 and 7324 DP 1154744, Griffiths Street, and Lot 7006 DP 1023270, 0 Griffiths Street FAIRLIGHT NSW 2094 be approved 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
LA 2 - Issue B	14/12/2021	Susan Stratton
LA 3 - Issue B	14/12/2021	Susan Stratton
LA 4 - Issue B	14/12/2021	Susan Stratton
LA 5 - Issue B	14/12/2021	Susan Stratton
LA 7 - Issue B	14/12/2021	Susan Stratton
LA 2 - Issue B	14/12/2021	Susan Stratton
LA 2 - Issue B	14/12/2021	Susan Stratton

Reports / Documentation – All recommendations and requirements contained within:

DA2022/0036



Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment and Tree Management Plan	22/02/2021	Redgum Horticultural
Report on Geotechnical Site Investigation	20/01/2022	Crozier Geotechnical Consultants
Heritage Impact Assessment	02/12/2021	Urbis

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

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	23/12/2021	Northern Beaches Council

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

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

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	12.05.2022

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

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's.

3. Works excluded from this approval

Landscaping, pathway and seating on the eastern side of the proposed columbarium are not approved by this development consent.



Reason: To clarify that certain works shown on the approved plans do not form part of the development proposal, as stated in the Statement of Environmental Effects.

4. Structural Adequacy and Excavation Work

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

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

5. Working on and Access to Reserves Permit

Works (undertaken by principal contractors working without Council supervision) on Land owned or managed by Council require a "Working on Reserves" permit prior to commencement.

Applications can be obtained from Council's website or the Parks and Recreation business unit.

Reason: public safety and the protection of Council infrastructure.

6. 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 commitment 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.



7. 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 on site 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 SafeWorkNSW 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 sewer 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 TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

8. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

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

Reason: To ensure the development is constructed in accordance with appropriate standards.

9. Photographic Archival Record

A simple photographic archival recording of the site is to be made of all existing landscaping, monuments and structures generally in accordance with the guidelines issued by Heritage NSW. A copy of the recording is to be provided to Council's Heritage Officer for approval.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority prior to commencement of any demolition or works on-site.

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

10. Works Outside the Subject Property Boundary

No approval is given under this application for works outside the subject property boundary. For the avoidance of doubt no approval is given for any structures or landscaping within the adjoining public reserve.



Reason: To ensure no works within the public reserve form part of this development consent.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. Working and Access on Reserves Permit

Works (undertaken by principal contractors working without Council supervision) on land owned or managed by Council require a "Working on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks and Recreation business unit.

Reason: Public safety and the protection of Council infrastructure.

12. Construction Management Plan – Council Assets

Prior to commencement of works on site, appropriate environmental site management measures must be in place and incorporate the following throughout demolition and construction:

- i) access to and from the site during construction and demolition, including a Traffic Control Plan by a person with a suitable RMS accreditation for any activities involving the management of the vehicle and pedestrian safety
- ii) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting,
- iii) methods of loading and unloading machinery and building materials,
- iv) location of storage materials, excavation and waste materials,
- v) methods to prevent material being tracked off the site onto surrounding roadways,
- vi) erosion, sediment and dust control measures, and
- vi) protection of existing trees and vegetation including the tree protection zone, in accordance with AS 4970-2009 Protection of Trees on Development Sites.

During works the site management measures set out in the above must remain in place and be maintained until the completion of works.

Safe pedestrian access, free of trip hazards, must be maintained at all times on or adjacent to any public access routes connected to land owned or managed by Council.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

13. Protection of Trees Within Land Owned or Managed by Council

Unless identified by the development consent, existing trees shall be protected in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.



Should any problems arise with regard to the existing trees on public land during the construction period, the applicant is to immediately contact Council's Tree Services section and resolve the matter to Council's satisfaction.

Reason: Tree protection and management.

14. Project arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, and the recommendations of the Arboricultural Impact Assessment.

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

- i) tree protection measures under Part B: Tree Protection Plan, and in particular works around tree 69,
- ii) works under section 14.0 Summary: Tree Management Plan, and in particular section 14.4 to 14.23,
- iii) additionally, the Project Arborist shall be in attendance and supervise any landscaping works within the TPZ of all existing trees to be retained.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

All tree protection measures specified must:

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

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

Note:

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

Reason: Tree protection.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. Protection of Council's Public Assets

DA2022/0036



Any damage to Council's public assets shall be made good by the applicant, and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Existing trees shall be protected in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Should any problems arise with regard to the existing trees on public land during the construction period, the applicant is to immediately contact Council's Tree Services section and resolve the matter to Council's satisfaction.

Reason: To protect and/or restore any damaged public asset.

16. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected, including:
 - i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 - vii) should either or all of v) 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,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
 - ix) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Certifying Authority must ensure that:

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

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

Reason: Tree and vegetation protection.

17. Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

18. Ongoing Management

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

19. Requirement to Notify about New Contamination Evidence

DA2022/0036



Any new information revealed during works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: To protect human health and the environment.

20. Protection of Council's Public Assets

Any damage to Council's public assets shall be made good by the applicant and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Reason: to protect and/or restore any damaged public asset.

21. Existing Landscaped Gardens

The existing gardens and landscaped areas are to be retained and protected from any construction damage. All areas adjacent to the approved building works are to be reinstated to have the same character and style. The existing, soft landscaped areas are not to be substituted for paving, unless shown in the approved plans.

Reason: Landscape protection

22. Waste/Recycling Requirements (Materials)

During demolition and/or construction the following materials are to be separated for recycling – timber – bricks – tiles – plasterboard – metal – concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.
(DACWTE02)

23. Certification of Landscape Plan

Landscaping is to be implemented in accordance with the approved plans and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

24. No Weeds Imported On To The Site



No Priority or environmental weeds (as specified on the NSW WeedWise website) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds

25. Removal of All Temporary Structures/Materials and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences/bunds are to be removed from the site.

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

Reason: to protect reserve amenity and public safety.

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

26. Removal of All Temporary Structures/Materials and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences/bunds are to be removed from the site.

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

Reason: To protect reserve amenity and public safety.

27. Landscape Completion

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

- i) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for grasses/groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch.

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

Reason: Environmental amenity.



28. Condition of Retained Vegetation - Project Arborist

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

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

Reason: Tree protection.

CONDITIONS WHICH MUST BE COMPLIED WITH AT ALL TIMES

29. Landscape Maintenance

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

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

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

Reason: To maintain local environmental amenity.





ITEM 5.2**DA2022/0521 - 1044 PITTWATER ROAD, COLLAROY -
ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE.****AUTHORISING MANAGER****Phil Lane****TRIM FILE REF****2022/379764****ATTACHMENTS**

- 1** [↓](#) **Assessment Report**
- 2** [↓](#) **Site Plans & Elevations**

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the landowner is a member of council staff who is principally involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2022/0521 for alterations and additions to a dwelling house on land at Lot 11 Sec 6 DP 6777, 1044 Pittwater Road, COLLAROY, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0521
Responsible Officer:	Danielle Deegan - Independent Consultant Planner
Land to be developed (Address):	1044 Pittwater Road COLLAROY NSW 2097
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	R2 Low Density Residential
Development Permissible:	Yes, with consent
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Shane Peter Blix Kate Carolyn Blix
Applicant:	Shane Peter Blix
Application Lodged:	07/04/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential – Alterations and Additions
Notified:	13/04/2022 to 27/04/2022
Advertised:	Not advertised
Submissions Received:	1
Clause 4.6 Variation:	No
Recommendation:	Approval
Estimated Cost of Works:	\$550,000

EXECUTIVE SUMMARY

The application seeks development consent for alterations and additions to the existing dwelling house, including the construction of a first-floor addition.

The application is referred to the Northern Beaches Local Planning Panel at the discretion of the Executive Manager due to the property owner being a Council staff member.

The key planning issue in the assessment of this proposal is potential amenity impacts on the adjoining dwelling to the south of the subject site.

Public exhibition of the proposal resulted in the receipt of one (1) submission, which raises overshadowing concerns.

In response to neighbour concerns, the Applicant has submitted a revised shadow study and elevation shadow diagrams showing the impact of the development on the neighbour's north-facing



windows it was deemed that this additional information did not require for renotification of the application in accordance with the Northern Beaches Community Participation Plan.

The proposal is consistent with the objectives of all relevant legislation, plans and policies and is recommended for approval, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The Applicant seeks development consent for alterations and additions to the existing dwelling house, comprising of:

- Remove the existing single garage and replace it with a double rendered garage
- Minor internal alterations to the ground floor of the dwelling
- Relocation of the dwelling entrance from the side to the front
- Changes to openings
- First-floor addition with a gross floor area of 79.55m², comprising of a master bedroom with ensuite and walk-in robe, second bedroom, sunroom, and balcony
- Additional landscaping in the front setback

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan – B3 Side boundary Envelope
Warringah Development Control Plan – D1 Landscaped Open Space and Bushland
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan – D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 11, Section 6 in DP 6777, 1044 Pittwater Rd, COLLAROY, 2097
Detailed Site Description:	The subject site consists of one (1) allotment located on the eastern side of Pittwater Road.

	The site is rectangular with a frontage of 15.235m to Pittwater Road and a depth of 45.735m. The site has a surveyed area of 696.7m². The site is within the R2 Low Density Residential zone and accommodates a split-level, single storey dwelling house. The site has a slight fall to the rear. The site contains a driveway from Pittwater Road leading to a single space, rendered garage adjacent to the northern boundary. The site has some vegetation, primarily palm trees, located along the rear and northern boundaries. <u>Detailed Description of Adjoining/Surrounding Development</u> Directly adjoining properties comprise of detached dwelling houses. The adjoining property to the south, 1042 Pittwater Road, is a two-storey weatherboard dwelling house with a metal roof. 1046 Pittwater Road, to the north is also a two-storey weatherboard dwelling house with a metal roof. The Salvation Army retirement village is located on the opposite side of Pittwater Road.
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SITE HISTORY

On 25 January 1999, DA1999/1256 for alterations and additions to a dwelling house was approved by Warringah Council.

NOTIFICATION & SUBMISSIONS RECEIVED



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

As a result of the public exhibition process council is in receipt of one (1) submission from:

Name:	Address:
Vickie & Anthony Cunico	1042 Pittwater Rd, Collaroy

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

- **Overshadowing**

Concerns are raised that the proposed first-floor addition will result in unreasonable overshadowing to the adjoining property to the south, particularly their north-facing windows.

Comment: This issue is discussed in detail in the WDCP Section (Clause D6 Access to Sunlight) of this report.

In summary, the assessment finds that the overshadowing impacts are not unreasonable.

REFERRALS

Internal Referral Body	Comments			
Landscape Referral	The application seeks consent for alterations and additions to a dwelling house. The application is assessed by Landscape Referral against Warringah Local Environmental Plan 2011 and the following Warringah Development Control Plan 2011 controls (but not limited to): • D1 Landscaped Open Space and Bushland Setting • E1 Preservation of Trees or Bushland Vegetation and E2 Prescribed Vegetation The plans indicate that no significant landscape features are affected by the proposed works. No objections are raised with regard to landscape issues subject to conditions. The proposal is therefore supported.			
Water Management Referral	This application has been assessed against relevant legislation and policy relating to water quality, waterways, riparian areas, and groundwater. NECC Water Management has no objection to the proposal, subject to conditions. The proposal is therefore supported.			
Heritage Referral	<table><tr><th>HERITAGE COMMENTS</th></tr><tr><th>Discussion of reason for referral</th></tr><tr><td> The proposal has been referred to Heritage as the subject property is within the vicinity of a heritage item: </td></tr></table>	HERITAGE COMMENTS	Discussion of reason for referral	The proposal has been referred to Heritage as the subject property is within the vicinity of a heritage item:
HERITAGE COMMENTS				
Discussion of reason for referral				
The proposal has been referred to Heritage as the subject property is within the vicinity of a heritage item:				

Internal Referral Body	Comments		
	Item I19 - House known as “Rosecrea” - 1048 Pittwater Road		
	Details of heritage items affected		
	Details of the item as contained within the Warringah inventory is as follows:		
	<u>Statement of Significance:</u> A good representative example of the federation bungalow style. Displays high integrity with high level of intact fabric and interesting detail.		
	<u>Physical Description:</u> Single storey timber weatherboard dwelling with steeply pitched terracotta tiled gabled roof. Deep corner porch under front gable. Timber shingles to gable end. Casement windows with lead-lighting.		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	Consideration of Application		
	The proposal seeks consent for alterations and additions to the existing dwelling. Proposed works include a first floor extension and a double garage replacing the existing single garage. The heritage item is located to the north of the subject property. Given the separation between the subject site and the heritage listed Federation bungalow, afforded by another property between them, the proposal is considered to not impact upon the significance of the heritage item.		
	Therefore, no objections are raised on heritage grounds and no conditions required.		
	<u>Consider against the provisions of CL5.10 of Warringah LEP 2011.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No		
	Further Comments		
COMPLETED BY: Oya Guner, Heritage Advisor			
DATE: 02 May 2022			
Engineering Referral	03/06/2022:		

Internal Referral Body	Comments
	The proposal seeks consent for alterations and additions to the existing dwelling. Proposed works include a first floor extension and a double garage replacing the existing single garage. Access No changes are proposed to existing vehicular access. Stormwater Proposal is to collect all stormwater and drain to the existing drainage system. The proposal is therefore supported.

External Referral Body	Comments
Ausgrid	No objections subject to conditions.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None Applicable
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to a shadow diagram. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent

Section 4.15 'Matters for Consideration'	Comments
	authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 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. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 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.
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

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 (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A439714_02 dated 8 March 2022).

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

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	Variation	Complies
Height of Buildings	8.5m	8.4m	N/A	Yes

Compliance Assessment

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

6.2 Earthworks

The objectives of Clause 6.2 Earthworks require development:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*
(b) to allow earthworks of a minor nature without requiring separate development consent.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality*

Comment:

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

- (b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment:

The proposal will not unreasonably limit the likely future use or redevelopment of the land.

- (c) the quality of the fill or the soil to be excavated, or both*

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties*

Comment:

The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

- (e) the source of any fill material and the destination of any excavated material*

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

- (f) the likelihood of disturbing relics*

Comment:

The site is not mapped as being a potential location of Aboriginal or other relics.

- (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area*

Comment:

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

6.4 Development on sloping land



Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment:

The subject site is classified as Area A on the Landslip Risk Map, which does not typically require submission of a Geotechnical Assessment Report. Council can be satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment:

The application has been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment:

The application has been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

WARRINGAH DEVELOPMENT CONTROL PLAN

Built Form Controls

Built Form	Requirement	Proposed	% variation*	Complies
B1 Wall height	7.2m	6.24m	-	Yes
B3 Side boundary envelope	4m (North)	Within envelope	-	Yes
	4m (South)	Encroachment	Nil – 7.5%	No
B5 Side boundary setbacks	0.9m (North)	Garage - Nil L1 addition - 5.8m	-	No (existing) Yes
	0.9m (South)	L1 addition 1.8m	-	Yes
B7 Front boundary setbacks	6.5m	6m (ground floor) 9m (L1 addition)	-	No (existing) Yes
B9 Rear boundary setbacks	6m	7.5m (ground) 23m (L1 addition)	-	Yes
D1 Landscaped Open Space (LOS) and Bushland setting	40% (278.7m ²)	25.4% (176.9m ²)	36.5%	No (existing)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

B3 Side Boundary Envelope

The proposal includes a side boundary envelope breach along the southern elevation of between Nil – 0.3m in height for a length of approximately 6.5m.

Merit consideration

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

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

Comment:

The proposed first-floor addition is compliant with the height of buildings development standard, wall height, side boundary setback, and front boundary setback controls. The breaching section of the wall is at the rear of the addition and will not be visible from Pittwater Road. The proposed development will not be visually dominant by virtue of its height and bulk.



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

Comment:

The proposal readily complies with the side boundary setback controls applicable to the site. In addition, the provision of driveways adjacent to the common boundaries to both 1042 and 1046 Pittwater Road, contributes to generous spatial separation with the adjoining dwellings. Consequently, privacy and solar access impacts are satisfactory. Compared with a compliant proposal, the minor encroachment to the building envelope will not result in any detrimental privacy impacts and no discernible impact on solar access. Shadow diagrams have been provided as part of the application. These demonstrate that there will be adequate light and solar access to the open space of adjoining properties due to the proposed alterations and additions (refer to WDCP section below for discussion on solar access).

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

Comment: The development responds to the topography of the site.

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

D1 Landscaped Open Space and Bushland

The site is required to provide 40% of the site (278.68m²) as landscaped open space (LOS).

The existing LOS measures 22.9% of the site area (159.7m²) and does not satisfy this requirement. The proposal increases the LOS by 2.5% (17.2 m²) and totals 25.4% (176.9m²) of the site. The increase in landscaped area is provided by reducing the amount of paving within the front setback area.

Merit consideration

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

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

Comment:

There will be no significant change to the streetscape presentation which is characterised by high masonry walls along this section of heavily-trafficked arterial road. Additional planting beds are proposed in the front setback area.

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

Comment:

There is no indigenous vegetation, significant topographical features, or habitat on the site.

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

Comment:

The proposal provides for additional landscaped area and retains existing vegetation.



- ***To enhance privacy between buildings.***

Comment:

The proposed development will maintain suitable levels of privacy with the adjoining properties.

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

Comment: The existing development provides appropriate outdoor recreational opportunities that meet the occupants' needs. The proposal retains these recreational areas.

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

Comment: Adequate space for service functions, including clothes drying has been provided.

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

Comment: The application has been reviewed by Council's Development Engineer who has recommended conditions of consent to ensure appropriate stormwater management.

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

D6 Access to Sunlight

Clause D6 of WDCP requires that:

1. *Development should avoid unreasonable overshadowing any public open space.*
2. *At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.*

A letter of objection has been received from the adjoining dwelling to the south (1042 Pittwater Road) regarding additional overshadowing resulting from the proposal.

The winter solstice shadow diagrams (revised), submitted by the Applicant, show the following impacts on 1042 Pittwater Road, resulting from the proposed first-floor addition:

- At 9 am, the additional shadowing will fall over the road reserve
- At 12 noon, the additional shadowing will fall over the dwelling house at 1042 Pittwater Road
- At 3 pm, the additional shadowing will fall over part of the rear yard of 1042 Pittwater Road

While there is some additional shadowing, the proposal satisfies the provisions of Clause D6 in that the proposed first-floor addition will not impact the sunlight available to the private open spaces of this adjoining dwelling by more than 3 hours between 9 am and 3 pm on 21 June.

The elevation shadow diagrams prepared for the north-elevation of 1042 Pittwater Rd, submitted by the Applicant, show the following impacts resulting from the proposed first-floor addition:

- At 9 am, the ground floor, front and middle windows will receive additional shadowing, while the rear window and upper window will retain access to sunlight
- At 12 noon, the ground floor windows will be subject to additional shadowing, while the upper level will retain access to sunlight



- At 3 pm, the shadowing impacts to the windows will remain unchanged, with the ground-level front window and upper-level window retaining access to sunlight.

While there will be some additional shadowing to the north-facing windows of 1042 Pittwater Road, these windows will retain access to sunlight at different times during the day. Given the east-west orientation of both lots and that 1042 Pittwater Road is located directly to the south of the subject site, a degree of overshadowing arising from a reasonable development is unavoidable. As noted previously, the minor encroachment into the side boundary envelope will have no discernible impact on shadowing.

The proposal, therefore, ensures that reasonable access to sunlight is maintained and consequently satisfies the objective of the control.

D8 Privacy

The proposed windows in the first-floor addition are appropriately located and appropriately offset from the windows of adjoining properties to maintain a satisfactory level of privacy with the adjoining dwellings.

The potential for overlooking from the proposed first-floor balcony has been addressed by a recommended condition of consent requiring a privacy screen on the northern edge of the balcony.

7.12 CONTRIBUTIONS

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$5,500 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$550,000.

CONCLUSION

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

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

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

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

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



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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/0521 for alterations and additions to a dwelling house on land at 1044 Pittwater Road, Collaroy, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans – Endorsed with Council's Stamp		
Drawing No.	Dated	Prepared By
DA00 Site and Site Analysis	28 February 2022	Site Specific Designs
DA01 Ground Floor Plan	28 February 2022	Site Specific Designs
DA02 First Floor Plan	28 February 2022	Site Specific Designs
DA03 Section 1 and Basix	28 February 2022	Site Specific Designs
DA04 Elevations	28 February 2022	Site Specific Designs
DA05 Elevations	28 February 2022	Site Specific Designs

Engineering Plans		
Drawing No.	Dated	Prepared By
DA07 Site Management Plan	28 February 2022	Site Specific Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A443571	16 March 2022	Shane Blix

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	18 March 2022	Shane Blix

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. Amendments to the approved plans

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

- A 1.8 metre high privacy screen comprising vertical timber battens fixed at 45 degrees to the boundary with a maximum spacing of 50% of the batten width, along the northern side of the rear, first floor balcony.

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

Reason: Maintain reasonable amenity (privacy).

3. Prescribed Conditions

- 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:
- showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - 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
 - 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) 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:
- protect and support the adjoining premises from possible damage from the excavation, and
 - where necessary, underpin the adjoining premises to prevent any such damage.
 - 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.
 - the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	9 May 2022

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

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

5. 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, and
- 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) 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 Subdivision Certificate. The consent shall be available for perusal of any Authorised Officer.
 - (c) 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.
 - (d) 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.
 - (e) 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.
 - (f) The Applicant shall bear the cost of all works associated with the development that occurs on Council's property.
 - (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
 - (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
 - (i) 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.
 - (j) 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.

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

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$5,500.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$550,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

7. Security Bond

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

8. Stormwater Disposal from Low Level Property

The Applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy, in particular the Stormwater Drainage from Low Level Properties Technical Specification. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's Water Management for Development Policy are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

9. Vehicle Driveway Gradients

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

10. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

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

Reason: To ensure the development is constructed in accordance with appropriate standards.

11. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

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

12. 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:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**13. Protection of Sites of Significance**

- a) Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.
- b) Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

14. Tree and Vegetation Protection

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

- i) all trees and vegetation within the site not indicated for removal on the approved plans, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
 - viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
 - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
 - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
 - xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

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

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

Reason: Tree and vegetation protection.

15. 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.

16. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

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

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

Reason: Protection of the receiving environment.

17. 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.

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

18. Stormwater Disposal

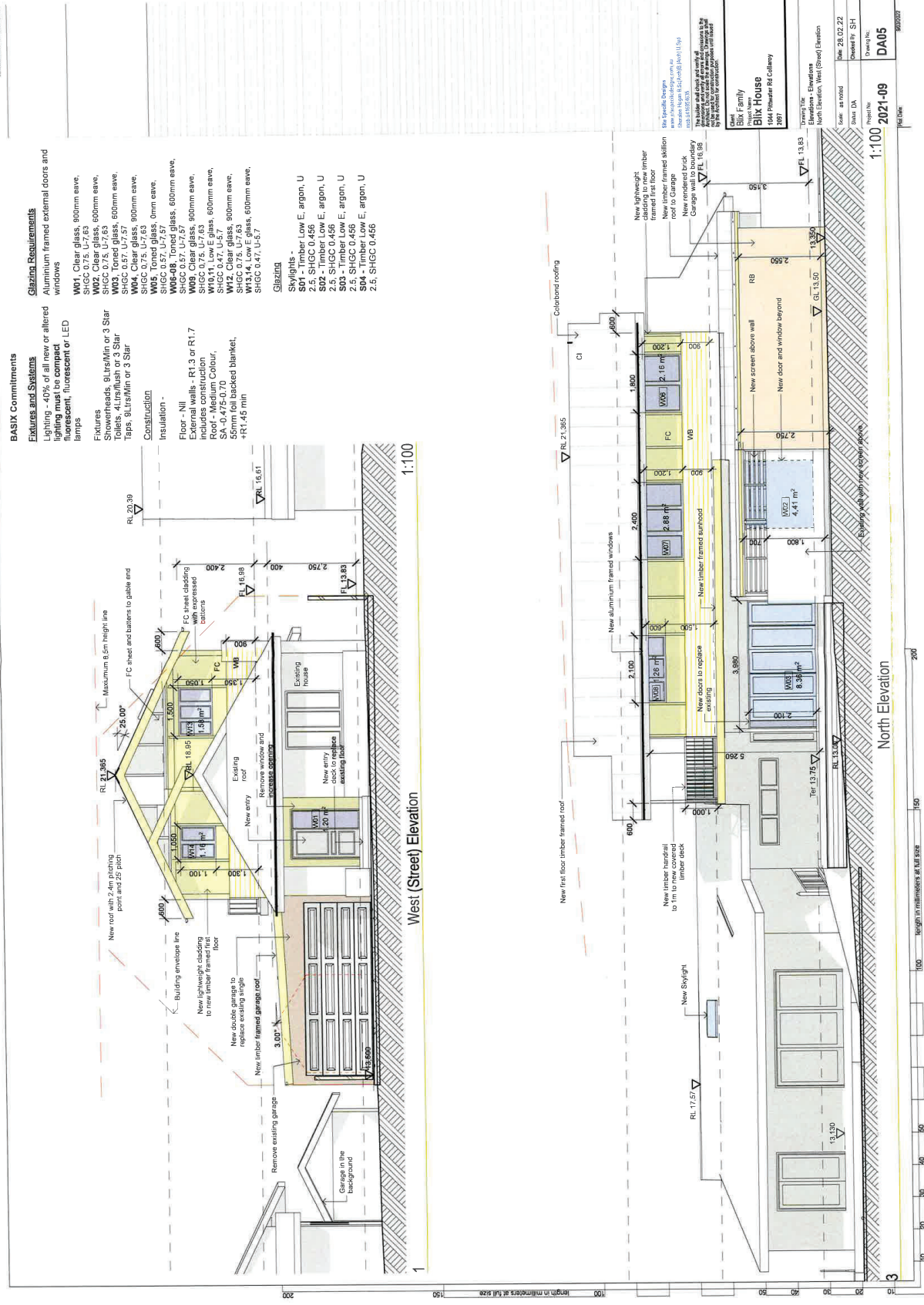
The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Council's Water Management for Development Policy by a suitably qualified person.

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

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







ITEM 5.3	DA2022/0641 - 17/122 BOWER STREET, MANLY - ALTERATIONS AND ADDITIONS TO A RESIDENTIAL FLAT BUILDING.
AUTHORISING MANAGER	Phil Lane
TRIM FILE REF	2022/379885
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plans & Elevations 3 ↓ Clause 4.6

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

- A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 pursuant to clause 4.6 of MLEP 2013 as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
- B. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2022/0641 for alterations and additions to a residential flat building on land at Lot 17 SP 1717, 17 / 122 Bower Street, MANLY subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0641
Responsible Officer:	Clare Costanzo
Land to be developed (Address):	Lot 17 SP 1717, 17 / 122 Bower Street MANLY NSW 2095
Proposed Development:	Alterations and additions to a residential flat building
Zoning:	Manly LEP2013 - Land zoned C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Juliet Ann Schmidt Conrad William Schmidt
Applicant:	The Trustee For Choi Ropiha Fighera Unit Trust
Application Lodged:	04/05/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	10/05/2022 to 24/05/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 43.5%
Recommendation:	Approval
Estimated Cost of Works:	\$ 21,560.00

EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to an existing residential flat building. The works comprise of minor modifications to the north-east facing windows of Unit 17.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as it is requesting a variation of greater than 10% to Clause 4.3 Height of Buildings of the Manly Local Environmental Plan 2013 and is a Class 2 building.

No public submissions were received during the notification period.

The proposal has been found to be consistent with the objectives of all relevant legislation, plans and policies and is recommended for approval subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposal comprises of a modification to the north-east facing windows to the dining and kitchen of unit 17. The existing windows measure 1.6m x 2.4m and 2m x 2.5m. The proposed windows are 1.6m x 2.4m and 2.1m x 2.65m.

The proposed works are within the envelope of the existing residential flat building.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

SITE DESCRIPTION

Property Description:	Lot 17 SP 1717 , 17 / 122 Bower Street MANLY NSW 2095
Detailed Site Description:	The subject site consists of one (1) allotment located on the eastern side of Bower Street. The site is irregular in shape with a frontage of 30m along Bower Street and a depth of 50m. The site has an area of 1468m². The site is located within the E4 Environmental living zone and accommodates an eight (8) storey residential flat building with associated outbuildings. The site slopes to the north-east towards the ocean and includes a crossfall of 4m.

The site is heavily developed and does not contain any significant landscape features.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised residential accommodation including residential flat buildings, semi-detached dwellings and dwelling houses.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time.

A development application DA2018/0084 for unit 14/122 Bower Street Manly, legally known as Lot 14 SP1717 for alterations and additions to the existing residential flat building was approved by Northern Beaches Council under delegation on the 27 March 2018.

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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any	Manly Development Control Plan applies to this

Section 4.15 Matters for Consideration	Comments
development control plan	proposal.
Section 4.15 (1) (a)(iii) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <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. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <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. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. <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. <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.
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	(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.

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 10/05/2022 to 24/05/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development. Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.
NECC (Coast and Catchments)	The application has been assessed in consideration of the <i>Coastal Management Act 2016</i> and State Environmental Planning Policy (Resilience & Hazards) 2021. It has also been assessed against requirements of the Manly LEP and DCP.

Internal Referral Body	Comments
	Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed minor development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>. State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA. Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Choi Ropiha Figuera Pty. Ltd. dated April 2022, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021. Manly LEP 2013 and Manly DCP Foreshores Scenic Protection Area Management The subject site is also shown to be as "Manly Foreshores Scenic Protection Area" on Council's Foreshores Scenic Protection Area in Manly LEP 2013. As such, Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013 will apply to proposed development on the site. On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Choi Ropiha Figuera Pty. Ltd. dated April 2022, the DA satisfies requirements under Clause 6.9 (Foreshores Scenic Protection Area) of the Manly

Internal Referral Body	Comments
	LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013. As such, it is considered that the application does comply with the requirements of the Manly DCP 2013.

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 (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 2 Coastal Vulnerability Area

2.9 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and
- b) the proposed development:
 - i) is not likely to alter coastal processes to the detriment of the natural environment or
 - ii) other land, and
 - iii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and
- c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

Comment:

The proposed alterations and additions are within the existing building footprint and Council is satisfied

the works will not have any adverse impacts on any of the above.

Division 3 Coastal environment area

2.10 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 alterations and additions are not expected to cause an adverse impact on the above.

- 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 subsection (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:

The works are sited within the existing footprint of the building and will not have any adverse impacts on the coastal environment area.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal

- headlands,
Aboriginal cultural heritage, practices and places,
cultural and built environment heritage, and
- b) is satisfied that:
- i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The works are within the footprint of the existing building and will not result in any adverse impacts on any of the above.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed alterations and additions are not likely to cause increased risk of coastal hazards on that land or other land.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

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

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Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	19.5m (height of windows above ground level)	43.5%	No - height of existing building does not change

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
6.5 Terrestrial biodiversity	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	19.5m
Percentage variation to requirement:	43.5%

Assessment of request to vary a development standard:

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

Clause 4.6 Exceptions to development standards:

(1) The objectives of this clause are as follows:
 (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

Comment:

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

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

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

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

- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Secretary has been obtained.

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

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

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

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

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

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

Comment:

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

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v

Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.’

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

The applicant's written request argues, in part:

The proposal is consistent with the objectives above and in this case, the flexibility is sought to permit modifications to existing windows within a non-compliant building. The applicant argues the works will lead to a better outcome for the residents without negative impacts to any other residents in the vicinity of the site or any public views.

Council agrees with the applicants argument that the works are consistent with the objectives and strict compliance with the control in these circumstances is considered unnecessary.

In this regard, the applicant’s written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant’s written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

- (ii) the proposed development will be in the public interest because it is consistent with the objectives of

the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the C4 Environmental Living zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the MLEP 2013 are:

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

a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

Comment:

The built form of the residential flat building remains unchanged, with the alterations and additions limited to the windows of unit 17. The works are consistent with the streetscape character in the locality.

b) to control the bulk and scale of buildings,

Comment:

The built form of the building remains unchanged.

c) to minimise disruption to the following:

(i) views to nearby residential development from public spaces (including the harbour and foreshores),

(ii) views from nearby residential development to public spaces (including the harbour and foreshores),

(iii) views between public spaces (including the harbour and foreshores),

Comment:

The proposal will not result in the loss of any views to and from residential development and public spaces and views between public spaces.

d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

Comment:

Adequate solar access will be maintained.

e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other

aspect that might conflict with bushland and surrounding land uses.

Comment:

The existing height of the residential flat building remains unchanged.

Zone objectives

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

- To provide for low impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To protect tree canopies and ensure that new development does not dominate the natural scenic qualities of the foreshore.
- To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.
- To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater on the ecological characteristics of the locality, including water quality.
- To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.

Comment:

There are no proposed changes to the overall built form of the existing residential flat building and the proposed alterations and additions to unit 17 is consistent with the above objectives.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the C4 Environmental Living zone.

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

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

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Local Planning Panel.

Mainly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 1468m ²	Requirement	Proposed	% Variation*	Complies
4.1.4.4 Rear Setbacks	8m	4.6m	42%	Existing non compliance,

				no further variation sought
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Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

Detailed Assessment

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

See 4.6 Exceptions to development standards for further discussion.

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

The existing development on the site is non-compliant with the rear setback control of the Manly DCP 2013. The proposed modification to the window will not result in any further variation to this control. The proposed alteration to the window is to the rear of the building and will overlook the ocean. The proposal will not result in any unreasonable impacts on the streetscape or amenity of the locality and will maintain the natural features of the site. The proposal is consistent of the control and the requested flexibility is satisfactory in this circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

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

RECOMMENDATION

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2022/0641 for Alterations and additions to a residential flat building on land at Lot 17 SP 1717, 17 / 122 Bower Street, 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
DA-001 Site Plan	4 April 2022	CHROFI
DA-002 Existing and Demolition Plan	4 April 2022	CHROFI
DA-003 Proposed Plan	4 April 2022	CHROFI
DA-005 Demolition NE Elevation	4 April 2022	CHROFI
DA-006 Proposed NE Elevation	4 April 2022	CHROFI

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	Undated	CHROFI

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

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

2. Prescribed Conditions

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- 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. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

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

Reason: To ensure the development is constructed in accordance with appropriate standards.

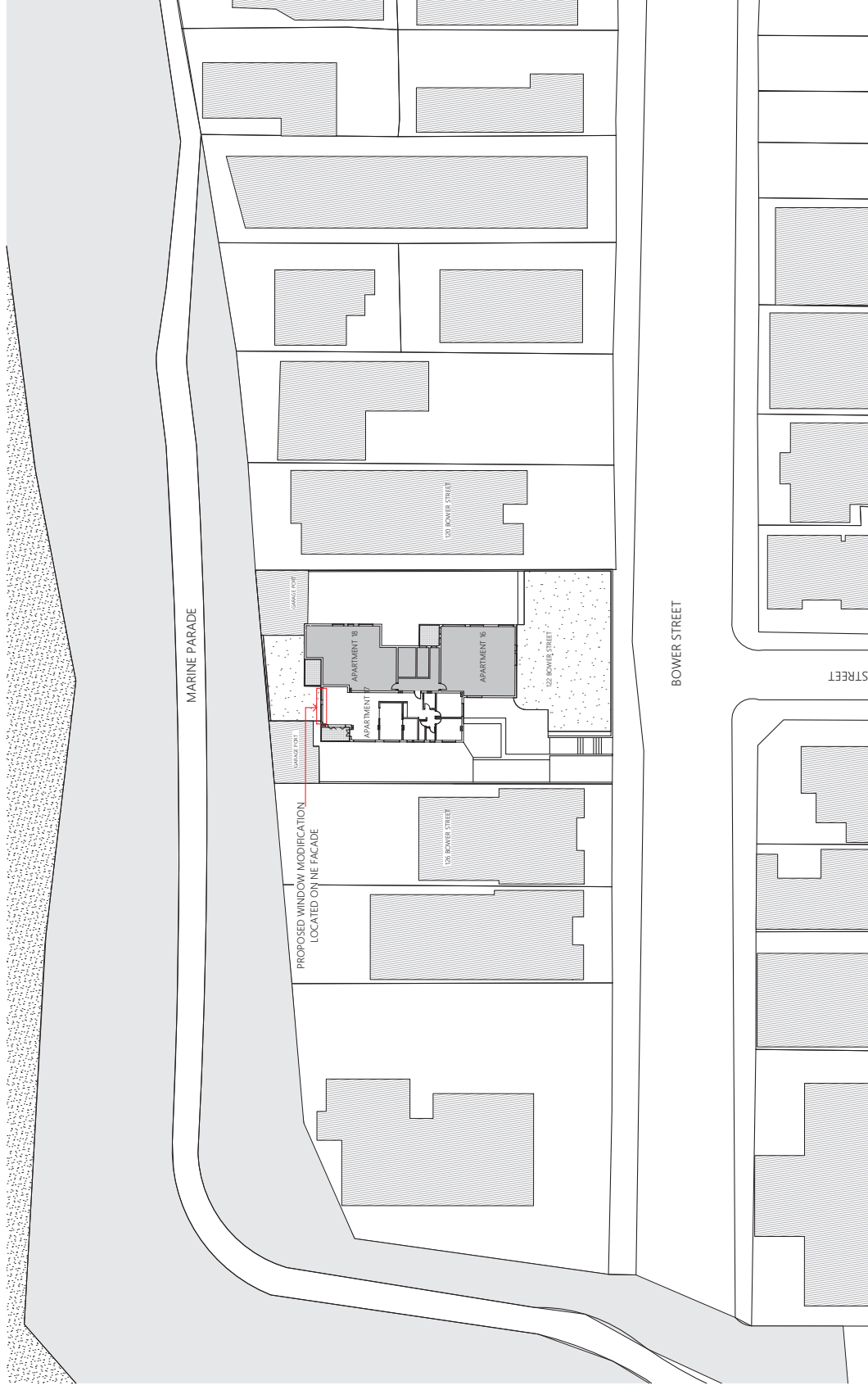
CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

6. **Removing, Handling and Disposing of Asbestos**

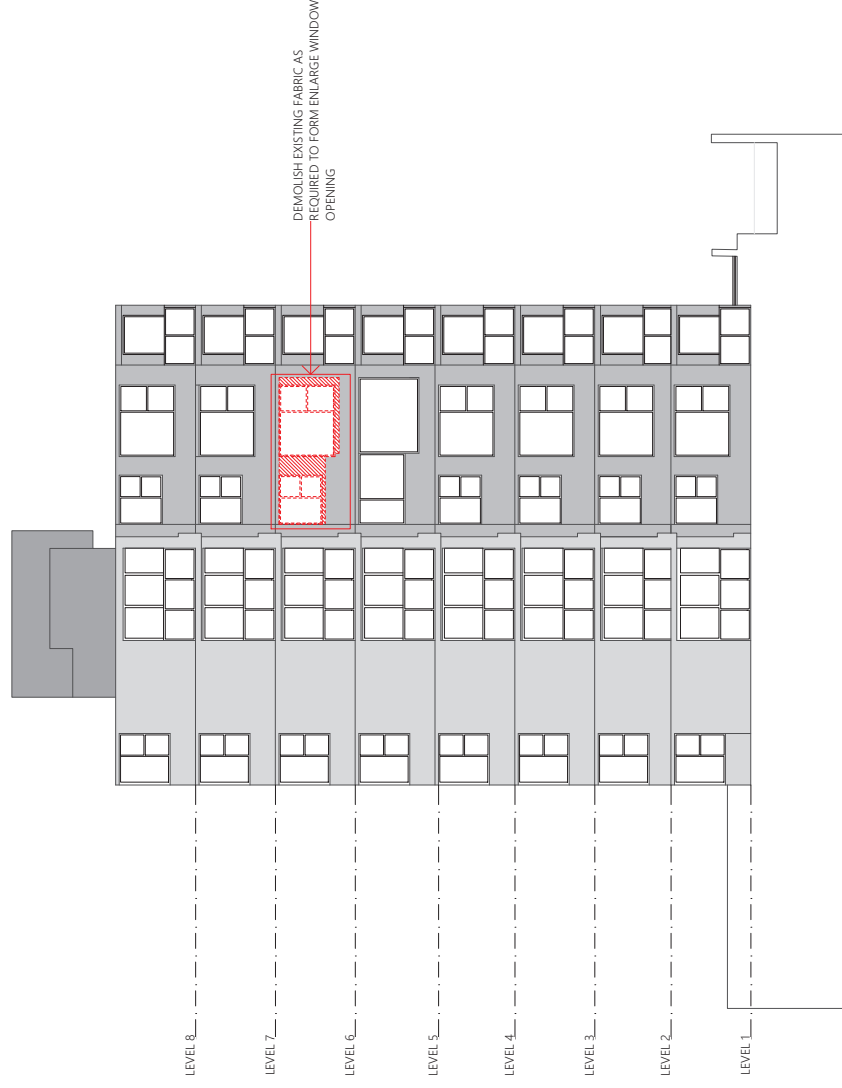
Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

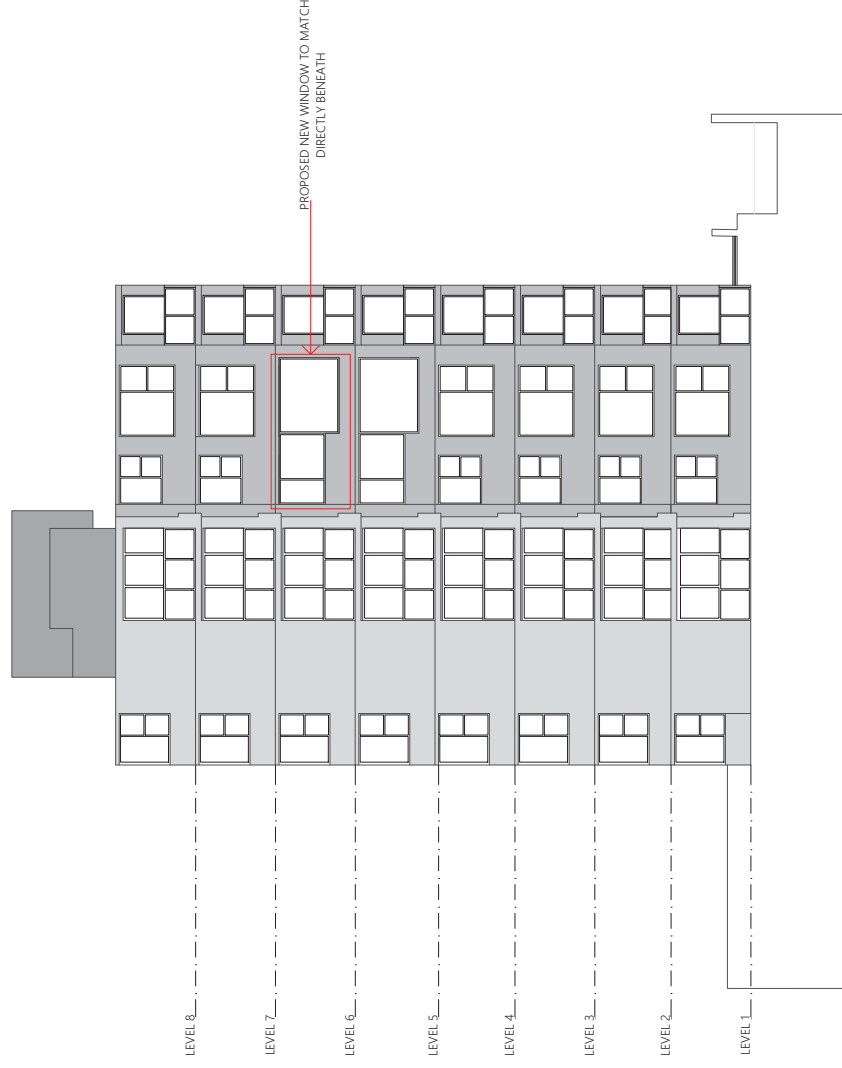


ARCHITECT	CHROFI				PROJECT				SHEET TITLE			
	3/17 The Corso, Manly, NSW 2095, Australia T: +61 2 8096 8500 E: info@chrofi.com SHEETS: 01 OF 02 SHEETS SHOULD BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATIONS, AND CONDITIONS OF SALE. THE ARCHITECT'S OFFICE IS NOT RESPONSIBLE FOR ANY DAMAGE TO OR LOSS OF ANYTHING DURING CONSTRUCTION. COPYRIGHT OF THE DRAWINGS IS RESERVED BY CHROFI.				WINDOW ALTERATION 17/122 Bower St, Manly 2095 NSW				SITE PLAN			
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ARCHITECT

CHROFI

3/1 THE COSMO MANNY NSW AUSTRALIA
 C/O PETER HARRIS PTY LTD
 10/100 HARRIS ST
 SYDNEY NSW 2000
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 TEL: 02 9550 1234
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 WEBSITE: www.chrofi.com.au

PROJECT

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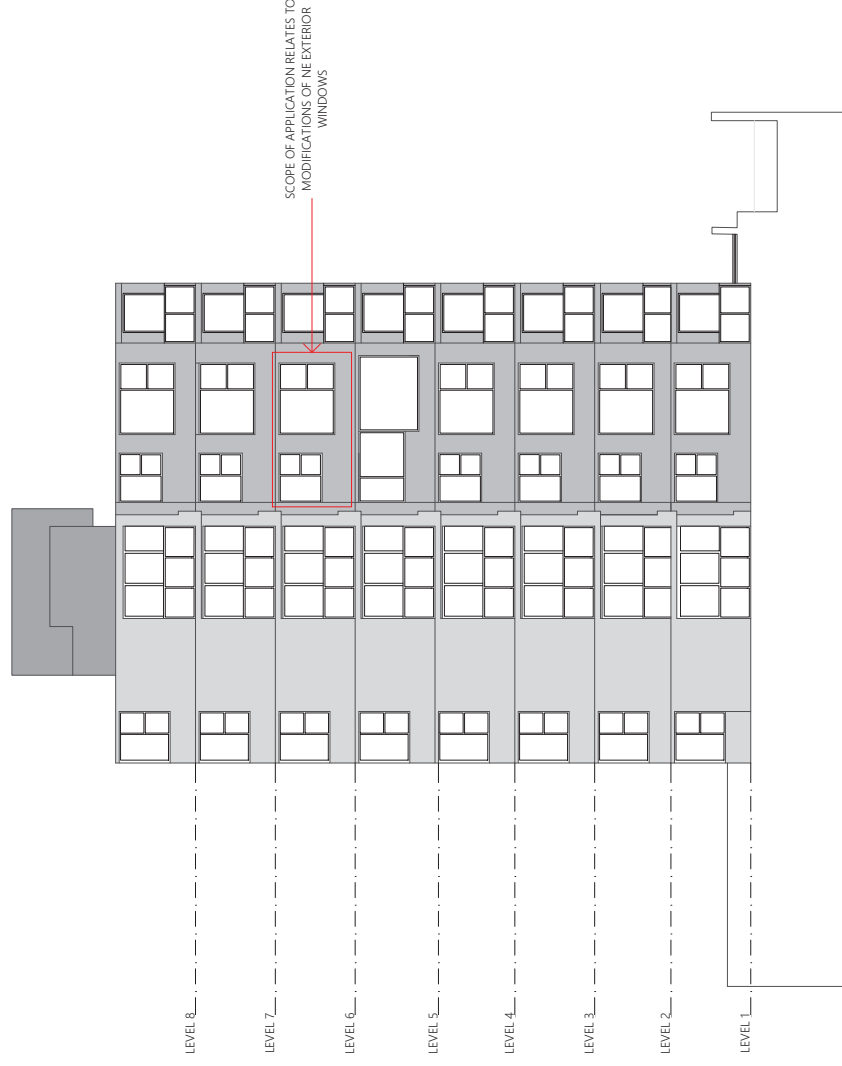
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EXISTING ELEVATION
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CHROFI

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www.chrofi.com

CLAUSE 4.6 VARIATION – *BUILDING HEIGHT*

17/122 Bower Street, Manly

Prepared by CHROFI
April 2022

CHROFI

CLAUSE 4.6 VARIATION – BUILDING HEIGHT

OVERVIEW

Clause 4.3 of MLEP 2013 provides that the maximum height of a building on the land is 8.5 metres.

The existing 8-storey residential flat building is substantially greater, with a height of approximately 28 metres to the top of the lift overrun. The proposed window modifications involve works up to a height of approximately 19.5 metres above existing ground level.

Clause 4.6 of MLEP 2013 makes provision for exceptions to development standards including building height provided that a written request is received from the Applicant justifying contravention of the development standard.

REQUEST

The objectives of Clause 4.6 of MLEP 2013 (4.6(1)) are:

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

The proposal is consistent with these objectives. In this case, the flexibility is sought to permit modifications to existing windows within a non-compliant building. The works will also lead to a better outcome for the residents without negative impacts to any other residents in the vicinity of the site or any public views.

Clause 4.6(3) provides:

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

- a. *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- b. *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Compliance with the development standard is unreasonable as it would require the existing building to be demolished, reducing the local housing stock. Such an option is contrary to the principles of environmentally sustainable development due to the resources needlessly consumed for the demolition and rebuilding of the structure.

The grounds to justify contravening the development standard are the improved residential amenity for current and future residents of the dwelling thereby enhancing local housing stock in circumstances where there are no negative impacts.

Clause 4.6(4) of MLEP 2013 provides:

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

- a. *the consent authority is satisfied that:*
 - i. *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii. *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

CHROFI

- b. *the concurrence of the Director-General has been obtained.*

The matters in subclause (3) are addressed above.

The objectives of the building height control are:

- a. *To provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*
- b. *To control the bulk and scale of buildings,*
- c. *To minimise disruption to the following:*
 - i. *views to nearby residential development from public spaces (including the harbour and foreshores),*
 - ii. *views from nearby residential development to public spaces (including the harbour and foreshores),*
 - iii. *views between public spaces (including the harbour and foreshores),*
- d. *To provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*
- e. *To ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.*

The proposal satisfies all of these objectives as the building envelope is unchanged, there is no change to overall building height, roof form, bulk or scale of the building. There are also no impacts in terms of views or solar access and there is no impact on existing vegetation.

The objectives of the E4 Environmental Living zone are:

- a. *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- b. *To ensure that residential development does not have an adverse effect on those values.*
- c. *To protect tree canopies and ensure that new development does not dominate the natural scenic qualities of the foreshore.*
- d. *To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.*
- e. *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.*
- f. *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*

The proposal satisfies these objectives because the minor scale of the works ensures that there is no adverse effect on ecological, scientific and aesthetic values of the area, tree canopies are retained, no vegetation is affected, and there is no change to the height or bulk of the existing 8-storey residential flat building.

It is understood that Council can assume the concurrence of the Director-General with regards to this clause 4.6 variation.

In summary, the proposal satisfies all the requirements of clause 4.6 of MLEP 2013 and exception to the development standard is reasonable and appropriate in the circumstances of the case.

ITEM 5.4**DA2022/0176 - 148 PRINCE ALFRED PARADE, NEWPORT -
ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE
INCLUDING A SWIMMING POOL.****AUTHORISING MANAGER** Steve Findlay**TRIM FILE REF** 2022/379894**ATTACHMENTS**
1 [↓ Assessment Report](#)
2 [↓ Site Plans & Elevations](#)
3 [↓ Clause 4.6](#)**PURPOSE**

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

- A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary Clause 7.8 Limited Development of Foreshore area Development Standard pursuant to clause 4.6 of PLEP 2014 as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
- B. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2022/0176 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 9 DP 204399, 148 Prince Alfred Parade, NEWPORT, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0176
Responsible Officer:	Olivia Ramage
Land to be developed (Address):	Lot 9 DP 204399, 148 Prince Alfred Parade NEWPORT NSW 2106
Proposed Development:	Alterations and additions to a dwelling house including a swimming pool
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Melissa Jane Donnelly
Applicant:	Melissa Jane Donnelly
Application Lodged:	01/03/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	09/03/2022 to 23/03/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Clause 7.8 Limited Development on Foreshore area
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,046,000.00

EXECUTIVE SUMMARY

This application seeks consent for alterations and additions to an existing dwelling involving an addition on Level 2 of the dwelling.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as it involves a Clause 4.6 Variation to the development standard for the Foreshore Area under Clause 7.8 of the PLEP 2014.

No submissions were received in objection to the proposed development.

Following preliminary assessment of the proposal, the critical assessment issue involved breach of the

the western side building envelope control. Amended plans were submitted to reduce the extent of the envelope breach and shift the Level 2 addition further to the east to improve the relationship to the adjoining property and its amenity. This resulted in a relocation of floorspace and hence a variation to the Foreshore Area development standard. A Clause 4.6 variation request was submitted to justify the variation.

The proposal has been designed appropriately and the variation request is supported. This is due to sufficient environmental planning grounds, the lack of environmental impacts, compatibility with adjoining and nearby foreshore developments and the minor scale of the variation.

This report concludes with a recommendation that the NBLPP grant approval to the development application, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development involves alterations and additions to the existing dwelling house.

The proposal involves connecting the garage to the dwelling house which is currently semi-detached. The proposal also involves the addition of a bedroom and ensuite above the existing garage. The existing balcony is to be enclosed to provide an extension of the living areas. Other minor internal alterations are proposed to the room layout of the dwelling and changes to windows.

A plunge pool measuring 5.0m x 2.3m is proposed in the south-western corner of the site.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards
Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area
Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.13 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 9 DP 204399 , 148 Prince Alfred Parade NEWPORT NSW 2106
Detailed Site Description:	The subject site consists of Lot 9, DP 204399, which is located on the south-western side of Prince Alfred Parade, Newport, to the west of its intersection with Loombah Street. The lot is a rectangular shape with a frontage of 23.3m to Prince Alfred Parade and a site area of 697.2sqm. The site is located within a Geotechnical Hazard H1 area and a Geotechnical Report has been submitted with the application. The site consists of Acid Sulfate Soils Class 5 and an Acid Sulfate Soil Assessment Report has been submitted with the application. The site appears on the Pittwater Biodiversity Map and a Flora and Fauna Impact Assessment Report as well as an Arboricultural Impact Report have been submitted with the application. The site slopes steeply down towards the rear boundary from its Prince Alfred Parade frontage. Currently on the site is a part one and two storey dwelling house with brick and cladding walls and a tile roof. There is a semi-detached garage and studio located adjacent to the western boundary and connected to the dwelling by a common roof. The surrounding properties consist of a two storey dwelling house to the north-west and residential development opposite the site on the northern side of Prince Alfred Parade. The site adjoins public open space Salt Pan Cove Reserve to the south-east and south-west.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000	<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

Section 4.15 Matters for Consideration	Comments
(EP&A Regulation 2000)	consent. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to side building envelope. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent. <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. <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.
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 09/03/2022 to 23/03/2022 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	The application seeks consent for alterations and additions to a dwelling house including a swimming pool. Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause C4 zone Environmental Living, and the following Pittwater 21 DCP Controls: • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • C1.5 Visual Privacy • D10 Newport Locality The Arborist's Report prepared by Landscape Matrix and Landscape Plans prepared by Grindstone are noted. The Arborist's report indicates that one tree fern (T 11 - <i>Cyathea australis</i>) is required to be removed to accommodate the proposed works. All other trees on site are to be retained. No objections are raised to the removal of the tree fern. The Landscape Plans indicate replanting of new landscape areas on the site, including a replacement tree fern. The site is noted to be on and adjacent to land categorised as Category 1 - Very High for potential for sites of Aboriginal Heritage. In view of excavation proposed for the new swimming pool and paving and the proximity of the site to the waterway, referral to the AHO for comment may be advisable in this instance. No objections are raised with regard to landscape issues subject to conditions.
NECC (Bushland and Biodiversity)	The application seeks approval of alterations and additions to an existing dwelling. Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against

Internal Referral Body	Comments
	the relevant environmental legislation and controls, including: Biodiversity Conservation Act 2016 (BC Act) Biodiversity Conservation Regulation 2017 State Environmental Planning Policy (Coastal Management) 2018 • Clause 11 Development on land in proximity to coastal wetlands or littoral rainforest • Clause 13 Development on land within the coastal environment area • Clause 15 Development in coastal zone generally – development not to increase risk of coastal hazards Pittwater Local Environmental Plan (PLEP) • 7.6 Biodiversity Protection Pittwater Development Control Plan (PDCP) • B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community The perimeter of the site is located within the Department of Planning and Environment's (DPE) Biodiversity Values Mapping. Any removal of native vegetation from within mapped areas will trigger the Biodiversity Offset Scheme (BOS). The submitted Arboricultural Impact Report states that one Tree Fern (<i>Cyathea</i> sp.) is proposed for removal, however, as this tree fern is located outside the Biodiversity Values Map; the BOS is not triggered. The submitted Landscape Plan (Grindstone Landscapes 2021) does not demonstrate compliance with the species selection provisions of PDCP Clause 4.7 which states: • Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community). Amendment to the proposed species is required to achieve compliance against the relevant environmental control. The application does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values. Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.
NECC (Coast and Catchments)	Updated comments (16/06/2022): The amendments to this application have been assessed in

Internal Referral Body	Comments
	consideration of: • Supplied plans and reports; • Coastal Management Act 2016; • State Environmental Planning Policy (Resilience and Hazards) 2021 (clauses 2.8, 2.10, 2.11 & 2.12); and • Relevant LEP and DCP clauses. The application meets the requirements of the relevant Environmental Planning Instruments and policies with the exception of Pittwater LEP clause 7.8 (Limited Development on Foreshore Area). A letter provided by Symons Goodyer Pty Ltd, dated 24 May 2022, states that a variation to PLEP clause 7.8 is required in order to achieve greater compliance with the provisions of clause D10.11 of the Pittwater DCP. The supporting Attachment includes a request for an exception to clause 7.8, under clause 4.6 of the PLEP, and provides written justification. The proposed footprint extension into the foreshore area is of minor and limited scale, which is nested between two existing structures. As such, this infringement of the foreshore area is not likely to impact on natural foreshore processes; affect the significance and amenity of the area; and will ensure continuous access along the foreshore area. Therefore the amendments are unlikely to contravene the objectives of PLEP 7.8 and is supported. The application is supported without conditions. Previous comments: The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP. Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>. State Environmental Planning Policy (Coastal Management) 2018 The subject land has been included on the 'Proximity to Coastal Wetlands and Littoral Rainforest Area', 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 11, 13, 14 and 15 of the CM SEPP apply for this DA.

Internal Referral Body	Comments
	Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Symons Goodyer Pty. Ltd. dated February 2022, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP. Further, requirements under the clause 11 will be assessed by other units of the Council. Pittwater LEP 2014 and Pittwater 21 DCP Development on Foreshore Area A section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area. The DA proposes works for extension and alteration of an existing building which is partly located within the foreshores area. All these proposed works are consistent with Clause 7.8(2)(b). On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Symons Goodyer Pty. Ltd. dated February 2022, the DA satisfies the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.
NECC (Development Engineering)	No objections to approval subject to conditions as recommended.
Parks, reserves, beaches, foreshore	The site is adjacent to a Council reserve between the property and the waterway. No works are proposed within the Council Reserve, though some existing encroachments are indicated on the Survey Plan. Conditions have been included regarding encroachments and protection of public land and assets.

Internal Referral Body	Comments
	The site is noted to be on and adjacent to land categorised as Category 1 - Very High for potential for sites of Aboriginal Heritage. In view of excavation proposed for the new swimming pool and the proximity of the site to the waterway, referral to the AHO for comment may be advisable in this instance. No objections are raised with regard to Parks assets subject to conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A434621 dated 9 December 2021).

A condition has been included in the recommendation of this report requiring compliance with the

commitments indicated in the BASIX Certificate.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 1 Coastal Wetlands and littoral rainforest area

2.7 Development on certain land within coastal wetlands and littoral rainforests area

- 1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:
 - a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,
 - b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,
 - c) the carrying out of any of the following:
 - i) earthworks (including the depositing of material on land),
 - ii) constructing a levee,
 - iii) draining the land,
 - iv) environmental protection works,
 - d) any other development

Comment:

The proposal involves alterations and additions to an existing dwelling and the construction of a plunge pool. Therefore, the proposal complies with this clause.

2.8 Development on land in proximity to coastal wetlands or littoral rainforest

- 1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
 - a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment:

The proposal will not impact in the above regards as it is predominantly within the existing building footprint and therefore complies with this clause.

Division 3 Coastal environment area

2.10 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 development is unlikely to adversely impact on the above as it involves alterations and additions predominantly within the existing building footprint that will not affect the natural environment.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (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:

The proposed development has been sited above the existing dwelling whereby there are no reductions in landscaped area and therefore no adverse impacts on the natural environment.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

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

Comment:

The proposed development is unlikely to cause adverse impacts on the above matters and has been sited well to avoid any potential harm to the coastal area.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed development will not increase the risk of coastal hazards on the subject site or other land.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	No
7.10 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of Non-compliance

Development standard:	Limited Development on Foreshore Area
Requirement:	Foreshore Building Line
Proposed:	The variation occurs where the proposal infills the area between the existing dwelling

	house and studio at both the ground floor and upper level, which represents development that is not within the existing building footprint. On the ground floor level, the infringement measures approximately 1.45m x 1.02m being an area of approximately 1.5m ² . On the upper level, the infringement measures approximately 2.0m x 1.02/1.5m being an area of approximately 2.3m ² .
Percentage variation to requirement:	N/A - Non-numerical standard

Assessment of Request to vary a Development Standard

The following assessment of the variation to Clause 7.8 Limited Development on Foreshore Area development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to Development Standards

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

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

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

Comment:

Clause 7.8 Limited Development on Foreshore Area development standard is not expressly excluded from the operation of this clause.

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

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

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

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) Assessment

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

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

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
(c) to promote the orderly and economic use and development of land,
(d) to promote the delivery and maintenance of affordable housing,

- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

Applicants Written Request

The applicants written request argues, in part:

- *Compliance with the standard would necessitate an inflexible application of the development standard in circumstances where the development otherwise satisfies the objectives of the control.*
- *Compliance with the development standard is unreasonable and unnecessary*
- *The extent of the variation is minor, affecting only 2.3sqm, or 1.3% of the total site area within the foreshore area (approximately 175sqm).*
- *The variation enables the shifting of the upper level of additions away from the western boundary and brings the development closer to compliance to the provisions of Clause D10.11 Building Envelope of the Pittwater 21 Development Control Plan.*
- *The variation has no impact on natural processes within the foreshore area.*
- *The variation has no impact on the landscaped area of the site. Site landscaping is maintained and enhanced to soften the appearance of the building.*
- *The variation is within a niche in the existing building and has no perceptible impact in terms of building bulk and scale or scenic appearance when viewed from the waterway.*
- *The variation has no negative impacts on the amenity of the area with regards to privacy, views or solar access. In fact, by enabling the shifting of the upper level away from the western boundary, the variation will improve the amenity of the neighbouring property, 150 Prince Alfred Parade, when compared to the proposal originally submitted to Council.*
- *The variation has no impact on the streetscape or the character of the area. It is not visible from the street.*

The proposed additions are sited so as to not impact on the existing landscaped area. Additionally, the proposed development has been positioned to reduce the breach of the western side building envelope. This ensures that the proposed development does not result in impacts to the privacy, visual amenity and the solar access of adjoining properties. Furthermore, the area that extends into the foreshore area is very minor and is not considered to result in any adverse impacts. Inherently, the proposal will not impact on natural foreshore processes or affect the significance and amenity of the area.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, thus satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Limited Development on Foreshore Area development standard and the objectives of the C4 Environmental Living zone. An assessment against these objectives is provided below.

Objectives of Development Standard

The underlying objectives of the standard, pursuant to Clause 7.8 Limited Development on the Foreshore Area of the PLEP 2014 are:

- *To ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area*

Comment:

The proposed infringement of the foreshore area occurs within a niche in the existing building platform which comprises a paved area. It is a relatively small area. As such, the proposed area of infringement has no impact on natural foreshore processes. Being generally within the existing built form, the proposed infringement has no impact on the significance and amenity of the area and is generally not perceptible from outside of the site. The infringement has no impacts with regards to views or solar access.

- *To ensure continuous public access along the foreshore area and to the waterway.*

Comment:

The proposed extension into the foreshore area has no impact on public access along the foreshore area and to the waterway. Pedestrian access through the adjacent public open space is maintained.

Zone Objectives

The underlying objectives of the C4 Environmental Living zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment:

The dwelling house will continue to be a low impact residential development.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment:

The dwelling house will continue to maintain the ecological, scientific and aesthetic values of the area.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

Comment:

The proposal maintains a single dwelling house on the land, representing a low density development. The building is low scale, being a maximum of two storeys in an area characterised by two-storey dwelling houses. The proposal is generally sited on the existing building platform and is integrated into the landform and landscape.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment:

The proposal retains riparian and foreshore vegetation and wildlife corridors. All landscaped areas on site are retained and additional landscaping is proposed.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the C4 Environmental Living zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment

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

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Foreshore Building Line Development Standard is assumed by the Local Planning Panel.

7.8 Limited development on foreshore area

Under Clause 7.8 Limited Development on Foreshore Area, development consent must not be granted for development on land in the Foreshore Area except for the following purposes:

- *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore*

area, but only if the development will not result in the footprint of the building extending further into the foreshore area,

- *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

Comment:

The proposed development is for alterations and additions to an existing building situated partly within the Foreshore Area, but also extends the building footprint further into the Foreshore Area. A clause 4.6 variation request has been submitted with the application. The proposed development is also for a swimming pool which is permitted within the Foreshore Area.

Development consent must not be granted under this clause unless the consent authority is satisfied that:

- *the development will contribute to achieving the objectives for the zone in which the land is located, and*
- *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- *the development will not cause environmental harm such as:*
 - *pollution or siltation of the waterway, or*
 - *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
 - *an adverse effect on drainage patterns, or*
 - *the removal or disturbance of remnant riparian vegetation, and*
- *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
- *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.*

Comment:

The proposed development is consistent with the objectives of the C4 Environmental Living zone. The appearance of the proposed development is compatible with the surrounding area. The proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats, drainage patterns or remnant riparian vegetation. The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway.

The proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. The proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

In deciding whether to grant consent for development in the Foreshore Area, the consent authority must consider whether and to what extent the development would encourage the following:

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*
- *public access to link with existing or proposed open space,*
- *public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- *public access to be located above mean high water mark,*
- *the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment:

The proposed development will retain continuous public access to and along the foreshore. The proposed development does not impact upon any public access. The proposed development is acceptable in relation to the foreshore character and the existing environmental conditions.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front Building Line	6.5m	12.8m	N/A	Yes
Rear Building Line	Foreshore Building Line Applies	Existing Dwelling - Within Foreshore Area Proposed Pool - Within Foreshore Area	N/A N/A	No Change Yes
Side Building Line	East - 2.5m	Existing Dwelling - 1.5m	40%	No Change
	West - 1.0m	Existing Dwelling - 1.035m Level 2 Addition - 1.8m	N/A N/A	Yes Yes
Building Envelope	East - 3.5m	Outside envelope (encroachment between nil and 2.4m for a length of 7.7m)	0-68.6%	No Change
	West - 3.5m	Outside envelope (encroachment between 0.5m and 1.9m for a length of 8.4m)	14.2%-54.3%	No
Landscaped Area	60%	33.7% (234.8sqm)	43.8%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Yes	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.15 Fences - Flora and Fauna Conservation Areas	Yes	Yes

Detailed Assessment

D10.11 Building envelope (excluding Newport Commercial Centre)

Description of Non-compliance

Clause D10.11 of the Pittwater DCP requires a building envelope to be projected 45 degrees from a height of 3.5m above ground level at the side boundaries to the maximum building height.

The proposed addition above the garage encroaches the building envelope on the western side boundary between 0.5m and 1.9m for a length of 8.4m. This has been reduced from the original proposal as amended plans were requested to minimise the breach and improve the spatial relationship and amenity to the adjoining property.

On the eastern side boundary, there is an existing non-compliance with this control presenting an encroachment between nil and 2.4m for a length of 7.7m. The proposed development will not change this.

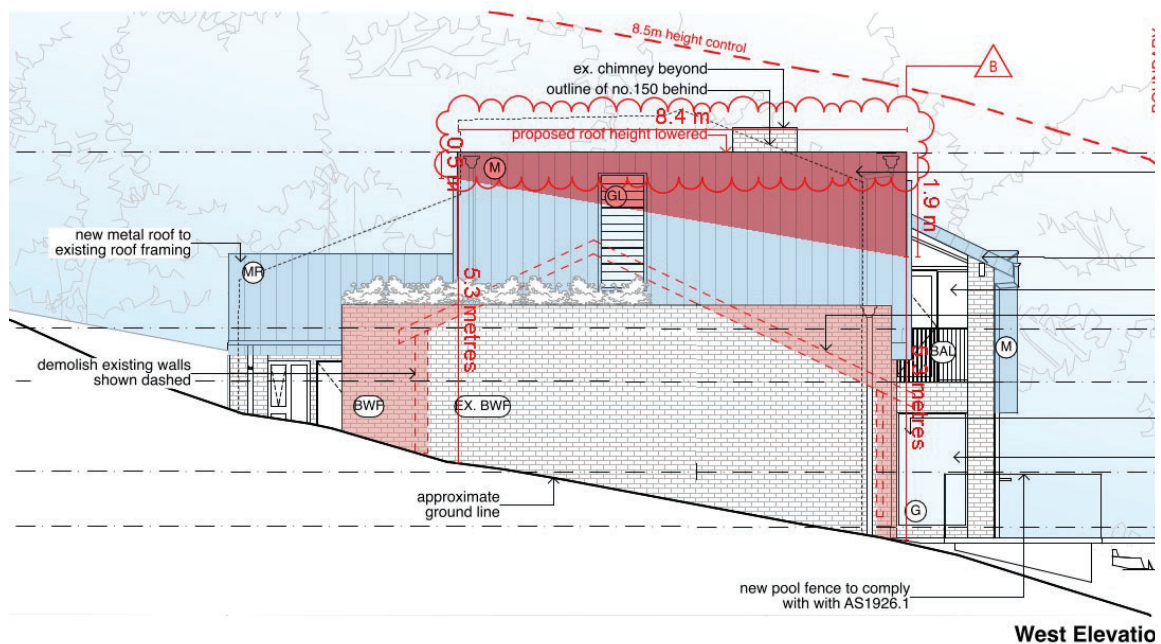


Figure 1: Western Envelope Encroachment

Merit consideration

- *To achieve the desired future character of the Locality.*

Comment:

The proposed development involves alterations and additions to an existing dwelling house and therefore aligns with the desired future character of the Locality.

- *To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*

Comment:

The site slopes down towards the rear of the property whereby the dwelling is not immediately visible from the street. Therefore, the proposed development will have minimal impact on

existing streetscapes. The site is surrounded by dense vegetation and tall trees in which the proposed development is below the height of the trees of the natural environment.

- *To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*

Comment:

The proposed development does not impact the natural environment as the additions are sited directly above the existing dwelling and will not require the removal of any significant vegetation. This ensures that the existing landscaped area is maintained in order to preserve the spatial characteristics of the existing natural environment.

- *The bulk and scale of the built form is minimised.*

Comment:

The proposed development predominantly retains the bulk and scale of the existing dwelling plus the addition above the garage on Level 2. This addition has been sited above the garage to maintain the existing landscaped area and minimise any impacts to the environment. The Level 2 addition has been stepped in a further 0.7m from Level 1 below, which assists in softening the bulk and scale of the building. The proposed development complies with the controls for height and retains the existing front, side and rear setbacks. The minor nature of the proposed additions and the level of compliance ensure that the bulk and scale of the built form is minimised.

- *Equitable preservation of views and vistas to and/or from public/private places.*

Comment:

The proposal will not impact on any views and vistas to and/or from public/private places.

- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*

Comment:

The proposal ensures a reasonable level of privacy as the proposed level two addition complies with the setback controls and ensures a suitable distance from No. 150 Prince Alfred Parade. Additionally, the dwelling is not immediately visible from the street which ensures a reasonable level of privacy and amenity is provided.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment:

The proposal retains the existing vegetation and additional landscaped area is proposed to visually reduce the built form.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

D10.13 Landscaped Area - Environmentally Sensitive Land

Description of Non-compliance

Clause D10.13 requires a minimum landscaped area of 60% of the site area.

The proposal provides a landscaped area of 33.7% (234.8 sqm) presenting a variation of 43.8%. This is an existing non-compliance as the existing landscaped area is 28.2% (196.7sqm) and the proposal increases this.

Merit Consideration

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

- *Achieve the desired future character of the Locality.*

Comment:

The proposed development involves alterations and additions to an existing dwelling house and therefore aligns with the desired future character of the Locality.

- *The bulk and scale of the built form is minimised.*

Comment:

The proposed development predominantly retains the bulk and scale of the existing dwelling plus the addition above the garage on level two. This addition has been sited above the garage to maintain the existing landscaped area and minimise any impacts to the environment. The Level 2 addition has been stepped in a further 0.7m from Level 1 below which assists in softening the bulk and scale of the building. The proposed development complies with the controls for height and retains the existing front, side and rear setbacks. The minor nature of the proposed additions and the level of compliance ensure that the bulk and scale of the built form is minimised.

- *A reasonable level of amenity and solar access is provided and maintained.*

Comment:

The proposal ensures a reasonable level of amenity as the proposed level two addition complies with the setback controls and ensures a suitable distance from No. 150 Prince Alfred Parade. Additionally, the dwelling is not immediately visible from the street which ensures a reasonable level of privacy and amenity is provided. The proposal meets the requirements for solar access as seen in the shadow diagrams.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment:

The proposal retains the existing vegetation and additional landscaped area is proposed to visually reduce the built form.

- *Conservation of natural vegetation and biodiversity.*

Comment:

The proposal retains the existing vegetation apart from one Cyathea australia (Rough Tree Fern) which is to be removed. The proposal provides additional landscaped area and supports biodiversity.

- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*

Comment:

It is considered that adequate soft landscaped area is provided to reduce stormwater runoff, prevent soil erosion and siltation of natural drainage channels.

- *To preserve and enhance the rural and bushland character of the area.*

Comment:

The bushland character is preserved and enhanced as no significant vegetation is required to be removed as part of the proposal, and existing vegetation will be retained.

- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*

Comment:

The existing soft surface is retained and will provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$10,460 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,046,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;

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

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

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

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

The proposal comprises non-compliances with the building envelope and landscaped area controls, however these variations do not result in any unreasonable impacts on surrounding, adjoining and nearby properties.

The Clause 4.6 Variation to the Foreshore Area has been appropriately addressed by the applicant, and is assessed as being well founded and supported.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment.

It is recommended that the Northern Beaches Local Planning Panel approve the application.

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 DA2022/0176 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 9 DP 204399, 148 Prince Alfred Parade, NEWPORT, 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
DA01 - RevB Site Plan	24 May 2022	Corben Architects
DA03 - RevB Level 1 Plan	24 May 2022	Corben Architects
DA04 - RevB Level 2 Plan	24 May 2022	Corben Architects
DA05 - RevB Roof Plan	24 May 2022	Corben Architects
DA06 - RevB North and South Elevation	24 May 2022	Corben Architects
DA07 - RevB East and West Elevation	24 May 2022	Corben Architects
DA08 - RevB Section AA	24 May 2022	Corben Architects
DA09 - RevB Section BB	24 May 2022	Corben Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
NPRI-DA-1 Stormwater Drainage	November 2021	WaterPlan Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Stormwater Report	6 December 2021	WaterPlan Pty Ltd
Geotechnical Report	22 December 2021	White Geotechnical Group
Flora and Fauna Impact Assessment Report	12 January 2022	Land Eco Consulting
Arboricultural Impact Report	8 December 2021	Landscape Matrix Pty Ltd
Acid Sulfate Soil Assessment	12 November 2021	EI Australia

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
LDA-01 - RevB	7 December 2021	Grindstone Landscapes
LDA-02 - RevB	7 December 2021	Grindstone Landscapes
LDA-03 - RevB	7 December 2021	Grindstone Landscapes

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	1 February 2022	Corben Architects

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

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

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	26 April 2022

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

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **Prescribed Conditions**

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

- hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
- A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
- A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the

development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$10,460.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$1,046,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

6. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

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

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

7. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the

Certifying Authority for approval prior to the issue of the Construction Certificate.

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 22/12/2022 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

9. **Amendment of Landscape Plans**

The submitted Landscape Plan is to be amended in accordance with the following:

- Provision of at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community).

<https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/nsw-threatened-species-scientific-committee/determinations/final-determinations/1996-1999/pittwater-spotted-gum-forest-endangered-ecological-community-listing>

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

10. **Shoring of Council Property**

Should the proposal require shoring to support land owned or managed by Council, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings. Council approval is required if temporary rock anchors or other construction measures are to be used within Council Land.

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

Reason: To ensure that owners consent is obtained for ancillary works and to ensure the protection of adjoining properties and land owned or managed by Council.

11. **Stormwater Drainage Disposal**

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical

Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifying Authority prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

13. **Structural Adequacy and Excavation Work**

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

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

14. **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.

15. **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

16. **Working and Access on Reserves Permit**

Works (undertaken by principal contractors working without Council supervision) on land owned or managed by Council require a "Working on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks and Recreation business unit.

Reason: Public safety and the protection of Council infrastructure.

17. **Works on Land Owned or Managed By Council**

No works are to be carried out on land owned or managed by Council.

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.) and landscaping works on land owned or managed by Council.

Reason: To protect the land owned or managed by Council.

18. **Installation and Maintenance of Sediment and Erosion Control**

Prior to commencement of works on site, sediment and erosion controls must be installed along the immediate downslope of the works area in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period.

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.

19. **Protection of Trees Within Land Owned or Managed by Council**

Unless identified by the development consent, existing trees shall be protected in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4.

Should any problems arise with regard to the existing trees on public land during the construction period, the applicant is to immediately contact Council's Tree Services section and resolve the matter to Council's satisfaction.

Reason: Tree protection and management.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

20. **Protection of Landscape Features and Sites of Significance**

All natural landscape features including natural rock outcrops, natural vegetation, soil and watercourses are to remain undisturbed during demolition, excavation and construction works except where affected by works detailed on approved plans.

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

21. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site not indicated for removal on the approved plans, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with the recommendations of the Arboricultural Impact report dated 8 December 2021 prepared by Landscape Matrix and Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other

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

The Certifying Authority must ensure that:

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

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

Reason: Tree and vegetation protection.

22. Condition of Trees

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works.

In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

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

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

Reason: Protection of trees.

23. **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.

24. **No Access Through Land Owned or Managed by Council**

Site access is not approved for delivery of materials nor construction of the development through adjacent land owned or managed by Council, without the written approval of Council.

Reason: Public safety, landscape amenity and tree protection.

25. **Storage of Materials on Land Owned or Managed by Council Prohibited**

The dumping or storage of building materials, spoil, vegetation, green waste or any other material in land owned or managed by Council is prohibited.

Reason: Public safety and environmental protection.

26. **Geotechnical Requirements**

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

27. **Demolition Works - Asbestos**

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

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

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

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

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

28. **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.

29. **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.

30. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection.

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

31. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan

Prior to the issue of any Occupation Certificate details (from a qualified horticulturalist, landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

32. **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.

33. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (Grindstone Landscapes 2021) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

34. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

35. **Removal of All Temporary Structures/Materials and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences/bunds are to be removed from the site.

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

Reason: To protect reserve amenity and public safety.

36. **Stormwater Drainage Disposal Certification**

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a

Geotechnical Engineer shall be provided to the Certifying Authority prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure satisfactory management of stormwater.

37. **Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

38. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

39. **Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

40. **Swimming Pool Requirements**

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

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

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

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

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

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life.

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

41. **Environmental and Priority Weed Control**

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

Reason: Preservation of environmental amenity.

42. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

43. **Geotechnical Recommendations**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

44. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

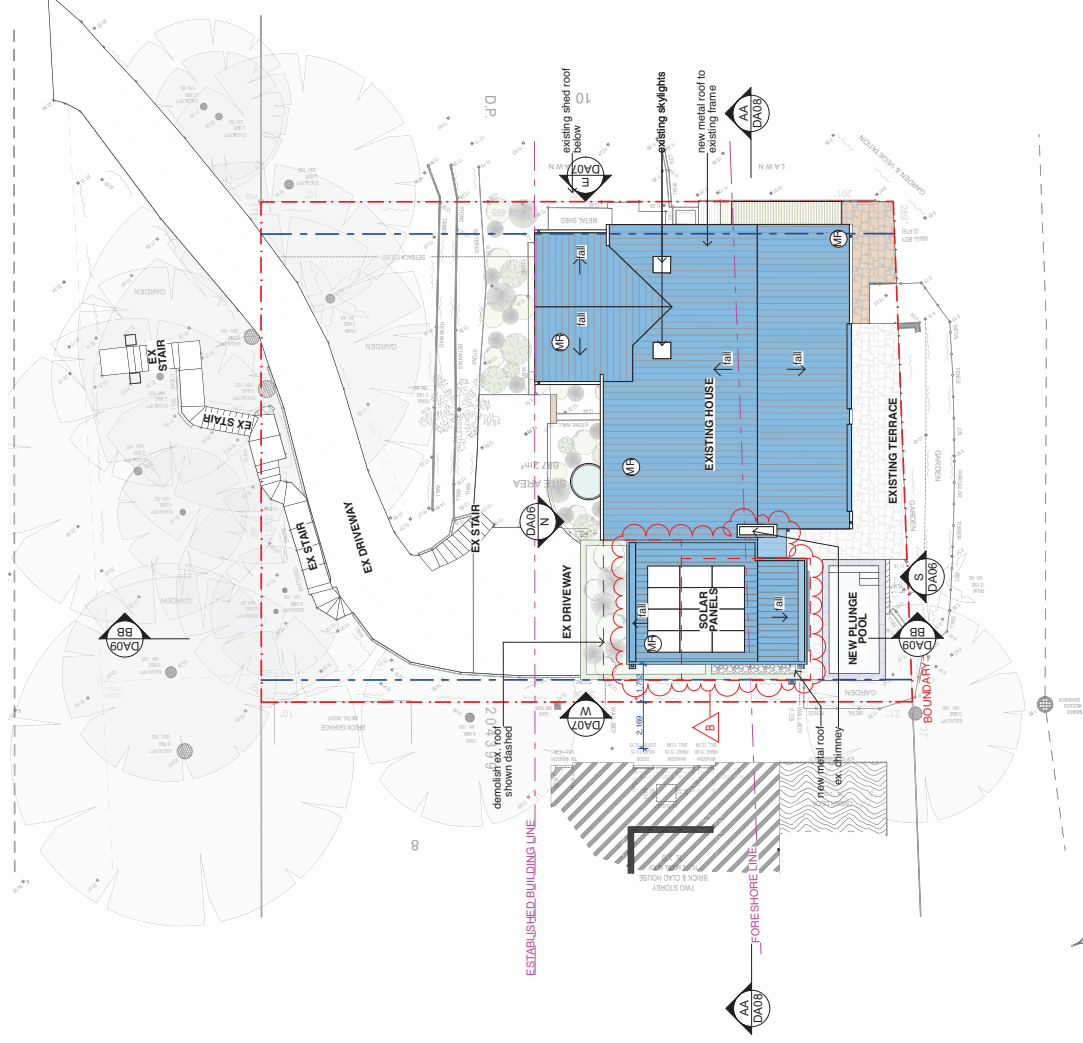
Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

45. **Encroachments**

a) An existing encroachment exists within the Council reserve adjoining the site including foreshore retaining wall, stairs, path and garden planting, as shown on the Survey Plan, and Council reserves the future right to seek removal of any encroachment for public safety or for any other public capital works.

b) No additional physical encroachments over the site boundaries are permitted under the development application, and new structures and built elements are not permitted beyond the site boundaries.

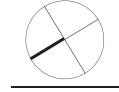
Reason: Protection of Council Assets, Public Liability.



revisions		description
A	3/1/22	DA Issue
B	24/5/22	DA Issue

Notes

File: DOWA-2-2020-04-0001 B Client: Donnelly House Newport
Date: 24/05/2022
Scale: 1:200



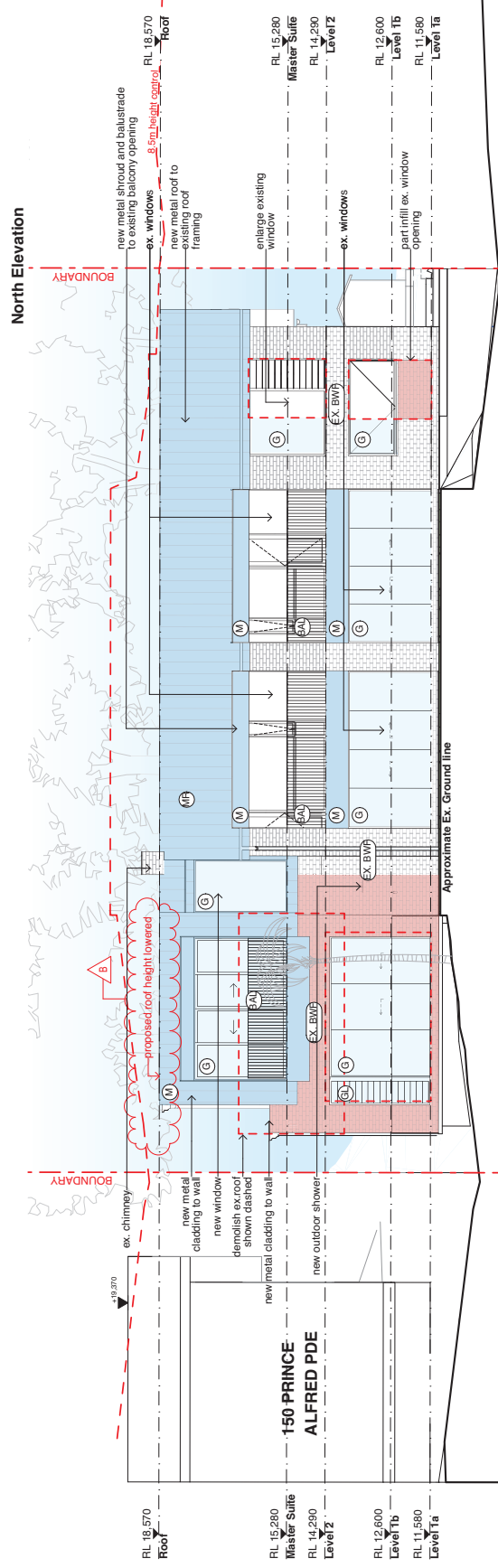
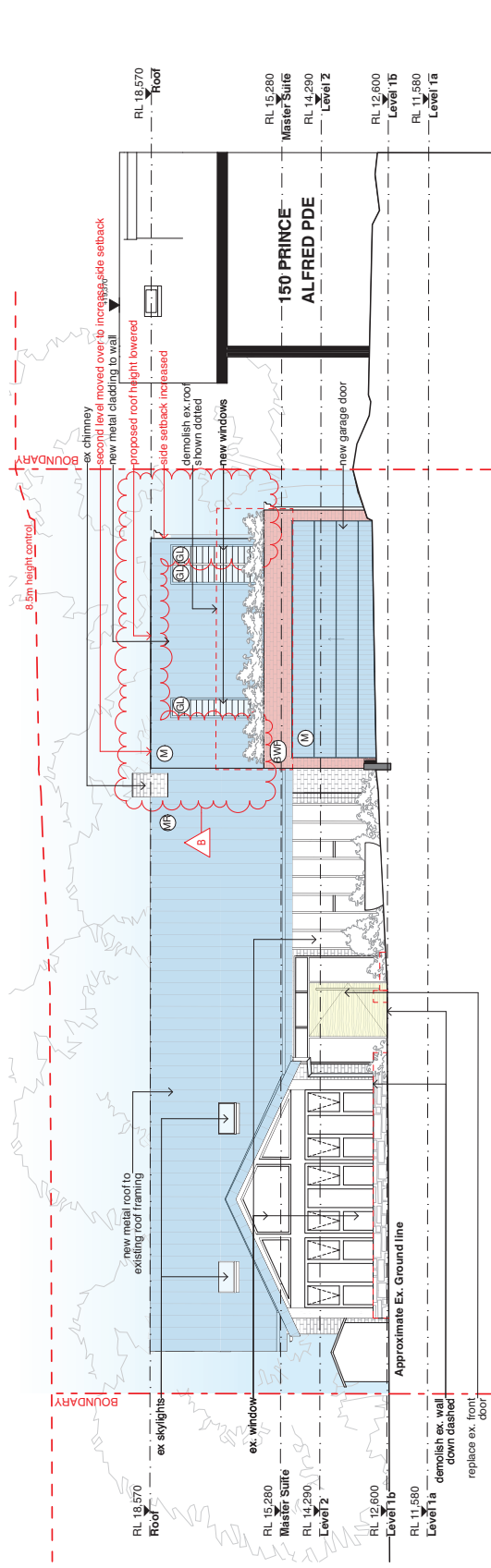
CORBEN ARCHITECTS
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Neutral Bay Architects Pty Ltd (Reg No. 14414)

project Donnelly House Newport
address 148 Prince Alfred Pde
Newport NSW
client Melissa Donnelly & Jason Avard

title Site Plan
issue Development Application

job no. DON
drawn KR
checked AE
scale 1:200
@A3

dwg no. DA01
revision B



revisions		notes
A	3/11/22	DA issue
B	2/4/22	DA issue

revisions		notes
A	3/11/22	DA issue
B	2/4/22	DA issue

150 Prince Alfred PDE
DA06
revision
B
scale
1:100
@A3

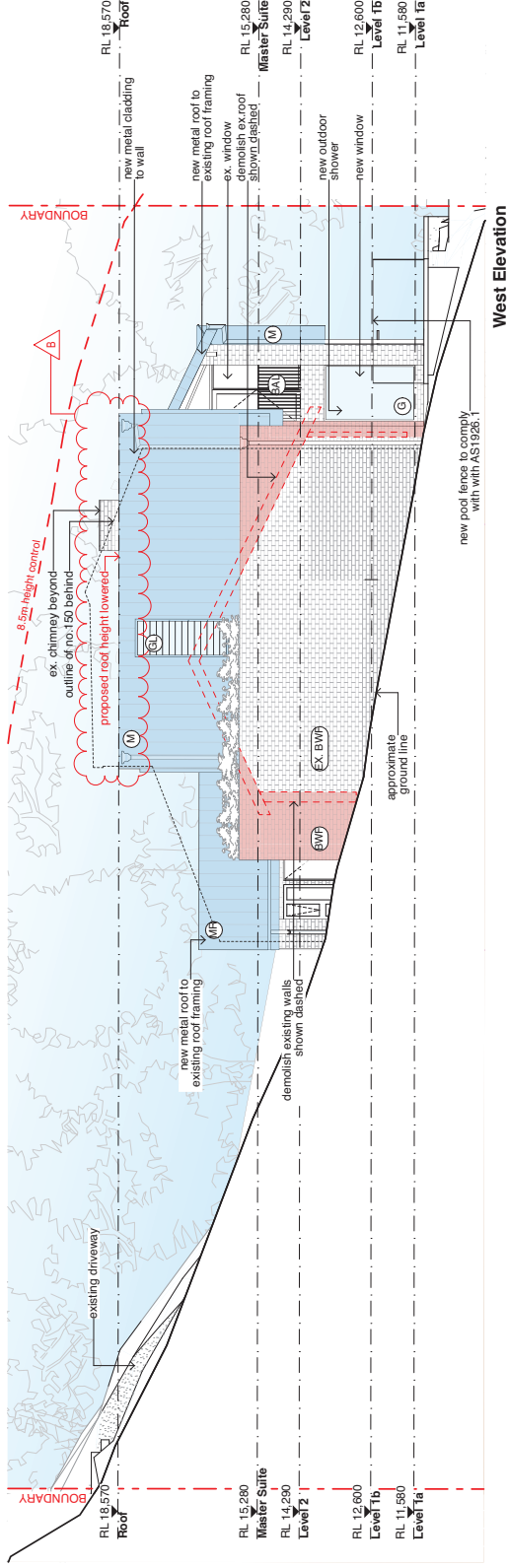
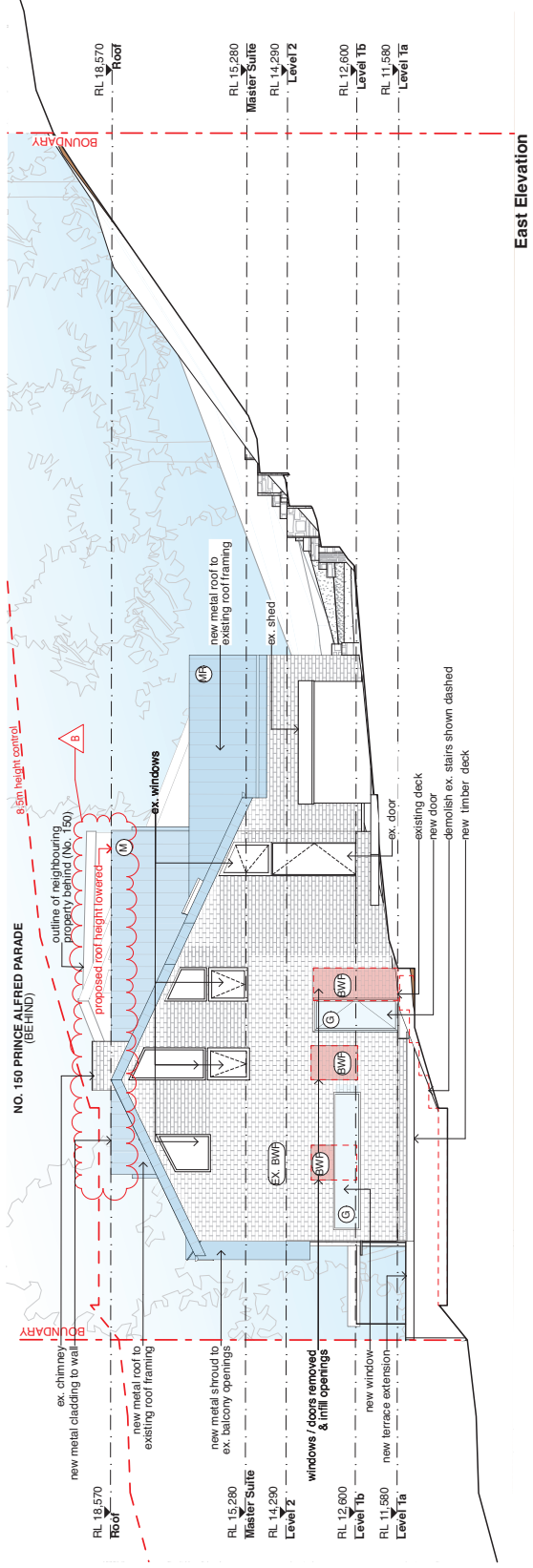
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client Melissa Donnelly & Jason Avar

title issue

North & South Elevation
job no. DON
drawn KR
checked AE
scale 1:100
Development Application

South Elevation
draw no. DA06
revision B
scale 1:100
@A3



revisions		notes
A	3/11/22	DA Issue
B	2/5/22	DA Issue

CORBEN ARCHITECTS PO Box 1021 Neutral Bay NSW 2059 Australia (02) 9594 1884 corben.com.au	project Donnelly House Newport address 148 Prince Alfred Parade Newport NSW client Melissa Donnelly & Jason Avard	title East & West Elevation Development Application	job no. DON drawn KR checked AE scale 1:100 @A3	dwg no. DA07 revision B
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Clause 4.6 request – foreshore area control

Request for exception under clause 4.6 of Pittwater Local Environmental Plan 2014
to clause 7.8 of *Pittwater Local Environmental Plan 2014*

Premises: No. 148 Prince Alfred Parade, Newport

Proposal: Alterations and additions to a dwelling house including a swimming pool.

Control: Limited development on foreshore area

Clause 7.8 of PLEP 2014 limits development on the foreshore area. It permits “the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area”.

Clause 7.8(5) specifies that in this clause:

foreshore area means the land between the foreshore building line and the mean high water mark of the nearest natural waterbody shown on the Foreshore Building Line Map.

foreshore building line means the line shown as the foreshore building line on the Foreshore Building Line Map.

Extent of variation:

The variation occurs where the proposal infills the area between the existing dwelling house and studio at both the ground floor and upper level, which represents development that is not within the existing building footprint. On the ground floor level, the infringement measures approximately 1.45m x 1.02m being an area of approximately 1.5m². On the upper level the infringement measures approximately 2.0m x 1.02/1.5m being an area of approximately 2.3m². The area of infringement is shown in the following diagrams:

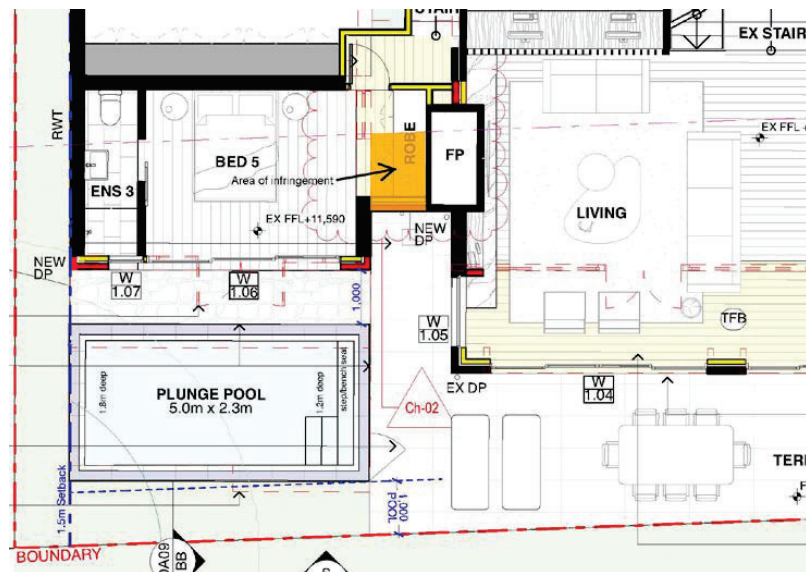


Diagram 1: Ground floor (Level 1)

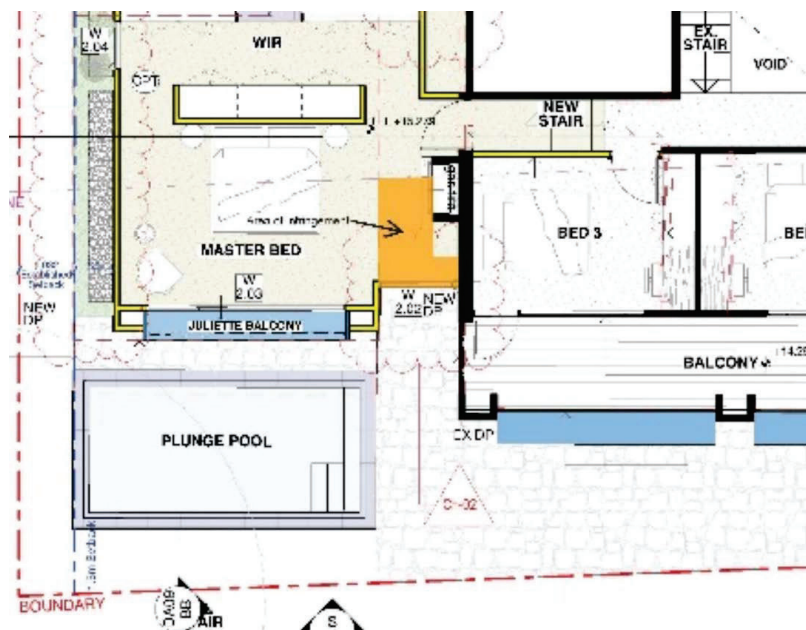


Diagram 2: Upper level (Level 2)

Introduction:

Clause 4.6(1) of PLEP 2014 states:

- (1) The objectives of this clause are as follows:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

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

To utilise the flexibility provided by clause 4.6 of PLEP 2014 it is necessary for the applicant to demonstrate:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

In addition, Council must be satisfied that:

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

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

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

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

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

Clause 7.8 of PLEP 2014 is attached as Appendix 1

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

Clause 7.8 contains a development standard because it fixes a requirement for the siting of a building from any specified point (ie: the foreshore building line).

In this regard, the Land and Environmental Court has held on appeal that provisions in a local environmental plan relating to a foreshore building line are a development standard. In *Quinn O’Hanlon Architects Pty Limited v Leichhardt Municipal Council* [1989] NSWLEC 32, Cripps J stated:

In the present case, as I have said, the erection of a dwelling house is permissible in the zoning tables over the whole of the land except that that which is permitted (ie: a dwelling house) may not, subject to certain exceptions, be erected over part of the land. It would seem to me, in the

absence of any authority to the contrary, that the fixing of a building line as a special provision in a planning ordinance would be relevantly a development standard and one being "in respect of an aspect of the development" viz the siting of a permissible building on the land.

A copy of the judgement is attached.

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

The underlying objects of the standard is stated in clause 7.8(1) to be:

- (a) *to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,*
- (b) *to ensure continuous public access along the foreshore area and to the waterway.*

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

Compliance would necessitate an inflexible application of the development standard in circumstances where the development otherwise satisfies the objectives of the control.

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

No.

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

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

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

- (a) *to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,*

Comment: The proposed infringement of the foreshore area occurs within a niche in the existing building platform which comprises a paved area. It is a relatively small area. As such, the proposed area of infringement has no impact on natural foreshore processes.

Being generally within the existing built form, the proposed infringement has no impact on the significance and amenity of the area and is generally not perceptible from outside of the site. The infringement has no impacts with regards to views or solar access.

- (b) *to ensure continuous public access along the foreshore area and to the waterway.*

Comment: The proposed infringement has no impact on public access along the foreshore area and to the waterway. Pedestrian access through the adjacent public open space is maintained.

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

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

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

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

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

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

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

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

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

The following environmental planning grounds justify the proposal:

- (a) The extent of the variation is minor, affecting only 2.3m², or 1.3% of the total site area within the foreshore area (approximately 175m²).
- (b) The variation enables the shifting of the upper level of additions away from the western boundary and brings the development closer to compliance to the provisions of Clause D10.11 Building Envelope of the *Pittwater 21 Development Control Plan*.
- (c) The variation has no impact on natural processes within the foreshore area.
- (d) The variation has no impact on the landscaped area of the site. Site landscaping is maintained and enhanced to soften the appearance of the building.
- (e) The variation is within a niche in the existing building and has no perceptible impact in terms of building bulk and scale or scenic appearance when viewed from the waterway.
- (f) The variation has no negative impacts on the amenity of the area with regards to privacy, views or solar access. In fact, by enabling the shifting of the upper level away from the western boundary, the variation will improve the amenity of the neighbouring property, 150 Prince Alfred Parade, when compared to the proposal originally submitted to Council.

- (g) The variation has no impact on the streetscape or the character of the area. It is not visible from the street.
- (h) The proposal satisfies the requirements of subclauses 7.8(3) and (4), as detailed in Part 6.13 of the Statement of Environmental Effects by Symons Goodyer Pty Limited dated February 2022.

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

The site is zoned C4 Environmental Living. The objectives of the zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment: The dwelling house will continue to be a low impact residential development.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment: The dwelling house will continue to maintain the ecological, scientific and aesthetic values of the area.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

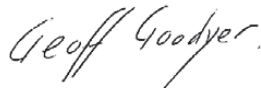
Comment: The proposal maintains a single dwelling house on the land, representing a low density of development. The building is low scale, being a maximum of two storeys in an area characterised by two-storey dwelling houses. The proposal is generally sited on the existing building platform and is integrated into the landform and landscape.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment: The proposal retains riparian and foreshore vegetation and wildlife corridors. All landscaped areas on site are retained and additional landscaping is proposed.

8. Is the exception request well founded?

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



Geoff Goodyer
24 May 2022

Appendix 1

Clause 7.8 of PLEP 2014

7.8 Limited development on foreshore area

- (1) The objectives of this clause are as follows—
 - (a) to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,
 - (b) to ensure continuous public access along the foreshore area and to the waterway.
- (2) Development consent must not be granted for development on land in the foreshore area except for the following purposes—
 - (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,
 - (b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).
- (3) Development consent must not be granted under this clause unless the consent authority is satisfied that—
 - (a) the development will contribute to achieving the objectives for the zone in which the land is located, and
 - (b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and
 - (c) the development will not cause environmental harm such as—
 - (i) pollution or siltation of the waterway, or
 - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or
 - (iii) an adverse effect on drainage patterns, or
 - (iv) the removal or disturbance of remnant riparian vegetation, and
 - (d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and
 - (e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and

- (f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and
 - (g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and
 - (h) sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change, have been considered.
- (4) In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following—
- (a) continuous public access to and along the foreshore through or adjacent to the proposed development,
 - (b) public access to link with existing or proposed open space,
 - (c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,
 - (d) public access to be located above mean high water mark,
 - (e) the reinforcing of the foreshore character and respect for existing environmental conditions.
- (5) In this clause—

foreshore area means the land between the foreshore building line and the mean high water mark of the nearest natural waterbody shown on the Foreshore Building Line Map.

foreshore building line means the line shown as the foreshore building line on the Foreshore Building Line Map.

Appendix 2

Definition of “development standards”

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

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,
- (b) the proportion or percentage of the area of a site which a building or work may occupy,
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- (d) the cubic content or floor space of a building,
- (e) the intensity or density of the use of any land, building or work,
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,
- (h) the volume, nature and type of traffic generated by the development,
- (i) road patterns,
- (j) drainage,
- (k) the carrying out of earthworks,
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- (m) the provision of services, facilities and amenities demanded by development,
- (n) the emission of pollution and means for its prevention or control or mitigation, and
- (o) such other matters as may be prescribed.