

REPORT TO APPLICATION DETERMINATION PANEL

Meeting held on 01 August 2013

14 Greycliffe Street Queenscliff - Alterations and additions to a residential flat building, strata subdivision and fencing

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2012/1539
Responsible Officer:	Nick England
Land to be developed (Address):	Lot 17 DP 12597 , 14 Greycliffe Street QUEENSCLIFF NSW 2096
Proposed Development:	Alterations and additions to a residential flat building, strata subdivision and fencing
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	No
Existing Use Rights:	Yes
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	Marine Pde Pty Ltd
Applicant:	Marine Pde Pty Ltd
Application lodged:	20/12/2012
Application Type:	Local
State Reporting Category:	Residential - Alterations and additions
Notified:	14/01/2013 to 29/01/2013
Advertised:	Not Advertised in accordance with A.7 of WDCP
Submissions:	2
Recommendation:	Approval
Estimated Cost of Works:	\$ 998,000

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 all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B1 Wall Heights
 Warringah Development Control Plan - B3 Side Boundary Envelope
 Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D7 Views
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 17 DP 12597 , 14 Greycliffe Street QUEENSCLIFF NSW 2096
Detailed Site Description:	The subject site consists of one (1) allotment located on the southern side of Greycliffe Street. The site is legally known as Lot 17 in DP 12597, No.14 Greycliffe Street. The site is regular in shape with a frontage of 11.01m along Greycliffe Street and a depth of varying between 43.295 / 48.245m. The site has a surveyed area of 496.4m². The site is located with the R2 Low Density Residential zone and accommodates a residential flat building consisting of four (4) dwellings over 4 levels. Surrounding development consists of a mixture of detached residential dwellings and existing residential flat buildings of up to and above 4 stories in height. The site has a southerly aspect with a steep slope stepping down the allotment in several parts from the front boundary to the rear, as much as 11m. There are eight (8) trees on the site, with a rear area of turfed grass adjacent the rear boundary. The site is adjacent Queenscliff Lagoon.

Map:



SITE HISTORY

Past development consents and other applications on the site include the following:

DA1988/547: Development consent for "Alterations and additions to existing residential flat building" approved application determined on 6 January 1989.

BA5000/7521: Building application for "Swimming Pool" determined on 8 February 1989.

PLM2011/0103: Pre-lodgement meeting held on 29 September 2011.

DA2011/1663: Development application for "Alterations and additions to a residential flat building" withdrawn by the applicant on 30 March 2012, after Council informed the applicant that the proposal would not be supported based on the following matters: inadequate vehicular access; front setback, side setback, building height, privacy and landscaped open space.

DA2012/0888: Development application for "Alterations and additions to a residential flat building" withdrawn by the applicant on 24 September 2012, after Council informed the applicant that the proposal would not be supported based on the following matters: inadequate vehicular access, front setback, side setback, building height, privacy and landscaped open space and view loss.

PROPOSED DEVELOPMENT IN DETAIL

The application consists of alteration and additions to an existing residential flat building comprising a total of three (3) units. In detail, the proposal consists of:

Second Floor (Unit 3)

Internal refurbishment of Unit 3 and external additions, including 41m² of additional floor space on south (rear) elevation and new balcony, approximately 28m² in area. Demolition of existing access ramp and replacement with new access ramp on west elevation, 0.81m from the side boundary.

First Floor (Unit 2)

Internal refurbishment of Unit 2 and external additions, including 41m² of additional floor space on the south (rear) elevation and new balcony, approximately 28m² in area. Demolition of existing access ramp and replacement with new access ramp and stairs on the west elevation, with a nil to 0.81m setback from the side (west) boundary.

Ground Floor (Unit 1)

Internal refurbishment of upper level of Unit 1 and external additions, including 43m² of additional floor space on the south (rear) elevation and new balcony, approximately 28m² in area.

Lower Ground Floor (Unit 1)

Internal refurbishment of lower level of Unit 1 and external additions for bedroom, laundry and family room, approximately 57m² in area on south (rear) elevation.

Elevations

Refurbishment of existing north, south, west and east elevations to incorporate new windows and adjustable louvres.

Other components of the proposal include:

- extension to existing pool deck area (4m²);
- addition to existing storage area (beneath pool) 8m² in area;
- provision of six (6) car spaces, through 3 x 2 car space stackers located approximately 0.3m to 0.5m from the front boundary of Greycliffe Street;
- slatted entry doors to stackers, 2.1m in height;
- slatted entry gate 1.3m in height;
- demolition of existing gazebo;
- new access stairs on west elevation; and
- Strata title subdivision of existing Torrens title allotment into 3 units.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment A.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any	None applicable.

Section 79C 'Matters for Consideration'	Comments
draft environmental planning instrument	
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiiia) – Provisions of any planning agreement	None applicable.
Section 79C (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 documentation has been submitted. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, permits Council to request additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations. Additional information was requested on 27 February 2013. <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. <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 matter may be addressed via a condition of consent.
Section 79C (1) (b) – the likely impacts of the development, including environmental	(i) The environmental impacts of the proposed development on the natural and built environment are

Section 79C 'Matters for Consideration'	Comments
impacts on the natural and built environment and social and economic impacts in the locality	addressed under the Warringah Development Control Plan section in this report. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

- **Does the existing use satisfy the definition of "existing use" under the Environmental planning and Assessment Act, 1979 (the 'Act')?**

Section 106 of the Act defines an existing use as meaning:

"(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use, and

(b) the use of a building, work or land:

*(i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and
(ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse."*

This necessarily requires the following questions to be answered.

1. **Was the use of the building, work or land a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part 4 of the Act, have the effect of prohibiting that use?**

Comment:

The applicant has provided evidence in the form of a development consent from Council's records, which in detail is:

DA89/7: Approval for alterations and additions to an existing residential flat building dated 6 January 1989; and

861/89: Building application for aforementioned development consent. Approved works related to additions on southern elevation and balconies for each unit.

Examination of Council records reveals that there are no plans available however, the form provided in the application describes the development as following:

- *"Provision of a games room (common area) to excavated level + extension.*
- *Provision of stairs and bbq area for this new games room.*
- *Provision of 3 new balconies to exist. units.*
- *Extension of existing kitchen with new glass walls above balcony line."*

Based on this information it can be reasonably assumed that the existing building consisted of 3 individual units and hence was in existence at the time of this consent as a residential flat building. No information has been provided as to when this building was originally approved, however the existing information reveals that the use of the building as a lawful purpose has been in existence from at least 6 January 1989, prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011. A search of Council's records does not reveal a date for the construction of the original building. In particular, the issuing of a consent related to a "residential flat building" means that it can be reasonably assumed that there was an existing consent in effect at the time that Council issued a development consent.

2. **Was the use of the building granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?**

Comment:

The most recent use of the building was lawfully approved by Council on 6 January 1989. This was prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011.

3. **Has the use of the building been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse?**

Comment:

It can be reasonably assumed that the building has been in continuous use as a residential flat building since the date of the most recent consent (6 January 1989). Hence the existing development consent is in effect and there is no reason to assume that this consent has lapsed.

- **What is "the land on which the existing use was carried out" for the purposes of cl 42(2) (b) of the Environmental Planning and Assessment Regulation 2000 ("the Regulation")?**

Meagher JA in *Steedman v Baulkham Hills Shire Council* [No. 1] (1991) 87 LGERA 26 stated (at 27) the rule to be applied as follows: "that if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose".

Comment:

Having regard to the above case law, it is noted that the whole of the area of the land was physically used for the purpose in question and therefore, it is considered that the land was used for that purpose and that existing use rights apply to the whole of the subject site.

- **What are the planning principles that should be adopted in dealing with an application to alter enlarge or rebuild and existing use?**

The judgement in *Fodor Investments v Hornsby Shire Council (2005) NSWLEC 71*, sets out the planning principles which should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights.

The following four principles adopted by the court in this case will have general application in dealing with Development Applications that rely on existing use rights:

1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

Comment: The built form expressed by the proposal from the Greycliffe Street frontage is substantially the same as that of the existing building, with no change in the existing building height. The proposed car parking stackers represent a non-compliance with the front setback control, however given the context of a similar garage structure with a nil front setback that is located immediately adjacent the site (at No.12) it is considered that sufficient justification exists for the location of the car spaces within the front setback on the subject site. The western elevation of the building is consistent in bulk and scale with the adjoining residential flat building at No.12 Greycliffe Street. The eastern elevation of the proposal, represents significant non-compliances with the building height development standard and the side boundary envelope, side boundary and wall height development controls. Nonetheless, the additions have been designed in a manner that represent a reasonable transition between larger scale residential flat buildings and existing single detached residential houses. Based on these circumstances, the proposal provides an adequate relationship to what is permissible on surrounding sites.

2. What is the relevance of the building in which the existing use takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

Comment: The bulk and scale of the existing building, as it relates to Greycliffe Street, will be substantially retained. The additions which are located to the rear of the existing building, will extend the existing building out a further 10.3m (including balcony) on all levels, but will remain in context with the bulk and scale of the existing buildings in the locality.

3. What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Comment: The amenity impacts of the proposal have been assessed and addressed in detail under the relevant sections of WDCP 2011 in this report. In summary, there are no likely adverse impacts as a result of the proposed development.

4. What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Comment: The proposal will have the effect of improving the amenity of the existing units in the building as detailed the section of this report dealing with State Environmental Planning Policy No.65 (Design of Residential Flat Buildings).

Conclusion

The use was most recently subject to a lawful consent under a previous EPI (Warringah Local Environmental Plan 1985) and therefore, is a lawful use. Subsequently, the use can be retained under the current EPI (WLEP 2011).

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 Warringah Development Control Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Peter Gordon Green Georgina Ruth Green	17 Greycliffe Street QUEENSCLIFF NSW 2096
Craig William Watkinson	16 Greycliffe Street QUEENSCLIFF NSW 2096

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

- *The bulk and scale of the proposal would have an adverse visual impact and is not consistent with the scale of buildings in the surrounding area;*
- *The proposal is not consistent with the 7.2m wall height control;*
- *The development will result in a loss of views from the ground floor living spaces of the dwelling at No.16 Greycliffe Street;*
- *The privacy of the dwelling at No.16 Greycliffe Street will be adversely affected from the balconies and windows of the 3 units in particular the balcony of Unit 2;*
- *The new access ramp to Unit 2 is adjacent the boundary of No.16 Greycliffe Street and is located approximately 3 to 4m above the existing ground level and would have an adverse*

amenity impact;

- *There is no provision for bin storage;*
- *The site plan for the development is misleading in that does not highlight the new development footprint or clearly distinguish the existing structure against the proposed structure, particularly in respect to the proposed balconies on the southern elevation;*
- *The privacy of properties to the east and west of the subject site will be adversely affected; and*
- *The visual bulk of the proposal when viewed from adjoining public open space will be adverse.*

The matters raised within the submissions are addressed as follows:

- *The bulk and scale of the proposal would have an adverse visual impact and is not consistent with the scale of buildings in the surrounding area;*

Comment: Development in Greycliffe Street is typified by a combination of single detached residential dwellings and residential flat buildings, some of which exceed four stories in height. The existing building subject to the proposal has a maximum rise in stories of 4, which will remain unchanged in the application.

A detailed consideration of the bulk and scale of the proposed development, with specific consideration of the objectives of the development standards and controls relevant to bulk and scale (ie. Height of Buildings, Side Boundary Envelope, Side Boundaries, Setbacks, Wall Height and Building Bulk) is provided in the relevant sections of this report.

In summary, the bulk and scale of the proposal is considered to be acceptable in the greater context of similar development in the close vicinity of the site. Further, the proposal will improve the appearance of the existing building and provide a more contemporary design which represents an overall improvement in the built form in Greycliffe Street.

- *The proposal is not consistent with the 7.2m wall height control;*

Comment: The maximum wall height of the proposal is estimated at 11.9m, contrary to the maximum 7.2m wall height control specified in Part B1 (Wall Heights) of WDCP 2011. However, as the site is subject to existing use rights then the numerical provisions of this development control plan cannot be applied in this assessment. Nonetheless, an assessment of the proposal against the objectives of this control (consistent with the NSW Land & Environment Court Planning Principles) is provided in this report and it is found that the non-compliance the proposal is generally consistent with the objectives of this control.

- *The development will result in a loss of views from the ground floor living spaces of the dwelling at No.16 Greycliffe Street;*

Comment: A detailed view loss analysis is provided in the part of this report that addresses Part D7 (Views) of WDCP 2011. In summary, the proposed development will not result in an unacceptable loss of those views currently enjoyed by adjoining residential dwellings that would warrant refusal of the application.

- *The privacy of the dwelling at No.16 Greycliffe Street will be adversely affected from the balconies and windows of the 3 units in particular the balcony of Unit 2.*

Comment: A detailed assessment of the potential impact of the proposed development in respect to acoustic and visual privacy is provided in the part of this report that addresses Part

D8 (Privacy) of WDCP 2011. In summary, the proposed development will not have an adverse impact on the privacy of adjoining properties that would warrant refusal of the application.

- *The new access ramp to Unit 2 is adjacent the boundary of No.16 Greycliffe Street and is located approximately 3 to 4m above the existing ground level and would have an adverse amenity impact;*

Comment: The access ramp to Unit 2 will be situated mostly in the same position and height of the existing access ramp, however the point of access and egress will be relocated at a nil setback from the western boundary of the site. This new part of the access ramp will be approximately 2.3m above the existing ground level, measured from the ramp floor. Examination of the eastern elevation of the adjoining dwelling at No.16 Greycliffe Street has revealed that there are no significant openings or windows that will face directly on to this ramp. The access ramp is an ancillary aspect of the building and is primarily a means of ingress/egress to the building and hence is unlikely to be occupied for habitable or private open space / recreation purposes. No additional shadow is likely to be cast by the modified access ramp. The visual impact of this structure when viewed from the adjoining property at No.16 Greycliffe is unlikely to be adverse based on the fact that no significant windows or private open space in this dwelling that are orientated towards this features and hence the potential for this structure to be readily visible from this dwelling is relatively minor.

- *There is no provision for bin storage in the development.*

Comment: On page 27 of the Statement of environmental effects lodged with the application it is stated that garbage facilities are provided on the site at the rear of the car parking modules. Areas marked "store" as part of the proposed car stackers (refer to Plan DA-10) demonstrate that storage for garbage is provided as part of the proposed development, as clarified in the Statement lodged with the application. Council's Waste Officer has approved the use of these individual areas for the provision of waste storage.

- *The site plan for the development is misleading in that does not highlight the new development footprint or clearly distinguish the existing structure against the proposed structure, particularly in respect to the proposed balconies on the southern elevation.*

Comment: The information provided with the application is considered sufficient to adequately determine the specific location of the proposed structures on the site.

- *The privacy of properties to the east and west of the subject site will be adversely affected.*

Comment: The matter of privacy is addressed in detail in the section of the report dealing with Part D8 (Privacy) of WDCP 2011. In summary, the proposal is unlikely to cause an adverse impact with the respect to the privacy of adjoining dwellings to the east and west of the site.

- *The visual bulk of the proposal when viewed from adjoining public open space will be adverse.*

Comment: The proposed development will represent an acceptable increase in the overall bulk of the existing dwelling, which when viewed from the adjoining areas of public open space to the south of the subject site, will not have an adverse impact on the setting of these areas.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	No objections to the proposed development and strata subdivision subject to the inclusion of two conditions. One relating to a current fire safety order and the other relating to the submission of a final fire safety certificate prior to an Occupation Certificate being issued.
Development Engineers	The revised civil works design by Aurecon has been assessed and is considered to be satisfactory. Development Engineers raise no objections to the release of the DA subject to conditions of consent.
Environmental Health and Protection (Acid Sulphate)	This proposal has been assessed by Environmental Health & protection. There is no excavation proposed that exceeds the level indicated in acid sulphate risk map.
Landscape Officer	Council's Landscape Officer has responded in respect to the proposed development: <i>"Reference is made to comments previously made regarding development on this site. (DA2012/0888). Generally the comments remain the same with minimal landscape provision and the loss of a significant amount.</i> <i>As there are issues of existing use rights on this site, it is understood that compliance with the LEP and DCP is not necessarily determinative and there may be other mitigating factors, such as parking, which may be considered in the assessment of the application. However, in relation to landscape issues, the removal of the front landscape open space on face value is not supported. It would be preferable if provision for soft landscape to replace that which is removed were included in the proposal.</i> <i>Two small suspended planter beds are provided in the front of the development which are considered to be of minimal value, however a minor improvement on previous street level landscape provision. Concern is raised however with regard to the location of bin bays which are understood to be required to be located on the street level for access by contractors.</i> <i>No bin storage are is indicated and if required on street level will mean removal of some or all landscape areas indicated on the plans.</i> <i>If the plans are to be approved in consideration of other mitigating circumstances, the issue of the bin bay needs to be resolved to ensure that at least the minimal amount of landscape indicated in capable of being provided."</i> Assessment Officers Comments: With respect to the landscape officer's comments, the matters raised in the referral response are addressed as follows:

Internal Referral Body	Comments		
	<u>Provision of Landscaped Open Space:</u> Analysis of the proposed area of landscaped open space as part of the proposed development reveals that there will be a net increase of landscaped open space of approximately 4m². This increase is a result of the provision of an additional area of landscaping adjacent the western side boundary of the site, to offset the loss of landscaped open space to the front and rear of the site. <u>Bin storage:</u> Council's Waste Officer has approved the storage of waste bins individually (in each car parking module) on the site, with a condition that requires a screening structure to be constructed behind each storage area to minimise visual impact. <u>Car Parking:</u> The loss of landscaped open space on the frontage of the site (5.9m²) will permit the provision of 6 car spaces on the subject site. Whilst the kerb crossing to access these parking areas will remove approximately 2 on-street car spaces, this will result in net increase of 4 off-street car spaces in Greycliffe Street. In conclusion, the loss of the landscaped open space in the frontage of the site is mitigated by the overall net increase in landscaped open space on the site and offset by the provision of car parking in a residential flat building that currently has no vehicle parking and is situated in an area that has substantial demand for on-street car parking. Hence under the circumstances, it is recommended that the Landscape Officer's comments be noted as partially valid, however not sufficient to warrant refusal of the application.		
Natural Environment (Biodiversity)	No comments or conditions for the proposed development.		
Natural Environment (Flood)	Conclusion / General Comments All works are located above the Flood Planning Level of 2.7m AHD. Recommendation <table border="1" data-bbox="523 1585 1439 1664"> <tr> <td data-bbox="523 1585 826 1664">NO OBJECTION</td><td data-bbox="826 1585 1439 1664">Unlikely Significant Impact - Subject to conditions</td></tr> </table>	NO OBJECTION	Unlikely Significant Impact - Subject to conditions
NO OBJECTION	Unlikely Significant Impact - Subject to conditions		
Natural Environment (Riparian Lands/Creeks)	Conclusion / General Comments The development at 14 Greycliffe Street Queenscliff that includes Alterations and additions to a residential flat building and strata subdivision will have minimum affect on Queenscliff Lagoon as the existing lower ground floor foot print will not increase and the majority of the work will be greater than 40 metres from the watercourse. The greatest risk to the lagoon will be during construction works that will be conditioned with regards to Sediment and Erosion Control and Stormwater management of the site. Recommendation <table border="1" data-bbox="523 2101 1439 2139"> <tr> <td data-bbox="523 2101 826 2139"></td><td data-bbox="826 2101 1439 2139"></td></tr> </table>		

Internal Referral Body	Comments	
	NO OBJECTION	Unlikely Significant Impact - Subject to conditions
Parks, reserves, beaches, foreshore	Parks Reserves and Foreshores raises no objection to the proposal.	
Traffic Engineer	Council's Traffic Engineer has advised: "Amended details with respect to the parking spaces and their relationship to street levels have since been submitted to Council, and further advice from the Traffic Engineer, received on 14 May 2013 raises no objection to the development on engineering grounds. "	
Waste Officer	Council's Waste Officer has advised that the proposed arrangement of waste storage (stored individually within the car spaces for each of the 3 units) is under the circumstances acceptable. Two (2) special conditions are recommended, to ensure that the bins are screened from public view and that a construction demolition plan that complies with Warringah Waste Management Plan section 2 is provided.	

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 65 - Design Quality of Residential Flat Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Flat Development (SEPP 65) stipulates that SEPP 65 only applies to the erection of new residential flat buildings, substantial redevelopment/refurbishment of existing residential flat buildings and the conversion of an existing building to a residential flat building.

Clause 3 of SEPP 65 defines a residential flat building as:

"(a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and
(b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia."

The proposed development is for the alterations and additions to an existing residential flat building plus car parking for six (6) vehicles and the provisions of SEPP 65 would normally apply to the assessment of this application. However, as the site enjoys the benefit of existing use rights, the provisions of environmental planning instruments do not apply to the proposed development. Nonetheless, an assessment of the proposed development against the objectives of this Plan is provided below.

Clause 50(1A) of the *Environmental Planning and Assessment Regulation 2000* would normally require the submission of a Design Verification Certificate from the building designer at lodgement of the development application. This documentation has been submitted, provided in Annexure A of the Statement of Environmental Effects prepared by Steven Layman Consulting.

The SEPP requires the assessment of any development application for residential flat development against 10 Design Quality Principles contained in Clauses 9 - 18 and Council is required to consider the matters contained in the associated "Residential Flat Design Code". As such, the following consideration has been given to the requirements of the SEPP and Design Code.

Whilst the proposal is subject to the provisions of existing use rights and the provisions of environmental planning instruments such as this State policy do not strictly apply to the proposed development, nonetheless an assessment of the proposal against the objectives of the plan is provided below.

The 10 Design Quality Principles are outlined as follows:

Principle 1: Context

Clause 9 (Principle 1: Context) stipulates that:

"Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the Desired Future Character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area".

Comment: The character of the development in Greycliffe Street varies between detached residential dwellings and existing residential flat buildings. Whilst Council's intention is that the area be for the development of single detached dwelling houses, the proposal represents a continuation of what is essentially a predominant context both on the site and in the surrounding area, of residential flat buildings. The proposed works do not substantially increase the existing footprint of the building to any extent that it is inconsistent with the footprints of adjoining residential dwellings. The increased building height to the rear of the dwelling would represent no increase in the number of stories in the building and the re-modelling of the facades on the readily visible western and southern elevations provides

sufficient variation of architectural expression to break down the perceived bulk of the structure when viewed from the adjoining areas of the public domain. Therefore the development satisfies this Principle.

Principle 2: Scale

Clause 10 (Principle 2: Scale) stipulates that:

"Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings."

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the Desired Future Character of the area".

Comment: The height of the building as it addresses Greycliffe Street (north elevation) will remain unchanged, hence an appropriate scale on this part of the building is provided. As stated previously, the increased building height to the rear of the dwelling would represent no increase in the number of stories in the building and the re-modelling of the facades on the readily visible western and southern elevations provides sufficient variation in architectural expression to provide an acceptable relationship with the adjoining areas of the public domain. Hence the development satisfies this Principle.

Principle 3: Built Form

Clause 11 (Principle 3: Built Form) stipulates that:

"Good design achieves an appropriate Built Form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements."

Appropriate Built Form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook."

Comment: The built form of the proposal consists of an upgrade to the existing building that provides a contemporary design, whilst incorporating new balcony features and other upgraded areas of private open space that make a positive contribution to the adjoining streetscape and public domain. The development satisfies this Principle.

Principle 4: Density

Clause 12 (Principle 4: Density) stipulates that:

"Good design has a density appropriate for a site and its context; in terms of floor space yields (or number of units or residents)."

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality."

Comment: The density of the site will remain unchanged, at a total of 3 dwellings. Whilst Council's strategic intention is that the site will be used for the development of single detached dwellings through the R2 Low Density Residential zone, the proposed development does not represent any change in the existing housing density of the site. Hence it is considered that this principle has been satisfied.

Principle 5: Resource, Energy and Water Efficiency

Clause 13 (Principle 5: Resource, Energy and Water Efficiency) stipulates that:

"Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and Built Form, passive solar design principles, efficient appliances and mechanical and mechanical services, soil zones for vegetation and re-use of water".

Comment: The alterations and additions to the existing building consist of widened openings on the southern and western elevations which will have the effect of improving internal levels of illumination and have the potential for reducing potential energy use in the dwellings of the existing units. The refurbishment of the building will provide the opportunity to upgrade the existing utilities that provide improved sustainability performance. A BASIX certificate has been provided for each of the units, that demonstrate that the proposal is consistent with the State requirements for sustainability. The development therefore satisfies this Principle.

Principle 6: Landscape

Clause 14 (Principle 6: Landscape) stipulates that:

"Good design recognises that together Landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, microclimate, and tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character or Desired Future Character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity and provide for practical establishment and long-term management."

Comment: Whilst the proposal results in a small net loss in landscaped open space, this results in no substantial impact on the amenity of internal occupants or on the adjoining public domain. With regard to the loss of landscaped area on the front setback (6.5m²), the existing area of landscaped open space is not significant and provides limited benefit to the public domain and its loss is unlikely to adversely affect the other stated values of this Principle. An additional area of landscaping (approximately 3m²) will be provided on the frontage of the site in two (2) planter boxes which introduces a small, yet contributory, element of landscaping that will improve the aesthetic quality of the streetscape. Hence the development satisfies this Principle.

Principle 7: Amenity

Clause 15 (Principle 7: Amenity) stipulates that:

"Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility”.

Comment:

The development has been assessed with regards to impacts upon the amenity of neighbouring residential properties to the east and west in terms of privacy, overshadowing, view sharing and noise.

Privacy

With respect to the east elevation, the additional windows (8 in total), door (1) and balconies will provide no significant potential to impact the dwellings in the building at No.12 as these windows are offset from adjoining openings on the west elevation of this building. In regard to the west elevation, a new living room window on Units 1,2 and 3 have been fitted with fixed louvres that minimise the potential to overlook into the adjacent property at No.16 and a privacy screen 1.7m in height has been provided on the balconies on the west elevation to minimise the impact on the private open space and windows of the adjoining dwelling. Hence the proposal has been designed to minimise privacy impact on the adjoining properties.

Overshadowing

The shadow diagrams provided by the applicant (see Plan No. DA-19) indicate that the development will not result in any significant additional overshadowing over the neighbouring residential properties to the east and west, principally as the allotment has a north-south orientation that causes the majority of the shadow to fall across the south of the site (across Queenscliff Lagoon) and as the adjacent allotments have a similar orientation. In any event, the existing areas of open space on adjoining properties are in significant shadow in mid-winter due to the topography of the site and the additional overshadowing of the structure will not cause any additional loss to these areas of private open space.

View Sharing

This matter has been addressed elsewhere in this report (refer to Clause D7 ‘Views’ under WDCP).

In summary, the proposed additions will not result in any adverse loss of views that are already enjoyed from adjoining properties. Overall, the proposal is considered appropriate for the site and is acceptable in this instance.

Noise

Being alterations and additions to an existing residential dwelling, the proposed development is unlikely to result in any adverse level of noise. The development satisfies this Principle.

Principle 8: Safety and Security

Clause 16 (Principle 8: Safety and Security) stipulates that:

"Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe

access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces."

Comment: The proposal is considered to adequately achieve safety and security for future occupants of the development by providing good casual visual surveillance of the street and the private domain and satisfies this Principle.

Principle 9: Social Dimensions

Clause 17 (Principle 9: Social Dimensions) stipulates that:

"Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provisions of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community".

Comment:

The development maintains the existing configuration of 3 x 3 bedroom units. This mix suits the social structure of the existing community as it provides accommodation opportunities more suited to family occupants, which is consistent with the R2 Low Density Residential zone in which the land is located. The development satisfies this Principle.

Principle 10: Aesthetics

Clause 18 (Principle 10: Aesthetics) stipulates that:

"Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the Desired Future Character of the area."

Comment: The proposal will entail a substantial refurbishment to the existing building that incorporates modern features such as fixed louvres, curved balconies with glass balustrades, timber slats to the vehicular access doors and gates and replacement of the existing window panes. This will result in a much improved aesthetic to the existing building and in turn the surrounding area. The development satisfies this Principle.

Residential Flat Design Code

The following table is a general consideration against the criteria of the 'Residential Flat Design Code' as required by SEPP 65. However, it should be noted that the numerical provisions of these controls do not apply as the site enjoys the benefit of existing use rights. Nonetheless, the following assessment considers the proposal against the objective of the guidelines.

Primary Development Controls	Guideline	Consistent/Comments
PART 01 LOCAL CONTEXT		

Floor space ratio	Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.	N/A Floor space ratios do not apply under WLEP 2011				
Building height	Test heights against the number of storeys and the minimum ceiling heights required for the development.	Inconsistent (with relevant numerical control) Number of storeys: This development control would normally not apply in a R2 Low Density Residential zone. Minimum ceiling height: This development control would normally not apply in a R2 Low Density Residential zone. Building Height: Maximum: 8.5m Proposed: 13.54m (existing building height of 12.2m, hence increase in building height is estimated at 1.34m) Detailed assessment of the variation to the height control is provided in the section of this report discussing Clause 4.6 (Variation to Development Standards). In summary, the proposed building height is consistent with existing development on the site and adjoining properties and in the context of future permissible development in the immediate locality.				
Building separation	Design and test building separation controls in plan and section. For buildings up to four storeys/12m: (a) 12m between habitable rooms/balconies; (b) 9.0m between habitable/balconies and non-habitable rooms; (c) 6.0m between non-habitable rooms. Note: The RFDC defines a habitable room as any room or area used for normal domestic activities, including living, dining, family, lounge, bedrooms, study,	Inconsistent (with numerical control) The table below illustrates the areas of compliance & non-compliance with regards to building separation. <table><tr><td>No.12</td><td>2.9m (as per existing)</td></tr><tr><td>No.16</td><td>3.8m (balconies) 2.9m (building)</td></tr></table> Comment: As the proposed works are alterations and additions to an existing residential flat building, they will represent no effective change in the existing building separations. Hence compliance with this numerical requirement is not considered necessary under the circumstances and as the existing building separations are	No.12	2.9m (as per existing)	No.16	3.8m (balconies) 2.9m (building)
No.12	2.9m (as per existing)					
No.16	3.8m (balconies) 2.9m (building)					

	kitchen, sun room and play room	generally maintained, the proposal is generally consistent with the objective of this guideline.
Street Setbacks	Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.	Inconsistent (with numerical control) Proposed setback – 0.3-1.3m Predominant setback – approximately 1.5m WLEP 2011 requirement: 6.5m
	Test street setbacks with building envelopes and street sections.	Consistent The proposal will constitute a technical front setback between 0.3-1.3m based on the provision of car parking in the front setback. Nonetheless, the setback of the existing building of 6.8m will be maintained and the car parking is provided in a 3x2 "stacker" configuration that will be at the general level of the kerb at Greycliffe Street and hence present no substantial visual impact. The timber gates to the car spaces comprise of timber slats of 1.8m in height which are generally consistent with the height of a front fence. In this regard the street setback is generally acceptable.
	Test controls for their impact on the scale, proportion and shape of building facades.	Consistent As stated previously, the existing facade facing Greycliffe Street (north elevation) will not be amended by the proposal and hence the relationship with the existing streetscape will remain largely unchanged and acceptable in relation to the scale, proportion and shape of other buildings in the vicinity of the subject site.
Side & Rear setbacks	Relate side setbacks to existing streetscape patterns.	Consistent The proposal maintains the side setbacks of the existing building, with the exception of the refurbished/modified entry ramps to Units 2 and 3 which at their closest point will have a nil setback from the side (west) boundary. The increased setback to the west boundary of the access ramp to Unit 2 will not be visible from Greycliffe Street and the other remaining ramps will generally maintain their existing setback from this boundary. In this regard, the proposal presents an acceptable relationship to existing streetscape patterns.
Floor space ratio	Test the desired built form	N/A

	outcome against proposed floor space ratio to ensure consistency with building height- building footprint the three dimensional building envelope open space requirements.	Floor space ratios do not apply under WLEP 2011.								
PART 02 SITE DESIGN										
Deep soil zones	A minimum of 25% of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, Stormwater treatment measures must be integrated with the design of the residential flat building.	Consistent Approximately 27% of the site is provided as a deep soil zone.								
Open Space	The area of communal open space required should generally be at least between 25% and 30% of the site area. Larger sites and brownfield sites may have potential for more than 30%.	Consistent Approximately 136m ² or 27% of the site is provided as communal open space.								
	Where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space.	Consistent The development provides the following areas of private open space. <table><tr><th>Unit</th><th>POS Area</th></tr><tr><td>1</td><td>21m²</td></tr><tr><td>2</td><td>21m²</td></tr><tr><td>3</td><td>21m²</td></tr></table>	Unit	POS Area	1	21m ²	2	21m ²	3	21m ²
	Unit	POS Area								
1	21m ²									
2	21m ²									
3	21m ²									
The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m ² ; the minimum preferred dimension in one direction is 4.0m. (see 'Balconies' for other private open space requirements).	Not applicable No units in the building currently have private open space at ground level.									
Planting on structures	In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes:	Not applicable As the proposal relates to alterations and additions to an existing building and the net loss of landscaped open space is minor, this information was not considered necessary to be provided with the application.								

	• Large trees such as figs (canopy diameter of up to 16m at maturity) - minimum soil volume 150m³ - minimum soil depth 1.3m - minimum soil area 10m x 10m area or equivalent. • Medium trees (8.0m canopy diameter at maturity) - minimum soil volume 35m³ - minimum soil depth 1.0m - approximate soil area 6.0m x 6.0m or equivalent. • Small trees (4.0m canopy diameter at maturity) - minimum soil volume 9.0m³ - minimum soil depth 800mm - approximate soil area 3.5m x 3.5m or equivalent. • Shrubs - minimum soil depths 500-600mm • Ground cover - minimum soil depths 300-450mm • Turf- minimum soil depths 100-300mm • any subsurface drainage requirements are in addition to the minimum soil depths quoted above.	
Safety	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	Not applicable The proposal consists of less than 20 dwellings.
Visual amenity	Refer to Building Separation minimum standards.	Consistent No substantial change is proposed to the existing building separations.
Pedestrian access	Identify the access requirements from the street or car parking area to the apartment entrance.	Consistent The car stacker system for each unit will provide at grade access to the unit entry.
	Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.	Inconsistent As the proposal relates to alterations and additions to an existing residential flat building and the circumstances where the existing building is already non-compliant with this standard, then compliance with this not standard is not considered reasonable.

	Provide barrier free access to at least 20% of dwellings in the development.	Inconsistent As stated previously, the proposal relates to alterations and additions to an existing building and the circumstances where the existing building is already non-compliant with this standard, then compliance with this standard is not considered reasonable.								
Vehicle access	Generally limit the width of driveways to a maximum of 6.0m.	Inconsistent The proposed driveway has a width of 8.9m, in excess of this requirement. However, this is justified under the circumstances where the proposal will provide car spaces in a building that currently provides no car parking.								
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	Consistent Given the relatively narrow width of the site, there are no options to relocate the pedestrian access away from the adjoining car spaces. However given the low density of the site it is unlikely that the any adverse conflict or safety issue will arise between the access to the site from pedestrians and vehicles.								
PART 03 BUILDING DESIGN										
Building depth	The back of a kitchen should be no more than 8.0m from a window.	Consistent The development includes the following apartment depths: <table><tr><th>Unit</th><th>Depth</th></tr><tr><td>1</td><td>5m</td></tr><tr><td>2</td><td>5m</td></tr><tr><td>3</td><td>5m</td></tr></table>	Unit	Depth	1	5m	2	5m	3	5m
Unit	Depth									
1	5m									
2	5m									
3	5m									
Balconies	Provide primary balconies for all apartments with a minimum depth of 2.0m. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions. Provide scale plans of balcony with furniture layout to confirm adequate, useable space when an	Consistent The development includes the following balcony provision: <table><tr><th>Unit</th><th>Balcony Depth</th></tr><tr><td>1</td><td>4.2m</td></tr><tr><td>2</td><td>4.2m</td></tr><tr><td>3</td><td>4.2m</td></tr></table>	Unit	Balcony Depth	1	4.2m	2	4.2m	3	4.2m
Unit	Balcony Depth									
1	4.2m									
2	4.2m									
3	4.2m									

	alternate balcony depth is proposed.	
Ceiling heights	The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired. • in mixed use buildings: 3.3m minimum for ground floor retail or commercial and for first floor residential, retail or commercial to promote future flexibility of use • in residential flat buildings in mixed use areas: 3.3m minimum for ground floor to promote future flexibility of use in residential flat buildings or other residential floors in mixed use buildings • in general, 2.7m minimum for all habitable rooms on all floors, 2.4m is the preferred minimum for all non-habitable rooms, however 2.25m is permitted. • for two storey units, 2.4m minimum for second storey if 50 percent or more of the minimum wall height at edge • for two-storey units with a two storey void space, 2.4m minimum ceiling heights • attic spaces, 1.5 metre minimum wall height at edge of room with a 30 degree minimum - ceiling slope.	Consistent 2.7-3m floor to ceiling heights are proposed.
Ground Floor Apartments	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	Not applicable The proposal relates to alterations and additions to an existing building of which only one unit has access to the natural ground floor.

	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	Consistent A communal private open space area, including a pool, is provided at the rear of the building.
Storage	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: - studio apartments 6.0m³ - one-bedroom apartments 6.0m³ - two-bedroom apartments 8.0m³ - three plus bedroom apartments 10m³	Consistent 3 bedroom - 3 x 10m ³ = 30m ³ Total storage required = 30m ³ Total storage provided = 39m ³
Building Amenity		
Daylight Access	Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable.	Inconsistent (with numerical control) Given that Greycliffe Street has a preponderance of residential flat buildings and relatively small allotments, this is considered to be a dense urban area and the minimum of two hours is considered to be the acceptable standard with respect to daylight access. The shadow diagrams submitted with the application demonstrate that none of the dwellings in the proposal would be able to comply with this objective. However, the shadow diagrams of the existing situation illustrate that none of the existing dwellings currently comply with this standard. In this regard, there is effectively no change in the existing situation and therefore compliance with this standard is not considered reasonable under the circumstances.
	Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed. Note: The RFDC does not define single-aspect apartments but does define dual aspect apartments as having at least two major external walls facing in different directions, including corner, cross over and	Consistent All of the 3 units have multiple aspects to the south, north, east and west, consistent with this guideline.

	cross through apartments.	
Natural Ventilation	Building depths, which support natural ventilation typically range from 10m to 18m.	Consistent The depth of the dwellings are 19m at their deepest point, which slightly exceeds the typical depth range of 18m. Nonetheless the refurbished units have sufficient openings and have aspect to north, south, east and west elevations that will provide a high standard of natural ventilation to these dwellings.
	Sixty percent (60%) of residential units should be naturally cross ventilated.	Consistent All (100%) the dwellings have multiple elevations which provide adequate opportunities for cross-ventilation.
Building Performance		
Waste management	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	Consistent Storage for waste bins are located in the 3 proposed car parking areas situated on the frontage of the site. Given the relatively low density of the development (3 dwellings) a specific waste management plan is not considered necessary.
Water conservation	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	Not applicable No rainwater collection is proposed.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A153494). The BASIX Certificate indicates that the development will achieve the sustainability requirements of the SEPP.

SEPP (Infrastructure) 2007

Ausgrid

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

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

supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

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

Warringah Local Environment Plan 2011

Is the development permissible?	No
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	Proposed: 13.54m Existing: 12.2m	Proposed: 59% Existing: 44%	No No

Note: As it has been demonstrated that the site enjoys the benefit of existing use rights, then the provisions of Council's environmental planning instruments do not specifically apply to the proposal.

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision - consent requirements	Yes
4.6 Exceptions to development standards	Yes
5.8 Conversion of fire alarms	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

The site enjoys the benefit of existing use rights and therefore the Height of Buildings development standard does not apply. Nonetheless, an assessment of the proposed variation against the relevant objectives of the control is provided below. This assessment takes into specific consideration the questions established in *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46.

Requirement:	8.5m
Proposed:	13.54m (12.2m existing)
Is the planning control in question a development standard?	YES

Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	59% (43% existing)

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the WLEP 2011. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Height of buildings limitation pursuant to Clause 4.3 of the WLEP 2011 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the WLEP 2011 are:

(1) The objectives of this clause are as follows:

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

Comment: The proposed additions will retain the rise in stories (4) of the existing building notwithstanding the overall increase in height. In effect, the proposed development will retain the height of the existing building, with a net increase in height of 1.34m, which is a result of the existing ground level falling beneath the proposed additions as they extend towards the rear southern boundary. The topography of the site is relatively steep on the portion of the site on which the existing building is located.

As stated previously in this assessment report, existing development in Greycliffe Street incorporates a significant number of residential flat buildings, generally 4 stories in height and in some instances exceeding this height. The proposal provides a reasonable transition down towards adjoining single detached residential dwellings to the west of the site and in doing so provides a compatible height and scale.

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

Comment: The proposal has been designed in a manner that minimises its visual impact and ensures no adverse amenity impact with respect to loss of views, privacy and loss of solar access.

c) to minimise adverse impact of development on the scenic quality of Warringah’s coastal and bush environments,

Comment: The site is located adjacent Queenscliff Lagoon and presents a design which will serve to improve the overall quality of the built environment in the locality and hence will not have an adverse impact on the scenic quality of Warringah coastal and bush environments.

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

Comment: As stated previously, the site is adjacent Queenscliff Lagoon which is a prominent public place / reserve and the proposal will not present an adverse visual impact when viewed from these areas.

What are the underlying objectives of the zone?

In assessing the developments non-compliance, consideration is given to its consistency with the underlying objectives of the R2 Low Density Residential zone.

The underlying objectives of the R2 Low Density Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment: The proposed works will retain and improve the existing dwellings in the existing building. It is considered that the development satisfies this objective.

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

Comment: Not applicable to the proposed development.

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

Comment: The proposed development will result in the loss of a small area of landscaping in the front setback area, however the existing area of landscaped open space adjacent Queenscliff Lagoon will be retained and hence this objective is considered to be achieved.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the WLEP 2011?

(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.

Comment:

As stated previously, the site enjoys the benefit of existing use rights, and hence the provisions of Clause 4.6 do not apply. Therefore, this specific objective, which permits an appropriate degree of flexibility in the application of a development standard is not applicable to the proposed development

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

The proposal consists of the alteration and additions to an existing residential flat building,

which will result in a substantial refurbishment of an existing building which is of a mediocre standard of design quality and condition. The additions to the existing building are not of a significant extent beyond the existing, with the building height variation effectively a function of the addition maintaining the existing building height. Hence a better outcome is achieved through permitting flexibility in the application of the standard.

(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.

(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.

Comment:

As the site enjoys the benefit of existing use rights, the statutory requirement for the applicant to submit a written request to vary the standard is not applicable. Nonetheless, the proposed development has demonstrated sufficient grounds to justify the variation to the standard, given that no adverse visual impact is caused and that all amenity impacts (solar access, privacy and view loss) have been substantially addressed in the proposal's design to ensure that there is no adverse impact on adjoining properties. Hence, strict application of the Height of Buildings development standard would be under circumstances unreasonable and unnecessary.

(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

Comment:

As stated previously, the requirement to submit a written request is not applicable to the subject application.

(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:

For reasons previously detailed above, the proposal is considered to be consistent/inconsistent with the objectives of the R2 Low Density Residential zone in WLEP 2011.

(b) the concurrence of the Director-General has been obtained

Comment:

The site benefits from existing use rights and therefore the requirement to seek concurrence from the Director-General of the NSW Department of Planning, consistent with Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, in regard to Height of buildings Development Standard is not applicable to the subject application.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	West elevation: 13m (existing 12.1m or 68% variation)	80%	No
		East elevation: 10.9m (existing 10.4m or 44% variation)	51%	No
B3 Side Boundary Envelope	5m	Breach on west and east elevations	N/A	No
B5 Side Boundary Setbacks	0.9m	1.4m (west elevation - building)	N/A	Yes
		0m (west elevation - part of access ramp to Unit 2)	100%	No
		1.672m (east elevation - building)	N/A	Yes
		0m (east elevation - car stacker)	100%	No
B7 Front Boundary Setbacks	6.5m	0.3m	95%	No
B9 Rear Boundary Setbacks	6m	7m (pool deck)	N/A	Yes
		13.3m (balcony from Units 1, 2 and 3)	N/A	Yes
D1 Landscaped Open Space	40%	165.89m ² or 33.41%	16.5%	No

(LOS) and Bushland Setting		(existing 161.78m ² or 32.6%)		
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***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation). However as stated previously the provisions of Council's development control plans do not specifically apply to the proposal, as the site enjoys the benefit of existing use rights.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	No	Yes
Side Setbacks - R2	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C1 Subdivision	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Mixed Use Premises (Residential/Non-Residential)	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D5 Orientation and Energy Efficiency	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
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The non-compliance with the Wall Height development control is described as follows:

West Elevation: 13m or 80% variation (from an existing wall height of 12.1m or 68% variation).

East Elevation: 10.9m or 51% variation (from an existing wall height of 10.4m or 44% variation).

Merit consideration:

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

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

Comment:

The extent of the wall height variation is minor taken in context with the wall heights of the existing building. In this regard the additional visual impact of the proposed development from the areas stated in this objective is not considered to be adverse and the proposal is hence consistent with this objective.

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

Comment:

There is no significant tree canopy on the subject site or on adjacent sites, hence this objective is not strictly applicable to the subject site.

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

Comment:

The impact of the proposed development on views enjoyed on surrounding properties is assessed elsewhere in this report. In summary, the variation in the wall height control will not contribute to any unreasonable loss of views enjoyed from surrounding properties.

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

Comment:

The extensions to the existing building have been designed in a manner that avoids adverse amenity impact on adjoining properties with respect to privacy, solar access and visual impact. In this regard, the proposal is consistent with this objective.

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

Comment:

The proposed extensions will generally comply with the existing site topography by not extending the walls of the existing building further down the steeper rear portion of the site. No significant excavation is proposed. The proposal is hence consistent with this objective.

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

Comment:

The existing flat roof (and existing roof height) is maintained as part of the proposed development, reducing the visual impact of the proposal and maintaining the existing building character. As no new roof is proposed, then this objective has been satisfied.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

In consideration of the proposal and the merit consideration would the development maintain the ability for the development to be consistent with the:	
• objectives of the DCP?	YES
• zone objectives of the LEP?	YES
• objectives of the LEP?	YES
• objects specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979?	YES

Based on a merit consideration, the circumstances of this application / site and an assessment of the proposal against the underlying objectives of the clause, is:	
• Compliance with the requirement unreasonable?	YES
• Compliance with the requirement unnecessary?	YES
• Is the proposal acceptable?	YES

B3 Side Boundary Envelope

Description of non-compliance

A breach of the side boundary envelope is proposed on both the east and west elevations of the building as described below, in terms of the proposed additional breach:

East Elevation: 4.8m (length) and 1.6-4.2m (height)

West Elevation: 9.8m (length) and 0.9-9m (height)

The existing breaches on the building are estimated as follows:

East Elevation: 12.8m (length) and 3-3.3m (height)

West Elevation: 16.9m (length) and 3.3m-5.9m (height)

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: Whilst the proposal consists of a further breach to the existing side boundary envelope, this additional area of breach is not out of context with the existing building. A significant proportion of the breach is occupied by the new balconies to the existing units, which have limited visual impact through the use of glass balustrades and privacy screens composed of vertical louvres. The re-modelled facades of the building incorporate an interplay of vertical and horizontal elements that act to minimise the perceived bulk and scale of the building and in turn ensure that the building does not become 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 area subject to the additional breach has been designed in a manner that will not cause adverse impact with respect to solar access and privacy to adjoining dwellings.

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

Comment: The additions to the existing building provides a sufficient response to the topography by aligning the facade of the southern elevation with the last steep fall in the site's topography, with only the balconies stepping out over this part of the slope. This continues the effective height of the building, whilst not increasing the building's bulk to the extent that is inconsistent with the site's natural topography.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

In consideration of the proposal and the merit consideration would the development maintain the ability for the development to be consistent with the:	
• objectives of the DCP?	YES
• zone objectives of the LEP?	YES
• objectives of the LEP?	YES
• objects specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979?	YES

Based on a merit consideration, the circumstances of this application / site and an assessment of the proposal against the underlying objectives of the clause, is:	
• Compliance with the requirement unreasonable?	YES
• Compliance with the requirement unnecessary?	YES
• Is the proposal acceptable?	YES

B5 Side Boundary Setbacks

Description of non-compliance

Variations sought to the side setback are as follows:

Eastern boundary: 0m - car spaces / stacker

Western boundary: 0m - part of the amended access ramp to Unit 2 (exceeds 1m above existing ground level)

Merit consideration

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

- *To provide opportunities for deep soil landscape areas.*

Comment: The parts of the proposal subject to the proposed variations are located in areas that do not have any significant areas of landscaped open space. The variations are also minor in total area and not extensive to the degree that they hinder the potential for other areas within the side setback to be used for the purposes of landscaping. Therefore the proposal will not hinder the achievement of this objective.

- *To ensure that development does not become visually dominant.*

Comment: The amended access ramp to Unit 2 is located below the level of the adjoining street at Greycliffe Street and is hence not readily visible from the public domain. No significant openings or windows on the adjoining dwelling to the west are oriented towards this structure and hence opportunities to cause visual impact when viewed from this dwelling are limited. The proposed car spaces / stacker adjacent the eastern boundary will have limited visual impact as it is situated at grade and involves no significant external elements that rise above the natural ground level. Hence the variations sought will not be visually dominant in the context of the existing building.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment: As stated previously, the variations sought will not be visually dominant in the context of the existing building. Hence the scale and bulk of the buildings is minimised.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment: The modified access ramp to Unit 2 is not situated adjacent any window opening to the adjoining dwelling at No.16 Greycliffe Street and hence the access ramp is unlikely to cause any adverse loss of privacy to this adjoining dwelling. In respect to solar access, given the ramps location behind the western wall of the existing building, this structure will not create any appreciable increase in the level of overshadowing that is cast by the existing building and hence substantially retains the existing level of solar access.

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

Comment: The variations to the side setbacks by the access ramp and the car stacker are unlikely to result in any adverse loss of views enjoyed by adjoining properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

In consideration of the proposal and the merit consideration would the development maintain the ability for the development to be consistent with the:	
• objectives of the DCP?	YES
• zone objectives of the LEP?	YES
• objectives of the LEP?	YES
• objects specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979?	YES

Based on a merit consideration, the circumstances of this application / site and an assessment of the proposal against the underlying objectives of the clause, is:	
• Compliance with the requirement unreasonable?	YES
• Compliance with the requirement unnecessary?	YES
• Is the proposal acceptable?	YES

B7 Front Boundary Setbacks

Description of non-compliance

A total of six (6) car spaces are proposed in the front setback area, arranged in three (3) car stackers. These stackers and their access gates are located at a distance varying between 0.3 - 1.3m from the front boundary with Greycliffe Street. The front setback of the existing building will remain unchanged.

Merit consideration:

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

- *To create a sense openness.*

Comment: Due to the steep slope on the front portion of the site, the proposed car stackers will be located in a manner that makes them not visible from the Greycliffe Street frontage. The top-most vehicle in each stacker will be nonetheless visible from the frontage, however the timber-batten gates situated on the frontage of the site will mitigate this visual impact. The front setback of the existing residential flat building (6.39m) will be maintained as part of the proposal and will present as the dominant front setback. In this regard, a reasonable sense of openness will be provided on the frontage of Greycliffe Street and the proposal is therefore consistent with this objective.

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

Comment: An examination of the front setbacks on the southern side of Greycliffe Street demonstrates the following:

Nos.2 to 12: Nil

No.16: 0.7-1.2m (as per development consent DA2005/0520)

No.18: 1.35-2.9m (as per development consent DA2008/1572)

It should be noted that the nil front setback at No.12 relates to a single storey garage structure which abuts the eastern boundary of the subject site. An average setback based on the location of the adjoining structures at No.12 and 16 is estimated at 0.35m. The proposed parking is located at a distance of between 0.3-1.3m from the front boundary setback, which is generally consistent with the average setback in the immediate locality.

Planter boxes are provided on the eastern and western boundaries on the site's frontage to soften the visual impact of the parking structures and provide continuity with similar landscaping elements on adjoining properties.

The preservation of the existing building's front setback, which combined with the transparent and lightweight style construction of the parking facilities, will have the effect of substantially maintaining the visual continuity and pattern of buildings in the street. The proposal is therefore consistent with this objective.

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

Comment: The proposed variation has been designed to minimise its visual impact on the adjoining streetscape, incorporating features such as slatted timber gates which are angled to the street, to provide variation in form and create visual interest. The proposal is therefore consistent with this objective.

- *To achieve reasonable view sharing.*

Comment: An assessment of the impact of the proposal on the views enjoyed by properties in the vicinity of the site is in the part of the report discussing Part D7 of WDCP 2011. In summary, it is unlikely that there will be any adverse loss of views currently enjoyed by adjoining properties as a result of the proposed variation.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

In consideration of the proposal and the merit consideration would the development maintain the ability for the development to be consistent with the:	
• objectives of the DCP?	YES
• zone objectives of the LEP?	YES
• objectives of the LEP?	YES
• objects specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979?	YES

Based on a merit consideration, the circumstances of this application / site and an assessment of the proposal against the underlying objectives of the clause, is:	
• Compliance with the requirement unreasonable?	YES
• Compliance with the requirement unnecessary?	YES
• Is the proposal acceptable?	YES

C3 Parking Facilities

Description of non-compliance

The proposal is not consistent with Requirements 2 and 3 of Part C3, as summarised below:

Requirement 2: The width of the proposed car parking spaces and the associated access gates adjacent the Greycliffe Street frontage will exceed 6 metres and 50% of the building width.

Requirement 3: Developments are to avoid the use of mechanical car stacking spaces and all the proposed car parking as part of the proposal is to be situated in car stacking devices.

Merit consideration

With regard to the consideration for a variation to Requirements 2 and 3, the development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Residential flat buildings	3 dwellings x 1.5 spaces per unit	4.5 spaces	6	1.5+
Total				

The proposal provides 1.5 spaces in excess of the requirements of Appendix 1.

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

Comment: The car stackers will be set behind the steep slope that exists on the frontage of the site and hence will not be readily visible from the frontage of the site. The stacking mechanisms do not comprise of any conspicuous parts that will add to visual bulk. The vehicular access gates are angled away from being parallel with the boundary and in doing so provide a "stepped" design that provides visual interest and minimises the perceived length of the gates when viewed from Greycliffe Street. The proposal is hence consistent with this objective.

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

Comment: As stated previously, the proposed parking spaces are designed in a manner that will not make them visually conspicuous or in any manner dominating of the existing streetscape or any adjoining area of public open space.

It should be noted that Council's Traffic Engineer does not object to the provision of parking in the stacker mechanisms.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

In consideration of the proposal and the merit consideration would the development maintain the ability for the development to be consistent with the:	
• objectives of the DCP?	YES
• zone objectives of the LEP?	YES
• objectives of the LEP?	YES
• objects specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979?	YES

Based on a merit consideration, the circumstances of this application / site and an assessment of the proposal against the underlying objectives of the clause, is:	
• Compliance with the control unreasonable?	YES
• Compliance with the control unnecessary?	YES
• Is the proposal acceptable?	YES

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

Proposed landscaped open space on the site is estimated at 166m² or 33.4% of the site area, short of the minimum 40% requirement.

However, the existing provision of landscaped open space is estimated at 162m² or 32.6%, which

results in a net gain of landscaped open space of approximately 4m².

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 a loss of landscaped open space on the frontage of the site, however this area is relatively small (6.5m²) and provides a limited contribution to the streetscape, given that it is situated at least 3m below the street level above and as such is generally not visible from Greycliffe Street frontage. A small area of replacement landscaping (1.5m²) is provided on the boundary with Greycliffe Street in planter boxes that will assist in enhancing the streetscape. The proposal is hence consistent with this objective.

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

Comment: The site has no significant area of remnant or indigenous vegetation and therefore the variation proposed will not compromise the achievement of this objective.

- *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 steep topography of the site makes it difficult to establish planting that will make any substantial relationship to the existing and proposed building. However, the small net increase in landscaped open space will have the effect of maintaining the potential to achieve this objective.

- *To enhance privacy between buildings.*

Comment: An additional area of landscaped open space is to be provided on the eastern boundary of the site, approximately 22m² in area. This area of landscaping is less than 2m in width and hence cannot be technically considered as landscaped open space. Nonetheless, this area will provide a marginal increase in the overall area of landscaped open space on the site that will improve the potential for the propagation of vegetation to enhance visual privacy, particularly along the eastern side boundary.

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

Comment: Adequate areas to satisfy the recreational needs of the occupants are provided, consistent with this objective.

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

Comment: Sufficient area will be provided for these functions.

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

Comment: The proposed development will result in no net increase in the impervious surface on the site and Council's Development Engineers have advised that the proposed works will

comply with the relevant Council policy's for the management of stormwater.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

In consideration of the proposal and the merit consideration would the development maintain the ability for the development to be consistent with the:	
• objectives of the DCP?	YES
• zone objectives of the LEP?	YES
• objectives of the LEP?	YES
• objects specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979?	YES

Based on a merit consideration, the circumstances of this application / site and an assessment of the proposal against the underlying objectives of the clause, is:	
• Compliance and/or consistency with the control unreasonable?	YES
• Compliance and/or consistency with the control unnecessary?	YES
• Is the proposal acceptable?	YES

D7 Views

Merit consideration

In the course of notification of the proposed development, a submission was received from an adjoining property owner at No.16 Greycliffe Street. The proposal is therefore considered against the underlying Objectives of the Control as follows:

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

Comment:

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

1. Nature of the views affected

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

Comment to Principle 1:

The adjoining dwelling at No.16 Greycliffe Street enjoys extensive views towards North Head, Manly, Queenscliff Beach and Queenscliff Lagoon, in an arc spanning the general direction from

the south-east to the south-west.

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:

The aforementioned views are currently enjoyed from the following areas of the property:

- two (2) bedrooms (and associated terrace) on the ground floor;
- living / dining room on the 1st floor; and
- terrace adjacent 1st floor living/dining room.

A site inspection of the property was undertaken as part of the assessment of a previous application (DA2012/0888) to determine the exact locations from which the views are enjoyed.

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:

The primary area of impact is determined to be the living and dining room on the 1st floor of No.16 Greycliffe Street. Assessed from this part of the property, the proposal is likely to result in a minor loss of views to Queenscliff Beach and North Head, however substantial views of Queenscliff Beach and North Head will be retained. No loss of views Manly and Queenscliff Lagoon will be caused by the proposal. A similar loss is estimated on the views enjoyed from the bedrooms on the ground floor below. Hence as the qualitative assessment of the estimated view loss is minor, then the proposal is considered to have satisfied this Principle.

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:

The proposed development is subject to numerical non-compliances with the Height of Buildings development standard and the Side Boundary Envelope planning control, however only the objectives of these controls apply given that the site enjoys the benefit of existing use rights. Nonetheless, an examination of the proposals compliance with the Principles of this control is such that it will not represent any worse than a minor loss of views with the property still enjoying a substantial views of the aforementioned landmarks in the adjoining locality.

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

Comment: The proposal represents significant innovation in design to ensure a design that will cause an adverse impact in respect to this principle.

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

Comment: There are no significant canopy trees located on or adjacent the site and therefore this principle is not applicable to the proposal.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

In consideration of the proposal and the merit consideration would the development maintain the ability for the development to be consistent with the:	
• objectives of the DCP?	YES
• zone objectives of the LEP?	YES
• objectives of the LEP?	YES
• objects specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979?	YES
• the planning principles established in the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140	YES

Based on a merit consideration, the circumstances of this application / site and an assessment of the proposal against the underlying objectives of the clause, is:	
• Consistency with the control unreasonable?	YES
• Consistency with the control unnecessary?	YES
• Is the proposal acceptable?	YES

D8 Privacy

Merit consideration

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

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

Comment: The additional windows, openings and doors in the additions have been designed in a manner that mitigates potential adverse impact through the use of louvres and privacy screens and strategically placed openings that do not face directly into other openings of adjoining dwellings.

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

Comment: The design of the proposal is adequate to satisfy the objectives of this control.

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

Comment: Adequate personal and property security is provided in the proposed development, principally through a revised entrance structure on the Greycliffe Street access.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

In consideration of the proposal and the merit consideration would the development maintain the ability for the development to be consistent with the:	
• objectives of the DCP?	YES
• zone objectives of the LEP?	YES
• objectives of the LEP?	YES
• objects specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979?	YES
• the planning principles established in the Land and Environment Court case <i>Meriton v Sydney City Council</i> [2004] NSWLEC 313	YES

Based on a merit consideration, the circumstances of this application / site and an assessment of the proposal against the underlying objectives of the clause, is:	
• Consistency with the control unreasonable?	N/A
• Consistency with the control unnecessary?	N/A
• Is the proposal acceptable?	N/A

D9 Building Bulk

Merit consideration

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

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

Comment: The proposal incorporates a number of design modifications to the existing building that will upgrade the existing building, minimise its visual bulk, improve amenity for internal occupants and mitigate adverse amenity impacts on adjoining residential properties.

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

Comment: The principal method in which the building minimises its visual impact is the use of recessed panels on the western elevation, in conjunction with louvres on the principal openings and walkways to contrast horizontal and vertical elements. This in turn breaks down the perceived bulk of the building. Further, the glass balustrades on the balconies on the southern elevation of the building reduce the perceived impact of the structure when viewed from the adjoining public reserves in Queenscliff Beach / Lagoon.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

In consideration of the proposal and the merit consideration would the development maintain the ability for the development to be consistent with the:	
• objectives of the DCP?	YES
• zone objectives of the LEP?	YES
• objectives of the LEP?	YES
• objects specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979?	YES

Based on a merit consideration, the circumstances of this application / site and an assessment of the proposal against the underlying objectives of the clause, is:	
• Consistency with the control unreasonable?	N/A
• Consistency with the control unnecessary?	N/A
• Is the proposal acceptable?	N/A

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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

Warringah Section 94A Development Contribution Plan

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

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 998,000		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 9,481
Section 94A Planning and Administration	0.05%	\$ 499
Total	1%	\$ 9,980

Planning Principles

In a merit consideration of the proposal, consideration of the development has been given against the Land and Environment Court Planning Principle in relation to <i>Existing use rights and merit assessment (Redevelopment)</i> as detailed under <i>Stromness Pty Ltd v Woollahra Municipal Council</i> [2006] NSWLEC 587 at 83-84 and <i>Fodor Investments v Hornsby Shire Council</i> [2005] NSWLEC 71 at 17 as follows:	
Does the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?	NO (refer to consideration of variation to Height of Building development standard in the section of the report pertinent to Clause 4.6 of WLEP 2000.)
Is the building in which the existing use takes place relevant to the surrounding area?	YES
Are the impacts on the adjoining land acceptable?	YES
Does the existing building fit into its urban design context?	YES
Is the internal amenity acceptable?	YES

CONCLUSION

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

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

- Codes and Policies of Council.

The proposal has been assessed against the relevant matters for consideration under Section 79C 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, 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 specified in S.5(a)(i) and (ii) 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 DA2012/1539 for Alterations and additions to a residential flat building, strata subdivision and fencing on land at Lot 17 DP 12597, 14 Greycliffe Street, QUEENSLIFF, 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-03 Revision B	19.12.12	C2 Design
DA-04 Revision B	19.12.12	C2 Design
DA-06 Revision B	19.12.12	C2 Design
DA-08 Revision B	19.12.12	C2 Design
DA-09 Revision B	19.12.12	C2 Design
DA-10 Revision C	08.03.13	C2 Design
DA-11 Revision C	08.03.13	C2 Design
DA-12 Revision C	08.03.13	C2 Design

DA-13 Revision B	19.12.12	C2 Design
DA-14 Revision B	19.12.12	C2 Design
DA-15 Revision B	19.12.12	C2 Design
DA-16 Revision B	19.12.12	C2 Design
DA-17 Revision B	19.12.12	C2 Design
DA-24 Revision A	08.03.13	C2 Design
8667Bstrata 2 Sheet 1 of 4	-	CMS Surveyors P/L
8667Bstrata 2 Sheet 2 of 4	-	CMS Surveyors P/L
8667Bstrata 2 Sheet 3 of 4	-	CMS Surveyors P/L
8667Bstrata 2 Sheet 4 of 4	-	CMS Surveyors P/L

Engineering Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
CIV-SK-100 Revision 2	24.04.2013	aurecon
CIV-SK-102 Revision 2	24.04.2013	aurecon
CIV-SK-103 Revision 2	24.04.2013	aurecon

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BCA Compliance Checklist and Fire Upgrading Strategy Report	7 June 2012	Erol Urludag
Geotechnical Assessment	1 February 2012	Jeffery & Katauskas Pty Ltd
BASIX Certificate No.A153501	19 December 2012	C2 Design

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

c) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and

- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

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) 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.

(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) Smoke alarms are to be installed throughout all new and existing portions of any Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

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

(i) 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.)

(j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) 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.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

4. Vehicular access

The carpark access must be designed to meet the requirements of AS2890.1:2004

Reason: To ensure safe and effective vehicle access. (DACTRBOC1)

5. Assignment of parking spaces

Each stacked carparking space must be assigned to the same residential unit as the carparking space which blocks its access

Reason: To minimise conflicts (DACTRBOC2)

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Warringah Section 94A Development Contribution Plan

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

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 998,000		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 9,481
Section 94A Planning and Administration	0.05%	\$ 499
Total	1%	\$ 9,980

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

Reason: To provide for contributions in accordance with the Warringah Section 94A Development Contributions Plan 2012.

7. Bonds

(a) 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.

(b) Construction, Excavation and Associated Works Bond (Road)

A Bond of \$10,000 as security against any damage or failure to complete the construction of road pavement/shoulder reconstruction works as part of this consent.

(c) Construction, Excavation and Associated Works Bond (Crossing/Kerb)

A Bond of \$10,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

(d) Construction, Excavation and Associated Works Bond (Pollution)

A Bond of \$2,000 as security to ensure that there is no transmission of material, soil etc off the site and onto the public road and/or drainage systems.

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.

Reason: To ensure adequate protection of Councils infrastructure. (DACENZ01)

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

8. **Fire Safety Upgrade**

The matters listed in the Order No.6 issued by Council on 27 July 2012 are to be incorporated into the Construction Certificate. Details of the Order No. 6 are to be provided to the Certifier prior to the issue of the Construction Certificate.

Reason: Legislative Requirement (DACBCCPCC1)

9. **Stormwater Disposal**

Drainage plans are to be provided indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the property to an absorption/ level spreader within the rear garden of the site to ensure no concentrated flows enter the adjoining lagoon.

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

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development. (DACENC06)

10. **Submission of Engineering Plans for Civil Works in the Public Road Reserve**

Engineering plans are to be submitted to Council for approval under the provisions of Section 138 of the Roads Act 1993. The submission is to include four (4) copies of Civil Engineering plans for the design of the road shoulder, kerb and gutter, footpath and driveways which are to be generally in accordance with the civil design approved with the Development Application by Aurecon, drawing number 234807 CIV-SK-100 Rev 2, 101 Rev 1, 102 Rev 2, 103 Rev 2 and Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy.

The fee associated with the assessment and approval of the plans is to be in accordance with Council's fees and charges.

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

Reason: To ensure compliance with Council's specification for engineering works. (DACENC08)

11. **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 Certifying Authority prior to the issue of the Construction Certificate.

Reason: Safety. (DACENC19)

12. **Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, 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 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 Council land. (DACENC05)

13. **Flood**

In order to protect occupants from flood inundation the following is required:

a) Habitable Rooms

No approval is granted by this development consent for habitable rooms (as defined by the New South Wales Floodplain Development Manual) to be located under the flood planning level of 2.7m AHD.

b) Hazardous Chemicals

Hazardous Chemicals are not to be stored in areas under the flood planning level of 2.7m AHD.

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

Reason: To protect the building from flooding in accordance with Council and NSW Government policy. (DACNEC09)

14. Erosion and Sediment Control Plan

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;
- 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: To mitigate environmental impact resulting from site disturbance (DACNECPCC1)

15. Stormwater Management

Stormwater Management

Stormwater shall be disposed of in accordance with Council's "Stormwater Drainage: From Low Level Properties Policy PDS-POL 136". The stormwater management system is to ensure that there is no increase in stormwater pollutant loads arising from the approved development.

Details demonstrating compliance 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, ensuring that the proposed works do not negatively impact upon the existing natural watercourse present on the subject site in accordance with the requirements of the Warringah Local Environment Plan 2000 and the Warringah Creek Management Study 2004 (DACNEC17)

Reason: <insert reason - make sure you LEAVE the code to the right> (DACNECPCC2)

16. 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. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (m) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website

http://www.humanrights.gov.au/disability_rights/buildings/good.htm

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

17. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

18. **Screening of Waste Storage Areas**

A solid screen is to be erected in each of the storage area located that are located between the car space and the existing building. The screen is to be of a minimum height of 1.2m, to screen waste service bins.

Details demonstrating compliance with this condition is to be submitted to the Accredited Certifier prior to the issue of any Construction Certificate.

Reason: To minimise visual impact on the adjoining public domain (DACPLCPCC1)

19. **Waste Management Plan**

The applicant is to complete Section 2 of Council's standard Waste Management Plan for all

demolition and construction works.

Details demonstrating compliance with this condition is to be submitted to the Accredited Certifier prior to the issue of any Construction Certificate.

Reason: (DACPLCPCC2)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

20. 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 \$10 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 Warringah 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. (DACEND01)

21. Installation and Maintenance of Sediment and Erosion Control

Installation and Maintenance of Sediment and Erosion Control

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 (DACNEDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

22. Progress Certification (Road & Subdivision)

Written certification is to be provided by a suitably qualified engineer upon completion and/or as and when requested by the Certifying Authority for the following stages of works.

- (a) Silt and sediment control facilities
- (b) Sub-grade trimmed and compacted **
- (c) Base-course laid and compacted **
- (d) Kerb and gutter construction
- (e) Pavement
- (f) Landscaping and vegetation
- (g) Clean-up of site, and of adjoining Council roadway and drainage system.

(**To be tested by a recognised N.A.T.A. approved laboratory).

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

Reason: To ensure compliance of civil works with Council's specification for engineering works (see www.warringah.nsw.gov.au). (DACENE02)

23. Vehicle Crossings

The provision of 1 vehicle crossing 8.5 metres wide in accordance with Warringah Council Drawing No A4-3330/1 N and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

24. Civil Works Supervision

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer.

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

Reason: To ensure compliance of civil works with Council's specification for engineering works. (DACENE06)

25. Footpath Construction

The applicant shall reconstruct the existing footpath 1.5 metres wide to suit the new kerb and gutter design. The works shall be in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Council's minor works policy.
- (b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Council's specification 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. (DACENE07)

26. Layback Construction

A layback 8.5 metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

Reason: To ensure suitable vehicular access to private property. (DACENE08)

27. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety. (DACENE09)

28. Notification of Inspections

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 pouring of kerb and gutter
- (c) Subgrade level / basecourse level
- (d) 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. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of Council and receipt of the required certification.

Reason: To ensure new Council infrastructure is constructed to Council's requirements.
(DACENE10)

29. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with Council's Minor Works Policy and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public Safety. (DACENE11)

30. 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)

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

31. Reinstatement of Kerb

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces. (DACENF03)

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.

Note: The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

33. Certification of Civil Works and Works As Executed Data

The Civil Engineer responsible for the supervision of the civil works shall certify that the completed works have been constructed in accordance with this consent and the approved Construction Certificate. Works as Executed data certified by a registered surveyor prepared in accordance with Council's requirements is to be provided to Council. The Works as Executed data is to be verified by the Principal Certifying Authority prior to submission of any documentation.

The Works as Executed Data is to include but not be limited to the following:

- Works As Executed (WAE) plan,
- a Spreadsheet Schedule of all road asset attributes

Reason: To ensure compliance of road works with Council's specification for engineering works. (DACENF06)

34. 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 the NSW Fire Brigade.

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

Each year the Owners must send to the Council and the NSW Fire Brigade 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. (DACPLF07)

35. Swimming Pool Requirements (existing pool modified by works)

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

- (a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:
 - (i) Swimming Pools Act 1992;

- (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008;
 - (iv) Australian Standard AS1926 Swimming Pool Safety;
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools;
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (b) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.
- (c) All signage shall be located in a prominent position within the pool area.

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

Reason: To protect human life. (DACPLF10)

36. **Waste/Recycling Certificate of Compliance with Policy**

The proposal shall be constructed in accordance with Warringah Council's Policy Number PL 850 – Waste

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. (DACWTF01)

37. **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. (DACWTF02)

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

38. **Fertiliser**
Fertiliser

No fertilisers are to be spread on any portion of any Lot at any time.

Reason: To ensure bushland and riparian zone management (DACNEGOG1)

39. **Exotic Plant Species/Weeds**

Exotic Plant Species/Weeds

All exotic plant species, noxious and environmental weeds are to be managed continuously and are not to be imported to the site. Further information is available on Warringah Council's website.

Only certified weed free and contaminant free mulch is to be used on the site, as they may contain weed seeds and viable vegetative matter and other contaminants, which may impact adversely on the vegetation, soil, water quality or ecology of the site.

Reason: To ensure bushland and riparian management (DACNEGOG2)

40. **Allocation of Spaces**

Car parking spaces provided shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

Six (6) spaces - Residential

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

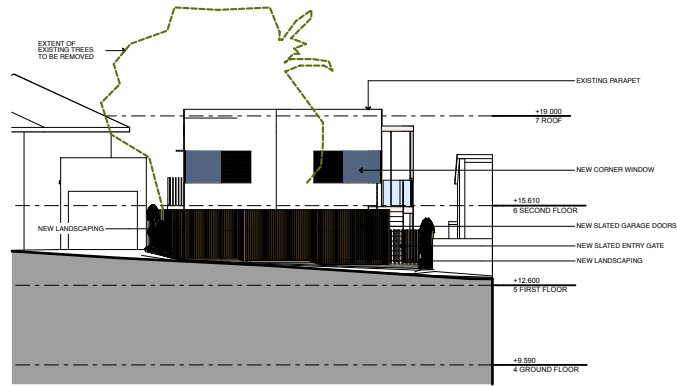
Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure that adequate parking facilities to service the development are provided on site. (DACPLG01)

41. **Deposit and retrieval of waste bins**

The occupants of the dwellings are to ensure that all waste bins are adequately deposited for kerbside collection and retrieved immediately upon collection.

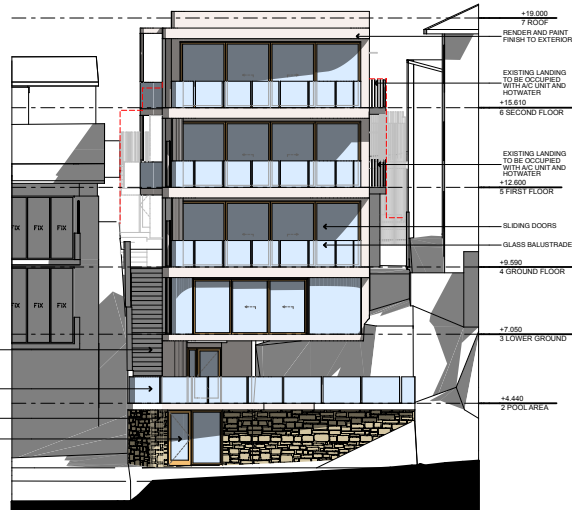
Reason: To ensure collection of waste that minimises impact on adjoining residences and the streetscape. (DACPLGOG1)



1
-
N1 NORTH ELEVATION
1:200



3
-
E1 EAST ELEVATION
1:200



2
-
S1 SOUTH ELEVATION
1:200



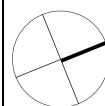
4
-
W1 WEST ELEVATION
1:200

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revisions	no.	date	description
A	06.12.12	COUNCIL REVIEW	
B	19.12.12	DEVELOPMENT APPLICATION	

notes

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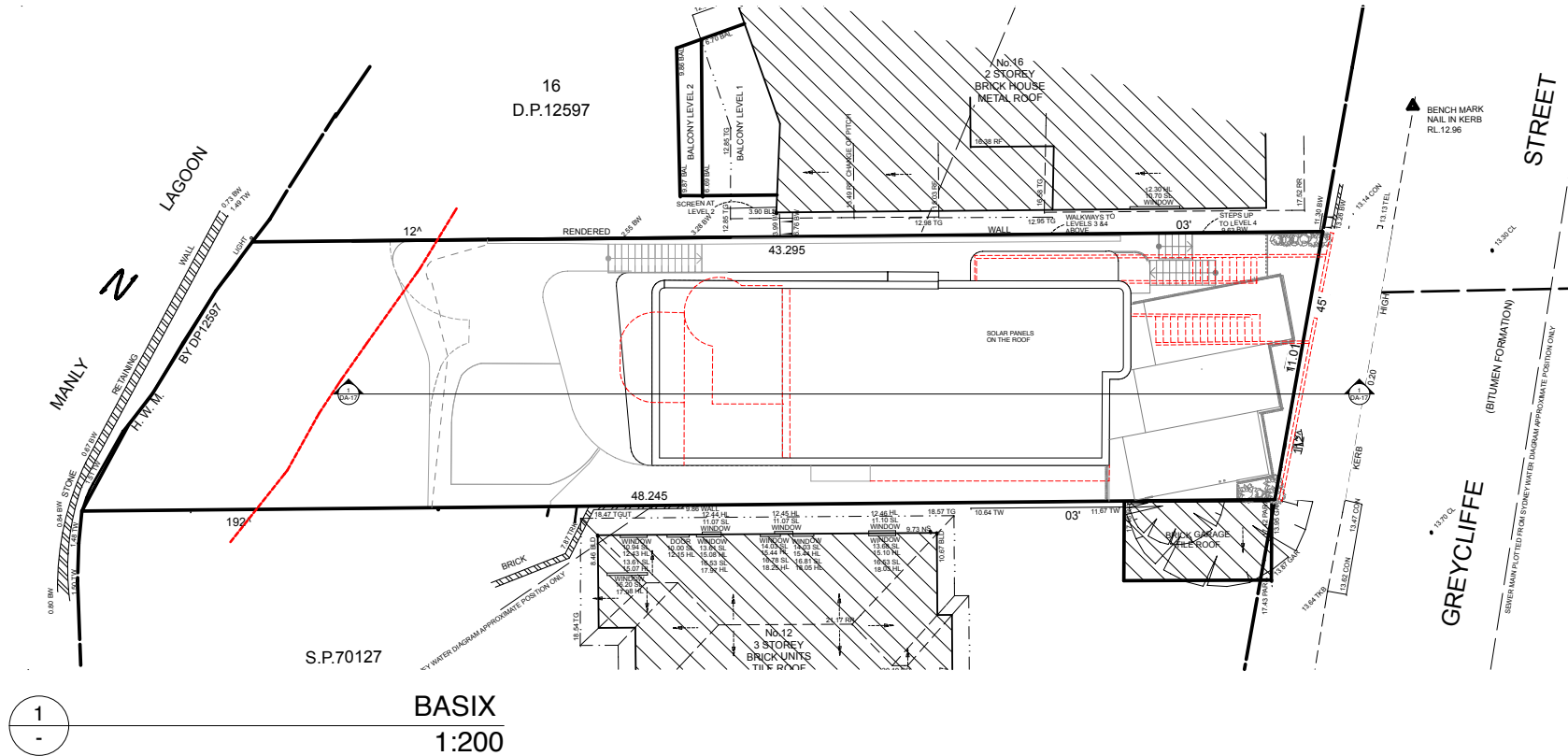


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 client MARINE PDE.

title NOTIFICATION SITE
 PLAN
 issue DEVELOPMENT
 APPLICATION

job no. 12-12
 drawn
 checked
 scale As Noted
 @A3
 dwg no. DA-21
 revision A



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title NOTIFICATION
ELEVATIONS

issue DEVELOPMENT
APPLICATION

job no. 12-12

drawn

checked

scale

dwg no. DA-22

revision A