

REPORT TO APPLICATION DETERMINATION PANEL

Meeting held on 25 September 2013

2 A Moorilla Street Dee Why - Review of Determination of Application No.2012/1376 for Construction of a dwelling house and secondary dwelling pursuant to SEPP (Affordable Rental Housing) 2009.

REVIEW OF DETERMINATION ASSESSMENT REPORT

Application Number:	REV2013/0059
Responsible Officer:	Daniel Milliken
Land to be developed (Address):	Lot 2 DP 1090825 , 2 A Moorilla Street DEE WHY NSW 2099
Proposed Development:	Review of Determination of Application No.2012/1376 for Construction of a dwelling house and secondary dwelling pursuant to SEPP (Affordable Rental Housing) 2009.
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council Application Determination Panel
Land and Environment Court Action:	No
Owner:	Mr Rui Qiang Qiu Mrs Shao Xia Lu
Applicant:	Mr Rui Qiang Qiu
Application lodged:	21/06/2013
Application Type:	Local
State Reporting Category:	Refer to Development Application
Notified:	06/08/2013 to 21/08/2013
Advertised:	Not Advertised in accordance with A.7 of WDCP
Submissions:	7
Recommendation:	Approval
Estimated Cost of Works:	\$ 890,000

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

Environmental Planning and Assessment Act 1979 - Section 82A - Environmental Planning and Assessment Act 1979 - Section 82A

Warringah Development Control Plan - D8 Privacy

Warringah Development Control Plan - D9 Building Bulk

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential

Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

Warringah Development Control Plan - D7 Views

SITE DESCRIPTION

Property Description:	Lot 2 DP 1090825 , 2 A Moorilla Street DEE WHY NSW 2099
Detailed Site Description:	The subject site is a battle axe block located on the northern side of Moorilla Street and sharing boundaries with four properties. The site has an area of 622.8sqm including a 36.11sqm access handle and, due to a large retaining wall on the eastern side, is relatively flat despite the surrounding land sloping down towards the east. There are no structures existing on the site which is accessed by a shared driveway. The surrounding development consists of single and two storey detached residential dwellings.

Map:



SITE HISTORY

DA2006/0852 for the construction of a two storey dwelling with detached garage and air conditioner together with a retaining wall and fill was lodged on 31 August 2006 and approved 21 June 2007.

DA2008/0161 for the construction of a new dwelling was lodged: 01 February 2008 and was refused by the ADP panel on 4 December 2008 for the following reasons:

A. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development is considered to be inconsistent with the provisions of Warringah Local Environmental Plan 2000 in that the development is inconsistent with the following 'General Principles of Development Control'

- 57 Development on Sloping Land
- 75 Design of Carparking Areas
- 76 Management of stormwater

B. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development is considered to be inconsistent with the provisions of Warringah Local Environmental Plan 2000 in that the development is inconsistent with the following 'Built Form Controls'

- Landscaped Open Space
- Side Boundary Envelope
- Building Height

C. Insufficient information has been submitted to demonstrate compliance with the following provisions of Warringah Local Environmental Plan 2000:

- Clause 75 Design of Carparking Areas
- Clause 76 Management of stormwater

DA2012/1376 Construction of a dwelling house and secondary dwelling pursuant to SEPP (Affordable Rental Housing) 2009 was refused by the ADP panel on 18 April 2013 for the following reasons:

Warringah Local Environmental Plan 2011

1. Zone R2 Low Density Residential - Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Warringah Local Environmental Plan 2011 in that the development is inconsistent with the Objectives of the the R2 Low Density Residential zone.

Warringah Development Control Plan

2. D1 Landscaped Open Space and Bushland Setting - Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Warringah Development Control Plan in that the development is inconsistent with the requirements and objectives of the D1 Landscaped Open Space and Bushland Setting Control.

3. D8 Privacy - Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Warringah Development Control Plan in that the development is inconsistent with the requirements and objectives of the D8 Privacy Control.

4. D9 Building Bulk - Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Warringah Development Control Plan in that the development is inconsistent with the requirements and objectives of the D9 Building Bulk Control.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development includes:

- The excavation of the site to accommodate a basement area;
- The construction of a new three storey five bedroom dwelling with an attached double garage and basement area;
- The construction of an attached single storey two bedroom secondary dwelling;
- Associated landscaping works.

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:

Under Section 82A of the Act, an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories, therefore the applicant may request a review.

In accordance with Section 82A of the Act, the request for the review must be made within 6 months after the date of determination. The application was determined on 18 April 2013 and the notice of determination was issued on 18 April 2013. The review was lodged on 21 June 2013 and will be determined within 6 months from the determination date.

Section 82A(4)(c) provides that the Council may review a determination if in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The amendments to the proposal are outlined in the ‘Detailed Description of Works’ section of this report.

A review of the original and amended plans has found that there are fundamental similarities between the original and the amended design (being subject of the S82 review) and the nature of the intended land use remains the same. Accordingly it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 82A (4) (c) of the Act.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

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 7 submission/s from:

Name:	Address:
Alex Babij Snr	601 Pittwater Road DEE WHY NSW 2099
Quan Cai	4 Moorilla Street DEE WHY NSW 2099
Deonie Sharee Gardner	2 B Moorilla Street DEE WHY NSW 2099
Mr Manuel Anthony Guzman	2 A Moorilla Street DEE WHY NSW 2099
Mr Maxy Guzman	2 A Moorilla Street DEE WHY NSW 2099
Mr Anthony Mete	17B Albert Street FRESHWATER NSW 2096
Judith Patricia Pearson	41 Queen Street MOSMAN NSW NSW 2088

This application was notified to surrounding and nearby properties. The first notification period generated 7 submissions objecting to the proposal. Discussions were held with the applicant relating to the issues raised in the submissions and other concerns Council had with the proposal. The applicant agree to alter the design and subsequently submitted amended plans. These plans were renotified to the same surrounding and nearby properties. During the second notification period no submissions were received, however, after consultation with one objector (who explained that they and the other neighbours who made submissions assumed that their objections carried over), it was agreed that all submissions made in the first notification period would be accepted as submissions for the amended plans and are therefore addressed below.

The following issues were raised in the submissions:

- □ Overdevelopment of the site;
- □ Landscape open space calculations and accuracy of the statement of environmental effects;
- □ Insufficient setback to 2 Moorilla Street to the south;
- □ Use of the shared driveway during construction;

- ☐ Overshadowing;
- ☐ Building bulk;
- ☐ Privacy;
- ☐ View loss;
- ☐ Potential use of the dwelling;

The matters raised within the submissions are addressed as follows:

- ☐ Overdevelopment of the site.

The submissions raised concerns that the proposal is an overdevelopment of the site due to its height, bulk and number of bedrooms.

Comment: The amended design is now fully compliant with all relevant built form controls. The proposal is also considered to be consistent with the objectives of Clauses D8 Privacy and D9 Building Bulk as discussed below in this report. In this regard the proposal is not considered to be an overdevelopment of the site. Therefore, this matter is not considered to warrant refusal of the application.

- Landscape open space and screen planting.

The submissions raised concerns that the site does not provide sufficient landscape open space for screen planting.

Comment: The proposal provides 40.7% (238.7sqm) of the site as landscaped open space. In addition to an increased setback along a part of the eastern elevation, it is considered that sufficient landscaped open space to enable appropriate planting has been provided. A condition has been placed on the consent requiring two new trees to be planted in the rear yard. Additional planting can be provided by the owners. Therefore, this matter is not considered to warrant refusal of the application.

- Insufficient setback to 2 Moorilla Street to the south.

The submissions raised concerns that the 2.0m set back to the shared boundary with 2 Moorilla Street is insufficient.

Comment: The proposed 2.0m setback, while compliant with the controls, will result in privacy concerns from the first floor windows. This is discussed under Clause D8 Privacy in this report. In summary, subject to conditions, the privacy impacts are acceptable and the setback complies with the control. Therefore, this matter is not considered to warrant refusal of the application.

- Use of the shared driveway during construction.

The submissions raised concerns about the use of the shared driveway during construction.

Comment: The owners are entitled to use the shared driveway during construction as that is the only access to the property. Conditions will be included in the consent limiting construction hours. Access for other users of the driveway must be made available by any contractors if required. Therefore, this matter is not considered to warrant refusal of the application.

- Overshadowing.

The submissions raised concerns that the proposed dwelling will result in unreasonable overshadowing to adjoining properties.

Comment: The orientation of the subject and surrounding sites guarantees that the proposal will not overshadow any neighbouring north facing windows or more than 50% of private open spaces for more than 3 hours between 9am and 3pm on June 21. Certified shadow diagrams were submitted with the application that show this. Therefore, this matter is not considered to warrant refusal of the application.

- Building bulk

The submissions raised concerns that the proposed development is excessive in size and bulk.

Comment: This matter is discussed in detail under Clause D9 Building Bulk in this report. However, in summary, the amended design is fully compliant with all relevant built form controls and has a maximum height of 8m, 500mm below the 8.5m limit. In addition, varying setbacks on the eastern elevation and contrasting colours and materials between the ground and first floors of the western elevation will further reduce the impact of the structure. In this regard, the bulk and scale of the proposal is considered to be reasonable and therefore, this matter is not considered to warrant refusal of the application.

- Privacy.

The submissions raised concerns that the development will result in unreasonable privacy impacts on the adjoining properties.

Comment: This matter is discussed in detail under Clause D8 Privacy in this report. However, in summary, the proposal, subject to conditions will not result in unreasonable privacy impacts on the surrounding properties. Therefore, this matter is not considered to warrant refusal of the application.

- View loss.

The submissions raised concerns that the proposal will result in the loss of views from 4 Moorilla Street.

Comment: A full view loss assessment has been conducted under Clause D7 Views in

this report. In summary, 4 Moorilla Street will lose views of the ocean, the land water interface and district views of Dee Why from all windows on the eastern elevation and the eastern side of the first floor rear balcony over the side boundary shared with the subject site. 4 Moorilla Street has enjoyed the benefit of these views because the subject site is currently undeveloped. The proposal complies with the front, rear and side boundary setbacks, the side boundary envelope and most importantly, the 8.5m height limit. In this regard, while the views are clearly important to the residents of 4 Moorilla Street, the proposed development is compliant with the controls relevant to the loss of views in this particular case and, as such, is considered reasonable. Therefore, this matter is not considered to warrant refusal of the application.

- Potential use of the dwelling.

The submissions raised concerns that the development is being proposed for use under possible false pretences. The submissions state that other similar developments in the street have been divided and rented as separate apartment units.

Comment: This development is proposed as a single residential dwelling with an attached secondary dwelling that is permissible under State Environmental Planning Policy (Affordable Rental Housing) 2009. The consent and the conditions will reflect the approved use as a single dwelling and a secondary dwelling. Council cannot refuse this application because the building may be used outside the limits of a consent or because other nearby developments are suspected of being used illegally. Therefore, this matter is not considered to warrant refusal of the application.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	This application proposes to build a three storey building with a classification of 2 under the Building Code of Australia 2013. Clause 94 only applies to alterations and additions to an existing building and therefore does not apply to this new building. The BCA assessment will be undertaken at CC stage. There are no objections to the proposal subject to conditions.
Development Engineers	The submitted drainage design is satisfactory subject to some minor amendments. A condition for these requirements has been provided. The driveway access to the proposed garage is off the right of way which is also satisfactory. Development Engineers raise no objections to the release of the DA subject to conditions of consent.

Internal Referral Body	Comments
Traffic Engineer	The traffic response for DA2012/1376 for this site still applies. There is a large garage area shown for this site. Although no individual carspaces are shown on the plan the size of the garage will allow it to store up to 3 vehicles in a stacked arrangement. The applicant has demonstrated by the use of a swept path that vehicles are capable of entering and exiting the site in a forward direction. The secondary dwelling does not require the provision of a dedicated parking space. The existing right of way from Moorilla Street will be retained to provide access. As this services only one lot (with primary and secondary dwelling) no passing bays are required. No Traffic objections to this development.
Landscape Officer	No trees are currently present on site. As a general comment, the Landscaped Open Space calculations on the Landscape Plan includes areas marked as A, B E and F. It is apparent from the plans provided that theses areas will require hard paving to accommodate the proposed access in to the dwelling, reducing the area indicated as Landscape Open Space to less than 40%. Recommended conditions have been included. <u>DAO planning comment:</u> The above comments from Council's Landscape Officer are noted. The proposal does not include any paving or decking around the outside of the dwelling with the exception of the driveway. If any works that are not exempt development are proposed in a future application, they will be assessed on their merits.

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 436039S_02 dated 2 July 2012).

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

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	40	43

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

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.

SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 2: Secondary dwellings

Clause 19: Definition

Development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

Note: The standard instrument defines secondary dwelling as follows:

"secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and*
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling."*

Comment:

The proposed use is defined under WLEP 2011 as a secondary dwelling.

Clause 20: Land to which this Division applies:

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is permissible on the land:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential.	Consistent. The site is located within the R2 Low Density Residential and, as such, the proposed use is permissible with consent under WLEP 2011.

Clause 21: Development to which this Division applies

Requirement	Comment
This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling.	Consistent. The development involves the construction of a secondary dwelling, as defined by the Standard Instrument. Therefore, this Division applies.

Clause 22: Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	The development will result in the principal dwelling and the secondary dwelling.
(3) A consent authority must not consent to development to which this Division applies unless:	(a) No FSR is applicable in the WLEP 2011.

(a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and (b) the total floor area of the secondary dwelling is no more than 60m² or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	(b) The total floor area of the secondary dwelling is 55.43sqm
(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds: (a) site area if: (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or (ii) the site area is at least 450 square metres. (b) parking if no additional parking is to be provided on the site.	The secondary dwelling is attached to the principal dwelling. Additional parking will be provided on site.

Note: A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

Clause 24: No subdivision

Requirement	Comment
A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.	Consistent. This application does not propose any subdivision of the existing allotment.

Conclusion

The above assessment has determined that the proposed secondary dwelling is consistent with the provisions in State Environmental Planning Policy (Affordable Rental Housing) 2009 and is therefore supported.

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.

Warringah Local Environment Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	8m	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R2 Low Density Residential

Land use definition: WLEP 2011	Permitted or Prohibited
Dwelling house	Permitted with consent

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 proposal will provide for the housing needs of the community.

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:

The proposal will not affect the ability of other land uses to provide facilities or services to meet the day to day needs of residents.

It is considered that the development satisfies this objective.

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

Comment:

The development was originally considered to have an insufficient landscaped setting. The amended plans submitted for the review have increased the landscaped open space and will better enable appropriate plantings to partially screen the dwelling.

It is considered that the development now satisfies this objective.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	Complies
B3 Side Boundary Envelope	4m	No encroachments	Yes
B5 Side Boundary Setbacks	0.9m	2.0m to the western and southern boundaries. Between 0.9m and 2.0m along the eastern boundary	Yes Yes
B7 Front Boundary Setbacks	6.5m	35.5m to Morrilla Street	Yes
B9 Rear Boundary Setbacks	6m	6m	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (234.68sqm)	40.7% (238.7sqm)	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
R2 Side Boundary Envelope Exceptions	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
Side Setbacks - R2	Yes	Yes
Side Setback Exceptions - R2	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
R2 - All other land in R2 Zone	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
All other land under R2	Yes	Yes
Rear Boundary Exceptions - R2	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Easements		
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Residential accommodation - one or two dwellings	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	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
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

D8 Privacy

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

Comment:

Elements of the current proposal with privacy impacts that can be conditioned:

The first floor windows on the southern elevation will look directly into the private open space of 2 Moorilla Street. It is recommended that a condition be included in the consent requiring these

windows to have a minimum sill height of 1.65m.

The first floor windows along the western side of the dwelling are set back 2.0m from the shared boundary and are all either highlight or bathroom windows with the exception of the large stairwell window. The highlight and bathroom windows do not result in privacy impacts and a condition requiring the stairwell window to be obscure or frosted glass is recommended to be included in the consent.

Privacy impacts in the original proposal:

The first floor eastern elevation on the original proposal contained several large windows and four balconies. The privacy impacts caused by the first floor eastern elevation of the original proposal are as follows:

- The master bedroom balcony looked directly at the garage and front entrance of 2B Moorilla Street and also had views into the rear yard of 601 Pittwater Road.
- The balcony off bedroom 2 allowed direct overlooking into the private open space in the rear yard of 601 Pittwater Road. In addition, this balcony encroached into the 2.0m side setback and adversely affected the landscaped open space below it.
- The balcony off bedroom 1 allowed direct overlooking into the private open space in the rear yard of numbers 599 and 601 Pittwater Road and also had side views into the rear yard of 2 Moorilla Street.
- The balcony off the guest room overlooked the rear yards of 599 Pittwater Road and 2 Moorilla Street.

Changes made to address the above impacts:

The changes made in the amended plans submitted for this review have addressed the above listed concerns as follows:

- The setback of two windows and the master bedroom balcony has been increased by one metre and the orientation of the master bedroom balcony has been altered to face north rather than east.
- The balcony of bedroom 2 has been deleted
- The balconies of bedroom 1 and the guest bedroom have been reduced in size and are now one meter in depth.
- Privacy screens have been added to the southern elevations of the bedroom 1 and guest bedroom balconies.

In this regard, the siting and design of the amended design would provide a reasonable level of visual and acoustic privacy for occupants and neighbours.

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

Comment:

The amended plans submitted for this review provide varying setbacks along the eastern

elevation that give articulation to the built form. On the western elevation the extended wall length will remain, however, a change of finishes between the ground and first floor will reduce the impact of the built form. In this regard, the amended development is considered to be a reasonable design solutions that will not reduce the quality of the urban environment.

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

Comment:

The proposed development will provide adequate personal and property security for occupants and visitors.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011, WDCP 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.

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 amended plans submitted for this review provide varying setbacks along the eastern elevation that give articulation to the built form. On the western elevation the extended wall length will remain, however, a change of finishes between the ground and first floor will reduce the impact of the built form. In this regard, the amended development is considered to be a reasonable design solutions that will not reduce the quality of the urban environment.

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

Comment:

The changes to the design in relation to varying setbacks and materials and finishes will result in a reasonable visual impact when viewed from adjoining properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011, WDCP 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.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The original development proposed a landscaped open space area of 39.27% (230.42sqm) of the site. The control requires 40% (234.68sqm). The amended plans submitted for this review now propose

a landscaped open space area of 40.7% (238.7sqm) of the site.

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:

The site is a battle axe block and is not readily visible from the street. Notwithstanding, the proposal would not prohibit planting to maintain and enhance the streetscape.

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

Comment:

The site is currently cleared of all significant vegetation (only grass and weeds remain). No planting schedule was provided with the application. Notwithstanding, the site could accommodate adequate indigenous vegetation. A condition requiring new plantings will be included in the consent.

- *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 landscaped open space around the proposed dwelling would 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.

- *To enhance privacy between buildings.*

Comment:

The privacy concerns of the original development have been addressed by changes to balconies, the additions of privacy screens and increased set backs along parts of the proposed dwelling. It is considered that the proposal is now consistent with this objective.

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

Comment:

The proposed landscape open space has been increased as mentioned above. It is considered that this is now adequate to meet the outdoor recreational needs of the occupants.

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

Comment:

Sufficient space for service functions is provided.

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

Comment:

The proposed areas of landscaped open space are sufficient to facilitate water management, including on-site detention and infiltration of stormwater provided no additional hard surfaces are included around the dwelling.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011, WDCP 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.

D7 Views

Merit consideration

With regard to the consideration for a variation, the development is 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:

4 Moorilla Street currently obtains views of the ocean, the land water interface and district views of Dee Why. There is a large tree to the north east of the subject site that currently obscures a small section of the views. 4 Moorilla Street also obtains distant views of the city skyline to the south and district views to the north that will not be affected by this proposal.

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 views of the ocean, the land water interface and district views of Dee Why are currently obtained from all east facing windows and the eastern side of the first floor rear balcony at 4 Moorilla Street from standing and sitting positions over the side boundary. The distant views of the city skyline to the south are obtained from the front elevation and district views to the north are obtained from the first floor rear balcony.

3. Extent of impact

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

Comment to Principle 3:

The proposal will result in the loss of all views of the ocean and the land water interface from the east facing windows and the eastern side of the first floor rear balcony. Minimal district views will remain to the north east and south east. In this regard, the view loss is considered to be severe.

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 proposal complies with the rear boundary setback, and the height of buildings development standard. In this particular case, as 4 Moorilla obtains views over the side boundary, directly across the subject site, these two controls are key to the extent of the view loss. The proposal also complies with the side boundary setback, the side boundary envelope, the front boundary setback and the landscaped open space controls. Given the level of compliance indicated above, the fact that the views are currently obtained over the side boundary and also that the full benefit of the views are enjoyed because the subject site is undeveloped, it is considered that the views that will be lost cannot be reasonably retained and therefore, the proposal is considered to result in a reasonable sharing of views.

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

Comment:

The proposal is of an acceptable design and is in compliance with the controls relevant to view loss in this particular case as discussed above.

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

Comment:

There are no existing trees on the site and the surrounding trees will be unaffected by this proposal.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011, WDCP 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.

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 \$ 890,000		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 8,455
Section 94A Planning and Administration	0.05%	\$ 445
Total	1%	\$ 8,900

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 REV2013/0059 for Review of Determination of Application No.2012/1376 for Construction of a dwelling house and secondary dwelling pursuant to SEPP (Affordable Rental Housing) 2009. on land at Lot 2 DP 1090825, 2 A Moorilla Street, DEE WHY, 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
1A Site Plan Silt Sediment Plan	16.02.2006	Vince Morgan (Surveyors) Pty Ltd
2D	22.05.2012	Rui Qiang Qiu
3D	22.05.2012	Rui Qiang Qiu
4D	8.11.2012	Rui Qiang Qiu
5D	22.05.2012	Rui Qiang Qiu
6D	8.11.2012	Rui Qiang Qiu
7D	22.05.2012	Rui Qiang Qiu
8D	22.05.2012	Rui Qiang Qiu
9D	22.05.2012	Rui Qiang Qiu

12D	22.05.2012	Rui Qiang Qiu
13D	22.05.2012	Rui Qiang Qiu

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Report on Geotechnical Investigation	September 2012	Crozier - Geotechnical Consultants

Engineering Plans - Endorsed with Council's stamp

Drawing No.	Dated	Prepared By
Moor2 - SW5.DWG Sheet 1 Issue B	July 2012	Thomas Lau
Moor2 - SW5.DWG Sheet 3 Issue B	July 2012	Thomas Lau
Moor2 - SW5.DWG Sheet 4 Issue B	July 2012	Thomas Lau
Moor2 - SW5.DWG Sheet 5 Issue B	July 2012	Thomas Lau
Moor2 - SW5.DWG Sheet 6 Issue B	July 2012	Thomas Lau
Moor2 - SW5.DWG Sheet 7 Issue B	July 2012	Thomas Lau

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.

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

Landscape Plans - Endorsed with Council's stamp

Drawing No.	Dated	Prepared By
Landscape Plan 10	16.02.2006	Vince Morgan (Surveyors) Pty Ltd

Erosion and Sediment Control Plan - Endorsed with Council's stamp

Drawing No.	Dated	Prepared By
1A Site Plan Silt Sediment Plan	16.02.2006	Vince Morgan (Surveyors) Pty Ltd

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

2. **Occupancy**

Nothing in this consent shall authorise the use of the dwelling as detailed on the approved plans for any land use beyond the definition of a dwelling house with an attached secondary dwelling.

A dwelling house is defined as:

"dwelling house means a building containing only one dwelling"

A secondary dwelling is defined as:

"secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling."

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

Reason: To ensure compliance with the terms of this consent. (DACPLB03)

3. **Prescribed Conditions**

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

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

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

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

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

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

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

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

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

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of

the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

(iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)

4. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

(b) 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)

FEES / CHARGES / CONTRIBUTIONS

5. 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 \$ 890,000		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 8,455
Section 94A Planning and Administration	0.05%	\$ 445
Total	1%	\$ 8,900

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.

6. Bonds

(a) Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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 (Failure to Remove Waste)

A bond of \$2,000 as security against damage to Council's road fronting the site caused by the transport and disposal of materials and equipment to and from the site.

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

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

Reason: To ensure adequate protection of Council's infrastructure. (DACENZ01)

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

7. Waterproofing/Tanking of Basement Level - Design

The basement area is to be permanently tanked or waterproofed in accordance with the Sydney Coastal Council's Group : Groundwater Management Handbook, Guide for Local Government, First Edition, dated September 2006. Details of the waterproofing/ tanking and certification that the basement level is permanently tanked or waterproofed to prevent the ingress of sub-surface flows / groundwater into the basement area are to be prepared by a suitably qualified Engineer.

Where dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the Department of Water and Energy. The bore license must be obtained prior to commencement of dewatering works. All requirements of the Department of Water and Energy are to be complied with and a copy of the approval must be submitted to the Certifying Authority.

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

Reason: To prevent ingress of sub-surface flows / groundwater into the basement area and to comply with State Government Requirements. (DACENC14)

8. 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)

9. **On-site Stormwater Detention**

An On-site Stormwater Detention system must be designed and constructed in accordance with Council's current On-site Stormwater Detention Technical Specification, and generally in accordance with the concept drainage plans prepared by Thomas Lau, drawing number Moor2 - SW5.DWG Sheets 1, and 3 - 7 Issue B, dated 07/12.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

1. The High Early Discharge Pit number 6 is to be located externally to the proposed garage.
2. The proposed lid to pit number 6 is to be grated.

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied and complying with Council's current On-site Stormwater Detention Technical Specification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (Special condition) (DACENC20)

10. **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. (DACENCO5)

11. **Waterproofing / Tanking of Basement Level - Certification**

Certification certifying that the basement level is permanently tanked or waterproofed to prevent the ingress of sub-surface flows / groundwater into the basement area. Certification is to be provided by an Accredited Certifier suitably accredited with the Building Professionals Board in the relevant area of expertise.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to pouring of concrete for the ground floor level of the building.

Reason: To prevent the ingress of sub-surface flows / groundwater into the basement area. (DACENCPC1)

12. **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**

**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)

13. **External Colours and Materials**

The colours and materials on the ground floor and first floor of the western elevation must be in accordance with the note on on plan number 8D dated 22/05/2013 prepared by Rui Qiang Qiu that states:

*Note: Ground floor wall surface colour is darker tone.
First floor wall surface colour is lighter tone.*

e issue of any Occupation Certificate.

Reason: To ensure that the impact cause by the bulk of the building is minimised. (DACPLC04)

14. Privacy treatment for windows

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

- The first floor windows on the southern elevation labeled W25A and W25 on the approved plans are to have a minimum sill height of 1.65 metre when measured from the finished floor level.
- The stairwell window on the western elevation labeled W33 on the approved plans is to entirely consist of obscure or frosted glass.

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

Reason: In order to maintain privacy to the adjoining / nearby property. (DACPLC06)

15. 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)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. 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)

17. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACPLE02)

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

OCCUPATION CERTIFICATE

18. Authorisation of Legal Documentation Required for On-site Stormwater Detention

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

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

Reason: To create encumbrances on the land. (DACENF01)

19. Registration of Encumbrances for On-site Stormwater Detention

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

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

Reason: To identify encumbrances on land. (DACENF02)

20. Restriction as to User for On-site Stormwater Detention

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

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 modification to the on-site stormwater detention structure is not carried without Council's approval. (DACENF04)

21. On-Site Stormwater Detention Compliance Certification

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

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 stormwater disposal is constructed to Council's satisfaction. (DACENF10)

22. Positive Covenant for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's

standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Warringah Council's delegate prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

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 ongoing maintenance of the on-site stormwater detention system.
(DACENF12)

23. Creation of Positive Covenant and Restriction as a User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Warringah Council for authorisation.

A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "Department of Lands".

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

Reason: To identify encumbrances on land. (DACENF14)

24. Waterproofing / Tabling of Basement Level - Certification

Certification certifying that the basement level is permanently tanked or waterproofed to prevent the ingress of sub-surface flows / groundwater into the basement area. Certification is to be provided by an Accredited Certifier suitably accretied with the Building Professionals Board in the relevant area of expertise.

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

Reason: Top ensure compliance with State Government Requirements. (DACENFPO1)

25. Required Planting

The tree/s listed in the following schedule shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Min Pot Size
2	Tree/s selected from Council's Tree Replacement Guide available at www.warringah.nsw.gov.au	Rear Yard	25 litre

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

Reason: To maintain environmental amenity. (DACLAF01)

26. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris,

straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management. (DACPLF01)

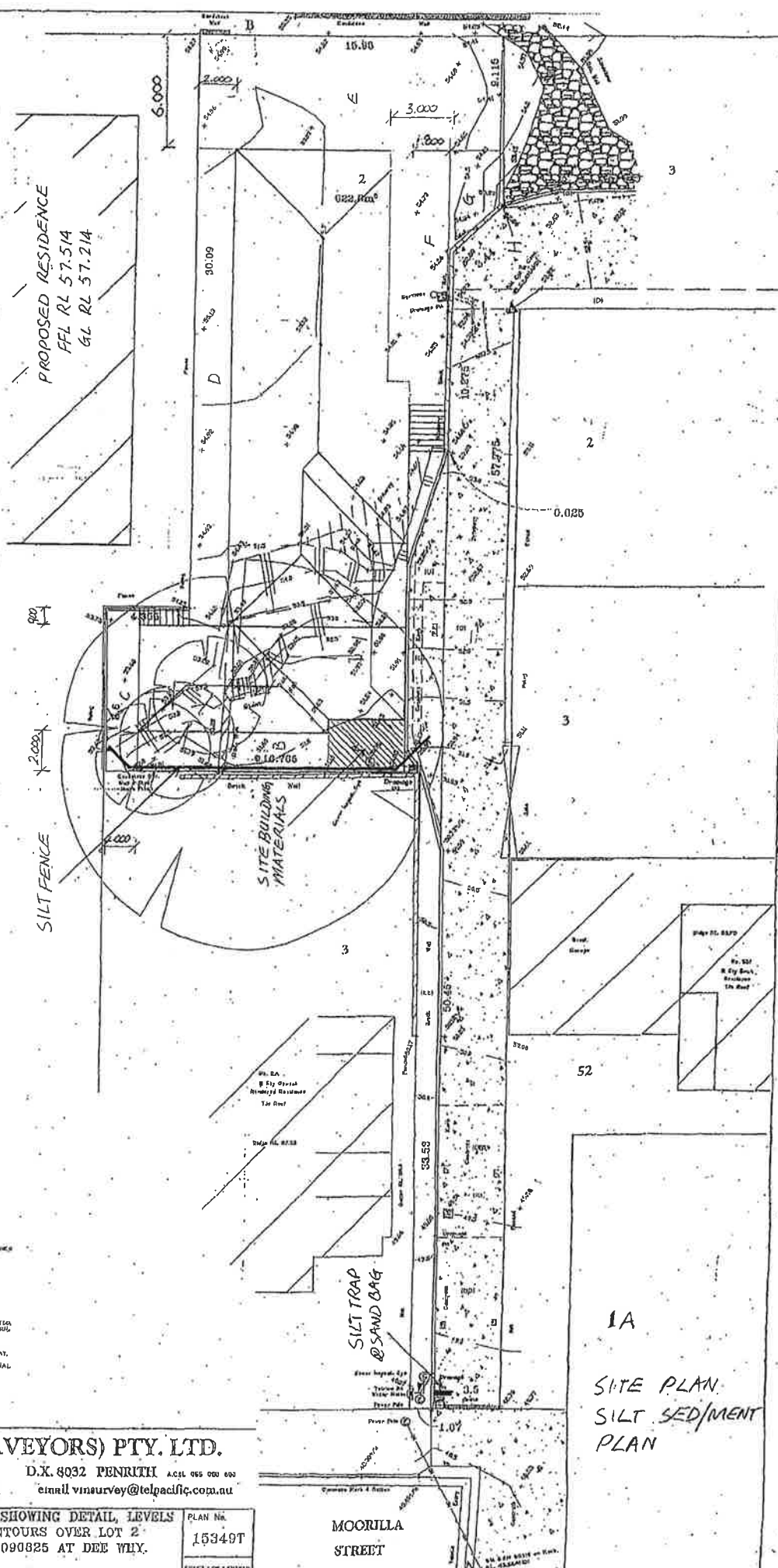
27. **Fire Safety Matters**

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)



105. IN CASE OF THE EXAMINER MAY BE DIFFICULTY COMMUNICATED
 STORED BY A REMOTE SYSTEM OR TRANSMITTED BY ANY FORM
 OF COMMUNICATIONS SYSTEM, THE EXAMINER OF THE COMPTON OWNER
 EXCEPT AS REQUIRED BY THE EXAMINER ACTING.

106. PERMITTED INTELLECTUAL PROPERTY STORAGE, WILFAT,
 THE COPY PRODUCTION COMMUNICATIONS OF THE EXAMINER
 SHOULD CONTAIN NO ALTERATION OR ADDITION TO THE ORIGINAL
 DRAFTING.

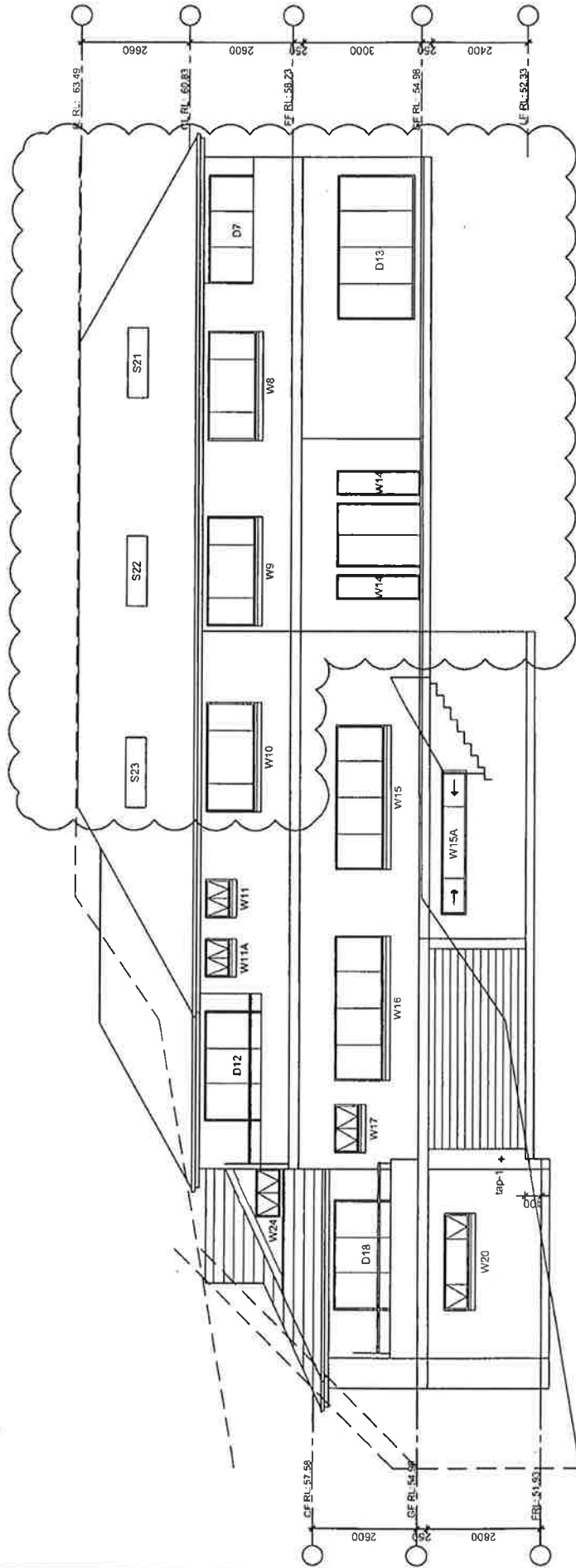
107. NOTICE MUST NOT BE ERASED

1A

SITE PLAN:
SILT SEDIMENT
PLAN

P.O. BOX 227 PENRITH 2751 D.K. 8032 PENRITH A.C.S.L. 955 000 000
Ph. 02 4721 5293 Fax. 02 4731 2821 email vinisurvey@telpacific.com.au

DATE:	FILE NO:	FILE:	EMAIL:
SCALE: 1:100.00	ORIGIN: RSM 20901	CLIENT: LUL&C/O	PLAN SHOWING DETAIL, LEVELS & CONTOURS OVER LOT 2 D.P. 1090825 AT DEE WILY.
1:200000	R.L. 88.40		PLAN No. 15349T
DRAWN:	FILENAME:		
DATE: 10/10/11			

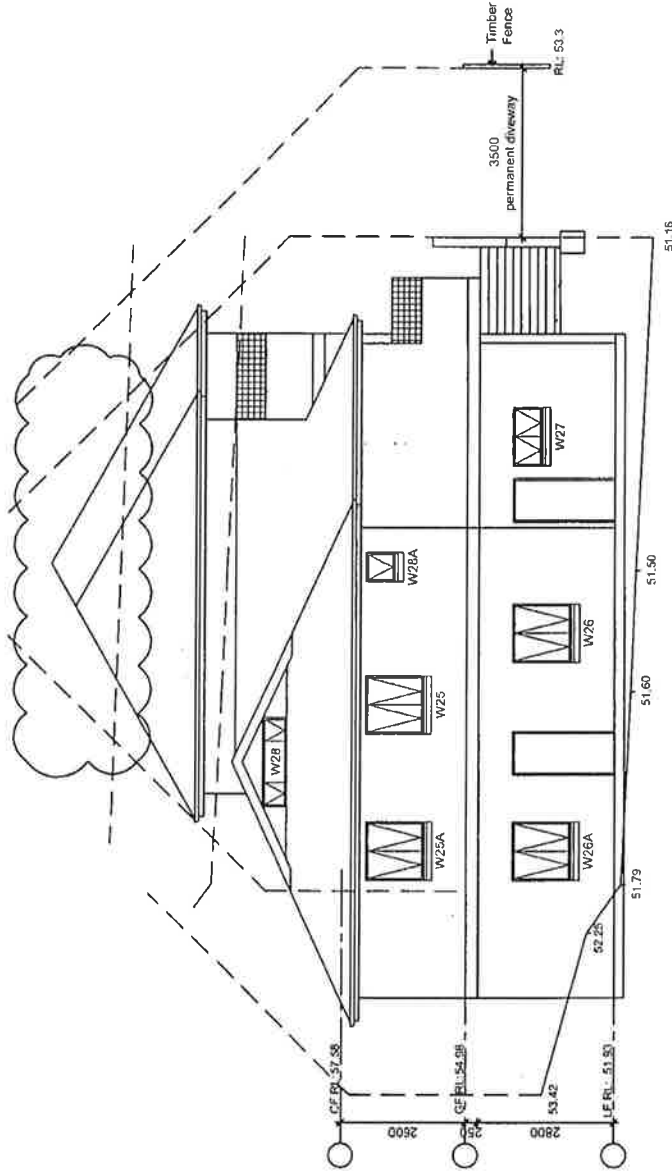


ALL WINDOWS & DOORS ARE STANDARD
ALUMINIUM SINGLE CLEAR GLASS OR
U-VALUE: 7.63; SHGC: 0.75 ±10%
ON EAST ELEVATION

- D7: 5.94 M2
- W8: 3.27 M2
- W9: 3.27 M2
- D10: 3.27 M2
- S21: 1.80 M2
- S22: 1.80 M2
- S23: 1.80 M2
- W11: 0.72 M2
- D12: 5.94 M2
- D13: 7.92 M2
- W11A: 0.72 M2
- W14: 2.64 M2
- W15: 4.32 M2
- W16: 4.32 M2
- W17: 0.32 M2
- D18: 5.94 M2
- W14: 2.16 M2
- W20: 1.44 M2
- S21: 1.80 M2
- S22: 1.80 M2
- S23: 1.80 M2
- W11: 0.72 M2
- D12: 5.94 M2
- D13: 7.92 M2
- W11A: 0.72 M2
- W14: 2.64 M2
- W15: 4.32 M2
- W16: 4.32 M2
- W17: 0.32 M2
- D18: 5.94 M2

EAST ELEVATION

DESIGN: RUI QIANG QIU	PROPOSED RESIDENCE FOR: Mrs S. X. LU & Mr R. Q. QIU		ADDRESS: LOT 2 D.P. 1090825 (No. 2) MOORILLA STREET, DEE WHY		DO NOT SCALE FROM THESE DRAWINGS. USE FIGURED DIMENSIONS ONLY. VERIFY ALL DIMENSIONS ON SITE	
	REVISION: R. Q. QIU	AREA: FIRST FLOOR: 206.91 sqm GROUND FLOOR: 255.28 sqm LOWR FLOOR: 64.21 sqm GARAGE: 67.335 sqm BASEMENT: 101.87 sqm	DRAWN: M. P.	DATE: 08/11/2012	DRAWING No: 6D	SCALE: 1:100
		CHECKED: R. Q. QIU		CONTACT: 5 MOORILLA STREET, DEE WHY Mobile: 0411 216 868 Fax: (02) 9401 1155		

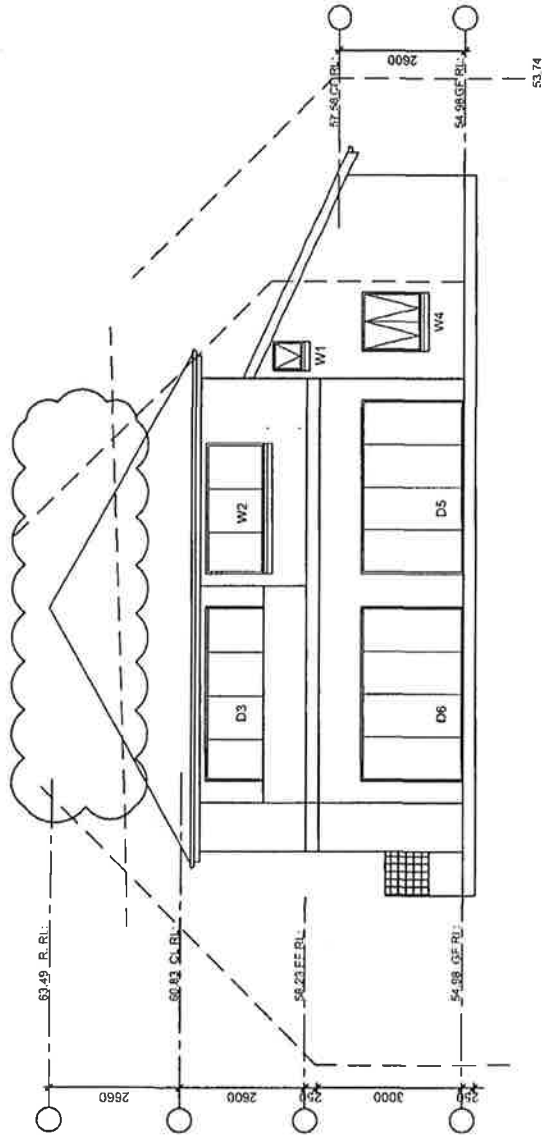


W25: 1.45 M2
 W25A: 1.45 M2
 W26: 1.45 M2
 W26A: 1.45 M2
 W27: 0.72 M2
 W28: 0.9 M2
 W28A: 0.36 M2

ALL WINDOWS & DOORS ARE STANDARD
 ALUMINIUM SINGLE OBSCURED GLASS
 AWNING STYLE ON SOUTH ELEVATION
 U-VALUE: 7.63; SHGC: 0.75 ±10%

SOUTH ELEVATION

DESIGN: RUI QIANG QIU	PROPOSED RESIDENCE FOR: Ms S. X. LU & Mr R. Q. QIU		ADDRESS: LOT 2 D.P. 1090825 (No. 2) MOORILLA STREET, DEE WHY		DO NOT SCALE FROM THESE DRAWINGS. USE FIGURED DIMENSIONS ONLY. VERIFY ALL DIMENSIONS ON SITE
	AREAS: FIRST FLOOR: 206.91 sqm GROUND FLOOR: 266.28 sqm LOWER FLOOR: 84.21 sqm GARAGE: 67.335 sqm BASEMENT: 101.87 sqm	DRAWN: M. P.	DATE: 22/05/2012	SCALE: 1:100	
REVISION: R. Q. QIU		CHECKED: R. Q. QIU	DRAWING NO: 7D	CONTACT: 5 MOORILLA STREET, DEE WHY Mobile: 0411 216 868 Fax: (02) 9401 1155	



W1: 0.36 M2
 W2: 0.72 m2
 D3: 7.92 M2
 W4: 1.45 M2
 D5: 7.92 M2
 D6: 7.92 M2
 W6: 2.16 M2

ALL WINDOWS & DOORS ARE STANDARD
 ALUMINIUM SINGLE CLEAR GLASS OR
 U-VALUE: 7.63; SHGC: 0.75 ±10%
 ON EAST ELEVATION

NORTH ELEVATION

DESIGN: RUI QIANG QIU	PROPOSED RESIDENCE FOR: Mrs S. X. LU & Mr R. Q. QIU		ADDRESS: LOT 2 D.P. 1090825 (No. 2) MOORILLA STREET, DEE WHY		DO NOT SCALE FROM THESE DRAWINGS. USE FIGURED DIMENSIONS ONLY. VERIFY ALL DIMENSIONS ON SITE	
	AREAS: FIRST FLOOR: 205.91 sqm GROUND FLOOR: 285.28 sqm LOWER FLOOR: 64.21 sqm GARAGE: 67.33 sqm BALCONY: 101.67 sqm	DRAWN: M. P.	DATE: 22/05/2012	SCALE: 1:100	DRAWING NO: 9D	CONTACT: 5 MOORILLA STREET, DEE WHY Mobile: 0411 216 868 Fax: (02) 9401 1155