

REPORT TO APPLICATION DETERMINATION PANEL

Meeting held on 22 December 2015

20 The Strand Dee Why - Alterations and additions to an existing mixed use development

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2015/0766
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Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot CP SP 21583, 20 The Strand DEE WHY NSW 2099
Proposed Development:	Alterations and additions to an existing mixed use development
Zoning:	LEP - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council Application Determination Panel
Land and Environment Court Action:	No
Owner:	The Owners Sp 21583
Applicant:	Vaughan Milligan Development Consulting Pty Ltd

Application lodged:	14/08/2015
Application Type:	Local
State Reporting Category:	Other
Notified:	25/08/2015 to 09/09/2015
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	1
Recommendation:	Refusal

Estimated Cost of Works:	\$ 460,121
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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 - A.5 Objectives

Warringah Development Control Plan - C2 Traffic, Access and Safety

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - F1 Local and Neighbourhood Centres

SITE DESCRIPTION

Property Description:	Lot CP SP 21583 , 20 The Strand DEE WHY NSW 2099
Detailed Site Description:	The subject site consists of a three ground floor food premises within a three storey mixed use building. The land is located on the western side of The Strand at Dee Why. The surrounding development consists of similar mixed use buildings to the north and south, residential flat buildings to the west and Dee Why beach to the east. Service access to the neighbouring mixed use properties to the north is provided across the western side of the subject property and is formalised by a 4.57m wide Right of Carriageway.

Map:



SITE HISTORY

The site is the subject of the following Development Applications:

Consent No. 72/118

This application sought approval for six (6) flats and three (3) shops (being a renewal of Consent No 71/126 which had expired). The development included three (3) shops at the ground floor having frontage to The Strand, with car parking for 11 vehicles located to the rear. Six (6) two bedroom units occupy the two floors above the shops/car parking area

The car parking area comprised of six (6) garage spaces and five (5) open sealed spaces. Strata Plan No 21583 was made on 21 May 1984 and allocates car parking as follows:

- one garaged space per dwelling unit (6 spaces);
- one space per shop (3 spaces);
- one open space for visitor use (1 space).

Consent was issued on 5 July 1972.

DA2002/0939

Lodged on 28 June 2002 for a cafe fitout to Lot 9 (Shop 3 currently operating as the Seachange Cafe).

The application sought approval for the fit-out of an existing ground floor cafe fronting The Strand to operate as a cafe in the following manner:

- (a) Number of Seats - 40 (20 inside and 20 outside).
- (b) Hours of Operation - 9.30am to 9.30pm, 7 days a week.
- (c) Predominantly sit down service.
- (d) Menu is characterised by light meals, snacks and beverages.
- (e) New mechanical exhaust system and flue.
- (f) New kitchen, counter, storeroom and furniture.
- (g) New hi-fold doors to shop front.

The application was approved on 23 August 2002 subject to conditions including a requirement that the seating capacity (including both internal and external areas) was not to exceed 40 persons.

DA2004/739/0

Lodged on 11 June 2004 for a shop refurbishment of an existing take-away cold food and coffee outlet (being Lot 7, Shop 1 currently operating as the Chill Bar).

The application was approved on 30 December 2005 subject to conditions including a requirement that the seating capacity (including both internal and external areas) was not to exceed 20 seats.

DA2013/1317

Lodged on 1 November 2013 for the use of Lot 8 (Shop 2 currently operating as the Sea Bar) as a restaurant.

The application sought consent for:

- An increase in the approved number of seats from 20 to 55 (seating in outdoor/footpath dining areas leased from Council by the owners are included in the 55 seat total for the tenancy).
- Minor internal works to the tenancy.

- The addition of female toilet facilities and an additional urinal in the male toilet. These toilet facilities are shared between Lot 7, Lot 8 and Lot 9 at 20 The Strand.

The application was approved on 17 January 2014.

The following meeting was held prior to the lodging of the current application:

PLM2014/0123

This pre-lodgement meeting was held on 11 November 2014 to discuss a proposal for alterations and additions to existing shop top housing.

The plans provided at the meeting are identical to those submitted with the current application despite a recommendation being made in the Notes of the meeting to increase the width of the western setback from 4.57m to 6.0m to facilitate two-way traffic flow and to maintain a high level of traffic/pedestrian safety.

LETTER TO THE APPLICANT

A letter was sent to the applicant dated 12 October 2015 which identified the following issues that prevented Council from being able to support the proposal:

(i) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

(ii) Apartment Design Guide

- 2F Building Separation

Warringah Development Control Plan 2011

- Clause C2 – Traffic, Access and Safety
- Clause C3 – Parking Facilities
- Clause C9 – Waste Management

The letter recommended that the applicant withdraw the application within seven days from the date of the letter (ie: by 19 October 2015) and to resubmit a new application which addressed the issues raised. The applicant advised Council by telephone on 3 November 2015 that the application would not be withdrawn and requested that the application be determined based upon the information provided.

Upon further assessment it has been found that, of the issues raised in Council's letter, the matter of traffic safety and waste management remain of concern.

Therefore, this report identifies the following issues which form reasons for refusal:

- Clause C2 – Traffic, Access and Safety; and
- Clause C9 – Waste Management.

The issue of building separation, as identified in Council's letter could feasibly be addressed by Condition which requires an increased width of the screen planting area along the western edge of the new terrace should this application be approved.

The issue of parking facilities has been addressed in this report where it has been found that the already approved parking shortfall on the site and the provision of available public parking in the area

satisfies the provisions of Appendix 1 under the WDCP 2011. Therefore, the variation to car parking is supported.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the following works:

Ground Floor (RL 6.470)

- Enclose the existing outdoor seating area to the front boundary in the following manner:
- Erect glazed walls to the eastern side wall of each of the three restaurant/cafe uses;
- Install bi-fold doors to each of the three restaurant/cafe uses.
- Enclose the open carparking area at the western side of the building in the following manner:
- Construct new walls along the northern, southern and western side of the carpark (the western wall will be constructed to a setback of 4.57m from the western boundary to honour the ROW which extends across the entire width of the site);
- Install a panel lift doors in the western wall (facing the ROW) and southern wall (facing Howard Avenue) to permit vehicle access/agress and bin room access;
- Reconfigure the parking spaces allocated to Lots 7 and 9;
- Replace the visitor parking space with an access/egress aisle onto Howard Avenue;
- Reconfigure internal walls to provide for additional storage to the restaurant/cafe uses; and
- Provide a bin storage room adjacent to the inside of the proposed western wall.

First Floor (RL 9.520)

- Extend the existing balconies to Units 1 and 2 towards the front boundary facing The Strand;
- Provide a Terrace with landscape screening on the roof of the extended carparking area below;
- Provide a new balcony to Unit 2 within the northern side setback;
- Install new exhaust ducts to service the restaurant/cafe use below; and
- Acoustic wall at the northern side boundary between the exhaust ducts.

Second Floor (RL 12.270)

- Install new exhaust ducts to service the restaurant/cafe use below;
- Acoustic wall at the northern side boundary between the exhaust ducts; and
- Install new glazed balustrades to the existing balconies of Units 4, 5 & 6.

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 draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of	Warringah Development Control Plan applies to this proposal.

Section 79C 'Matters for Consideration'	Comments
any development control plan	
Section 79C (1) (a)(iia) – 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. / This clause is not relevant to this application. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter may be addressed by 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 may be addressed by 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 may be addressed by 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. / This clause is not relevant to this application.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) 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	This assessment has found the proposal to be contrary to the relevant

Section 79C 'Matters for Consideration'	Comments
interest	requirement(s) of Clause C2 - 'Traffic, access and safety' under the WDCP 2011 as it will create a situation which would undermine the safety of the area. In this regard, the diminished safety to traffic and pedestrians alike would be contrary to the expectations of the community. Therefore, the development, as proposed, is not considered to be in the public interest.

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 1 submission/s from:

Name:	Address:
Mr Denis Smith	1073 Pittwater Road COLLAROY NSW 2097

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

- **Bin storage; and**
- **Exhaust system/Noise.**

The matters raised within the submissions are addressed as follows:

- **Bin storage**

The submission details historical issues associated with the outside storage of commercial waste which is regarded as being unsightly and unhealthy.

The submission requests that the provision of an enclosed bin storage area is imposed as a condition of consent if the application is approved.

Comment:

The development includes a new commercial bin storage room within the enclosed car parking area which will address the issue raised in the submission.

However, it is noted that a separate residential bin storage room has not been provided (refer to comments in the Referrals section of this report under Waste Officer). The lack of any dedicated bin storage facilities for the residential uses in the building, to the requirements listed above, form a reason for refusal.

- **Exhaust System/Noise**

The submission details existing problems associated with the exhaust system currently in operation such as noise, vibration and odour.

The submission recommends that the exhaust system be relocated to at least 6.0m away from the property boundary abutting No. 22-23 The Strand.

Comment:

It is noted that the exhaust ducting system consists of two vents which directed across the roof of the building. The outlets to the vents are positioned approximately 6.0m and 10.0m away from the property boundary with No. 22-23 The Strand.

The plans indicate that these vents will not be located across the roof and away from the property boundary but, instead, will be located adjacent to the property boundary and behind an acoustic wall. The outlet to the vent will be immediately adjacent to the property boundary.

It is agreed that the proposed arrangement would not be a satisfactory outcome but is not sufficient to form a reason to refuse the application. Instead, it would be appropriate to impose a condition, should this application be approved, which requires that the outlets to the ducts be located a minimum of 6.0m from the property boundary as indicated by the submission and as is currently the case.

It is considered that the new acoustic wall would improve the amenity of the existing situation as the duct is currently exposed to the neighbouring property.

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 objection to proposal subject to conditions.
Development Engineers	The application was referred to Council's Development Engineer for review. The following comments have been provided: <i>"The proposed development will not require on-site stormwater detention (OSD) and connection of stormwater to the existing system will be satisfactory.</i> <i>The existing driveway crossings are to remain which is satisfactory.</i> <i>No objection to approval, subject to conditions as recommended".</i> As the application cannot be supported, the conditions recommended by Council's Development Engineer have not been imposed.
Landscape Officer	The application was referred to Council's Landscape Officer who did not raise any objection to the proposal nor impose any conditions.
Natural Environment (Biodiversity)	The application was referred to the Biodiversity Section of Council's Natural Environment Unit who did not raise any objection to the proposal nor impose any conditions.
Natural Environment (Flood)	The application was referred to the Flood Prone Lands Section of Council's Natural Environment Unit who did not raise any objection to the proposal nor impose any conditions.

Internal Referral Body	Comments
Traffic Engineer	The application was referred to Council's Traffic Engineer for review. The following comments have been provided: <i>"The proposed additions and alterations to the existing building will provide a wall and driveway access from the existing right of way with a panel lift door provided. In addition, an additional access is to be provided from Howard Avenue. It is highlighted in the Traffic Report that the commercial properties will be serviced from the Right of Way (ROW). However, it is not clear if the service vehicles will be parking in the ROW or accessing the car parking area from the ROW.</i> <i>At the present time service vehicles can manoeuvre into the car parking area from the ROW as there are effectively no obstructions. However, with the proposed door and walls to be constructed along the edge of the ROW, this access will be more restricted. It needs to be demonstrated that the largest existing service vehicle can turn in and out of the car park entry from the ROW. The ROW will have insufficient width to allow a vehicle to park and allow another vehicle to pass once a wall is constructed on the boundary. There will also be restricted sight distance for a service vehicle exiting the car park area when accessing the ROW.</i> <i>The applicant needs to demonstrate that service vehicles can manoeuvre to and from the ROW into the car park area and park wholly within the site, to ensure that there is no obstruction to the ROW.</i> <i>The construction of the walls along the edge of the ROW will restrict sight distance to pedestrians for vehicles exiting the ROW and also the adjoining proposed driveway access. As this area is a high pedestrian activity area then a sight triangle in accordance with AS2890.1 is required to be provided.</i> <i>It is considered that the right of way should provide for a width of 6.0m, to enable two way traffic flow. This would also assist service vehicles to manoeuvre in and out of the car parking area for this development".</i>
Waste Officer	The application was referred to Council's Waste Management Department for review. The following comments have been provided: <i>"The proposal is not appropriate as it does not accommodate for improvements that can be made to the current location of the existing bins that is visible to the public.</i> <i>• The applicant must design and locate the bin room within 6.5m of the property boundary and not visible to the public.</i> <i>• The bin room must be large enough to accommodate 5 x 240L bins.</i> <i>• The bin room must not be located behind security and have a minimum width of 1.2m</i> <i>• The path between the bin room and the kerbside must be solid concrete, 1.2m wide and free of obstructions".</i>

Internal Referral Body	Comments
	The above comments listed above refer to the provision of a bin storage room for the residential uses in the building, of which none has been provided. Instead, the development only provides for bin storage to the restaurant/cafe uses in the building. In any instance, the commercial and residential bin storage rooms are to be kept separate from each other. The lack of any dedicated bin storage facilities for the residential uses in the building, to the requirements listed above, form a reason for refusal.

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/ commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the continued residential/ commercial land use.

SEPP 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

- (a) the development consists of any of the following:
 - (i) the erection of a new building,
 - (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
 - (iii) the conversion of an existing building, and
- (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and
- (c) the building concerned contains at least 4 or more dwellings.

The development does not consist of the erection of a new building, the substantial redevelopment/refurbishment of the existing building or a conversion of the existing building.

Therefore, the Policy does not apply in this particular instance and no further assessment under the Policy and/or the Apartment Design Guide has been conducted.

SEPP (Building Sustainability Index: BASIX) 2004

BASIX certificates have been submitted with the application (see Certificate Nos. A224470, A224481 and A224494 each dated 22 July 2015).

The BASIX Certificates confirm that the development will meet the NSW government's requirements for sustainability.

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

zone objectives of the LEP?	Yes
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Principal Development Standards

Standard	Permitted (Maximum)	Proposed	% Variation	Complies
4.3 Height of Buildings	13.0m	8.5m to 8.9m (No change to existing height)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B2 Number of storeys	3	3 (No change)	N/A	No change
B5 Side Boundary Setbacks	Merit Assessment	West: 4.57m	N/A	Yes
		North: No Change	N/A	No change
B7 Front Boundary Setbacks	Ground: Aligned to street First Floor: Aligned to street Second Floor: 4.0m	Ground: Nil	N/A	Yes
		First Floor: 5.0m (No change)	N/A	No change
		Second Floor: 5.0m (No change)	N/A	No change

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	N/A	No
B2 Number of Storeys	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
Land within 20m of either side of the intersection of The Strand and Howard Avenue, Dee Why	Yes	Yes
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	No

Clause	Compliance with Requirements	Consistency Aims/Objectives
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	No
Mixed Use Premises (Residential/Non-Residential)	No	No
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E10 Landslip Risk	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes

Detailed Assessment

A.5 Objectives

The application is considered against the overarching Objectives of the WDCP 2011:

- ***To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood.***

The corner site is currently characterised by an ageing mixed use development of moderate scale and which provides for dining facilities at the ground level. The building is setback 11.5m from the western boundary which provides for an open appearance from the street and an enhanced perception of building separation between the subject building and the neighbouring residential flat building to the west (No. 110 Howard Avenue).

The surrounding neighbourhood consists a mix of medium density residential and commercial uses alongside a natural aesthetic common to developed beachside suburbs.

Generally, the development will maintain the characteristics of the site and surrounding neighbourhood through the maintained provision of a mixed use building.

The development will satisfy this Objective.

- ***To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome.***

Generally, the development will improve the appearance and performance of the existing building, particularly the residential elements on the upper levels.

However, the enclosing of the carpark at the western side of the site will reduce the available sightlines at the intersection of the rear laneway and the footpath along the northern side of Howard Avenue.

Additionally, the reduction of available sightlines at the intersection of the rear laneway and the footpath along the northern side of Howard Avenue will create a safety issue in an area which has a high volume of pedestrian traffic moving past the site to and from Dee Why Beach and the commercial uses along The Strand.

In this regard, the development will not satisfy this Objective in that it does not reinforce the importance of pedestrian areas and, because of the increase of the potential for traffic/pedestrian conflict, will not be a good neighbour in an area that has high vehicle/pedestrian activity.

- ***To inspire design innovation for residential, commercial and industrial development.***

The alterations and additions to the development will improve the ageing appearance of the existing building.

The development will satisfy this Objective.

- ***To provide a high level of access to and within development.***

The development includes an addition to the western side of the building which encloses the existing car parking area. The new structure will be setback 4.5m from the western boundary.

As discussed above (and within the referral responses provided by Council's Traffic Engineer and Waste Management Officer), the enclosing of this area will reduce the ability for vehicles to safely manoeuvre through the laneway and will compromise vehicular and pedestrian safety through the lack of any sightlines.

In this regard, access will be more restricted and safety may be compromised as a result of the development.

The development will not satisfy this Objective.

- ***To protect environmentally sensitive areas from over-development or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained.***

The development, when viewed from the Dee Why Beach Reserve will not have any detrimental visual impact to the scenic quality of the area. The Biodiversity section of Council's Natural Environment Unit has reviewed the application and does not raise any objection to the proposal from a biological and ecological point of view.

The development will satisfy this Objective.

- ***To achieve environmentally, economically and socially sustainable development for the community of Warringah.***

The development will continue to provide for the mixed residential and commercial uses which are prevalent along The Strand. In this respect, the development achieves environmentally, economically and socially sustainable development for the community of Warringah.

The development will satisfy this Objective.

C2 Traffic, Access and Safety

The development does not satisfy the objectives and requirements of this Clause for the following reasons:

- The proposed rear setback effectively reduces the width of the ROW between Howard Avenue and the adjacent mixed use properties to the north to a single lane thereby creating a congested access/egress point which has the potential to promote on-street queuing and vehicle and pedestrian conflict.
- The reduced width not only restricts efficient trafficability for larger commercial vehicles and residential vehicles at a critical access/egress point but it is also considered that it will create an unsafe environment which has the potential to promote vehicle and pedestrian conflict within the ROW.
- The construction of the proposed enclosed car parking structure at the south-western corner of the site will reduce existing (and necessary) sightlines to introduce a blind corner at the footpath and crossover. This will create an unsafe environment within an area of high vehicle and pedestrian activity which will unreasonably promote vehicle and pedestrian conflict.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent 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 not supported, in this particular circumstance.

C3 Parking Facilities

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Approved (72/118)	Proposed	Difference (+/-)*
Residential: 1 Bedroom (Nil) 2 Bedroom (6) 3 Bedroom (Nil)	1 space/dwelling 1.2 spaces/ dwelling 1.5 spaces/dwelling	7.2 spaces	6 spaces	6 spaces	No change
Visitors	1 space/5 dwellings	1.2 spaces	1 space	Nil	- 1 space
Restaurants (GFA): Lot 7 (95.72 ²)	15 spaces/100m ² or	35 spaces	1 space 1 space	3 spaces	No change

Lot 8 (67.67m ²) Lot 9 (70.81m ²)	1 space/3 seats		1 space		
Total		43.4 spaces	10 spaces	9 spaces	- 1 space

Note: The numerical difference is drawn from a comparison between the approved development (72/118) and the current application.

By enclosing the outdoor seating areas, the development will increase the total gross floor area (as defined in the Warringah Local Environmental Plan 2011 dictionary) of the existing restaurants from 180.52m² to 234.20m² (+53.68m²).

The proposed increase of the commercial floor space and the re-configuration of the car parking area will reduce the existing provision of on-site visitor carparking further. It is noted that, despite discussing compliance against the Australian Standard AS/NZS 2890.1:2004, the Traffic Report submitted with the application does not provide any discussion of the provision of on-site car parking, nor any justification of the above-mentioned shortfall, against the provisions of Clause C3 and Appendix 1 in the WDCP 2011 (and as detailed in the Pre-Lodgement Notes dated 11 November 2014).

However, it is also acknowledged that the reduction is minor and does not impact upon the overall operation of the residential and commercial uses within the building. It is also noted that the local area includes suitable public parking facilities during the operating hours of the restaurant/cafe uses which could accommodate any person visiting residents within the building.

Having regard to the above, this assessment finds that the proposed car parking provision is supported in this particular circumstance.

F1 Local and Neighbourhood Centres

Requirements 1 to 10 address new construction only and are not considered in this assessment.

Requirements 11 and 12 address Manly Vale and Forestville and are not relevant in this instance.

Requirement No. 13 addresses development on The Strand. The components of Requirement No. 13 are discussed as follows:

- ***Ground floor premises along The Strand, Dee Why will be characterised by restaurants, cafes, shops and leisure-related uses that create active building fronts and contribute to the life of the streets. Housing will characterise upper floors.***

The building accommodates three restaurant/cafes at the ground level facing The Strand. The building line is currently setback 3.095m from the front property boundary uses resulting in an open outdoor dining area which activates the streetscape in a similar manner to that of other similar uses along The Strand. The result is an open and highly activated streetscape which consists of a row of outdoor dining areas under canopy awnings and which contributes to the beachside character of the area.

The development proposes to retain the three restaurant/cafe uses but seeks to enclose these uses by constructing a balcony overhang to the front property boundary. The three uses will then be enclosed by new glazed side walls and bi-fold doors along the front elevation. The awning will subsequently be required to be removed.

The bi-fold doors will enable the restaurant/cafe uses to be open to the street (in conjunction with the outdoor seating already approved) and, while the appearance of the building will be altered, it is considered that it would not fundamentally change the character of the streetscape or the level of activation and interaction along The Strand.

The proposed extensions to the balconies (and the installation of new glazed balustrades) facing The Strand are considered to improve the appearance and functionality of the building such that it would provide more activation and interaction between the residential components and the street below because it would encourage a greater level of use. Passive surveillance of The Strand, particularly at night, would also be improved.

The development satisfies this Requirement.

- ***Despite Requirement 2, the minimum floor to ceiling height for buildings on land zoned B2 Local Centre at The Strand, Dee Why, is to be 3.6 metres for ground floor levels and 2.7 metres for upper storeys.***

The development does not propose to alter the floor-to-ceiling heights of the existing building.

This Requirement is not applicable to the development.

- ***The interrelationship between the beach and park and development along The Strand is an important aspect of the character of the area. The design of buildings and shop fronts will have a strong complementary relationship to their beach and parkland setting and help create comfortable, interesting and safe pedestrian environments. Outdoor eating areas in particular will be encouraged.***

As discussed above, the installation of bi-fold doors along the front boundary line will enable the restaurant/cafe uses to be open to the street (in conjunction with the outdoor seating already approved) and, while the appearance of the building will be altered, it is considered that it would not fundamentally change the character of the streetscape or the level of activation and interaction along The Strand.

Additionally, the proposed extensions to the balconies (and the installation of new glazed balustrades) facing The Strand are considered to improve the appearance and functionality of the building such that it would provide more activation and interaction between the residential components and the street below because it would encourage a greater level of use. Passive surveillance of The Strand, particularly at night, would also be improved.

The development satisfies this Requirement.

- ***Above the second storey, buildings will step back from The Strand, Oaks and Howard Avenues and Dee Why Parade and building height will be restricted to maintain solar access to the parklands and ensure the scale of buildings does not dominate public spaces or views from the park or beach.***

The development does not propose to alter the height of the existing building.

This Requirement is not applicable to the development.

- ***The corners of Howard Avenue and The Strand, however, are to be strongly defined by virtue of building height and design. Vehicular access for the purposes of servicing at the rear of commercial premises along The Strand needs to be retained.***

The site is located at the corner of Howard Avenue and The Strand.

The development will upgrade the external fabric of the existing building such that it would improve its overall appearance to the street corner. However, the development also proposes to enclose the carparking area located within the western half of the site.

Currently, the carparking area is open although it is noted that it is fenced with open style fencing. As noted under Clause C2 - 'Traffic, Access and Safety' in this report, the enclosing of the carparking area creates the following access and safety concerns:

- The proposed rear setback effectively reduces the visual width of the ROW between Howard Avenue and the adjacent mixed use properties to the north to a single lane thereby creating a congested access/egress point which has the potential to promote on-street queuing and vehicle and pedestrian conflict.
- The reduced width not only restricts efficient trafficability for larger commercial vehicles and residential vehicles at a critical access/egress point but it is also considered that it will create an unsafe environment which has the potential to promote vehicle and pedestrian conflict within the ROW.
- The construction of the proposed enclosed car parking structure at the south-western corner of the site will reduce existing (and necessary) sightlines to introduce a blind corner at the footpath and crossover. This will create an unsafe environment within an area of high vehicle and pedestrian activity which will unreasonably promote vehicle and pedestrian conflict.

In order to overcome the above concerns, it is considered that a 6.0m setback between the western boundary and the building should be provided and a right of way (ROW) created over the widened section (ROW increases from 4.57m to 6m). This will permit two way traffic to the rear of commercial premises along The Strand, provide sufficient sightlines at the intersections of the driveway and footpath along Howard Avenue and at the entry/exit points of the proposed carpark and minimise the potential for vehicle queuing on the public road.

The development does not satisfy this Requirement with respect to providing safe vehicular access for the purposes of servicing at the rear of commercial premises along The Strand.

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.

CONCLUSION

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

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

- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

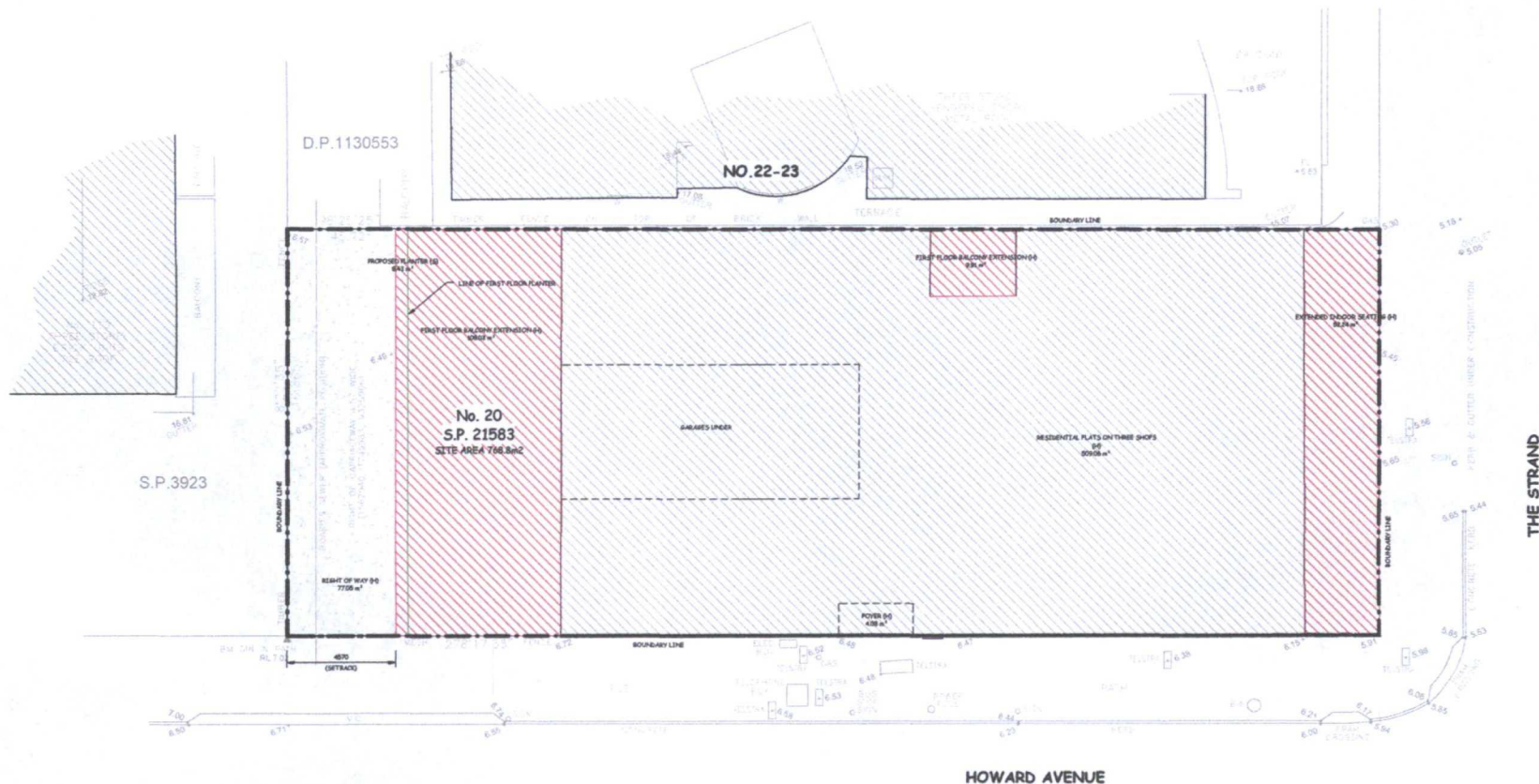
- Inconsistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

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

RECOMMENDATION

THAT Council , as the consent authority REFUSE Development Consent to Development Application No DA2015/0766 for the Alterations and additions to an existing mixed use development on land at Lot CP SP 21583,20 The Strand, DEE WHY, subject to the reasons outlined as follows:

1. **Warringah Development Control Plan - A.5 Objectives**
Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause A.5 - Objectives of the Warringah Development Control Plan.
2. **Warringah Development Control Plan - C2 Traffic, Access and Safety**
Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C2 Traffic, Access and Safety of the Warringah Development Control Plan.
3. **Warringah Development Control Plan - C9 Waste Management**
Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C9 Waste Management of the Warringah Development Control Plan.



2 PROPOSED SITE PLAN
SCALE 1:300

PROPOSED SITE CALCULATIONS		
Name	Area	%
EXTENDED INDOOR SEATING (S)	82.24 m²	6.79%
FIRST FLOOR BALCONY EXTENSION (S)	108.00 m²	14.08%
FIRST FLOOR BALCONY EXTENSION (S)	9.91 m²	1.29%
POWER (S)	4.08 m²	0.53%
PROPOSED PLANTER (S)	8.43 m²	1.10%
RESIDENTIAL PLATS ON THREE SHOPS (S)	809.00 m²	66.22%
RIGHT OF WAY (R)	77.08 m²	10.05%
RIGHT OF WAY (R)	76.80 m²	10.02%

PROPOSED HARD AREA		
Name	Area	%
EXTENDED INDOOR SEATING (S)	82.24 m²	6.87%
FIRST FLOOR BALCONY EXTENSION (S)	108.00 m²	14.21%
FIRST FLOOR BALCONY EXTENSION (S)	9.91 m²	1.30%
POWER (S)	4.08 m²	0.54%
RESIDENTIAL PLATS ON THREE SHOPS (S)	809.00 m²	66.98%
RIGHT OF WAY (R)	77.08 m²	10.02%
RIGHT OF WAY (R)	76.80 m²	10.00%

PROPOSED SOFT AREA		
Name	Area	%
PROPOSED PLANTER (S)	8.43 m²	1.10%
PROPOSED PLANTER (S)	8.43 m²	1.10%

INCREASE IN SOFT LANDSCAPING BY 1%

PROPOSED FLOOR SPACE RATIO		
There is no Floor Space ratio applying to the lot.		

DEEP SOIL ZONES		
Warringham Council's Development Control Plan does not prescribe a specific deep and landscape zone control.		

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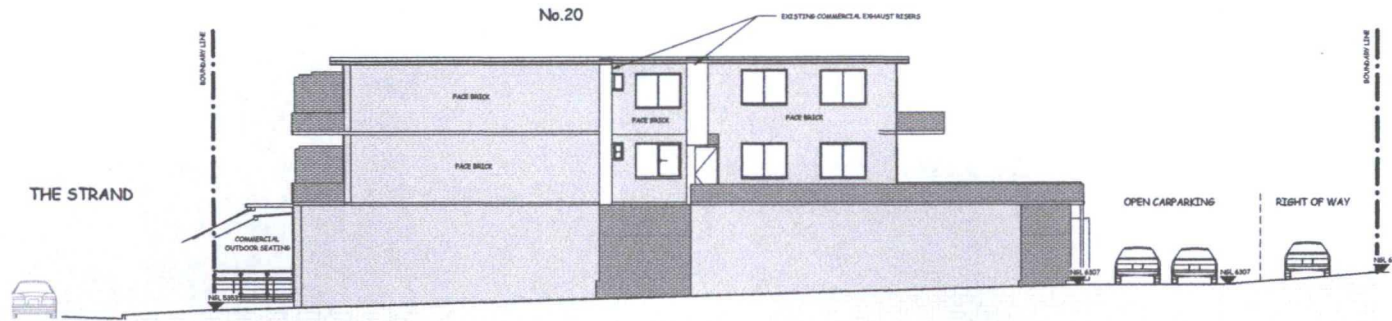
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18-174 WILLOUGHBY ROAD CROWS NEST
Ph: 9437-6911 WWW.ROMEOCAD.COM

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Strata Plan 21583**

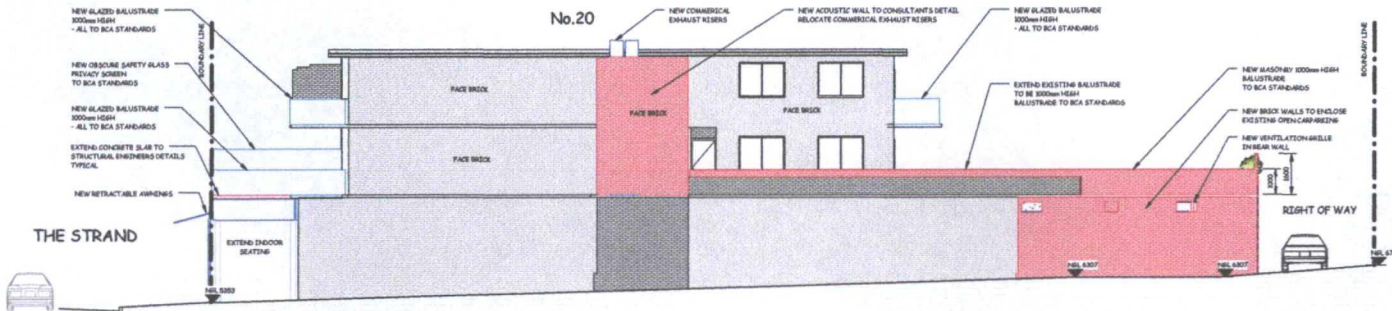
Drawn
REF

Checked
Warringham Council

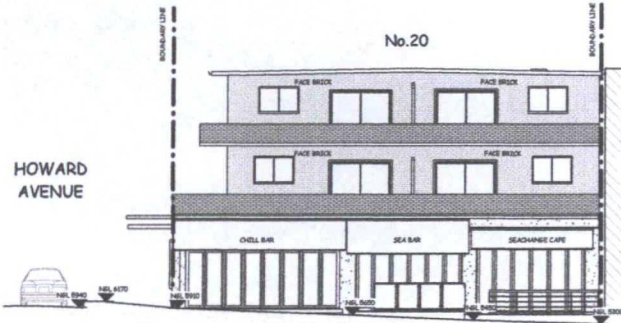
Scale (A1) 1:300	Date 06-06-2014	Proposed alterations and additions to 20 The Strand Dee Why NSW SP21583	Title Proposed Site Plan	Drawing No. A-02	Revision A
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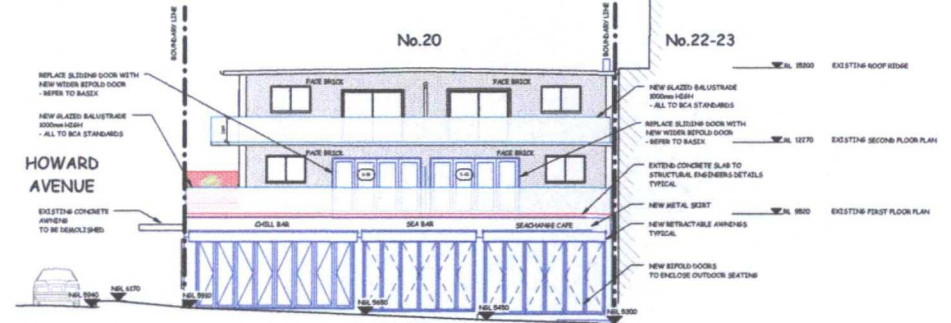
11 EXISTING NORTH ELEVATION
SCALE 1:100



12 PROPOSED NORTH ELEVATION
SCALE 1:100



13 EXISTING EAST ELEVATION
SCALE 1:100



14 PROPOSED EAST ELEVATION
SCALE 1:100

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Rev	Description & Purpose of Issue	Date
A	Issued for D.A. Approval	20-06-2014

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RESIDENTIAL - STRUCTURAL - MECHANICAL
19-174 WILLOUGHBY ROAD CROWS NEST
Ph. 9437-6911 WWW.ROMEOCAD.COM

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Strata Plan 21583

Scale (A2)	1:100	Date	06-06-2014
Drawn	RSF	Approved	
Checked		Warringah Council	

Proposed alterations and additions to
20 The Strand Dee Why
NSW SP21583

Title
Existing & Proposed
North & East Elevations

Drawing No.
A-07 A

No.110

No.20

THE STRAND

15 EXISTING SOUTH ELEVATION
SCALE 1:100

- RL 18200 — EXISTING ROOF RIDGE
- RL 12270 — EXISTING SECOND FLOOR PLAN
- RL 9920 — EXISTING FIRST FLOOR PLAN
- RL 6470 — EXISTING GROUND FLOOR PLAN

No.110

No.20

THE STRAND

16 PROPOSED SOUTH ELEVATION
SCALE 1:100

- RL 18200 — EXISTING RIDGE
- RL 12270 — EXISTING SECOND FLOOR PLAN
- RL 9920 — EXISTING FIRST FLOOR PLAN
- RL 6470 — EXISTING GROUND FLOOR PLAN

No.22-23

No.20

HOWARD AVENUE

17 EXISTING WEST ELEVATION
SCALE 1:100

No.22-23

No.20

HOWARD AVENUE

18 PROPOSED WEST ELEVATION
SCALE 1:100

NOT FOR CONSTRUCTION

- RL 18200 — EXISTING ROOF RIDGE
- RL 12270 — EXISTING SECOND FLOOR PLAN
- RL 9920 — EXISTING FIRST FLOOR PLAN
- RL 6470 — EXISTING GROUND FLOOR PLAN

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RESIDENTIAL - STRUCTURAL - MECHANICAL
19-174 WILLOUGHBY ROAD CROWS NEST
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Scale (A1)	1:100	Date	06-06-2014
Drawn	REF	Approved	
Consult	Warrington Council		

Proposed alterations and additions at
20 The Strand Dee Why
NSW SP21583

Title
Existing & Proposed
South & West Elevations

Drawing No.
A-08 A

Revised