

AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held in the Walamai Room on

WEDNESDAY 2 AUGUST 2017

Beginning at 10.00 am for the purpose of considering and determining matters included in this agenda.

Peter Robinson

Executive Manager Development Assessment

**Agenda for a Meeting of the Development Determination Panel
to be held on Wednesday 2 August 2017
in the Mona Vale Conference Room/Manly Cove/Walamai
Commencing at 10.00 am**

1.0	APOLOGIES & DECLARATIONS OF PECUNIARY INTEREST	
2.0	MINUTES OF PREVIOUS MEETING	
2.1	Minutes of Development Determination Panel held 19 July 2017	
3.0	DEVELOPMENT DETERMINATION PANEL REPORTS	2
3.1	60A Ponsonby Parade, Seaforth - Alterations and Additions to the existing dwelling house	2
3.2	3 Plateau Road Collaroy - Use of a Building as a Dwelling House	36

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 19 JULY 2017

RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 19 July 2017 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1	60A PONSONBY PARADE, SEAFORTH - ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING HOUSE
REPORTING OFFICER	Ben Price
TRIM FILE REF	2017/251050
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ DDP Plans

PURPOSE

To refer the attached application for determination by the discretion of the Executive Manager Development Assessment

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

That Development Application No. 89/2017 for Alterations and additions to the existing dwelling house at 60A Ponsonby Parade be approved subject to the conditions outlined in the report.

Development Determination Panel Report

2017/240045

DA No.	89/2017
Site Address	60A Ponsonby Parade, Seaforth. Lot B DP 417254.
Proposal	Alterations and additions to the existing dwelling house
Officer	Ben Price

SUMMARY:**Application Lodged:**

1 May 2017

Applicant:

Mr B Larsson

Owner:

Andrew John McFarlane & Aimee Louise Welstead

Estimated Cost:

\$1,250,000

Zoning:

MLEP, 2013 – R2 Low Density Residential

Heritage:

Not applicable

NSW LEC:

Not applicable

Notification:

5 May 2017 – 22 May 2017

Submissions received:

4

Site Inspected:

8 June 2017

LEP (4.6) Variations proposed:

Nil

DCP Variations proposed:

4.1.2 Height of Building, 4.1.4 Setbacks (front side and rear) and Building Separation, 4.1.5 Open Space and Landscaping, 4.4.5 Earthworks (Excavation and Filling)

Recommendation:

Approval

Subject Property and surrounding area

The subject property is commonly known as 60A Ponsonby Parade and legally known as Lot B DP 417254. The site is located on the northern side of Ponsonby Parade. The property is a battle axe lot that is irregular in shape and has a frontage of 4.875m to Ponsonby Parade. The site has vehicular access from Ponsonby Parade via a driveway that is 59.55m in length. The lot, excluding the driveway, has an average depth of 38.6m. The total site area is 1066m². The property currently contains a 1 and 2 storey dwelling house with a garage to the front of the existing dwelling. The property slopes from north east to south-west and includes a crossfall of 14m.

The surrounding area predominantly consists of one and two storey dwelling houses.

Property Burdens and Constraints

There are no burdens or constraints that would preclude the proposed development.

Site History/Background

The following development application is relevant to the history of the site:

DA301/2007 – Installation of inclined lift (inclinor) from behind the existing garage up to the existing dwelling.

Description of proposed development

The proposal includes:

Site

- Demolition of existing garage
- Landscaping
- New storage shed and bin storage area
- New external stair adjacent to western boundary
- New parking area

Basement

- Partial demolition and extension of existing basement area. The basement area will include rumpus room, laundry and shower.
- The construction of a new ancillary guest bedroom and ensuite.

Ground Floor

- The partial demolition of the existing ground floor, minor extension and internal reconfiguration. The ground floor will include 3 bedrooms one with ensuite, a bathroom, dining/living area, kitchen and deck to the rear.
- Reconfiguration of swimming pool to accommodate guest bedroom extension.
- New terrace area above proposed guest bedroom.

First Floor

- The construction of a new first floor addition to the main house including master bedroom, ensuite, dressing room and terrace.

Internal Referrals

Engineering Comments

Council's Engineer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Planning comments

The following conditions were recommended by Council's Engineer:

(4PT02)

All construction vehicles associated with the development must obtain a permit from Council on a daily basis, for access onto The Corso and Sydney Road Plazas.

Reason: To manage and minimise disruption to the area.

(6FP01)

No sandwich boards, goods or the like are to be placed on Council's footpath.

Reason: To ensure pedestrian safety.

(6PT01)

The visitor parking is to be accessible at all times, and a sign post erected at the vehicular entry point(s) of the development indicating the location of the visitor parking.

Reason: To ensure visitors are not forced to park on public streets when visitor parking has been provided and is available within the development.

These conditions were not included in the recommendation as they were not relevant to the proposed development.

Building Comments

Council's Building Surveyor offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Planning Comments

The following condition was recommended Council's Building Surveyor:

(2SP05)

Spa pools or the like are to be provided with approved-type safety outlet covers in accordance with Australian Standard AS 2610 (Spa Pools), and details of the outlet areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To comply with Australian Standards and provide a reasonably level of child safety.

This condition was not included in this recommendation as no spa pools or the like are proposed by this development.

Landscaping Comments

Council's Landscape Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Waste Comments

Council's Waste Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Environmental Health

Council's Environmental Health Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Traffic Comments

Council's Traffic Engineer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Planning Comments

The following conditions were recommended by Council's Traffic Engineer:

(2PT03)

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

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

(2PT04)

The carport is not to be enclosed on any elevation (including enclosure by the installation of garage door/s or gates) without separate development consent.

Reason: To maintain the open nature of the streetscape and ensure compliance with this consent.

These conditions were not included in this recommendation as they do not relate to the proposed development.

Driveway Comments

Council's Driveway Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

External Referrals

AUSGRID

The proposal was referred to the AUSGRID. No comments were received within 21 days of the referral as such concurrence is assumed.

Planning Comments

Environmental Planning & Assessment Act 1979 – Section 79(C)(1)

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) ***the provisions of:***
 - (i) ***any environmental planning instrument, and***

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
Satisfactory.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005:

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

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

Manly Local Environmental Plan 2013

The subject site is located in Zone R2 Low Density Residential under the Manly LEP 2013. The proposed development is considered permissible within the zone with consent. An assessment of the proposal against the objectives of the Zone is included below:

Zone R2 Low Density Residential

Objectives of zone

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

The proposal will maintain the existing use of the site as a dwelling house.

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

Not applicable. The proposal will maintain the existing use of the site.

Part 4 Principal development standards

The provisions of the Manly LEP 2013 have been referred to as part of the assessment:

4.	Principal Development Standards	Requirement	Proposed	Complies Yes/No	Comments
4.1	Minimum subdivision lot size	N/A	N/A	N/A	N/A
4.3	Height of buildings	8.5m	7.4m	Yes	The proposal complies with this clause.
4.3A	Special height provisions	N/A	N/A	N/A	N/A
4.4	Floor Space Ratio	0.45:1 479.7m ²	0.23:1 250.92m ²	Yes	The proposal complies with this clause.

Part 5 Miscellaneous Provisions

The relevant provisions of the Manly LEP 2013 are referred to below as part of this assessment:

5.	Miscellaneous Provisions	Applies	Complies	Comment
5.9	Preservation of trees or vegetation	Yes	Yes	The proposal complies with this clause.

Part 6 Local Provisions

The relevant provisions of the Manly LEP 2013 are referred to below as part of this assessment:

6.	Local Provisions	Applies	Complies	Comment
6.1	Acid Sulfate Soils	Yes	Yes	The proposal complies with this clause.
6.2	Earthworks	Yes	Yes	The proposal complies with this clause.
6.4	Stormwater Management	Yes	Yes	The proposal complies with this clause.

79C(1)(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

There is no applicable Draft Planning Instrument.

79C(1)(a)(iii) - any development control plan, and

Manly Development Control Plan 2013

The following is an assessment of the proposal's compliance with the standards of the Development Control Plan. Where a variation is proposed to the standards an assessment is included in the Planning Comments.

Part 3 General Principles of Development

Issues	Consistent with Principle	Inconsistent with Principle
Streetscape	✓	
Heritage – In Vicinity	✓	
Landscaping Design	✓	
Landscape/Tree Preservation	✓	
Sunlight Access and Overshadowing	✓	
Privacy and Security	✓	
Maintenance of Views	✓	

Comment:

3.1 Streetscapes and Townscapes

Streetscape

Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.

The proposal does not include walls/fences or car parking on the street frontage.

Objective 2) To ensure development generally viewed from the street complements the identified streetscape.

The proposal is on a battle axe lot and is adequately designed and setback from the street to ensure no unreasonable impacts on the streetscape.

Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.

Not applicable, no front fences or walls are proposed.

3.4.1 Sunlight Access and Overshadowing

Objective 1) To provide equitable access to light and sunshine.

The proposed development will not result in any unreasonable overshadowing of private open spaces or windows of habitable rooms. The proposal is adequately designed to maintain equitable access to light and sunshine of the neighbouring properties. The proposal will result in the overshadowing of the swimming pool solar water heater on the roof of 62A Ponsonby Parade during the winter solstice. The solar collector is on the eastern facing roof located adjacent to the eastern boundary. The solar collector is partly overshadowed by the existing development and the proposed development will result in further overshadowing. The proposed development adjacent to this boundary is compliant with the height of buildings control and non-compliant with the side setback control. If the development were to be compliant with the side setback control the solar collector would not achieve any significant improvement to sunlight access. Furthermore the development at 62A Ponsonby Parade has northern and western facing roofs located substantial distances from the neighbouring properties boundaries. For these reasons the overshadowing of the solar collector is not unreasonable and the access to light and sunshine is equitable.

Objective 2) To allow adequate sunlight to penetrate:

- private open spaces within the development site; and
- private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.

The proposed development is designed to ensure it receives allows adequate sunlight to penetrate windows to living spaces and private open spaces. The proposal will result in further overshadowing of the northern facing windows of 62A Ponsonby Parade in the morning of the winter solstice. The overshadowing will be at a maximum at 9am and the access to sunlight will increase throughout the day. The property at 62A Ponsonby parade will maintain adequate solar access to the northern and western windows. The proposal will not result in any unreasonable overshadowing of the windows to habitable rooms or the private open spaces of the neighbouring properties.

Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:

- encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
- maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

The proposal is appropriately designed to maximise the penetration of midwinter sunlight to the windows living rooms and principal outdoor areas. The proposal will not eliminate more than 1/3 of the existing sunlight accessing the private open spaces of the neighbouring properties and is appropriately modulated to maintain sunlight access to the neighbouring properties.

3.4.2 Privacy and Security

Objective 1) To minimise loss of privacy to adjacent and nearby development by:

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

Basement – The proposed windows to the guest suite on the basement floor are appropriately designed to ensure no unreasonable overlooking of the neighbouring property. These windows are setback from the front building line and have a limited field of view of the neighbouring property at 60 Ponsonby Parade. Furthermore the proposal includes adequate landscaping on the boundary of 60 Ponsonby Parade to supplement privacy. The proposed guest suite will not result in any unreasonable overlooking of the neighbouring property. The proposed new external raised stairs on the western boundary are a point of access only and will not result in any unreasonable privacy impacts to the neighbouring property. Furthermore a new high level hedge adjacent to this boundary will mitigate any possible privacy impacts. The windows from the basement rumpus room will not result in any direct viewing between neighbouring windows or outdoor living areas. The proposed basement level is appropriately designed to maintain the privacy of the neighbouring properties.

Ground Floor – The proposed poolside terrace uses a glass balustrade to set back the trafficable area from the edge of the building line on the southern and eastern side boundaries. This is appropriate to minimise overlooking of the neighbouring properties. The proposed projecting window on the north-west elevation is setback and appropriately designed to ensure no unreasonable overlooking of the neighbouring properties. The proposed ground floor deck at the rear will be at ground level and located adjacent to a high boundary fence and screening vegetation. The proposed ground floor is appropriately designed to ensure no unreasonable impacts on the privacy of the neighbouring properties.

First Floor – The master bedroom on the first floor includes a terrace and full height windows. Due to the siting of the windows in the room and their articulation, set back from the front building line, they will not result in any unreasonable overlooking of the neighbouring property. The terrace to the first floor is small, a total area of 3.6m². The terrace is accessed from the dressing room of the master bedroom and is articulated within the building to minimise overlooking. The proposed first floor is appropriately designed to maintain the privacy of the neighbouring properties.

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

The proposal is appropriately articulated and designed to ensure no unreasonable loss of privacy while maintaining the subject property and the neighbouring properties access to light and air.

Objective 3) To encourage awareness of neighbourhood security.

The proposed development is located on a battle axe lot and will not alter the existing awareness of neighbourhood security.

3.4.3 Maintenance of Views

Two objections were submitted raising view loss concerns from the properties at 7 Aden Street Seaforth and 9 Aden Street Seaforth. An assessment of the development with regard to the Views planning principle established by the NSW Land and Environment Court has been conducted below.

“The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (for example 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, for example a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.”

The properties at 7 Aden Street Seaforth and 9 Aden Street Seaforth both obtain water views including the interface between land and water.



Figure 1 View from deck of 7 Aden Street Seaforth



Figure 2 View from lounge room of 9 Aden Street Seaforth (existing house out of sight below hedge)

"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."

The views are obtained from a standing position from the rear deck of 7 Aden Street and a lounge room of 9 Aden Street both looking across the rear boundary.

"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 percent 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."

The proposal situates the first floor to the north west of the site out of the vicinity of the view corridor from 7 Aden Street and 9 Aden Street. The remainder of the development will retain the existing ridge level of the dwelling. Due to the design of the proposal the impacts on the views 7 Aden Street and 9 Aden Street will be negligible.

"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."

The proposed development is reasonable and has been designed to retain the views of 7 Aden Street and 9 Aden Street. The proposal is acceptable and the view sharing is reasonable.

An assessment of the objectives of Clause 3.4.3 Maintenance of Views of the Manly DCP 2013 is below.

Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.

The proposal is appropriately designed to provide for view sharing for both existing and proposed development.

Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).

The proposal has been designed with adequate regard for the views from the adjacent and nearby development. The proposal will not result in any unreasonable disruption of views.

Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

The proposal will not result in any unreasonable loss of views or accumulated view loss.

Part 4 - Development Controls

Site Area:	1066m ²	Permitted/ Required	Proposed	Complies Yes/No
Residential Density – Area D6	600m ² of site area per dwelling	1066m ² of site area per dwelling	Yes	
Wall height South-east side	7.9m	6.2m	Yes	
North-west side	7.6m	7.3m	Yes	
Number of Storeys	2	3	No	
Roof height	Max 2.5m	0.58m	Yes	
South setback side	Dwelling House 2.75m Storage Shed 0.8m	Dwelling House 3.5m Storage Shed 1m	Yes	
East setback side	1.6-1.3m	1m	No	
West setback side	2.4m	0.5m	No	
Setback Rear	8.0m	Deck 5.4m Dwelling 7.4m	No	
Open space - total	Min. 55% of Site Area (586.3m ²)	38% (413.92m ²)	No	
Open space - landscaped	Min. 35% of Total Open Space (144.87m ²)	69% (286.6m ²)	Yes	
Open space - above ground	Max. 25% of Total Open Space (103.48m ²)	20% (85.77m ²)	Yes	
Number of Endemic Trees	4	1	No	
Private Open Space	18m ²	175.8m ²	Yes	
Car Parking – Residents	2 spaces	2 spaces	Yes	
Swimming pool height	1m	3.8m	Existing no proposed change to height above ground.	
Swimming pool setbacks pool concourse / deck	1m	3m	Yes	
Swimming pool setbacks water's edge	1.5m	3.4m	Yes	
Excavation	Generally 1m Dilapidation or Geotechnical report	2m geotechnical report provided.	Yes	
	Natural ground level maintained within 0.9m of side boundary.	Retaining walls adjacent to western side boundary	No	

Comment:

4.1.2 - Height of buildings

The proposed development is non-compliant with the maximum number of storeys permitted by the Manly DCP 2013. An assessment of the proposal in accordance with the relevant objectives is below.

- (a) *to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*

Comment: The proposal is compliant with the maximum permitted building height and roof height. The proposal is consistent with the topographic landscape and the prevailing building height. Furthermore the proposal is on a battle axe lot and will not be visually prominent from the street.

- (b) *to control the bulk and scale of buildings,*

Comment: The proposal is appropriately articulated to ensure it is not of an unreasonable bulk and scale within the locality.

- (c) *to minimise disruption to the following:*

- (i) *views to nearby residential development from public spaces (including the harbour and foreshores),*
- (ii) *views from nearby residential development to public spaces (including the harbour and foreshores),*
- (iii) *views between public spaces (including the harbour and foreshores),*

Comment: An assessment of the proposal with regard to the Views planning principle established by the NSW Land and Environment Court and the objectives of Clause 3.4.3 of the Manly DCP 2013 was conducted above. In summary the assessment found there would be no unreasonable impacts to views from nearby residential development to public spaces. The proposal will not obscure views between public spaces or from public spaces to nearby residential development.

- (d) *to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*

Comment: An assessment of the proposals impact to the neighbouring properties access to light was conducted above. In summary the proposed development was found to have no unreasonable impacts on the neighbouring properties solar access. The proposal will not result in any overshadowing public open spaces.

- (e) *to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.*

Comment: Not applicable. The proposed development is not within a recreation or environmental protection zone.

4.1.4 Setbacks (front, side and rear) and Building Separation

Objective 1) *To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.*

The proposed development is situated on a battle axe lot and will not result in any unreasonable impacts on the streetscape.

Objective 2) *To ensure and enhance local amenity by:*

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

The proposal is of an adequate design to ensure the amenity within the locality. The proposed development is appropriately designed to ensure no unreasonable impacts to the privacy or access to light, sunshine and air movement. Furthermore the proposal has been appropriately designed to facilitate view sharing. Due to the proposals siting on a battle axe lot it will not result in any unreasonable impacts on the streetscape or the traffic conditions within the locality.

Objective 3) To promote flexibility in the siting of buildings.

The proposed development is consistent with the objectives of Clause 4.1.4 and will not result in any unreasonable impacts within the locality. The requested flexibility is satisfactory in this circumstance.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

The proposal includes adequate landscaped area to maintain the natural features of the site.

Objective 5) To assist in appropriate bush fire asset protection zones.

Not applicable. The proposed development is not located within bushfire prone land.

4.1.5 Open Space and Landscaping

The proposal is non-compliant with the total open space control and the minimum tree plantings control.

Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

The proposal will not remove any important landscape features or vegetation including remnant populations of native flora and fauna.

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

The non-compliance with the total open space control is in part due to the lot being a battle axe lot and the requirement for a long driveway to access the street. The proposed development site provides adequate soft landscaped areas and open space at ground level to ensure it is consistent with the landscape character of the locality. The proposed landscaping includes adequate tree planting and incorporates the existing vegetation into the landscape design where appropriate.

Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.

The proposal is of an appropriate design to maintain the amenity of the site streetscape and surrounding area.

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

The proposed development provides greater than required soft landscaped area and is adequately designed to maximise water infiltration on the site.

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

The proposed landscaping is adequate to minimise the spread of weeds and the degradation of private and public open space.

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

The proposal provides adequate vegetation to maximise wildlife habitat and the potential for wildlife corridors.

4.4.5 Earthworks (Excavation and Filling)

The proposal is non-compliant with this clause due to the proposed retaining walls located on the western boundary altering the natural ground level within 0.9m of the side boundary. An assessment of the proposal with regard to the objectives of the control is below.

Objective 1) To retain the existing landscape character and limit change to the topography and vegetation of the Manly Local Government Area by:

- *Limiting excavation, "cut and fill" and other earthworks;*
- *Discouraging the alteration of the natural flow of ground and surface water;*
- *Ensuring that development not cause sedimentation to enter drainage lines (natural or otherwise) and waterways; and*
- *Limiting the height of retaining walls and encouraging the planting of native plant species to soften their impact.*

The proposed retaining walls adjacent to the western side boundary are relatively small, 0.7m, and will not result in any significant impacts on the natural flow of ground and surface water. The proposal has been appropriately conditioned to ensure the development does not cause sedimentation to enter drainage lines. The proposed retaining walls are small in size and are appropriately landscaped to soften their impact. The proposed retaining walls will not result in any unreasonable impacts on the landscape character of the locality.

Part 5 - Special Character Areas and Sites

Special Character Areas and Sites	Applicable	Not Applicable
Conservation Area		✓
Foreshore Scenic Protection Area		✓
Threatened Species and Critical Habitat		✓
Flood Control Lots		✓
Riparian Land and Watercourses		✓
Road Widening		✓
Gurney Crescent and Clavering Road, Seaforth		✓

79C(1)(a)(iia)- any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
No applicable planning agreement.

79C(1)(a) (iv) - the regulations

The proposal is consistent with the applicable regulations.

79C(1)(a)(v) - any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

There is no Coastal Zone Management Plan applicable for the Manly area.

79C(1) (b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposal will not result in any unreasonable social or economic impacts within the locality and will not result in any unreasonable impacts on the natural or built environment within the locality.

79C(1) (c) - the suitability of the site for the development,

The proposed development is suitable for the site.

79C(1) (d) - any submissions made in accordance with this Act or the regulations

The application was notified to nearby and adjoining property owners in accordance with Section 2.2 of Council's Development Control Plan 2013 with 4 submissions received from the following objectors raising the following concerns:

Submission and Address	Main Issues raised in the submission	Comments on submission
1. J.R & JV Hudson 60 Ponsonby Parade	<ul style="list-style-type: none"> Drawing No 2(11)00, forwarded to us by Council, appears to inaccurately show the footprint of our house and its position, in relation to the proposed elevated single storey extension. During our inspection of the plans we could not locate any plans/drawings that show the proposed scope of works from a southern elevation with our house superimposed (ie the proposed works in relation to our property) allowing us to assess the relative height/impact of the proposed extension. We wish to advise Council of our objection to the apparent height and proximity to our rear (northern) boundary of the proposed elevated single storey extension. The height of which appears to be higher than the gutter line of our two-storey house and at one point just 3.5 metres from the boundary fence of our backyard. Our concerns are: Privacy - The floor to ceiling windows of the bedroom of the proposed elevated single storey extension appear to be positioned to face directly on to our side deck living area and backyard, which we use daily. As well, the proposal also indicates that the existing garden on the boundary of 60A (between the proposed extension and our property) will be removed and replaced by a shed. It appears there will be a direct line of sight from the proposed bedroom of the extension to our side living area. • Overshadowing - Drawing Diagrams Nos. 2(18)04 - 21 June at 12 noon and 2(18)05 - 21 June at 3pm show that our small north facing backyard and garden will be affected by hours of overshadowing from the proposed extension. We believe this will affect the amenity of our backyard and possibly have a detrimental effect on the health of the plants in our garden. 	<ul style="list-style-type: none"> The plans provided are sufficient to conduct an assessment on the proposed development. The proposal has been assessed above with regard to the objectives of Clause 3.4.1 Sunlight Access and Overshadowing and Clause 3.4.2 Privacy and Security. In summary the proposal was found to be satisfactory.

<p>2. Baxter and Jacobson Architects on behalf of J&R Koutsounadas, 62A Ponsonby Parade</p>	<ul style="list-style-type: none"> • Sandstone bedrock foundation • Arborist Report • Height and Setback from Side Boundary • Overshadowing - 9am Autumn equinox and Winter solstice • Privacy • Surface treatment of elevated pool wall 	<ul style="list-style-type: none"> • The geotechnical report provides recommendations to ensure the stability of the site and the adjoining properties. This report has been included as a consent document and recommended conditions of consent will ensure a dilapidation report of the neighbouring properties is obtained and demolition/construction occurs in a satisfactory manner. • The merits of the vegetation on the neighbouring property have not been relied upon for this development application. • The proposed setback has been assessed above with regard to the setback objectives of Clause 4.1.4 of the Manly DCP 2013. In summary the development was found to be satisfactory. • The proposed developments impact on the neighbouring properties access to light was assessed above with regard to the objectives of Clause 3.4.1 Sunlight Access and Overshadowing of the Manly DCP 2013. In summary the proposal was found to be satisfactory. . • The proposal was assessed above with regard to the objectives of Clause 3.4.2 Privacy and security. In summary the proposal was found to be satisfactory. • The plans provide adequate detail as to the treatment of the elevated pool wall.
<p>3. Vincent and Carolyn Cheong 7 Aden Street Seaforth</p>	<ul style="list-style-type: none"> • Neighbourhood Fit and Views We note that a unique character of the neighbourhood is that all properties behind 60a currently have water views of Middle Harbour. We also note that the project has taken the neighbourhood character into consideration by planning to minimise the impact on our views. - We would like to be advised if there are any deviations from the proposed plan that may make an impact on our views. • Impact on view by protrusions such as antennae, chimneys and air 	<ul style="list-style-type: none"> • This assessment relates to what is proposed only. If further applications are made these applications will be notified in accordance with Council policy. • The proposed development does not include any protrusions such as antennae, chimneys and air conditioning/heating units and vents that would impact the views or amenity of 7 Aden Street.

	<p>conditioning units. This may include any impact on water views by protrusions such as antennae, chimneys and air conditioning/heating units and vents. - We ask that the applicant locate these in such a way as to minimise impact on our current views of Middle Harbour. Air conditioning / heating units and vents. It is unclear from the plan where these units will be mounted. This is of additional concern as our balcony / main living and kitchen area will be in close proximity to the back of the 60a Ponsonby. Air conditioning units and vents could therefore have a negative impact in terms of noise and air quality on our main living areas and kitchen. - We would ask that these be located away from our main living areas.</p> <ul style="list-style-type: none"> • Back Windows & Privacy The back windows of the first floor addition will be facing our balcony, main living areas and master bedrooms. - We ask that the trees currently standing in between our houses be used as a way to maintain privacy between residences. Alternatively, some kind of opaque window glass be used. 	<ul style="list-style-type: none"> • The back window of the first floor will not result in any direct overlooking of 7 Aden Street. This window is to the stairs accessing the master bedroom and is set into the façade to direct any viewing away from this boundary. The proposed tree at the rear is proposed to be removed. The landscaping plan will replace this tree with appropriate vegetation to ensure no unreasonable loss of privacy to the neighbouring properties.
4. Anna Malins, 9 Aden Street Seaforth	<ul style="list-style-type: none"> • I have reviewed the plans in detail and in my opinion these proposed plans could impinge on our view of Middle Harbour if any changes are made to the plans. At the moment on viewing the plans we see no problem with height of the roofline but are worried that any changes made without our knowledge in the future would certainly have an impact on our view at 9 Aden Street. Whilst it is not immediately apparent from the plans provided, I understand that the new squared building on 60a Ponsonby Parade is to be no higher than the existing pitched roof and currently no large aerals will be installed on that new roof. We would appreciate height sticks being put in place before council approves this development application as it will give all the relevant neighbours and concerned parties a better idea of the propose height. 	<ul style="list-style-type: none"> • An assessment of the development with regard to the Views planning principle established by the NSW Land and Environment Court and Clause 3.4.3 Maintenance of Views. In summary the assessment found that the development was reasonable and would not result in any unreasonable impact on views. If a further application is made to Council to change the development on the site the proposal will be notified in accordance with Council policy. In this circumstance the plans provided are sufficient to determine the impacts of the development and 'height sticks' are not necessary.

79C(1) (e) - the public interest.

The proposal is not contrary to the public interest.

S94 Contribution towards provision or improvement of amenities or services

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- (1) *If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
- (a) *the dedication of land free of cost, or*
 - (b) *the payment of a monetary contribution, or both.*
- (2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'*

Comments:

In this case, no s94 contributions are applicable.

CONCLUSION:

The application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act 1979, Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013 and is considered to be satisfactory for **approval**, subject to conditions.

RECOMMENDATION

That Development Application No. 89/2017 for Alterations and additions to the existing dwelling house at 60A Ponsonby Parade be **approved** subject to the following conditions:-

GENERAL CONDITIONS

- The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and reference documentation;

Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. 89/2017:

Plan No. / Title	Issue/ Revision & Date	Prepared By
2(11)00 Proposed Site Plan	April 2017	pH+ Architects
2(12)00 Proposed Ground Floor Plan	April 2017	pH+ Architects
2(12)01 Proposed First Floor Plan	April 2017	pH+ Architects
2(12)B1 Proposed Basement Floor Plan	April 2017	pH+ Architects
2(12)B2 Proposed Driveway Level Plan	April 2017	pH+ Architects
2(12)RF Proposed Roof Plan	April 2017	pH+ Architects
2(14)00 Proposed South West Elevation	June 2017	pH+ Architects
2(04)01 Proposed South East Elevation	April 2017	pH+ Architects
2(14)02 Proposed North East Elevation	April 2017	pH+ Architects
2(14)03 Proposed North West Elevation	April 2017	pH+ Architects

2(13)00 Proposed Section A-A	April 2017	pH+ Architects
2(13)01 Proposed Section B-B	June 2017	pH+ Architects
L001 Landscape Plan	Revision A, dated 9 March 2017	Peta Gilliland Landscape Design
L002 Landscape Plan	Revision A, dated 9 March 2017	Peta Gilliland Landscape Design

Reference Documentation affixed with Council's stamp relating to Development Consent No. 89/2017:

- BASIX Certificate number 816058S, dated 27 April 2017
- Geotechnical Investigation, dated 19 April 2017 and prepared by JK Geotechnics
- Arborist Report, dated 15 February 2016 and prepared by Arbor Consultancy

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

2. Prescribed Conditions

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - stating that unauthorised entry to the work site is prohibited.

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

- 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:
 - in the case of work for which a principal contractor is required to be appointed:
 - the name and licence number of the principal contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
 - in the case of work to be done by an owner-builder:
 - the name of the owner-builder, and
 - 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)

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

3 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit as per the current rates in Council's Fees and Charges. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

4 (2CD02)

A Dilapidation Report is required for this development. A photographic survey of adjoining properties detailing the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other such items, is to be submitted to Council and the Accredited Certifier (where Council does not issue the Construction Certificate) prior to the issue of the Construction Certificate. This survey is to be prepared by an appropriately qualified person.

All costs incurred in achieving compliance with this condition must be borne by the person entitled to act on this Consent.

If access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to Council's satisfaction attempts have been made to obtain access and/or advise the affected property owner of the reason for the survey and these attempts have been unsuccessful.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

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

5 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

6 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's Specification for On-site Stormwater Management 2003 and Specification for Stormwater Drainage 2003 and must be submitted to Council prior to issue of the Construction Certificate. The stormwater management plan and designs are to be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

7 (2DS02)

A Stormwater Management Plan (SWMP) in line with Council's stormwater management guidelines and signed off by a practising Chartered Professional Engineer on the National Professional Engineer's Register (NPER) at Engineers Australia is to be submitted to the Council/Accredited Certifier, prior to issue of the Construction Certificate. The SWMP is to include but is not limited to the following:

- Increase in the impervious area (m²)
- Impervious percentage (%) post development
- Demonstration of no-adverse flooding issues to the downstream and upstream properties
- Peak flow rate to street drainage system in a 1:100 Average Recurrence Interval (ARI) flood event
- Connection details and location of the outlet drainage pipe, if applicable.
- If it is an absorption trench zone (Zone 2 as per Storm Water Management guidelines), then the detail calculations along with the soil report to be submitted for review by demonstrating no-adverse drainage issues due to this development.
- Details of the Chartered Engineer including full name, signature and registration number is required.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.

8 (2FP02)

Detailed drawings and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) within existing roads, must be submitted to and approved by Council under the Roads Act 1993, before the issue of any Construction Certificate. Specific works include:

- 1) Full width vehicular crossings having a maximum width, at the back of layback, and in accordance with the current policy of Council and Specifications for the construction of vehicle crossings; and
- 2) Longitudinal sections for both sides of the vehicular crossing and driveway commencing at the centre line of the road carriageway must be provided for assessment. Gradients and transitions must be in accordance with Australian Standard AS 2890.1 – 2004, Part 1 – Off-Street Car Parking. The driveway profile submitted to Council must be to scale at 1:25 (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

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Driveway to be designed to provide for existing or future footpaths across driveway, in accordance with Council's Specification for Civil Infrastructure Works, Developments & Subdivisions 2003 and Australian Standard AS 1428.1:2001 - Design for access and mobility.

Reason: To facilitate suitable vehicular access to private sites.

9 (2FP03)

No portion of the proposed building or works, as approved within the subject site, are to encroach upon any road reserve or other public land except as may be permitted by the Local Government Act 1993. This includes the opening and closing of gates and doors which must open and close within the subject site.

Reason: To ensure structures are contained within the site.

10 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

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

11 (2PT01)

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

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

12 (2PT02)

All driveways, car parking areas and pedestrian paths are to be suitably surfaced. Details of the treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

13 (2SP01)

All of the following are to be satisfied in relation to the proposed swimming pool:

- 1) The swimming pool is to be surrounded by a child-resistant barrier in accordance with the Swimming Pools Amendment Act 2009 and Regulations 2008 which:
 - separates the swimming pool from any residential building situated on the property and from any place adjoining the property, and
 - is designed, constructed, installed and maintained in accordance with the standards prescribed by the Regulations and appropriate Australian Standards.
- 2) All surface waters from non-pervious areas surrounding the swimming pool must be collected and disposed of to the stormwater system.

- 3) Windows giving access to the pool areas must be made child safe and comply with the following:

- Window opening is to be restricted by an approved means so that a round bar 105mm in diameter cannot be passed through the opening or the window is to be protected by a child safe grille.

However if the restricted opening of such windows means that they will no longer meet the natural ventilation requirements of the Building Code of Australia, then only a child safe grille is permissible.

- 4) The proposed pool gates are to be mounted so that:

- they are clear of any obstruction that could hold the gate open, and
- when lifted upward or pulled downward, movement of the gate does not release the latching device, unhinge the gate or provide a ground clearance greater than 100mm; and
- they open outwards from the pool.

Reason: To comply with Australian Standard AS 1926 and provide a reasonable level of child safety

14 (2SP02)

A railing or other safety measures or devices are to be erected around the sides of the pool surround structure where height above natural ground level exceeds 900mm. All details of the necessary device are to be submitted to and approved by the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To ensure the safety of persons using those walkways.

15 (2SP03)

The backwash of Swimming Pool water must be discharged to Sydney Waters' sewer in accordance with Australian/New Zealand Standard AS/NZS 3500.

Detailed plans and specification must be submitted prior to the issue of the Construction Certificate. The drawings must show the location of Sydney Water's sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with Australian/New Zealand Standard AS/NZS 3500.

Reason: To ensure compliance with legislation and Australian Standards and to protect public health and amenity.

16 (2SP04)

Any mechanical plant associated with the swimming pool and spa shall be centrally located within the site, away from the boundaries and acoustically treated so the noise from the machinery is not audible at the property boundary. Details are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the acoustic amenity of the neighbouring residents.

17 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan 2013.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

18 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

19 (3CD02)

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

20 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

21 (3FP01)

The applicant must complete an application form and pay applicable fees for an application to Council for the construction of a Vehicular Crossing, for the design, specification and inspection by Council. Applications are to be made a minimum of two (2) working days prior to commencement of proposed works on Council's property.

Reason: To provide suitable vehicular access to private sites, without disruption to pedestrian and vehicular traffic.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

22 (3LD01)

All healthy trees and shrubs identified for retention on the submitted landscape drawing are to be suitably marked for protection before any construction works start.

Reason: To ensure the trees conditioned to stay on the site are suitably protected during any construction works.

23 (3PT01)

In accordance with the Roads Act 1993, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.

24 (3PT02)

Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council and the Traffic Committee have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

ANS01

Protection of rock and sites of significance

- a) All rock outcrops are to be preserved and protected at all times during demolition excavation and construction works.
- b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features

25 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

26 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.

- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 18) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

27 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

28 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

29 (4CD05)

Retaining walls being constructed in conjunction with excavations must be in accordance with structural engineer's details. Certification by a suitably qualified structural engineer that the constructed works comply with the structural detail must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure the structural adequacy of the retaining walls.

30 (4CD07)

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- The Work Health and Safety Act 2011.
- The Work Health and Safety Regulation 2011.
- How to Safety Remove Asbestos Code of Practice – WorkCover 2011.

The owner or occupier of the premises must consult an appropriately qualified and Australian Institute of Occupational Hygienists registered professional to undertake an assessment of the site to determine the potential for contamination. The owner or occupier must develop a management plan and be issued with Clearance Certificate before the commencement of any work.

Reason: To ensure the health of site workers and the public.

31 (4FP01)

The existing footpath level and grade at the street alignment of the property must be maintained.

Reason: To ensure appropriate access and infrastructure protection.

32 (4LD02)

All healthy trees and shrubs identified for retention on the drawing are to be:

- (a) suitably protected from damage during the construction process, and
- (b) retained unless their removal has been approved by Council.

Reason: This is to ensure that the trees on the site which do not have approval to be removed on the site are suitably protected during any construction works.

Internal Note: This condition is to be imposed with 3LD01.

33 (4LD04)

The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

34 (4MS04)

An approved Erosion and Sediment Management plan is to be implemented from the commencement of works and maintained until completion of the development.

The design and controls addressed in the Sediment and erosion management plan must comply with the criteria identified in:

- Manly Development Control Plan 2013, Amendment 2, and
- Manly Councils Guidelines for Sediment and Erosion Controls on building sites, 2005, and
- The document "Managing Urban Stormwater: Soils and Construction" Volume 1, 2004.

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

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

35 (5DS01)

Stormwater drainage from the proposed addition/extension must be disposed of to the existing drainage system. All work is to be carried out in accordance with Council standards and specifications for stormwater drainage. Work is to be completed prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure infrastructure reverting to Council's care and control is of an acceptable standard.

36 (5FP01)

All surplus vehicular crossings and/or kerb laybacks must be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

Reason: To provide on-street parking, suitable vehicular access to private sites, and infrastructure protection.

37 (5FR01)

An automatic fire detection and alarm system must be installed in the proposed dwelling in accordance with the requirements of the Building Code of Australia.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

38 (5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately

39 (5SP01)

All protective fencing and gates are to be in accordance with Australian Standard AS 1926 prior to the pool being filled with water. The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the prior approval of Council. No water can be in the swimming pool until the required protective fencing has been inspected and approved by Council.

Reason: To comply with Australian Standard AS1926 and provide a reasonable level of child safety.

40 (5US01)

Any adjustment to a public utility service is to be carried out in compliance with its standards; where consent is required, with its concurrence; and with the full cost being borne by the applicant. Full documents of adjustments to any public utility service should be submitted to Council.

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

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

41 (6FC01)

The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Department of Lands. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. More than 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1 800 990 777 or at <http://www.cjc.nsw.gov.au/>.

Reason: To ensure the applicant is aware the Dividing Fences Act 1991 may be used to resolve disputes about dividing fences.

42 (6LP04)

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

43 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

44 (6WM10)

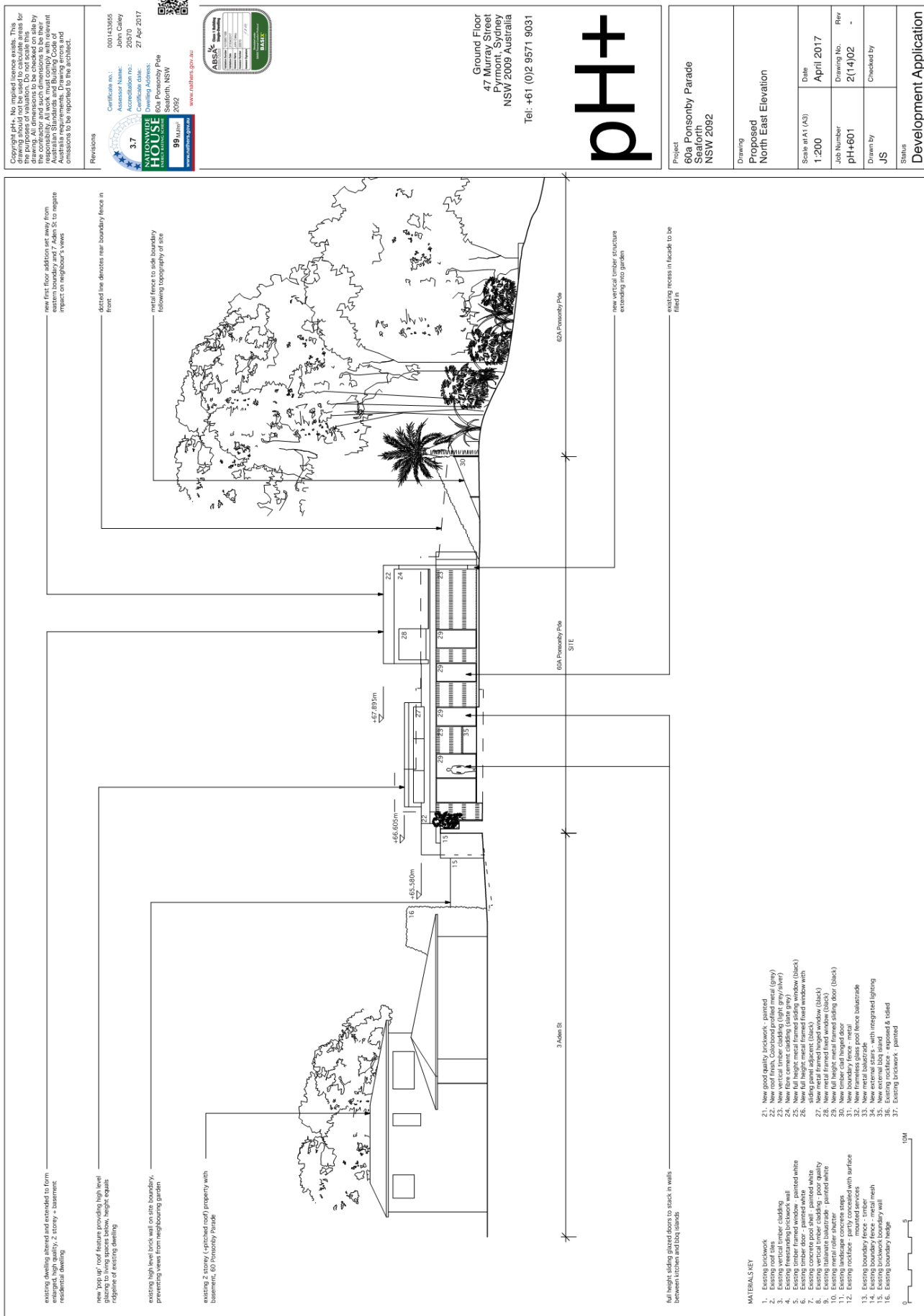
The operation of the premises must be conducted in a manner that does not pollute waters as defined by the Protection of the Environment Operations Act, 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.



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[illegible]



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Revisions

Certificate no.: 0901433665
Assessor Name: John Casey
Accreditation no.: 22570
Certificate date: 27 Apr 2017
Drawing Address: 80a Ponsonby Parade
Pymont, NSW
99 March 2017
www.natba.com.au



Ground Floor
47 Murray Street
Pymont, Sydney
NSW 2009 Australia
Tel: +61 (0)2 9571 9031

pH+

Project
80a Ponsonby Parade
Seaford
NSW 2092

Drawing
Proposed
North West Elevation

Scale at A1 (A3)	Date
1:200	April 2017
Job Number	Revised
pH+601	2(14)03
Drawn by	Checked by
JS	

Status
Development Application



ITEM 3.2 3 PLATEAU ROAD COLLAROY - USE OF A BUILDING AS A DWELLING HOUSE

REPORTING OFFICER Dave Auster

TRIM FILE REF 2017/251090

ATTACHMENTS 1 [↓](#) Assessment Report
2 [↓](#) DDP Plans

PURPOSE

To refer the attached application for determination by the discretion of the Executive Manager Development Assessment

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2017/0047 for Use of building as a Dwelling House on land at Lot 17 DP 233078, 3 Plateau Road, COLLAROY, subject to the conditions outlined in the report.

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REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 02 August 2017

3 Plateau Road Collaroy - Use of building as a Dwelling House

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/0047
Responsible Officer:	David Auster
Land to be developed (Address):	Lot 17 DP 233078, 3 Plateau Road COLLAROY NSW 2097
Proposed Development:	Use of building as a Dwelling House
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Development Determination Panel
Land and Environment Court Action:	No
Owner:	Giuseppe Casella Kathleen May Casella
Applicant:	Mark Pupo
Application lodged:	23/01/2017
Application Type:	Local
State Reporting Category:	Residential - Single new detached dwelling
Notified:	25/01/2017 to 10/02/2017
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	2
Recommendation:	Approval
Estimated Cost of Works:	\$ 85,000.00

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
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account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - B5 Side Boundary Setbacks
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 17 DP 233078 , 3 Plateau Road COLLAROY NSW 2097
Detailed Site Description:	<p>The subject site consists of one allotment located on the eastern side of Plateau Road, Collaroy. It is regular in shape with a frontage of 17.68m along Plateau Road and a depth of 42.67m. The site has a surveyed area of 747.6m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a two - three storey dwelling.</p> <p>Surrounding development consists of residential dwellings of varying architectural design.</p> <p>The site slopes from the northern side boundary to the southern side boundary.</p> <p>There are no known threatened species on the site.</p>

Map:

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SITE HISTORY

The relevant history to the application is set out in a timeline as follows:

03/06/2015 – External CDC2015/0235 lodged with Council – Alterations and additions to an existing two storey dwelling.

11/6/2015 – Letter from Council's Building Investigations to Form Building Certifiers (2015/164959) passing on complainant allegations received by Council in relation to works on site.

19/6/2015 – Form Building Certifiers state that applicant will be lodging a DA for works not approved under the CDC, makes the following answers to allegations:

1. Total view loss - This is not a matter to consider under the SEPP.
2. Records indicate telephone conversations with each property either side would confirm that
3. Landslip - The 149(2) does not make any mention of this and our site inspection revealed th
4. Works very close - We have only approved works that are permitted to be approved under ti
5. The applicant for this CDC will be lodging a Development Application for the works which w

24/6/2015 – Council writes to complainant passing on FBC's answers to allegations and states Council will take no further action.

25/9/2015 – DA2015/0927 lodged with Council for Alterations and additions, Dwelling House.

11/12/2015 – Council requests withdrawal of DA due to unauthorised works already started, Front boundary setback non-compliance, Height of buildings, Front boundary fence.

16/12/2015 – Letter to FBC from Council Building Investigations alleging works begun without consent.

17/12/2015 – Development Application withdrawn.

22/12/2015 – Complaint regarding various aspects of the development including retaining wall on

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boundary.

29/12/2015 – Notice of Intention to serve order issued by FBC.

9/3/2016 – Council issues Notice of Intention to serve order.

21/4/2016 – Council issues Penalty Infringement Notice for excavation not in accordance with approved CDC.

13/5/2016 – Street levels issued by Council for 3 Plateau Road.

4/7/2016 – Building Certificate BC2016/0063 lodged with Council.

5/10/2016 – BC2016/0063 refused for the following reasons:

1. The “as built” works fail to show consistency with the Objectives of the R2 Low Density Resi
2. The “as built” works fail to show consistency with Clause 6.4 ‘Development on Sloping Land
3. Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979 th
4. Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979 th
5. Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979 th
6. Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979 th
7. The unauthorised retaining wall along the Northern boundary encroaches over the neighbou

10/10/2016 – Order issued to comply with CDC2015/0235 and demolish all unauthorised works.

23/1/2017 – DA2017/0047 and BC2017/0003 lodged with Council.

PROPOSED DEVELOPMENT IN DETAIL

A Complying Development Certificate was previously approved on site (CDC2015/0235), approved by Form Building Certifiers. However, the dwelling was not built in accordance with the plans approved under this CDC. The plans lodged with the current Development Application show the parts of the building approved in the CDC in white, with red dotted lines.

The proposed Development Application is for the use of the existing constructed building as a dwelling house. No works are proposed as part of the proposal. It relates to the parts of the dwelling shown in green on the plans lodged with the application. These green shaded parts of the plan are the parts that were built outside of the approved plans under the CDC.

A Building Certificate (BC2017/0003) has been lodged in conjunction with the Development Application, to regularise the works constructed without approval.

The assessment of this Development Application therefore relates to the parts of the dwelling (shown shaded green on the plans) that were not approved under CDC2015/0235.

These works include:

Lower Ground Floor

- New front entry path.
- New timber deck and retaining wall along northern side boundary.

Ground Floor

- New kids room at north eastern corner of dwelling.
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- extension of family room to the south and east at the southeastern corner of the dwelling.

Upper Floor

- New master bedroom at front north western corner of dwelling.
- New Bedroom 1 and walk in robes at north eastern corner of dwelling.
- Eastern extension of Bedroom 3 at south eastern corner of dwelling.

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 C.

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 any development control plan	Warringah Development Control Plan applies to this proposal.
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)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><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.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p>

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Section 79C 'Matters for Consideration'	Comments
	<p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 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	<p>(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.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 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 “Submissions” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

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 2 submission/s from:

Name:	Address:
Withheld	COLLARROY NSW 2097
Gina Cutrone	5 Plateau Road COLLARROY NSW 2097

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

- Views
- Bulk and scale
- Alterations and additions
- Australian building codes/standards
- Landscaped area, setbacks, possible swimming pool
- Property occupied prior to occupation certificate being issued, Certifier's sign not visible

The matters raised within the submissions are addressed as follows:

- Views
Comment: Concerns were raised with view loss from the northern neighbour's property at 5 Plateau Road. This issue is addressed in detail under Clause D7 Views in this report. In summary, the extra works which are the subject of this application, additional to what was approved under the CDC, are not considered to result in unreasonable view loss.
- Bulk and scale
Comment: Concerns were raised regarding the overall bulk and scale of the development. This issue is addressed in detail under Clause D9 Building Bulk in this report. In summary, the works proposed as part of this application are not considered to result in an unreasonable bulk and scale in built form.
- Alterations and additions
Comment: Concerns were raised that the previous dwelling on site had been almost entirely demolished, and that the works should not therefore be defined as alterations and additions. The application as proposed is for use of the existing building as constructed as a dwelling house, and the application was notified as such. As described in the Development Description and History sections of this report, the original approval was a Complying Development Certificate, which was not built to the approved plans. The current application has therefore applied for the use of the building as constructed, and is in conjunction with a building certificate application to ensure the works are structurally stable. The application has not been applied for, nor notified as 'alterations and additions'.

Notwithstanding the above, the plans are clear as to which parts of the dwelling have been built outside of the previous CDC approval, and are adequate for Council to carry out a satisfactory assessment of the application.

- Australian building codes/standards
Comment: Concerns were raised that the proposal may not be built in accordance with the relevant standards and building codes. The Development Application has been lodged in conjunction with a Building Certificate application. The Development Application is for the use of the building, and the Building Certificate will certify that the building is structurally sound and built in accordance with the relevant standards. Subject to Council's Building Assessments team's assessment of the Building Certificate, the submission is considered to be satisfied in this regard.
- Landscaped area, setbacks, possible swimming pool
Comment: Concerns were raised that it was difficult to estimate landscaped area, setbacks and whether there was a pool in the rear yard. The plans are clear, and are adequate for an assessment against all relevant built form controls including landscaped area and setbacks, as noted in this report. The proposal complies with the landscaped open space requirements, and generally complies with the setback requirements. The proposed non-compliances with

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built form controls are discussed in the relevant sections of this report, and are considered to be reasonable in their context.

A swimming pool and deck are shown on the proposed concept stormwater plan, but not on any of the other plans. Additionally, the Statement of Environmental Effects submitted with the application does not mention a swimming pool, and states that D16 *Swimming Pools and Spa Pools* is not applicable to the development. The application is not considered to have made adequately clear whether or not a pool is proposed, and as such, a condition of consent is recommended stating that no approval is given to a swimming pool.

- Property occupied prior to occupation certificate being issued, Certifier's sign not visible
Comment: Concerns were raised that the property has been occupied prior to being issued with an occupation certificate. The applicant stated that the Certifier issued an interim occupation certificate for the works approved by the CDC, but is no longer certifying the works in relation to the areas of the development which are the subject of the current Development Application and Building Certificate application. The property is currently occupied, but Council does not have a record of the interim occupation certificate. However, this issue does not affect the assessment of the proposed/as-built works and use of the building under the current application. The matter has been referred to Council's Compliance department for action if necessary.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The approval being sought involves permitting use of unauthorized building works that have been the subject of Building Certificate (BC 2016/0063) which was refused (trim 2016/329337). The grounds for refusal were based on the Development Assessment referral comments from Mitchell Drake (trim 2016/257694).</p> <p>The unauthorized works are also subject to a formal Order issued by the Building Investigations Group.</p> <p>The applicant has also lodged a new Building Certificate application concurrently with this DA.</p> <p>Should Planning determine that the additional unauthorized works are suitable/acceptable then appropriate conditions have been included for this referral.</p>
Compliance Management	<p>The Building Investigations Team is currently investigating a matter relating to the property - reference EPA2016/0045.</p> <p>The approved of this application may assist in resolving part of this investigation.</p>
Natural Environment (Biodiversity)	No comments and no conditions.
Natural Environment (Biodiversity)	

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (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

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.46m	N/A	Yes

Compliance Assessment

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

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.61m	5.7%	No
B3 Side Boundary Envelope	North - 4m	Encroachment new works Master bedroom up to 1.6m for length of 4.91m Bedroom 1 up to 500mm for length of 5.53m	Up to 40%	No
	South - 4m	Encroachment new works Bedroom 3 up to 1.5m for length of 1m	Up to 25%	No
B5 Side Boundary Setbacks	North - 0.9m	Dwelling -1.9m Retaining wall 0.4m	N/A 93.85%	No
	South - 0.9m	0.9m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	Dwelling - 8m	N/A	Yes
B9 Rear Boundary Setbacks	6m	8.3m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	41.25% (308.453m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
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Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	No	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The proposed wall height is up to 7.61m to the underside of the ceiling, at the south western corner of the new master bedroom.

Merit consideration:

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

NORTHERN BEACHES COUNCIL

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

Comment:

The proposal complies with the overall height limit of 8.5m, and the non-compliance is partly the result of the slope of the site down from north to south, as the new master bedroom element of the building will comply with the wall height control on the northern side (6.67m high). The dwelling is lower overall than the neighbour to the north, and higher than the neighbour to the south, and will provide a stepping transition down in accordance with the topography. The overall visual impact of the non-compliance on Plateau Road is not considered to be unreasonable, and the non-compliant element of the works proposed under this application (being the south eastern corner of the master bedroom at the front of the dwelling) is not highly visible from neighbouring properties, and does not have any significant impacts in terms of amenity.

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

Comment:

The proposal will remain below the overall height limit of 8.5m, and generally beneath tree canopy in the area. The topography of the area falls quite significantly from north to south, and the dwelling is not on any ridge or above tree canopies in the area.

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

Comment:

This issue is discussed in detail under Clause D7 Views in this report. In summary, the proposal is considered to result in a reasonable sharing of views. The element of the new works that is non-compliant with the wall height control does not significantly impact on views (available from the north towards the south), being on the southern side of the new master bedroom.

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

Comment:

The non-compliant element of the proposal is in the centre of the site, and setback 8m from the front boundary. It will not have any significant or unreasonable impacts on neighbouring properties. The proposal maintains the heights approved under CDC2015/0235, and the continuation of the heights of that development is considered acceptable in this instance.

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

Comment:

The topography in the area falls from north to south. The development will remain below the overall height of the northern neighbour, and above the southern neighbour. The building will also continue to step down from north to south, and the new works are considered to generally continue to respond to the topography.

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

Comment:

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The proposed new works continue the roof design approved under the CDC. The non-compliance occurs at the south western corner as the land slopes down to the south, and the overall development complies with the height limit. The design of the roof is a parapet type design, and is considered sufficiently innovative.

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

B3 Side Boundary Envelope

Description of non-compliance

On the northern side of the dwelling, the proposed new master bedroom will breach the envelope by up to 1.6m for 4.91m, and Bedroom 1 will breach the envelope by up to 500mm for a length of 5.53m.

On the southern side, the proposed new works will breach in the south western corner of Bedroom 3 by up to 1.5m for a length of 1m.

Merit consideration

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

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

The proposed new works do not comply with the envelope on both the southern and northern sides. However, the works generally continue the heights and side setbacks of the dwelling as approved under CDC2015/0235. The proposed new works are not considered to cause the development to become unreasonably more visually dominant than what was previously approved under the CDC. The dwelling will continue to be setback on a front building line generally consistent with neighbours to the north and south, and the topography means that the development will continue to provide a visual transition in height down from the northern neighbour to the southern neighbour. To require the new works to step in from the side boundary to comply with the control would not provide any great benefits in terms of visual impacts on the street, or on neighbours.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

The new works on the southern side of the development cause only a small amount of additional overshadowing, compared to what was previously approved under the CDC application, and does not cause the overall development to become non-compliant with Clause D6 *Access to Sunlight*. There is one new window proposed on the northern side of the master bedroom that is outside the side boundary envelope. However, this window is screened, and it is only the top of the window - generally above eye level that is outside the envelope. It is adjacent to the northern neighbours front entry deck (not the private open space), and is not considered to result in unreasonable privacy impacts.

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

Comment:

The new works have generally maintained the existing heights and side setbacks approved under the CDC application. Overall, the development is under the 8.5m height limit, and will continue to provide a visual step down from the height of the northern neighbour to the height of the southern neighbour. The envelope breaches are a continuation of what was previously approved under the CDC, and do not cause the overall development to become unresponsive to the topography.

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.

B5 Side Boundary Setbacks

Description of non-compliance

The works to the dwelling comply with the side setback control. However, a retaining wall is shown 400mm from the northern side boundary. This wall has been constructed already along with the other works shown in green on the plans. There is another wall shown (not coloured green on the plans) which is on the northern neighbour's property. Concerns have been raised that this wall was constructed without approval on the neighbour's property.

This current application relates only to the new parts of the building shown in green on the plans, and a condition of consent is recommended to make absolutely clear that the approval relates only to those parts of the development, and not to any works constructed over the boundary on neighbouring properties.

Merit consideration

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

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

Comment:

The retaining wall 400mm from the side boundary does not restrict opportunities for deep soil landscaped area. The development will comply with the overall 40% landscaped open space requirement on site.

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

Comment:

The retaining wall is mostly screened from view from the street by the dwelling, and is not significantly higher than the height of the ground level at the northern neighbour's property. It does not create any unreasonable visual dominance of the area.

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

Comment:

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The retaining wall does not create any significant bulk and scale in the area.

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

Comment:

The retaining wall does not have any significant impacts on privacy, amenity and solar access. The actual dwelling maintains compliance with the control and provides adequate building separation.

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

Comment:

The retaining wall does not have any impact on views.

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.

B7 Front Boundary Setbacks

Description of non-compliance

The proposed dwelling complies with the front setback control, with the new works being 8m from the front boundary. A wall up to 4m high has been constructed (as shown in green on the plans) between the driveway and entry stairs. This is an element that is considered to comply with the control, as it is part of the entry path/stairs that are a normal and essential part a development. However, it is larger than originally approved under the CDC, and being adjacent to the open driveway creates a visually large bulky element in the front setback from Plateau Road.

There is a strip of soft landscaping between the driveway and wall, and a condition is recommended to plant screen planting in this strip of land, to screen the wall, and minimise the visual impact of the wall. Subject to this condition, the proposal is considered acceptable with regard to the front setback control.

D7 Views

Merit consideration

Concerns were raised by the northern neighbours (5 Plateau Road) regarding loss of views. 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

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

Comment to Principle 1:

The views affected by the development include water views of the ocean to the south east, and district views of Cromer and Dee Why to the south and south west. In accordance with principle 1, the water views are considered relatively valuable, but not iconic, while the district views are not considered to be of high value. It must be noted that the vast majority of view loss has already been caused by the development approved by CDC2015/0235. The additional view loss caused by the works under consideration in this application (shown in green on the plans) are confined to some extra district views to the south at the front of the property, and a small sliver of water filtered by trees view to the south east from the rear of 5 Plateau Road. In this respect, the views overall being affected by the proposed works under the current application are not considered to be highly valuable in the context of these principles.

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 district views affected by the new works are from the front (western) entry deck and south facing living room windows of 5 Plateau Road. The water views affected by the extension to the rear are from the rear deck of 5 Plateau Road. The views are directly across the side boundary and are both sitting and standing.

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:

To the rear, the extra 1m of building at the rear of 3 Plateau Road blocks the small portion of tree filtered water view that remained from the rear deck past the eastern end of the development. However, from a standing position on the rear deck, the water and horizon still

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remains visible above the extension. To the south west, the extension of the master bedroom to the front of 3 Plateau Road will block out a much larger portion of the district views from the south facing living room windows, and from the front entry deck. However, wide district views will also remain to the south and west.

Given that the views are across the side boundary, and that the water views are largely obscured by the existing CDC approval rather than the new works, and that wide district views will remain to the south west from the front deck and west facing front doors, the view loss caused by the additions proposed under the current application is considered to be minor in the context of these principles.

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 is generally compliant with the built form controls, with the exception of the side boundary envelope control. The front setback to the additional works is 8m, which is 1.5m greater than the minimum 6.5m requirement under the DCP. The rear setback is 7.93m, which is an additional 1.93m more than the minimum 6m requirement. The development also complies with the overall height limit. The envelope non-compliance on the northern side of the master bedroom is significant, however, given that it is the height of the development blocking the view to the south (rather than the side of the development), compliance with this control through moving the extension to the south or a different roof design would not create significant gains in terms of district views to the south. Compliance with the envelope *would* possibly maintain greater district views in a south westerly direction from the south facing living room windows. However, as discussed above, these views are across the side boundary, and 5 plateau Road will still maintain wide district views to the south west from the western entry deck and west facing living room glass doors.

Given these considerations, the envelope non-compliance is not considered to have unreasonable impacts on views, and the greater than required front and rear setbacks, and compliant overall height of the development maintain a reasonable sharing of views.

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

Comment:

The design of the additions maintains the design originally approved under the CDC. Given that the proposal is considered to maintain a reasonable sharing of views, the design is considered to be sufficiently innovative.

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

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Comment:

No canopy trees are proposed for removal.

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.

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 proposed new works (shown in green on the plans) do not provide for side and rear setbacks which progressively increase as wall height increases. However, the new works match the existing design of the dwelling as approved under the CDC application. The design is a 'boxy' type design, with a parapet style roof, and is not unusual in modern architecture. The materials and colours used are considered to be attractive, and help to create a building which provides a positive contribution to the streetscape. The overall design of the building is considered to achieve this objective.

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

Comment:

The development is a large dwelling, but it is generally consistent with the built form controls applicable to the site. The overall height of the development provides a visual transition down from the northern neighbour to the southern neighbour, in accordance with the topography. The development is generally consistent with the setback controls and overall height control. There are significant breaches of the side boundary envelope control, however these were approved in large part under the CDC application, and the new works proposed under this application simply maintain the setbacks and design of the building approved under that application.

The setting of the dwelling on the side of a hill means that it does not tower over surrounding development, other than the southern neighbour, but this is normal on a south facing slope. The neighbouring dwelling to the north will remain significantly higher than the dwelling on 3 Plateau Road, also due to the slope, and the overall visual impact from the public domain is not considered to be unreasonable. The impacts on neighbours have been assessed throughout this report, and is not considered to be unreasonable.

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.

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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

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

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

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

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

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

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

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2017/0047 for Use of building as a Dwelling House on land at Lot 17 DP 233078, 3 Plateau Road, COLLAROY, subject to the conditions printed below:

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DEFERRED COMMENCEMENT CONDITIONS

1. Building Certificate

The consent will not become active until a building certificate is issued by Council for the works constructed without approval, as shown shaded green on the approved plans.

Once a building certificate is issued, the applicants must apply to Council to activate the consent.

Reason: To ensure the works completed without approval are in accordance with the relevant building standards. (DACPLADC1)

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. 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
BC100	20.05.2016	AG Design
BC110	20.05.2016	AG Design
BC111	20.05.2016	AG Design
BC112	20.05.2016	AG Design
BC200	20.05.2016	AG Design
BC201	20.05.2016	AG Design
BC202	20.05.2016	AG Design
BC203	20.05.2016	AG Design
BC204	20.05.2016	AG Design
BC205	20.05.2016	AG Design
BC206	20.05.2016	AG Design

Engineering Plans		
Drawing No.	Dated	Prepared By
DA300	21.06.2015	AG Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary Geotechnical Assessment	26 August	Jack Hodgson

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MQ30223	2015	Consultants
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b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

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:

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- (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.

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(f) Where works are to be carried out to a Class 1a building, smoke alarms are to be installed throughout all new and existing portions of that 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 and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

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

(j) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(l) 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.

(m) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at www.warringah.nsw.gov.au

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.
- (o) New solid fuel burning heaters or existing solid fuel heaters affected by building works must comply with the following:
- (1) AS 2918:2001 Domestic Solid Fuel Burning Appliances – Installation.
 - (2) AS 4013:2014 Domestic Solid Fuel Burning Appliances – Method of Determination of Flue Gas Emissions.

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

5. No Approval for works

No approval is given for the following works:

- The rear deck and pool shown on the stormwater plan
- Any retaining wall on the northern neighbour's property

Reason: Works not applied for, and not on subject property. (DACPLBOC2)

FEES / CHARGES / CONTRIBUTIONS

6. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

7. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (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 Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability_rights/buildings/good.htm

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

8. Building Certificate - Unauthorised Works on site

An application for a Building Certificate is to be lodged and approved for all unauthorised works onsite and prior to use or occupation of the unauthorised portions of the building occurring.

A BCA report is to be provided from an appropriately qualified and accredited person for the building and such report being submitted with the Building Certificate application.

Reason: To regularise unauthorised development. (DACPLC15)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. 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

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OCCUPATION CERTIFICATE

10. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

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

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

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

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

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

11. **Screen planting**

Screen planting is to be provided along the northern side of the driveway, between the driveway and the wall adjacent to the entry stairs.

The selected planting is to comprise of species capable of attaining a minimum height of 3 metres at maturity. Planting is to be maintained for the life of the development.

Reason: To mitigate the built form in the front setback area. (DACPLGOG1)

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ATTACHMENT A

Notification Plan	Title	Date
 2017/022103	Plan - Notification	18/01/2017

ATTACHMENT B

Notification Document	Title	Date
 2017/022380	Notification Map	24/01/2017

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ATTACHMENT C

Reference Number	Document	Date
 2017/042663	Compliance Management Referral Response	05/01/2016
 2017/022073	Builders Quote	18/01/2017
 2017/022074	Plans - Survey	18/01/2017
 2017/022103	Plan - Notification	18/01/2017
 2017/022104	Report - Statement of Environmental Effects	18/01/2017
 2017/022075	Report - BASIX Certificate	18/01/2017
 DA2017/0047	3 Plateau Road COLLAROY NSW 2097 - Development Application - Alterations and Additions	23/01/2017
 2017/020632	DA Acknowledgement Letter - Mark Pupo	23/01/2017
 2017/022108	Report - Structural	24/01/2017
 2017/022110	Plans - Stormwater	24/01/2017
 2017/022134	Delete	24/01/2017
 2017/022109	Plans - Shadow Diagrams	24/01/2017
 2017/022137	Plans - Master Set	24/01/2017
 2017/022070	Development Application Form	24/01/2017
 2017/022072	Applicant Details	24/01/2017
 2017/022135	Plans - External	24/01/2017
 2017/022136	Plans- Internal	24/01/2017
 2017/022354	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2017/0047 - 3 Plateau Road COLLAROY NSW 2097 - PR	24/01/2017
 2017/022380	Notification Map	24/01/2017
 2017/022387	Notification Letter - 15	24/01/2017
 2017/023099	Building Assessment Referral Response	25/01/2017
 2017/038784	Questions regarding DA - 3 Plateau Road Collaroy	10/02/2017
 2017/040564	Submission - Farrar	13/02/2017
 2017/079195	Submission - Cutrone	20/03/2017
 2017/079957	Illegal works - DA2017/0047 - 3 Plateau Road Collaroy Plateau	20/03/2017
 2017/086357	Submission Acknowledgement Letter - Gina Cutrone - SA2017/079195	28/03/2017
 2017/093271	Additional information - 3 Plateau Road Collaroy Plateau - BC2017/0003 - DA2017/0047 - Cutrone	29/03/2017
 2017/089618	Working plans	30/03/2017
 2017/116648	Timeline Memo 3 Plateau	28/04/2017
 2017/133103	Geotech report	04/05/2017
 2017/249034	ADP Panel Plans	25/07/2017
 2017/249092 DA2017/0047	DAO Checklist Development Panel Reports - Mark	25/07/2017

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NORTHERN BEACHES COUNCIL

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PANEL PLANS

Document	Title	Date
 2017/249034	ADP Panel Plans	25/07/2017







