

# AGENDA

## NORTHERN BEACHES LOCAL PLANNING PANEL

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

**WEDNESDAY 15 NOVEMBER 2023**

Beginning at 12:00PM for the purpose of considering and determining matters included in this agenda.



**Peter Robinson**  
**Executive Manager Development Assessment**

**Quorum**

A quorum is three Panel members

**Conflict of Interest**

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.



## Agenda for the Northern Beaches Local Planning Panel to be held on Wednesday 15 November 2023

<b>1.0</b>	<b>APOLOGIES &amp; DECLARATIONS OF INTEREST</b>	
<b>2.0</b>	<b>MINUTES OF PREVIOUS MEETING</b>	
2.1	Minutes of Northern Beaches Local Planning Panel held 1 November 2023.....	3
<b>3.0</b>	<b>CATEGORY 3 APPLICATIONS</b>	
<b>4.0</b>	<b>PUBLIC MEETING ITEMS.....</b>	<b>5</b>
4.1	DA2023/0299 - 29 Reddall Street, Manly - Demolition works, subdivision of three lots into five and construction of five new dwelling houses with swimming pools, associated landscaping and parking.....	5
4.2	DA2023/0954 - 10A Lentara Road, Bayview - Alterations and additions to a dwelling house.....	68
4.3	DA2023/0726 - 257 Whale Beach Road, Whale Beach - Construction of an inclinator and associated landscaping works .....	109
<b>5.0</b>	<b>NON PUBLIC MEETING ITEMS.....</b>	<b>157</b>
	A statutory Direction by the Minister of Planning and Public Spaces states the panel is only required to hold a public meeting where the development application has attracted 10 or more unique submissions by way of objection. These applications do not satisfy that criterion.	
5.1	Mod2023/0397 - 42 North Steyne, Manly - Modification of Development Consent DA2021/2257, approved by the Land and Environment Court for alterations and additions to an existing building to comprise shop top housing and strata-subdivision.....	157
5.2	DA2023/1398 - 6 Quinton Road, Manly - Alterations and additions to a dwelling house.....	207
5.3	Mod2023/0493 - 27 Suwarrow Street, Fairlight - Modification of Development Consent DA2019/0011 granted for Alterations and Additions to Manly Golf Club. ....	241

## **ACKNOWLEDGEMENT OF COUNTRY**

As a sign of respect, the Northern Beaches Local Planning Panel acknowledges the traditional custodians of these lands on which we gather and pays respect to Elders past and present.

### **1.0 APOLOGIES & DECLARATIONS OF INTEREST**

Nil

### **2.0 MINUTES OF PREVIOUS MEETING**

#### **2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 1 NOVEMBER 2023**

---

#### **RECOMMENDATION**

That the Panel note that the minutes of the Northern Beaches Local Planning Panel held 1 November 2023 were adopted by the Chairperson and have been posted on Council's website.

---

## 4.0 PUBLIC MEETING ITEMS

ITEM 4.1	DA2023/0299 - 29 REDDALL STREET, MANLY - DEMOLITION WORKS, SUBDIVISION OF THREE LOTS INTO FIVE AND CONSTRUCTION OF FIVE NEW DWELLING HOUSES WITH SWIMMING POOLS, ASSOCIATED LANDSCAPING AND PARKING
AUTHORISING MANAGER	Rod Piggott
TRIM FILE REF	2023/708730
ATTACHMENTS	1 <a href="#">↓ Assessment Report</a> 2 <a href="#">↓ Site Plan &amp; Elevations</a>

### PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection and the development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

---

### RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2023/0299 for the Demolition works, subdivision of three lots into five and construction of five new dwelling houses with swimming pools, associated landscaping and parking. on land at Lot 82 DP 8076,35 Reddall Street, MANLY, Lot 83 DP 8076,31 Reddall Street, MANLY, Lot 84 DP 8076,29 Reddall Street, MANLY for the reasons for refusal set out in the Assessment Report.

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/0299
----------------------------	-------------

<b>Responsible Officer:</b>	Claire Ryan
<b>Land to be developed (Address):</b>	Lot 82 DP 8076, 35 Reddall Street MANLY NSW 2095 Lot 83 DP 8076, 31 Reddall Street MANLY NSW 2095 Lot 84 DP 8076, 29 Reddall Street MANLY NSW 2095
<b>Proposed Development:</b>	Demolition works, subdivision of three lots into five and construction of five new dwelling houses with swimming pools, associated landscaping and parking.
<b>Zoning:</b>	Manly LEP2013 - Land zoned R1 General Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	Yes
<b>Owner:</b>	The Trustees Of The Roman Catholic Church For The Archdiocese Of Sydney Reddall Street Pty Ltd
<b>Applicant:</b>	The Trustee For Reddall Street Trust

<b>Application Lodged:</b>	24/03/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	03/10/2023 to 17/10/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	32
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: 15.3%
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$ 10,810,000.00
---------------------------------	------------------

### EXECUTIVE SUMMARY

This proposal, for demolition works, subdivision of three lots into five and construction of five new dwelling houses with swimming pools, associated landscaping and parking has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to the number of submissions (thirty in objection and two in support), and due to the proposed variation to height of building development standard of 15.3% (9.8 metres where 8.5 metres is allowed).

The applicant lodged an appeal with the Land and Environment Court on 7 August 2023, at the time Council was assessing the application in detail. Consequently, in accordance with Court protocol, no correspondence was entered into with the Applicant about Council's concerns with the application.

The 4.6 request for the non-compliance with height standard arises from the site being partially excavated underneath the existing buildings creating a 15.3% variation for at least one of the proposed new dwelling houses.

Insufficient information has been provided to determine the building height of the other four proposed dwelling houses. Accordingly, a Clause 4.6 may be required if it is demonstrated that these dwellings are also over the 8.5 metre height control.

Based on the applicant lodging an appeal with the Court some of the reasons of refusal may be resolved by additional information being provided, however based on the location of the lots and dwellings the building height and associated view loss issues require accurate information to determine reasonable view sharing is provided. The applicant was advised of issues relating to building height and views at pre-lodgement stage.

Concerns raised in the objections predominantly relate to:

- Traffic congestion and parking concerns;
- Impacts on amenity including view loss and privacy loss;
- Floodwater and stormwater management;
- Impacts to flora and fauna including tree removal;
- Excessive built form and non-compliance with planning controls;
- Excessive excavation; and
- Inconsistency with the character of the area.

The critical assessment issues related to building height, wall height, number of storeys, setbacks, stormwater management, and view sharing.

This report concludes with a recommendation that the NBLPP refused the development application with respect to built form non-compliances, insufficient information, inadequate stormwater management, and view loss.

## PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the following works:

- Demolition of existing structures,
- Subdivision of the existing three lots into five:
  - Three southern lots fronting Reddall Street (Lots 1, 2 and 3) and two northern lots in a battleaxe configuration via College Street (Lots 4 and 5),
  - Lot sizes (excluding access handles), as follows:
    - Lot 1: 486.5m<sup>2</sup>
    - Lot 2: 377.7m<sup>2</sup>
    - Lot 3: 416.8m<sup>2</sup>
    - Lot 4: 329.8m<sup>2</sup>
    - Lot 5: 433m<sup>2</sup>

- Construction of five two-storey dwelling houses (one on each new lot),
- Basement parking accessed via two driveways off College Street:
  - One driveway servicing Lots 1, 2 and 3,
  - One driveway servicing Lots 4 and 5,
- Construction of a swimming pool on each lot, and
- Landscaping works including tree removal.

## ASSESSMENT INTRODUCTION

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

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

## SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.3 Height of buildings  
Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards  
Manly Local Environmental Plan 2013 - 6.2 Earthworks  
Manly Local Environmental Plan 2013 - 6.4 Stormwater management  
Manly Local Environmental Plan 2013 - 6.5 Terrestrial biodiversity  
Manly Local Environmental Plan 2013 - 6.8 Landslide risk  
Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area  
Manly Local Environmental Plan 2013 - 6.12 Essential services  
Manly Development Control Plan - 3.4.2 Privacy and Security  
Manly Development Control Plan - 3.4.3 Maintenance of Views  
Manly Development Control Plan - 3.7 Stormwater Management  
Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)  
Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation  
Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features

## SITE DESCRIPTION

<b>Property Description:</b>	<p>Lot 82 DP 8076 , 35 Reddall Street MANLY NSW 2095</p> <p>Lot 83 DP 8076 , 31 Reddall Street MANLY NSW 2095</p> <p>Lot 84 DP 8076 , 29 Reddall Street MANLY NSW 2095</p>
<b>Detailed Site Description:</b>	<p>The subject site consists of three allotments located on the northern side of Reddall Street, Manly, being Nos. 29, 31 and 35 (Lots 82, 83 and 84 DP 8076).</p> <p>The site is irregular in shape with frontages of 56.98 metres along Reddall Street (with a corner splay of 11.605 metres) and 55.725 metres along College Street, with a maximum depth of 42.67 metres. The site has a surveyed area of 2,352m<sup>2</sup> across the three existing lots.</p> <p>The site is located within the R1 General Residential zone and contains three one- and two-storey detached dwelling houses. No. 29 Reddall Street contains a swimming pool in the rear yard.</p> <p>The site slopes down approximately 8 metres from front (south-west) to rear (north-east). The site contains various trees across the three lots, predominantly in the rear yards and along the side boundaries.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by a variety of residential development types, including detached dwelling houses and residential flat buildings.</p>

Map:



## SITE HISTORY



The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- DA2019/0683 for demolition works and construction of a residential development including residential flat buildings was withdrawn by the Applicant on 13 December 2019.
- Pre-lodgement Meeting PLM2021/0134 was held on 24 June 2021 to discuss subdivision of land and construction of dwelling houses.

#### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 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 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case as the 'deemed refusal of the application was appealed before the NSW Land and Environment Court before such time as a request could be made.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter can be addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the</p>



Section 4.15 Matters for Consideration	Comments
	<p>consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p>Clause 69 of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter can be addressed via a condition of consent.</p> <p>Clause 69 of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

#### EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

#### BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

#### NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 03/10/2023 to 17/10/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 32 submission/s from:

Name:	Address:
Caroline Hey	2 / 11 Reddall Street MANLY NSW 2095
Mr Alexandre Pierre Lacoste Ms Jane Mary Hilton Mark Mcleod	9 Reddall Street MANLY NSW 2095
Miss Carlie Joanne Plummer	1 / 25 Ashburner Street MANLY NSW 2095
Mr Ben Metcalfe	5 / 140 Addison Road MANLY NSW 2095
Mckees Legal Solutions Ms Ikuyo Feldman Barrie Feldman	Po Box 7909 BAULKHAM HILLS NSW 2153
Mrs Kerry Ann Cunningham	7 / 140 Addison Road MANLY NSW 2095
David Edge	1 / 121 Bower Street MANLY NSW 2095
Ms Susan Bryant	2 / 104 Bower Street MANLY NSW 2095
Mr Gregory Douglas Burgess	8 Clarence Crescent COFFS HARBOUR NSW 2450
Ms Sarah Louise Goodman	40 Cliff Street MANLY NSW 2095
Withheld	MANLY NSW 2095
Ms Lisa Kathleen Meadows	113 Bower Street MANLY NSW 2095
Miss Julia Goebel	1 / 117 Bower Street MANLY NSW 2095
Ms Anne Mary Stewart	4 / 49 Addison Road MANLY NSW 2095
Mrs Melinda Tualima	4 / 7 South Steyne MANLY NSW 2095
Ms Merrilee Ann Linegar	2 / 92 Bower Street MANLY NSW 2095
Mrs Mary Anne Vorlicek	6 / 7 College Street MANLY NSW 2095
Mr Stephen John Coll Ms Fleur Leanne Kennedy	5 College Street MANLY NSW 2095
Mrs Deanna Jeanette Bergelin DM Planning Pty Ltd	1 / 28 Reddall Street MANLY NSW 2095
Withheld	MANLY NSW 2095
Mrs Judith Penelope Furniss	4 Cliff Street MANLY NSW 2095
Mr Steven Mason	3 / 28 Reddall Street MANLY NSW 2095
Mr Christopher Drew Brasler	5 Cliff Street MANLY NSW 2095
Mr David John Johnston	5 / 7 College Street MANLY NSW 2095
Mr Rodney Owen Duncan Mrs Karen Duncan	97 Bower Street MANLY NSW 2095
Mr Anson Douglas Blackwood Sewell	80 Wood Street MANLY NSW 2095
BBC Consulting Planners	Level 2 55 Mountain Street ULTIMO NSW 2007
Mrs Michele Ann Hill	2 / 28 Reddall Street MANLY NSW 2095
Mr Warwick King Dawson	2 / 7 College Street MANLY NSW 2095
Mr Justin Alexander Graham Urbaine Architectural	30 Reddall Street MANLY NSW 2095
Ms Julie Louise Meldrum	2 / 102 Bower Street MANLY NSW 2095

Name:	Address:
Rowan Kos	31 Reddall Street MANLY NSW 2095

Thirty-two submissions were received relating to this application. Two were in support and the remaining thirty raised objections, as follows:

- The proposed development is not in keeping with the character of the area, including being in the Foreshore Scenic Protection Area.
- The proposed development presents excessive density and amounts to an over-development.
- The proposed development will result in increased traffic congestion and demand on street parking.
- The proposed development does not provide sufficient open space, landscaping and tree planting, and removes habitat for local wildlife.
- The proposed development will result in unreasonable stormwater runoff and flooding to downstream properties.
- The proposed development breaches built form controls.
- The proposed development will overlook the private open space and windows of No. 95 Bower Street.
- The proposed development will result in loss of views to private properties and from the public domain, and height poles should be erected.
- The proposed development relies on significant excavation.
- The proposed development does not maintain the existing subdivision pattern of the locality.
- The proposed development will result in loss of property value for surrounding properties.
- Construction of the development will be unreasonably disruptive to surrounding residents with respect to noise and vibration.
- Inconsistency between the roof and elevation plans with regard to provision of solar panels.

The above issues are addressed as follows:

#### **Character of the Area**

##### Comment:

The subject site is zoned R1 General Residential, a zone which permits a variety of residential development types with consent, including, but not limited to, detached dwelling houses (such as those proposed), dual occupancies, multi-dwelling housing, and residential flat buildings. The proposed development type is anticipated for this zone. As below, the proposal is also of a density less than anticipated for the area. The proposal is generally acceptable with respect to the requirements of Clause 5.4.1 of the Manly DCP and Clause 6.9 of the Manly LEP, which relate to the Foreshore Scenic Protection Area (FSPA), with the exception of the impact on views. With the exception of the view impact, the proposal is of a type and character anticipated in the FSPA.

#### **Density and Over-development**

##### Comment:

The proposed development provides five dwellings across the 2,352m<sup>2</sup> site, equating to an average of one dwelling per 470m<sup>2</sup> (including access handles), where Clause 4.1.1.1 of the Manly DCP allows for one dwelling per 250m<sup>2</sup>. Therefore, the proposed development is compliant with the maximum density allowed by Clause 4.1.1.1 of the Manly DCP. The area of the site could accommodate a further four dwellings and still be compliant and representative of the anticipated density for the area. As such, the proposal is not considered an over-development of the land.

**Traffic Congestion and Parking**Comment:

The proposal has been reviewed by Council's Traffic Engineer, who is supportive of the proposal subject to conditions of consent, which can be applied if the application is to be determined by way of approval. The proposal will generate minimal vehicular traffic during the peak, and it will not have any unacceptable implications in terms of road network capacity performance. The proposal also includes removal of the three driveway crossovers on Reddall Street and consolidates parking for all five dwellings to two driveways on College Street, rather than providing one driveway per dwelling, totalling five. This is a positive outcome for parking: three on-street parking spaces are gained on Reddall Street, two on-street parking spaces are lost on College Street (meaning a net gain of one space), and two off-street parking spaces are provided per dwelling to support occupants of the proposed dwellings in accordance with the requirements of Schedule 3 Parking and Access of the Manly DCP.

**Open Space, Vegetation and Local Wildlife**Comment:

The proposed development provides compliant total open space and landscaped area, in accordance with the requirements of Clause 4.1.5 of the Manly DCP. The proposal has been reviewed by Council's Landscape Officer and Bushland & Biodiversity team. No objections are raised with respect to landscaping or impact to flora and fauna subject to conditions of consent, which can be applied if the application is to be determined by way of approval.

**Stormwater Runoff and Flooding**Comment:

The proposal has been reviewed by Council's Development Engineer, who has raised concern with the proposed development, with respect to stormwater management measures. This is included as a reason for refusal.

**Breaches to Built Form Controls**Comment:

Any non-compliance with built form controls is addressed in the relevant section of this report. Unacceptable non-compliant elements are included as reasons for refusal.

**Amenity - Visual Privacy, View Loss**Comment:

The proposed development is acceptable with respect to visual privacy for the reasons detailed in the section of this report relating to Clause 3.4.2 Privacy and Security of the Manly DCP. The proposed development is assessed with respect to view loss in the section of this report relating to Clause 3.4.3 Maintenance of Views of the Manly DCP.

**Excavation**Comment:

Excavation for the basement generally follows the built-upon footprint of the proposed lots. The exceptions to this are for the proposed driveways, which is not an unacceptable outcome. The proposed development is supported by a geotechnical assessment report, which demonstrates acceptably low risk for the works. The proposed basement excavation presents the benefit of consolidating parking for the proposed new lots, thereby limiting the number of driveways to two, rather than one per dwelling, totalling five. With respect to potential for damage to adjoining properties due to demolition, excavation or construction, conditions of consent requiring pre-commencement and post-completion dilapidation reports can be applied if the application is to be determined by way of approval.

**Subdivision Pattern**Comment:

The proposed new lots are compliant with the minimum subdivision lot size set by Clause 4.1 of the Manly LEP. The proposed development is also compliant with the requirements of Clause 4.4.8 Subdivision of the Manly DCP. The subject site is currently developed with three dwellings presenting to Reddall Street. This presentation is retained with the proposed subdivision. The only difference in subdivision pattern is the presentation to College Street, with the introduction of one new dwelling fronting the street (given the fifth dwelling is in a battle-axe formation and is not street-facing). The proposal replicates the lot width of No. 95 Bower Street to the north-east as it presents to College Street. In this way, the proposed development is not inconsistent with the existing subdivision pattern or street pattern.

### Property Value

#### Comment:

Impact of a proposed development on the value of nearby properties is not a planning matter for consideration under Section 4.15 Evaluation of the *Environmental Planning and Assessment Act 1979* and is, therefore, not a reason for refusal.

### Construction Impacts

#### Comment:

Council's Traffic Engineer has recommended conditions of consent requiring a Demolition Traffic Management Plan and a Construction Traffic Management Plan. The demolition and construction impacts of the proposed development can be managed with the preparation and implementation of these documents. These conditions can be applied if the application is to be determined by way of approval.

### Solar Panels

#### Comment:

The submitted proposed roof plan indicates solar panels on the roofs of the five dwellings. Details of the solar panels are not shown on elevations or sections. Notwithstanding this, development for the purpose of solar energy systems (e.g., a photovoltaic electricity generating system, solar hot water system or solar air heating system) is specified as exempt development under *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Part 2.3, Division 5, Subclause 2.41(4) Exempt Development. This means that deletion of the structures would be moot, as they can be constructed without consent.

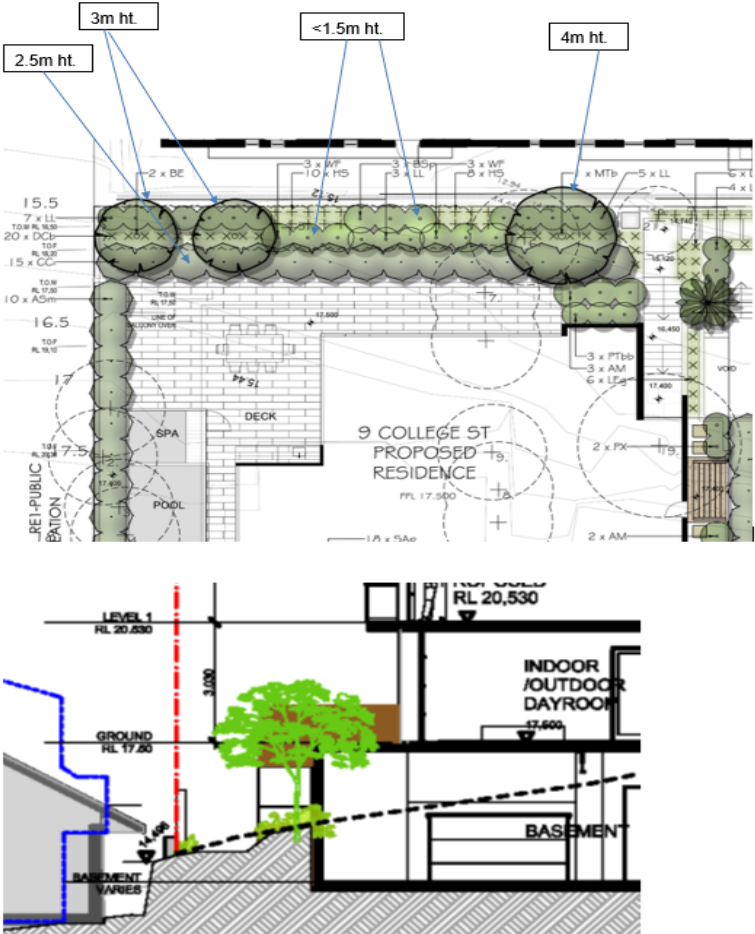
### REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p><b>Supported, subject to conditions of consent (if approved):</b></p> <p>The application seeks consent for demolition works, subdivision of three lots into five and construction of five new dwelling houses with swimming pools, associated landscaping and parking.</p> <p>The Arborist's report prepared by Urban Forestry Australia and Landscape Plans prepared by iScape are noted.</p> <p>The Arborist's Report indicates that 18 exempt trees are to be removed, 13 non-exempt trees are to be removed and 2 trees on the adjoining Council Reserve are to be removed.</p> <p>Of the non-exempt trees to be removed, only 1 tree, T19, <i>Ficus rubiginosa</i></p>

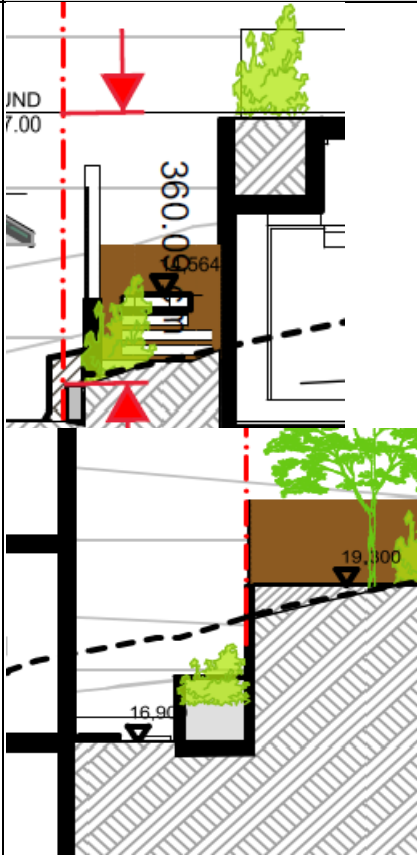
Internal Referral Body	Comments
	<p>(Port Jackson Fig) is rated Medium retention value. All other trees have been rated Low retention value.</p> <p>T19 is described a being in Fair condition and <i>Locally indigenous species</i>. <i>Codominant stem to S removed, with resulting epicormic growth low on remaining stem and pruned stub. Falls well within the proposed development footprint and would be removed.</i></p> <p>The two trees on Council's reserve are immediately adjacent to the property boundary. The trees are T10 <i>Ficus benjamina</i> (Weeping Fig) and T11 <i>Nerium oleander</i> (Oleander).</p> <p>T10 is described as being in Fair condition and <i>Introduced exotic species</i>. <i>On Council reserve. Has been topped and lopped. Salt burn to leaves. F. benjamina</i> is an exempt species under Manly DCP.</p> <p>T11 is described as being in Fair condition and <i>Introduced exotic species</i>. <i>On Council land. N. oleander</i> is an exempt species under Manly DCP.</p> <p>No objections are raised to the proposed tree removals, subject to replanting.</p> <p>The documentation and SEE indicate that the required landscaped open space and soft landscape areas are compliant with the planning controls. Assessment of such is left to planning assessment, however, some aspects of the proposed landscape works may be in conflict with other planning requirements, as discussed below:</p> <p>1. Landscape plans indicate planting to achieve a height of 1.0 - 1.5 metres height along the rear of No 8 College St. at terrace height</p> <p>Based on the Sections provided, overlooking into the yard and internal space of No. 95 Bower St may be an issue requiring further planning assessment. (Extract from Landscape Plans and Sections 8 College Street below)</p>

Internal Referral Body	Comments
	 <p>2. Similar applies to No 9 College St. (Extract from Landscape Plans and Sections 9 College Street below)</p>



Internal Referral Body	Comments
	 <p>3. In general terms, the rear retaining walls are quite high (&gt;3 metres height). Built form will be predominant and subsequently cannot rely on soft landscape for amelioration. (Section extract below).</p>



Internal Referral Body	Comments
	 <p>Conditions have been provided if consent to the proposal is to be granted.</p>
NECC (Bushland and Biodiversity)	<p><b>Supported, subject to conditions of consent (if approved):</b></p> <p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> <li>• NSW Biodiversity Conservation Act 2016 (BC Act)</li> <li>• Manly LEP Clause 6.5 Terrestrial Biodiversity</li> <li>• Manly DCP Clause 5.4.2 Threatened Species and Critical Habitat Lands</li> <li>• Manly DCP Clause 3.3.1 Landscape Design - Bandicoot Habitat</li> </ul> <p>The subject site is located within the declared habitat area of the endangered population of Long-nosed Bandicoots at North Head, and as such, requires a threatened species 'test of significance' to be undertaken in accordance with s.73 of the BC Act. The submitted Flora and Fauna Impact Assessment includes tests of significance for the endangered bandicoot population, grey-headed flying-fox and yellow-bellied sheath-tail-bat, and concludes that the proposal will not result in a significant impact to these threatened entities due</p>

Internal Referral Body	Comments
	<p>to the extent of alternative habitat available within the local area. This conclusion is concurred with; however, it is considered that demolition and construction activities may result in direct impacts to individual animals without appropriate management and staging.</p> <p>There is currently substantial good quality bandicoot habitat within the immediate vicinity which would already constitute part of the home range of any bandicoots utilising the subject site. Inspections undertaken by the consulting ecologist in 2021 and 2022, and a Council Biodiversity Officer in 2021 and 2023, identified no bandicoot nesting sites within the properties. Thus it is considered that construction and demolition works can be undertaken without resulting in direct impact to individual bandicoots, subject to appropriate mitigation measures. A Construction and Demolition Environmental Management Plan (CDEMP) must be prepared to ensure that works are managed and staged in such a way as to provide adequate refugia to allow bandicoots to self-relocate as required. This will be conditioned, in addition to measures to retain bandicoot access within the site and to adjoining lands.</p> <p>The development will require the removal of almost all existing vegetation on the properties. However, only one tree proposed for removal is locally indigenous (Tree 19 - <i>Ficus rubiginosa</i>), while three others are non-locally native or cultivated varieties. The remaining trees proposed for removal are either exotic or exempt and do not constitute part of a natural vegetation community. This is verified by inspections undertaken in 2021 and 2023 which confirmed that existing vegetation on the properties mainly comprises exotic and weedy species.</p> <p>It is noted that the submitted Landscape Plans are compliant with applicable Landscaped Area and bandicoot habitat landscaping requirements of the Manly DCP. However, given the extent of vegetation removal required to facilitate construction, amendments to the planting schedule are considered warranted in order to retain and improve habitat values on the site. This will be conditioned, noting that additional amendments may also be recommended by Council's Landscape referrals section.</p>
NECC (Coast and Catchments)	<p><b>Supported, subject to conditions of consent (if approved):</b></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Coastal Management Act 2016;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.11 &amp; 2.12);</li> <li>• State Environmental Planning Policy (Biodiversity &amp; Conservation) 2021</li> <li>• Relevant LEP and DCP clauses.</li> </ul> <p><b>State Environmental Planning Policy (Resilience &amp; Hazards) 2021</b> The subject land has been included on the and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience &amp; Hazards) 2021 (SEPP R &amp; H). Hence, Clauses 2.11 and 2.12 of the CM (R &amp; H) apply for this DA.</p>

Internal Referral Body	Comments
	<p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by BBF Town Planners dated February 2023 , the DA satisfies requirements under clauses 2.11 and 2.12 of the SEPP R&amp;H.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience &amp; Hazards) 2021.</p> <p><b>Manly LEP 2013 and Manly DCP</b></p> <p><b>Foreshores Scenic Protection Area Management</b></p> <p>The subject site is also shown to be as "Manly Foreshores Scenic Protection Area" on Council's Foreshores Scenic Protection Area in Manly LEP 2013. As such, Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013 will apply to proposed development on the site.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by BBF Town Planners dated February 2023, the DA satisfies requirements under Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013.</p> <p>As such, it is considered that the application does comply with the requirements of the Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013.</p>
NECC (Development Engineering)	<p><b>Unsupported:</b></p> <p><u>Original Comments:</u></p> <p>The stormwater drainage plans as prepared by Accor consulting engineers are not supported for the following reasons.</p> <p>1) A DRAINS model is to be prepared and submitted to Council for review to determine the On Site Stormwater Detention volumes and Permitted site discharge (PSD) required in accordance with Councils Water management for development policy. As the property is located in the Manly area Zone 1 the post developed PSD is to be limited to the 20%AEP pre- developed condition assuming 250m2 of impervious area.</p> <p>2) The stormwater plans are to document the minimum information required as per section 9.7.3 of Councils Water management for development policy.</p> <p><u>Updated Comments 16 June 2023:</u></p> <p>1) The DRAINS model has been reviewed and the post developed discharges do not meet the predeveloped condition ie As the property is located in the Manly area Zone 1 the post developed PSD is to be limited to the 20%AEP pre- developed condition assuming 250m2 of impervious area. The on site detention volumes will need to be increased to meet this</p>

Internal Referral Body	Comments				
	<p>requirement.</p> <p>2) The DRAINS model has represented by one detention tank however the drainage plans as prepared by Accor consultants detail 5 individual OSD/rainwater tanks . The DRAINS model needs to be amended to reflect the 5 individual OSD/rainwater tanks.</p> <p>3)The DRAINS model has used ARR 1987 IFD rainfall data ,the 2019 ARR Rainfall data is to be used.</p> <p>4)The stormwater plans are to document the minimum information required as per section 9.7.3 of Councils Water management for development policy. The drainage plans are to detail the outlet pipe cross section within the footpath area in relation to existing services.</p> <p>The application is not supported.</p>				
NECC (Flooding)	<p><b>Supported without conditions of consent (if approved):</b></p> <p>The property has a small area of Medium Flood Risk Precinct in the north-east side of the site.</p> <p>There are no flood related objections.</p>				
NECC (Water Management)	<p><b>Unsupported:</b></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"><li>• Supplied plans and reports;</li><li>• Northern Beaches Water Management for Development Policy (WM Policy); and</li><li>• Relevant LEP and DCP clauses</li></ul> <p>The proposal increases impervious surfaces on site and triggers the Table 5 – General Stormwater Quality Requirements of the Council Water Management for Development Policy.</p> <p>The information provided to demonstrate compliance with Table 5 is insufficient. To properly assess the water management, the MUSIC model water reuse parameters are required. The applicant must provide the MUSIC file.</p> <p>The proposal cannot be supported in its current form.</p>				
Strategic and Place Planning (Heritage Officer)	<p><b>Supported without conditions</b></p> <table><tr><th>HERITAGE COMMENTS</th></tr><tr><td>Discussion of reason for referral</td></tr><tr><td><p>The proposal has been referred to Heritage as the subject site is within the vicinity of a number of heritage items, listed in Schedule 5 of Manly Local Environmental Plan 2013:</p><p><b>Item I131 - St Patrick's Estate</b> - 151 Darley Road, Manly (State)</p><p><b>Item I220 - Item I220 – House “Logan Brae”</b> - 32 Reddall Street, Manly</p><p><b>Item I01 - House, “Bower Hall”</b> - 101 Bower Street, Manly</p></td></tr><tr><td>Details of heritage items affected</td></tr></table>	HERITAGE COMMENTS	Discussion of reason for referral	<p>The proposal has been referred to Heritage as the subject site is within the vicinity of a number of heritage items, listed in Schedule 5 of Manly Local Environmental Plan 2013:</p> <p><b>Item I131 - St Patrick's Estate</b> - 151 Darley Road, Manly (State)</p> <p><b>Item I220 - Item I220 – House “Logan Brae”</b> - 32 Reddall Street, Manly</p> <p><b>Item I01 - House, “Bower Hall”</b> - 101 Bower Street, Manly</p>	Details of heritage items affected
HERITAGE COMMENTS					
Discussion of reason for referral					
<p>The proposal has been referred to Heritage as the subject site is within the vicinity of a number of heritage items, listed in Schedule 5 of Manly Local Environmental Plan 2013:</p> <p><b>Item I131 - St Patrick's Estate</b> - 151 Darley Road, Manly (State)</p> <p><b>Item I220 - Item I220 – House “Logan Brae”</b> - 32 Reddall Street, Manly</p> <p><b>Item I01 - House, “Bower Hall”</b> - 101 Bower Street, Manly</p>					
Details of heritage items affected					

Internal Referral Body	Comments																		
	<p>Details of the heritage items, as contained within the Northern Beaches Heritage Inventory are:</p> <p><b>Item I131 - St Patrick's Estate</b> <u>Statement of significance</u> St Patrick's Estate is a site of national heritage significance. The unparalleled grandeur of the cultural landscape, including its setting, buildings and landscape components, as well as the history it embodies, reflects a unique physical manifestation of the Catholic Church in Australia, not seen in any other location in the country. The site exemplifies an important period in the Church's history in Australia, as well as the vision of Cardinal Moran, and for that reason has great significant to Australian Catholics, as well as the broader community. The built elements, particularly Moran House with its Gothic Revival architectural style, reflect both the romanticism of Cardinal Moran's vision for the Australian Catholic Church, as well as the austere nature of the Church at that time. Sited on the prominent northern side of North Head, overlooking Manly and the surrounding area, St Patrick's has become a landmark recognised by locals and visitors alike. Despite recent redevelopments of parts of the site, and the adaptive reuse of the key buildings, the site has retained its integrity and still presents as a cohesive whole.</p> <p><b>Item I220 – House “Logan Brae”</b> <u>Statement of Significance</u> A spectacular and finely detailed example of Inter-War California Bungalow on a corner site. Featuring cobbled front, elaborate gable ends facing each. Street frontage. A fine example of California Bungalow Style building. <u>Physical Description</u> Single storey Inter-War California Bungalow on a corner site, constructed of dark face brick. Features elaborate gable ends to each street frontage, cobbled finish to front verandah base and columns, diamond-pattern leadlight casement windows. Original dark face brick front fence. Diamond - pattern leadlight casement windows.</p> <p><b>Item I01 - House, “Bower Hall”</b> <u>Statement of Significance</u></p> <table><tr><th colspan="3">Other relevant heritage listings</th></tr><tr><td>SEPP (Biodiversity and Conservation) 2021</td><td>No</td><td></td></tr><tr><td>Australian Heritage Register</td><td>No</td><td></td></tr><tr><td>NSW State Heritage Register</td><td>No</td><td>In the vicinity of St Patrick's Estate which is State listed</td></tr><tr><td>National Trust of Aust (NSW) Register</td><td>No</td><td></td></tr><tr><td>RAIA Register of 20th Century Buildings of</td><td>No</td><td></td></tr></table>	Other relevant heritage listings			SEPP (Biodiversity and Conservation) 2021	No		Australian Heritage Register	No		NSW State Heritage Register	No	In the vicinity of St Patrick's Estate which is State listed	National Trust of Aust (NSW) Register	No		RAIA Register of 20th Century Buildings of	No	
Other relevant heritage listings																			
SEPP (Biodiversity and Conservation) 2021	No																		
Australian Heritage Register	No																		
NSW State Heritage Register	No	In the vicinity of St Patrick's Estate which is State listed																	
National Trust of Aust (NSW) Register	No																		
RAIA Register of 20th Century Buildings of	No																		

Internal Referral Body	Comments
	Significance
	Other No
	Consideration of Application
	<p>The proposal seeks consent for the demolition of all existing structures and landscaping on the subject site, the subdivision of three lots into five lots and the construction of five detached, two storey dwellings with basement level parking, swimming pools and storage areas. The subject site is not a heritage item but is within the vicinity of a number of items, including 35 Reddall Street and the St Partick's Estate.</p> <p>Heritage initially objected to the proposal for its impact upon the streetscape and setting around the heritage items. While Heritage maintains a more skillful design for the proposal could respond in a more nuanced and considered way, it will no longer object to the proposal as it is not located directly upon a heritage item.</p> <p>Therefore Heritage no longer raises any objections to the proposal and requires no conditions.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u>  Is a Conservation Management Plan (CMP) Required? No  Has a CMP been provided? No  Is a Heritage Impact Statement required? Yes  Has a Heritage Impact Statement been provided? Yes</p>
Traffic Engineer	<p><b>Supported, subject to conditions (if approved):</b></p> <p>The traffic team has reviewed the following documents:</p> <ul style="list-style-type: none"> <li>• <i>Transport and Parking Impact Assessment</i>, Reference 21271, Issue: Final C, prepared by Transport Strategies dated 01/02/2023,</li> <li>• The <i>Statement of Environment Effects</i> prepared by BBF Town Planners dated February 2023, and</li> <li>• Plans (Master Set) – designed by WOLSKI.COPPIN ARCHITECTURE, dated 25/01/2023.</li> </ul> <p><u>Parking requirement and design:</u></p> <ul style="list-style-type: none"> <li>• The Manly DCP applies to the subject site. Under the DCP, two (2) parking spaces per dwelling is required for a dwelling house. As 10 parking spaces (in the form of 5 double garages) have been provided, the proposal comprising five (5) residential dwellings provides adequately for the parking needs generated by the development.</li> </ul>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>Given that the residential parking supply meets DCP requirements, the parking needs of residents will be adequately addressed, and residents of the development will therefore not be eligible for resident parking permits. This will be conditioned.</li> <li>Under the DCP, a secure storage area capable of accommodating at least two adult-sized bicycles are required for each dwelling house. It is reported in the Traffic report that all 5 garages can accommodate 2 bicycle spaces, in compliance with the DCP.</li> <li>The double garages' layout appears to be compliant with Australian Standards AS2890.1:2004 Off-Street Parking requirements. However, the driveway and the internal area have not been dimensioned on the architectural plans. The plans should be accompanied by dimensioned driveway width and internal area widths. This will be conditioned.</li> <li>A circulation roadway width of approximately 3m to 5.4m has been proposed on the plans. The circulation roadway is more than 30m, triggering the requirement for a long driveway to be provided with a vehicle passing opportunity. This is to allow a vehicle to exit the driveway while another vehicle is waiting in the passing bay (i.e. a minimum width of 5.5m according to AS2890.1:2004 Off Street Car Parking Section 3.2.2). However, the sight distance from one end to the other is not restricted, and there are also not more than 3 vehicle trips per hour being generated from/to the subject site. Therefore, the proposed circulation aisle widths are deemed acceptable.</li> <li>It is noted that swept path plots demonstrating satisfactory access to and from the parking spaces to the street are included in the traffic report.</li> <li>The driveway and ramp gradients appear satisfactory, and it is noted that vertical clearance plots for a Sports Car are included in the traffic report, however the assessment on the driveway ramp should be undertaken for a B99 car entering and accessing the garages to demonstrate that there is adequate overhead clearance and that scraping and bottoming does not occur. This will be conditioned.</li> </ul> <p><u>Vehicle Access</u></p> <ul style="list-style-type: none"> <li>It is noted that the three (3) existing vehicular crossings along Reddall Street will be removed, resulting in 3 additional unrestricted on-street parking spaces along this street if these are reinstated to kerb and gutter.</li> <li>Vehicular access to the proposed garages will be provided via two (2) new entry/exit driveways along the College Street frontage. This would result in the loss of two (2) on-street parking spaces to facilitate access to on-site parking for the new dwellings. Council does not oppose the resultant loss of on-</li> </ul>

Internal Referral Body	Comments
	<p>street parking spaces along College Street given that a provision of off-street parking spaces to support the development is a DCP requirement, and in total, there would be a net increase of one (1) on-street parking space associated with development works.</p> <ul style="list-style-type: none"> <li>According to the TfNSW Guide to Traffic Generating Developments section 6.2, direct access across the boundary with a major road is to be avoided wherever possible. The site has no frontages with major roads with access solely to local streets (both Reddall Street and College Street are local streets). There is little difference in terms of safety if vehicle crossing locations are moved from Reddall Street to College Street and the access to/from College Street is considered acceptable given that: <ul style="list-style-type: none"> <li>the road hierarchy on College Street is similar to Reddall Street, and the development would generate minimal vehicular traffic.</li> </ul> </li> </ul> <p><u>Pedestrian safety and sightlines</u></p> <ul style="list-style-type: none"> <li>AS/NZS 2890.1:2004 requires that a pedestrian sightline triangle of 2.0 metres by 2.5 metres be provided at the point where the vehicle accesses meet the property boundary, to ensure adequate pedestrian visibility for exiting vehicles. This does not appear to have been provided however the applicant proposes to reconstruct and relocate the footpath nearer to the kerb alignment which will ensure that pedestrians walking along the sites College Street frontage will be more visible to vehicles exiting the new driveways. Details for the new footpath have not been provided but this will be conditioned.</li> </ul> <p><u>Traffic Impact</u></p> <ul style="list-style-type: none"> <li>The proposal will generate minimal vehicular traffic during the peak, and it will not have any unacceptable implications in terms of road network capacity performance.</li> </ul>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations can be included as a condition of consent.

#### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

#### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. 1344556S\_05 dated 23 January 2023). The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	84

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

#### **SEPP (Transport and Infrastructure) 2021**

##### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

##### Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations can be included as a condition of consent.

#### **SEPP (Resilience and Hazards) 2021**

##### **Chapter 2 – Coastal Management**

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

#### **Division 4 Coastal use area**

##### **2.11 Development on land within the coastal use area**

- 1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
  - a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
    - i) *existing, safe access to and along the foreshore, beach, headland or rock*
    - ii) *platform for members of the public, including persons with a disability,*
    - iii) *overshadowing, wind funnelling and the loss of views from public places to*
    - iv) *foreshores,*
    - v) *the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and*
  - b) *is satisfied that:*
    - i) *the development is designed, sited and will be managed to avoid an*
    - ii) *adverse impact referred to in paragraph (a), or*
    - iii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
  - c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment:

The proposed development is fully located on private land, so does not cause adverse impact upon public foreshore, beach, headland or rock platform land. The proposed development does not cause adverse impact on persons with a disability as it does not alter public access. The proposed around the site beyond installation of driveways. The development is supported by shadow diagrams that demonstrate acceptable overshadowing impact. The proposed development is designed such that it does not increase wind funnelling. An assessment of the proposed development with respect to view sharing is detailed in the section of this report relating to Clause 3.4.3 Maintenance of Views of the Manly DCP 2013. The subject site is not classified as containing Aboriginal heritage significance. In this way, the proposed development is demonstrably designed, sited and will be managed to avoid adverse impact. The bulk and scale of the proposed development has been considered throughout this assessment.

#### **Division 5 General**

##### **2.12 Development in coastal zone generally—development not to increase risk of coastal hazards**

*Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

Comment:

The proposed development is demonstrably designed and sited so as not to cause increased risk of coastal hazard on the subject site or surrounding land.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

#### **Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

### Manly Local Environmental Plan 2013

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

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	250m <sup>2</sup>	Lot 1: 486.5m <sup>2</sup>	-	Yes
		Lot 2: 377.7m <sup>2</sup> (468.5m <sup>2</sup> incl. handle)		
		Lot 3: 416.8m <sup>2</sup> (497.2m <sup>2</sup> incl. handle)		
		Lot 4: 329.8m <sup>2</sup> (455.1m <sup>2</sup> incl. handle)		
		Lot 5: 433m <sup>2</sup> (473.7m <sup>2</sup> incl. handle)		
Height of Buildings:	8.5m	Lot 1: 9.8m*	15.3%	No
		Lot 2: 8.3m*	-	Yes
		Lot 3: 8.2m*		
		Lot 4: 8.5m		
		Lot 5: 7.6m		
Floor Space Ratio	FSR: 0.6:1	Lot 1: 0.57:1 (277.3m <sup>2</sup> )	-	Yes
		Lot 2: 0.59:1 (277m <sup>2</sup> )		
		Lot 3: 0.59:1 (295.7m <sup>2</sup> )		
		Lot 4: 0.59:1 (267.4m <sup>2</sup> )		
		Lot 5: 0.59:1 (279m <sup>2</sup> )		

\* Building height is calculated from the existing ground level, whether disturbed or undisturbed: see *Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582*. Insufficient information has been provided in this regard, as detailed in the section of this report relating to Clause 4.3 Height of Buildings of the Manly LEP 2013.

### Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision—consent requirements	Yes
2.7 Demolition requires development consent	Yes
4.1 Minimum subdivision lot size	Yes
4.3 Height of buildings	No
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	No
5.21 Flood planning	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	No
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	No
6.9 Foreshore scenic protection area	No
6.12 Essential services	Yes

#### Detailed Assessment

#### **4.3 Height of buildings**

The proposed development is not compliant with the height of buildings development standard in Clause 4.3 of the MLEP. Building height is calculated from the existing ground level, whether disturbed or undisturbed, as per the judgement in *Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582* by the NSW Land and Environment Court.

The proposed development presents variation to the development standard contained within Clause 4.3 of the MLEP, as at least one of the proposed dwelling houses breaches the maximum height of 8.5 metres above the existing ground levels (i.e. the ground levels of the existing dwelling houses). The dwelling house on proposed Lot 1 includes a height of up to 9.8 metres, where a maximum of 8.5 metres is allowable. It is anticipated that the dwelling houses on proposed Lots 2 and 3 will also breach the maximum building height, though insufficient information has been provided to establish the exact extent of the numerical non-compliance.

The submitted elevation and section plans do not demonstrate existing ground levels (including where disturbed by development) and extrapolated natural ground levels. Further, the proposed development is not supported by a written request to vary the development standard contained within Clause 4.3 of the MLEP, in accordance with Clause 4.6 Exceptions to Development Standards of the MLEP. It is anticipated that the proposed development will result in view loss attributable to the non-compliant height of buildings, in contravention of objective (c)(ii) of Clause 4.3 of MLEP, which provides:

(c) to minimise disruption to the following—

(i) views to nearby residential development from public spaces (including the harbour and foreshores)

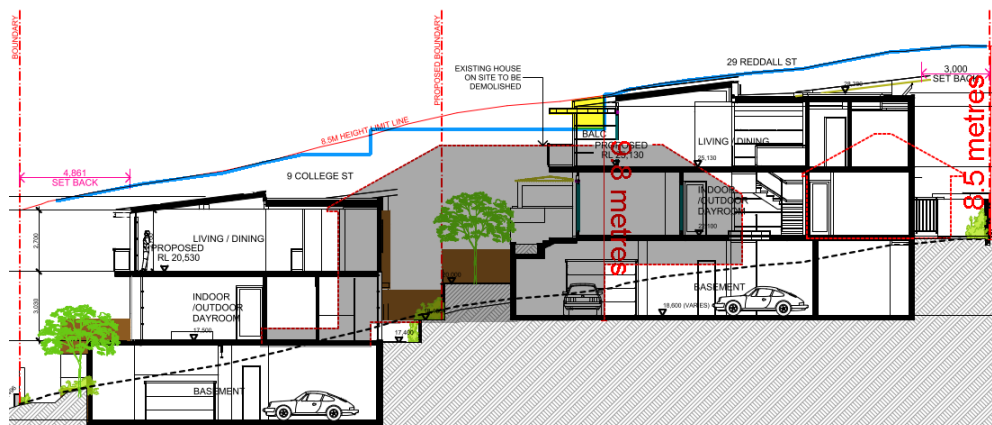
This is included as a reason for refusal.

#### **4.6 Exceptions to development standards**

Description of non-compliance:

Building height is calculated from the existing ground level, whether disturbed or undisturbed, as per the judgement in *Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582* by the NSW Land and Environment Court. The proposed development presents variation to the development standard contained within Clause 4.3 of the MLEP, as at least one of the the proposed dwelling houses breaches the maximum height of 8.5 metres above the existing ground levels (i.e. the ground levels of the existing dwelling houses). The dwelling house on proposed Lot 1 includes a height of up to 9.8 metres, where a maximum of 8.5 metres is allowable. It is anticipated that the dwelling houses on proposed Lots 2 and 3 may also breach the maximum building height, though insufficient information has been provided to establish the exact extent of the numerical non-compliance.

Development standard:	Height of Buildings
Requirement:	8.5m
Proposed:	9.8m
Percentage variation to requirement:	15.3%

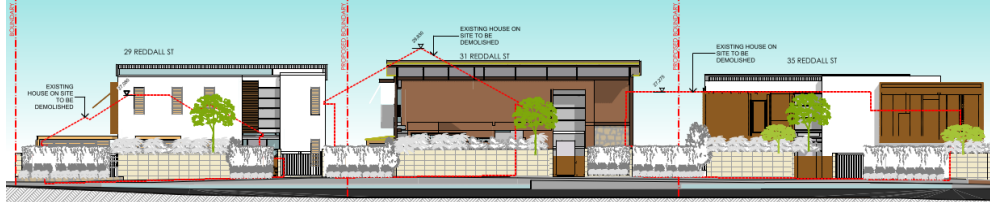


Above: The section through the proposed dwelling houses on proposed Lot 1 (uphill) and proposed Lot 5 (downhill). The extent of the height of buildings breach is highlighted in yellow and is due to the historical excavation for the existing dwelling, shadowed above.



Above: The existing ridge RLs of Nos. 29, 31 and 35 Reddall Street (left to right), as photographed

from Unit 5, 7 College Street, Manly.



Above: The south-western elevation of the three proposed dwellings facing Reddall Street.

From left to right with reference to the above elevation, the Reduced Levels (RLs) of the roofs of the existing and proposed dwellings fronting Reddall Street are:

- No. 29 Reddall Street: Existing RL 27.08, proposed RL 28.38 = Increase of 1.3 metres
- No. 31 Reddall Street: Existing RL 29.83, proposed RL 29.231 = decrease of 698 millimetres (though increased dwelling width)
- No. 35 Reddall Street: Existing RL 27.275, proposed RL 28.40 = increase of 1.125 metres

It should be noted the proposed dwellings and their ridges are in different locations to the existing dwellings.

Assessment of request to vary a development standard:

The following assessment of the variation to the development standard set by Clause 4.3 Height of Buildings has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

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

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 4.3 Height of Buildings is not expressly excluded from the operation of this clause.

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development*



standard.

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Secretary has been obtained.*

**Clause 4.6 (4)(a)(i) (Justification) Assessment:**

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two separate matters for consideration contained within Clause 4.6(3) and these are addressed as follows:

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment:

The Applicant has not submitted a written request to vary the development standard. In this regard, the Applicant has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case or that there are sufficient environmental planning grounds to justify the contravention, as required by Clause 4.6(3)(a) and (b) of the Manly LEP.

**Clause 4.6 (4)(a)(ii) (Public Interest) Assessment:**

Clause 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R1 General Residential zone. An assessment against these objectives is provided below.

**Development Standard Objectives**

The underlying objectives of Clause 4.3 Height of Buildings are addressed as follows:

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

Comment:

The proposed development includes sloping skillion and flat roof forms to all five proposed dwellings. These roof forms are of a more modern design than those of the existing three dwellings, though are not uncommon in the locality, and are acceptable with respect to the topography, in that the slope follows that of the land (as shown in the above diagram). The roof forms serve to reduce the overall height of the dwellings, compared to if a hipped or gabled pitched roof form was proposed.

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

The proposed development demonstrates compliance with the maximum floor space ratio set by Clause 4.4 of the Manly LEP, which controls the bulk and scale of buildings. The proposed dwellings are of an overall bulk and scale anticipated for the site and 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:

The proposed development results in view loss to a number of properties to the south, south-east and south-west. This is assessed in the section of this report relating to Clause 3.4.3 Maintenance of Views of the Manly DCP and is included as a reason for refusal.

*(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:

The proposed development is compliant with the requirements of Clause 3.4.1 Sunlight Access and Overshadowing of the Manly DCP, and is therefore acceptable with respect to solar access.

*(e) to ensure the height and bulk of any proposed building or structure in a recreation or conservation 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 subject site is zoned R1 General Residential.

**Zone Objectives**

The underlying objectives of the R1 General Residential zone are addressed as follows:

*To provide for the housing needs of the community.*Comment:

The proposal increases the number of houses on the land from three to five, thereby providing for the housing needs of the community.

*To provide for a variety of housing types and densities.*Comment:

The proposal contributes to the variety of housing types and densities in the locality, in that it replaces three dwellings with five four-bedroom dwelling houses.

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

Not applicable. The proposed development retains the residential use of the site.

**Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment:**



Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted. Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. Given the inconsistency of the variation to the objectives of the zone, the concurrence of the Director-General for the variation to the height of buildings development standard can not be assumed.

## 6.2 Earthworks

The objectives of Clause 6.2 Earthworks require development:

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

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

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

Comment:

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

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

Comment:

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

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

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition can be included in the recommendation of this report requiring any fill to be of a suitable quality.

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

Comment:

The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions can be included in the recommendation of this report to limit impacts during excavation/construction.

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

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition can be included in the recommendation of this report requiring any fill to be of a suitable quality.

- (f) the likelihood of disturbing relics*

Comment:

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

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

Comment:

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

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

Comment:

Conditions can be included in the recommendation of this report that will minimise the impacts of the development.

#### **6.4 Stormwater management**

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

*(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*

Comment:

The development will provide a suitable amount of permeable surfaces given the zoning of the land and the proposed use. In this regard, the consent authority is satisfied that the design will maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water.

*(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*

Comment:

On-site stormwater retention has been incorporated into the development.

*(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

Comment:

The proposal has been assessed by Council's Development Engineers who have raised objection with respect to the proposed stormwater management measures. In this regard, the consent authority cannot be satisfied that the development will minimise any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters. This is included as a reason for refusal.

#### **6.5 Terrestrial biodiversity**

The objective of this clause is to maintain terrestrial biodiversity by:

*(a) protecting native fauna and flora, and*

*(b) protecting the ecological processes necessary for their continued existence, and*

*(c) encouraging the conservation and recovery of native fauna and flora and their habitats.*

In this regard, before determining a development application for development on land to which this clause applies, the consent authority must consider:

- (a) *whether the development is likely to have:*
- (i) *any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
  - (ii) *any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
  - (iii) *any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
  - (iv) *any adverse impact on the habitat elements providing connectivity on the land, and*
- (b) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

The application was referred to Council's Bushland & Biodiversity team, who are supportive of the proposed works, subject to recommended conditions of consent. As such, the consent authority can be satisfied that the development will not have adverse impact on the matters above and that appropriate measures have been taken to avoid, minimise and mitigate the impacts of the development.

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*  
(b) *if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*  
(c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

The application was referred to Council's Bushland & Biodiversity team, who are supportive of the proposed works, subject to recommended conditions of consent. As such, the consent authority can be satisfied that the development is designed, sited and will be managed to avoid any significant adverse environmental impact.

## 6.8 Landslide risk

The objectives of this clause are to ensure that development on land susceptible to landslide—

- (a) *matches the underlying geotechnical conditions of the land, and*  
(b) *is restricted on unsuitable land, and*  
(c) *does not endanger life or property.*

In this regard, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account the risk of landslide—

- (a) *site layout, including access,*  
(b) *the development's design and construction methods,*  
(c) *the amount of cut and fill that will be required for the development,*  
(d) *waste water management, stormwater and drainage across the land,*  
(e) *the geotechnical constraints of the site,*  
(f) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

The development is supported by architectural plans, stormwater plans, a geotechnical report, and a

waste management plan. The application was referred to Council's Development Engineer, who is supportive of the proposal, other than with respect to stormwater management. This is included as a reason for refusal.

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and that—

- (a) the development is designed, sited and will be managed to avoid any landslide risk or significant adverse impact on the development and the land surrounding the development, or*
- (b) if that risk or impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that risk or impact, or*
- (c) if that risk or impact cannot be minimised—the development will be managed to mitigate that risk or impact.*

Comment:

The application was referred to Council's Development Engineer, who is not supportive of the proposal with respect to stormwater management. As such, the consent authority cannot be satisfied that the proposed development is designed, sited and will be managed to avoid any landslide risk or significant adverse impact on the development and the land surrounding the development. This is included as a reason for refusal.

## 6.9 Foreshore scenic protection area

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

- (a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) measures to protect and improve scenic qualities of the coastline,*
- (c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) measures to reduce the potential for conflict between land-based and water-based coastal activities.*

Comment:

The subject site does not adjoin foreshore land and is proposed to be well-vegetated. The proposed development is compliant with respect to solar access requirements. The site's location, configuration and landscaped setting assist in obscuring the development from view from the foreshore. The proposed development:

- does not unreasonably impact upon the visual amenity of the foreshore and surrounds,
- protects and improves scenic quality along the coastline,
- is suitable in its site context, and
- does not result in conflict between land-based and water-based coastal activities.

However, the proposed development results in unreasonable view loss attributable to a variation to the height of building development standard, as detailed in the section of this report relating to Clause 3.4.3 Maintenance of Views of the MDCP 2013. This is included as a reason for refusal.

## 6.12 Essential services

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

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

Comment:

The subject site is supplied with the above essential services. The proposed development retains and relies upon these services.

### Manly Development Control Plan

Built Form Controls

Under the Principal Development Standards, lot size has been calculated according to Clause 4.1 Minimum Subdivision Lot Size of the Manly Local Environmental Plan 2013, which excludes access handles from the total area. The controls in the table below refer to 'site area' (as opposed to 'lot size'), which is a separately defined term under the Dictionary of the Manly Local Environmental Plan 2013, and includes access handles.

Lot 1 - 29 Reddall Street				
Built Form Controls - Site Area: 486.5m <sup>2</sup>	Requirement	Proposed	% Variation	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: Max. 1 dwelling per 250m <sup>2</sup> site	1 dwelling on 486.5m <sup>2</sup> site	-	Yes
	Dwelling Size: Min. 117m <sup>2</sup>	277.3m <sup>2</sup>	-	Yes
4.1.2.1 Wall Height (based on gradient)	Max. 7.5m	SE: 6.3m*	-	Yes
		NW: 8.3m	10.7%	No
4.1.2.2 Number of Storeys	Max. 2 Storeys	3 storeys	50%	No
4.1.2.3 Roof Height	Height: Max. 2.5m	1.2m	-	Yes
	Pitch: Max. 35 degrees	8 degrees	-	Yes
4.1.4.1 Street Front Setbacks (Reddall St)	Prevailing building line / Min. 6m	Min. 3.325m, consistent with prevailing setback	-	Yes
4.1.4.2 Side Setbacks (based on wall height)	SE: Min. 2.1m*	Basement: 0-1.6m	23.8-100%	No
		Ground: Min. 1.3m	38.1%	No
		First: Min. 1.3m	38.1%	No
	NW: Min. 2.76m	Basement: 6m	-	Yes
		Ground: Cabana: 1.2m	56.5%	No

	Windows: Min. 3m	Dwelling: Min. 6m	-	Yes
		First: Min. 5.6m	-	Yes
		SE: Min. 1.3m	56.7%	No
		NW: Min. 6m	-	Yes
4.1.4.4 Rear Setbacks	Min. 8m	Basement: 3m	62.5%	No
		Ground: Min. 5.8m	27.5%	No
		First: Min. 4.6m	42.5%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Total Open Space: Min. 55% of Site Area (267.6m <sup>2</sup> )	64.5% (314m <sup>2</sup> )	-	Yes
	Above Ground: Max. 25% of TOS (78.5m <sup>2</sup> )	9.9% (31m <sup>2</sup> )	-	Yes
4.1.5.2 Landscaped Area	Landscaped Area: Min. 35% of TOS (109.9m <sup>2</sup> )	48.4% (152m <sup>2</sup> )	-	Yes
	Min. 1 Native Tree	6 trees	-	Yes
4.1.5.3 Private Open Space	Min. 18m <sup>2</sup>	>18m <sup>2</sup>	-	Yes
4.1.9 Swimming Pools, Spas and Water Features	Max. 1m above ground	Max. 2.7m	170%	No
	Min. 1m to coping	NW: 1.2m	-	Yes
		NE: 3m	-	Yes
	Min. 1.5m to water	NW: 1.3m	13.33%	No
		NE: 3.1m	-	Yes
Schedule 3 Parking and Access	Min. 2 spaces	2 spaces	-	Yes

Lot 2 - 31 Reddall Street				
Built Form Controls - Site Area: 468.5m <sup>2</sup>	Requirement	Proposed	% Variation	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: Max. 1 dwelling per 250m <sup>2</sup> site	1 dwelling on 468.5m <sup>2</sup> site	-	Yes
	Dwelling Size: Min. 117m <sup>2</sup>	277m <sup>2</sup>	-	Yes
4.1.2.1 Wall Height (based on gradient)	Max. 7.2m	SE: 6.4m*	-	Yes
		NW: 5.8m*	-	Yes
4.1.2.2 Number of Storeys	Max. 2 Storeys	3 storeys	50%	No
4.1.2.3 Roof Height	Height: Max. 2.5m	Max. 1m	-	Yes
	Pitch: Max. 35 degrees	7 degrees	-	Yes
4.1.4.1 Street Front Setbacks (Reddall St)	Prevailing building line / Min. 6m	Min. 3.4m, consistent with	-	Yes

		prevailing setback		
4.1.4.2 Side Setbacks (based on wall height) and Secondary Street Frontages	SE: Min. 2.13m*	Basement: 0-3.2m	0-100%	No
		Ground: Min. 2.8m	-	Yes
		First: Min. 2.8m	-	Yes
	NW: Min. 1.93m*	Basement: 0-3.7m	0-100%	No
		Ground: Cabana: 1.2m Dwelling: Min. 2.8m	37.8% -	No Yes
		First: Min. 2m	-	Yes
		First: Min. 2m	-	Yes
	Windows: Min. 3m	SE: Min. 2.8m	6.7%	No
		NW: Min. 2.8m	6.7%	No
4.1.4.4 Rear Setbacks	Min. 8m	Basement: 3m		No
		Cabana: 3.3m	58.75%	No
		Ground: Min. 7.2m	-	Yes
		First: Min. 6m	25%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Total Open Space: Min. 55% of Site Area (257.7m <sup>2</sup> )	73.75% (345.5m <sup>2</sup> )	-	Yes
	Above Ground: Max. 25% of TOS (86.4m <sup>2</sup> )	9.9% (34m <sup>2</sup> )	-	Yes
4.1.5.2 Landscaped Area	Landscaped Area: Min. 35% of TOS (120.9m <sup>2</sup> )	45.7% (158m <sup>2</sup> )	-	Yes
	Min. 1 Native Tree	5 trees	-	Yes
4.1.5.3 Private Open Space	Min. 18m <sup>2</sup>	>18m <sup>2</sup>	-	Yes
4.1.9 Swimming Pools, Spas and Water Features	Max. 1m above ground	Max. 2.9m	190%	No
	Min. 1m to coping	SE: 900mm	10%	No
		NE: 3m	-	Yes
	Min. 1.5m to water	SE: 1.1m	26.7%	No
		NE: 3m	-	Yes
Schedule 3 Parking and Access	Min. 2 spaces	2 spaces	-	Yes

Lot 3 - 35 Reddall Street				
Built Form Controls - Site Area: 497.2m <sup>2</sup>	Requirement	Proposed	% Variation	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: Max. 1 dwelling per 250m <sup>2</sup> site	1 dwelling on 497.2m <sup>2</sup> site	-	Yes
	Dwelling Size: Min. 117m <sup>2</sup>	295.7m <sup>2</sup>	-	Yes

4.1.2.1 Wall Height (based on gradient)	Max. 8.0m	NE: 5.8m*	-	Yes
		NW: 6m*	-	Yes
4.1.2.2 Number of Storeys	Max. 2 Storeys	3 storeys	50%	No
4.1.2.3 Roof Height	Height: Max. 2.5m	1m	-	Yes
	Pitch: Max. 35 degrees	6 degrees	-	Yes
4.1.4.1 Street Front Setbacks (College St)	Prevailing building line / Min. 6m	Min. 5.2m, consistent with prevailing setback	-	Yes
4.1.4.2 Side Setbacks (based on wall height) and Secondary Street Frontages (Reddall St)	NE: Min. 1.93m*	Basement: Min. 2.1m	-	Yes
		Ground: Min. 6.8m	-	Yes
		First: Min. 5.5m	-	Yes
	NW: Min. 2m*	Basement: 0-1.2m	40-100%	No
		Ground: Min. 1.6m	20%	No
		First: Min. 1.5m	25%	No
	Windows: Min. 3m	N: 6.8m	-	Yes
		W: Min. 1.5m	50%	No
	Secondary frontage: Prevailing setback	Min. 3.4m, consistent with prevailing setback	-	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Total Open Space: Min. 55% of Site Area (273.5m <sup>2</sup> )	76.74% (359.5m <sup>2</sup> )	-	Yes
	Above Ground: Max. 25% of TOS (89.9m <sup>2</sup> )	7.4% (26.5m <sup>2</sup> )	-	Yes
4.1.5.2 Landscaped Area	Landscaped Area: Min. 35% of TOS (125.8m <sup>2</sup> )	59.4% (213.5m <sup>2</sup> )	-	Yes
	Min. 1 Native Tree	6 trees	-	Yes
4.1.5.3 Private Open Space	Min. 18m <sup>2</sup>	>18m <sup>2</sup>	-	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Max. 50% of frontage up to 6.2m	4.2m	-	Yes
4.1.9 Swimming Pools, Spas and Water Features	Max. 1m above ground	2.5m	150%	No
	Min. 1m to coping	E: 900mm	10%	No
		N: 3m	-	Yes
	Min. 1.5m to water	E: 1.1m	26.7%	No
		N: 3m	-	Yes
Schedule 3 Parking and Access	Min. 2 spaces	2 spaces	-	Yes

**Lot 4 - 8 College Street**



Built Form Controls - Site Area: 455.1m <sup>2</sup>	Requirement	Proposed	% Variation	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: Max. 1 dwelling per 250m <sup>2</sup> site	1 dwelling on 455.1m <sup>2</sup> site	-	Yes
	Dwelling Size: Min. 117m <sup>2</sup>	267.4m <sup>2</sup>	-	Yes
4.1.2.1 Wall Height (based on gradient)	Max. 7.4m	NE: 6.1m*	-	Yes
		SW: 6.3m*	-	Yes
4.1.2.2 Number of Storeys	Max. 2 Storeys	3 storeys	50%	No
4.1.2.3 Roof Height	Height: Max. 2.5m	1.2m	-	Yes
	Pitch: Max. 35 degrees	7 degrees	-	Yes
4.1.4.1 Street Front Setbacks (College St)	Prevailing building line / Min. 6m	Min. 4.4m, consistent with prevailing setback	-	Yes
4.1.4.2 Side Setbacks (based on wall height)	NE: Min. 2.03m*	Basement: 0m	100%	No
		Ground: Min. 5.4m	-	Yes
		First: 3.6m	-	Yes
	SW: Min. 2.1m*	Basement: 2.3m	-	Yes
		Ground: 2.4m	-	Yes
		First: Min. 2.3m	-	Yes
	Windows: Min. 3m	NE: Min. 4.7m	-	Yes
		SW: Min. 2.4m	20%	No
4.1.4.4 Rear Setbacks	Min. 8m	Basement: 0-3.6m	55-100%	No
		Ground: Min. 2.6m	67.5%	No
		First: Min. 1.3m	83.75%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Total Open Space: Min. 55% of Site Area (256.3m <sup>2</sup> )	75.8% (345m <sup>2</sup> )	-	Yes
	Above Ground: Max. 25% of TOS (86.25m <sup>2</sup> )	10.7% (37m <sup>2</sup> )	-	Yes
4.1.5.2 Landscaped Area	Landscaped Area: Min. 35% of TOS (120.75m <sup>2</sup> )	51.74% (178.5m <sup>2</sup> )	-	Yes
	Min. 1 Native Tree	1 tree	-	Yes
4.1.5.3 Private Open Space	Min. 18m <sup>2</sup>	>18m <sup>2</sup>	-	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Max. 50% of frontage up to 6.2m	3.8m	-	Yes
4.1.9 Swimming Pools, Spas and Water Features	Max. 1m above ground	Max. 3.2m	220%	No
	Min. 1m to coping	W: 7.7m	-	Yes

		N: 1.4m	-	Yes
	Min. 1.5m to water	W: 8.3m	-	Yes
		N: 1.4m	6.7%	No
Schedule 3 Parking and Access	Min. 2 spaces	2 spaces	-	Yes

Lot 5 - 9 College Street				
Built Form Controls - Site Area: 473.7m <sup>2</sup>	Requirement	Proposed	% Variation	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: Max. 1 dwelling per 250m <sup>2</sup> site	1 dwelling on 473.7m <sup>2</sup> site	-	Yes
	Dwelling Size: Min. 117m <sup>2</sup>	279m <sup>2</sup>	-	Yes
4.1.2.1 Wall Height (based on gradient)	Max. 7.6m	NE: 5.5m*	-	Yes
		SW: 6.1m*	-	Yes
4.1.2.2 Number of Storeys	Max. 2 Storeys	3 storeys	50%	No
4.1.2.3 Roof Height	Height: Max. 2.5m	1m	-	Yes
	Pitch: Max. 35 degrees	7 degrees	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / Min. 6m	27.2m	-	Yes
4.1.4.2 Side Setbacks (based on wall height)	NE: Min. 1.83m*	Basement: Min. 2.9m	-	Yes
		Ground: Min. 4.8m	-	Yes
		First: Min. 4.2m	-	Yes
	SW: Min. 2.03m*	Basement: Min. 2.6m	-	Yes
		Ground: Min. 2.6m	-	Yes
		First: 2.4m	-	Yes
	Windows: Min. 3m	NE: 5.1m	-	Yes
		SW: Min. 2.8m	6.7%	No
4.1.4.4 Rear Setbacks	Min. 8m	Min. 4m	50%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Total Open Space: Min. 55% of Site Area (260.5m <sup>2</sup> )	74.6% (353.5m <sup>2</sup> )	-	Yes
	Above Ground: Max. 25% of TOS (88.4m <sup>2</sup> )	8.8% (31m <sup>2</sup> )	-	Yes
4.1.5.2 Landscaped Area	Landscaped Area: Min. 35% of TOS (123.73m <sup>2</sup> )	49.65% (175.5m <sup>2</sup> )	-	Yes
	Min. 1 Native Tree	3 trees	-	Yes
4.1.5.3 Private Open Space	Min. 18m <sup>2</sup>	>18m <sup>2</sup>	-	Yes

4.1.9 Swimming Pools, Spas and Water Features	Max. 1m above ground	<1m	-	Yes
	Min. 1m to coping	S: 1.9m	-	Yes
		W: 1.2m	-	Yes
	Min. 1.5m to water	S: 2m	-	Yes
		W: 1.3m	13.3%	No
Schedule 3 Parking and Access	Min. 2 spaces	2 spaces	-	Yes

\* Insufficient information has been provided with respect to existing ground lines. Existing ground lines inform calculation of proposed wall heights, and wall heights inform side setback requirements. This is detailed in the section of this report relating to Clause 4.1.2 Height of Buildings of the Manly DCP 2013.

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	No	No
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	No	No
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	No	No
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	No	No
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.1.2 Residential Land Subdivision	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	No

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	No
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	No
4.4.1 Demolition	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
4.4.8 Subdivision	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

#### Detailed Assessment

#### **3.4.2 Privacy and Security**

The proposed development has provided a suitable design response amongst the five proposed lots. The private open spaces, balconies and windows of the proposed dwellings are well offset from each other and provide a suitable level of visual privacy between the five proposed lots. Objections have raised concern that the proposal will result in loss of privacy to Nos. 95 and 97 Bower Street. The development is considered against the underlying objectives of the control as follows:

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

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

#### Comment:

With respect to No. 95 Bower Street to the north-east of the subject site:

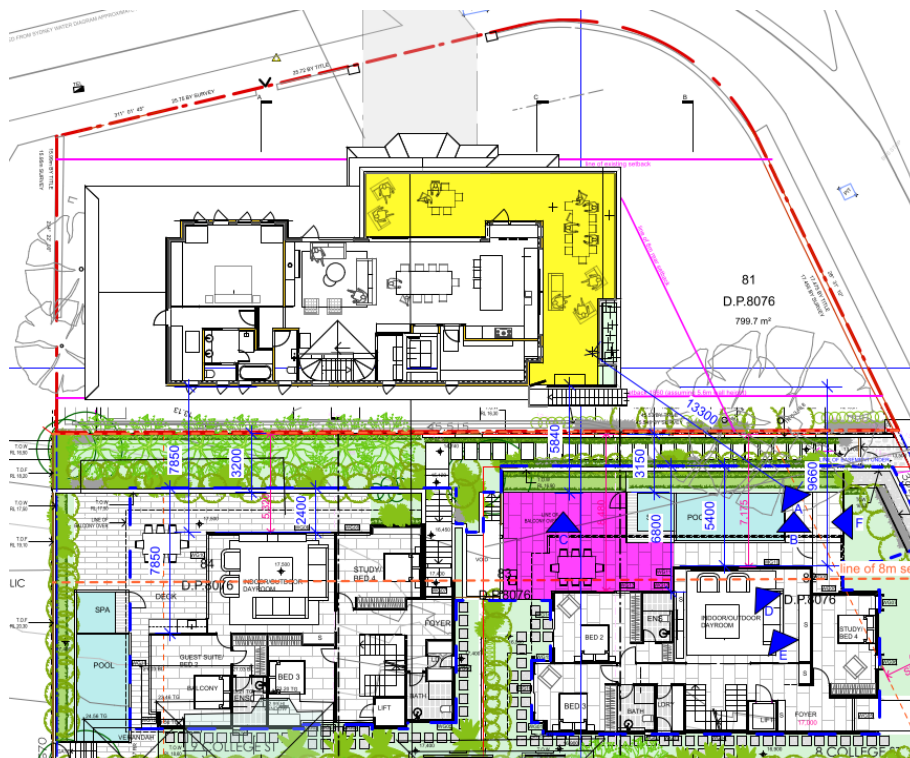
The dwelling of concern (on proposed Lot 4) is designed such that it does not result in an unreasonable visual privacy outcome to No. 95 Bower, as follows.

The owners of No. 95 Bower Street raised concern about the new dwelling on proposed Lot 4 overlooking of the private open space areas on their property (which include decks at the ground and first floors, and a landscaped lawn area). The private open space areas of No. 95 Bower Street are located to the south-east of No. 95 Bower Street.

The dwelling on proposed Lot 4 is compliant with the required side setbacks set by Clause 4.1.4.2 of the Manly DCP, with the exception of the basement, which is not a consideration with respect to visual privacy, given that it is not a habitable space. In this way, the proposed dwelling is adequately set away from what will be its north-eastern side boundary, in order to provide suitable separation to No. 95 Bower Street. Additional separation is provided by the battleaxe pedestrian access handle to proposed Lot 5. The owners of No. 95 Bower Street also raised concern about this access handle with respect to privacy. The concern is not agreed with, given this is a point of access only, and not a point

of recreation, and that users of the pathway will have their view of No. 95 Bower Street obscured from view by the wall between the walkway and No. 95 Bower Street, which acts as a fence of between 1.56 and 1.8 metres height.

The interaction between the ground floor main recreation space of the dwelling on proposed Lot 4 and the first floor deck of No. 95 Bower Street is worthy of close consideration, given their similar finished floor levels and their spatial alignment. The below is an excerpt from the submission prepared by McKees Legal Solutions on behalf of the owners of No. 95 Bower Street. For ease of reference, the first floor deck has been highlighted in yellow and the main portion of recreation space on proposed Lot 4 is highlighted in pink.



*Above: An excerpt from the submission prepared by McKees Legal Solutions on behalf of the owners of No. 95 Bower Street, depicting the relationship between the main recreation space of proposed Lot 4 (pink) and the first floor deck of No. 95 Bower Street.*

The main recreation space at proposed Lot 4 has a finished floor level of RL 17.00. The first floor deck of No. 95 Bower Street has a finished floor level of RL 16.41, being 590mm lower than at proposed Lot 4. This is considered a minimal difference in levels. It is noted that the rear south-western elevation of the first floor deck at No. 95 Bower Street is treated with a 1.8 metre privacy screen, which prevents direct overlooking to that deck from proposed Lot 4. It is considered that there is not a privacy concern between these two locations.

The pool at proposed Lot 4 is not considered to give to unreasonable privacy impacts to the first floor deck of No. 95 Bower Street, as this has a significantly lower floor level.

The grassed area to the south-east of the dwelling on proposed Lot 4 is acceptable in that the portion of lawn nearest No. 95 Bower Street is of restricted dimensions, and does not present as a place of

common recreation.

It is noted that the first floor balcony in the eastern corner of proposed Lot 1 aligns with the landscaped lawn area at No. 95 Bower Street. This lawn area location is a particularly vulnerable, given the reasonable expectation for redevelopment of the subject lots and the higher density that is readily anticipated for the area by the controls within the Manly LEP and DCP. Notwithstanding this vulnerable location, the first floor deck on proposed Lot 4 is set well above the lawn area, such that users of the balcony will generally look over the top of this private open space, rather than down to it.

The first floor balcony in the eastern corner of proposed Lot 1 also allows an angled view to the first floor deck of No. 95 Bower Street. However, there is a distance of approximately 11 metres at the closest point, which is adequate separation for visual privacy in this context, being R1 General Residential land.

With respect to No. 97 Bower Street to the north-west of the subject site:

It should first be noted that a pedestrian access reserve approximately 9 metres wide exists to the north-west of the subject site, providing ample building separation between the proposed dwellings and the dwelling on the objecting property. In addition, the dwellings of concern (on proposed Lots 1 and 5) are designed such that they do not result in an unreasonable visual privacy outcome to No. 97 Bower Street, as follows.

The dwelling on proposed Lot 1 is located such that it aligns with the garage and private open space lawn area to the rear of No. 97 Bower Street. No concern is raised about overlooking the garage, as this is not a habitable space. However, with respect to the private open space lawn area, the north-western elevation of the dwelling on proposed Lot 1 is treated with privacy screening to prevent viewing in this direction, including along the north-western elevation of the northern-most balcony. The view is instead orientated towards the north. At this point, the distance between the balcony and the nearest boundary of No. 97 Bower Street is approximately 16 metres, being well more than required or expected for a dwelling house development in the R1 General Residential zone in metropolitan Sydney.

The dwelling on proposed Lot 5 is located such that it aligns with the rear half of the dwelling house at No. 97 Bower Street. Both the ground and first floors are set at levels below the living levels and roof terrace of No. 97 Bower Street. Further, the north-western elevation of the dwelling on proposed Lot 5 is treated with privacy screening. The exception to this is the upper level balcony for the dwelling on proposed Lot 5, which is orientated to the north. This balcony is set 4.025 metres from the north-western side boundary of the site, and approximately 13 metres from the nearest boundary of No. 97 Bower Street.

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

Comment:

Given the above, the proposal is designed and sited so as to allow a suitable balance between providing privacy for the proposed dwellings and adjoining dwellings, without compromising access to light and air for the proposed development. The proposal provides outlook for the proposed dwellings and the dwellings on adjoining land.

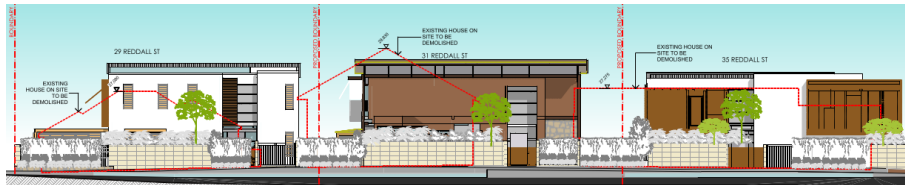
*Objective 3) To encourage awareness of neighbourhood security.*

Comment:

The proposed development includes windows to the street frontages to allow for passive surveillance and assist with awareness of neighbourhood security.

### 3.4.3 Maintenance of Views

A number of submissions raised concern about the proposed development's impact on views. The Applicant submitted a detailed analysis of the view impact, in accordance with the requirements set by the NSW Land and Environment Court, which assists with assessment of this application.



Above: The south-western elevation of the three dwellings facing Reddall Street.

From left to right with reference to the above elevation, the Reduced Levels (RLs) of the roofs of the existing and proposed dwellings fronting Reddall Street are:

- No. 29 Reddall Street: Existing RL 27.08, proposed RL 28.38 = Increase of 1.3 metres
- No. 31 Reddall Street: Existing RL 29.83, proposed RL 29.231 = decrease of 698 millimetres (though increased dwelling width)
- No. 35 Reddall Street: Existing RL 27.275, proposed RL 28.40 = increase of 1.125 metres

The development is considered against the objectives of the control:

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

*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).*

*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.*

In determining the extent of potential view loss to adjoining and nearby properties, the four 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.

*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.*

Comment:

The affected views are described as follows, with photographs:

97 Bower Street: The dwellings and vegetation on the subject site, other residential properties, St Patrick's Estate, and vegetation.





*Above: The view from the kitchen window of No. 97 Bower Street, from a standing position.*



*Above: The view from the living room windows of No. 97 Bower Street, from a seated position.*

Unit 3, 28 Reddall Street: The dwellings and vegetation on the subject site, other surrounding sites to the north-east, Shelly Beach Reserve, and the ocean and its horizon.





*Above: The view from No. 3/28 Reddall Street, from a standing position.*

30 Reddall Street: The street tree in the centre of Reddall Street, the dwellings and vegetation on the subject site, corridors to the ocean and its horizon, and Shelly Beach Reserve.



*Above: The view from the lower level dining room of No. 30 Reddall Street, from a standing position.*



*Above: The view from the upper level balcony of No. 30 Reddall Street, from a standing position.*

Unit 5, 7 College Street: The dwellings and vegetation on the subject site, and corridors to the ocean and its horizon and distant headlands to the north.



*Above: The view from the front terrace of Unit 5, 7 College Street, from a standing position.*



Unit 6, 7 College Street: The dwellings and vegetation on the subject site, and corridors to the ocean and its horizon and distant headlands to the north.



*Above: The view from the front terrace of Unit 6, 7 College Street, from a standing position.*

Unit 10, 7 College Street: The dwellings and vegetation on the subject site, wide corridors to the ocean and its horizon, and distant headlands to the north.



*Above: The view from the front terrace of Unit 10, 7 College Street, from a standing position.*

Unit 7, 140 Addison Road: The dwellings and vegetation on the subject site, other surrounding sites to the north-east, Shelly Beach Reserve, and the ocean and its horizon.



*Above: The view from the living room of Unit 7, 140 Addison Road, from a standing position.*

*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:

The affected views are obtained as follows:

- 97 Bower Street: The view is obtained to the south-east, across the side boundary, from both standing and seated positions. The view is obtained from the main bedroom, study and terrace at the lower living level, the kitchen, dining room, living room and balcony of the upper living level, and from the roof terrace.
- Unit 3, 28 Reddall Street: The view is obtained to the north-east, across the front boundary, from both standing and seated positions. The view is obtained from the front balcony, dining room, kitchen and living room.
- 30 Reddall Street: The view is obtained to the north-east, across the front boundary, from both standing and seated positions. The view is obtained from the front balcony, living room, dining room and study of the ground floor, and the front balcony, study, and main bedroom of the first floor. It should be noted that the ground and first floors are set above a garage level, so are raised above the street.
- Unit 5, 7 College Street: The view is obtained to the north, across the front boundary, from both standing and seated positions. The view is obtained from the front terrace, living room, dining room, and from the kitchen (via a mirror).
- Unit 6, 7 College Street: The view is obtained to the north, across the front boundary, from both standing and seated positions. The view is obtained from the front terrace, living room, dining room, kitchen and side balcony.
- Unit 10, 7 College Street: The view is obtained to the north, across the front boundary, from both standing and seated positions. The view is obtained from the front terrace, living room, dining room, kitchen and side balcony. Angled views are also obtained from the north-western side windows along the length of the unit.
- Unit 7, 140 Addison Road: The view is obtained to the north-east, across the front boundary, from both standing and seated positions. The view is obtained from the front balcony, living room, and dining room.

*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.*

Comment:

The affected views are impacted as follows:

- 97 Bower Street: The view to St Patrick's Estate is anticipated to be entirely or predominantly retained from each noted location. The view loss is assessed as negligible.
- Unit 3, 28 Reddall Street: The proposed development is located such that it is anticipated to obscure other dwellings, rather than the valuable elements of the view, being the ocean and Shelly Beach Reserve. The view is anticipated to be improved in a minor way due to removal of some vegetation throughout the site. The view loss is assessed as negligible.

- 30 Reddall Street: The lower level of the dwelling is anticipated to lose view to the ocean and its horizon, for approximately 60% of the view corridor available. The upper level of the dwelling is anticipated to lose a minor portion view to the ocean, but retain the ocean's horizon and Shelly Beach Reserve. The view loss is assessed as moderate to the lower level and minor to the upper level.
- Unit 5, 7 College Street: The view to the distant headlands are anticipated to be retained from the terrace, but lost to the dining room, living room and kitchen. Approximately 40% of the ocean is anticipated to be lost. The remainder of the view to the ocean and its horizon is anticipated to be improved due to removal of vegetation. The view loss is assessed as moderate.
- Unit 6, 7 College Street: The view to the distant headlands are anticipated to be predominantly lost. Approximately 50% of the ocean and its horizon is anticipated to be lost. A portion of the view to the ocean and its horizon is anticipated to be improved due to removal of vegetation.
- Unit 10, 7 College Street: A minor portion of the view to the horizon is anticipated to be lost. The remainder of the view is anticipated to be improved due to removal of vegetation. The view loss is assessed as moderate.
- Unit 7, 140 Addison Road: The proposed development is located such that it is anticipated to obscure other dwellings, rather than the valuable elements of the view, being the ocean and Shelly Beach Reserve. The view is anticipated to be improved in a minor way due to removal of some vegetation throughout the site. The view loss is assessed as 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.*

Comment:

It is established throughout this report that inadequate information has been provided with respect to establishing exact compliance with the building height, wall height, and setback controls. It is expected that the proposed development will result in view loss attributable to non-compliance with those controls. In this way, the proposed development does not demonstrate minimisation of disruption to views from adjacent and nearby development and views to and from public spaces including views to the ocean and recognised landmarks from private property.

### 3.7 Stormwater Management

The proposed development does not provide sufficient information to demonstrate compliance with Council's stormwater management requirements with respect to the provision of onsite stormwater detention (OSD). This is included as a reason for refusal.

#### 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

The submitted plans indicate non-compliant wall heights for each dwelling house on the proposed new lots, in contravention of Clause 4.1.2.1 of the Manly DCP. Insufficient information has been provided to establish the exact extent of the numerical non-compliance with respect to wall heights, though estimations are made in this assessment report.

The proposed lowest level of each dwelling house fails to satisfy the definition of 'basement' in



accordance with the Dictionary of the MLEP, as these levels are not predominantly below ground level (existing) and the levels above are generally greater than 1 metre above ground level (existing). As such, each dwelling house must be classified as three storeys in height, where the maximum allowable for this development under Clause 4.1.2.2 (a) of the Manly DCP is two storeys

In the absence of its own objectives, Clause 4.1.2 relies on the objectives of Clause 4.3 Height of Buildings of the Manly LEP, which are addressed as follows:

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

Comment:

The proposed development includes sloping skillion and flat roof forms to all five proposed dwellings. These roof forms are of a more modern design than those of the existing three dwellings, though are not uncommon in the locality, and are acceptable with respect to the topography, in that the slope follows that of the land (as shown in the above diagram). The roof forms serve to reduce the overall height of the dwellings, compared to if a hipped or gabled pitched roof form was proposed.

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

Comment:

The proposed development demonstrates compliance with the maximum floor space ratio set by Clause 4.4 of the Manly LEP, which controls the bulk and scale of buildings. The proposed dwellings are of an overall bulk and scale anticipated for the site and locality. The proposed excavation for the purpose of the basements (which results in the number of storeys non-compliance) provides the benefit of consolidated vehicular parking, and a net increase in both on-street and off-street parking, without resulting in unreasonable bulk.

*(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:

It is anticipated that the proposed development will result in view loss to a number of properties to the south, south-east and south-west, attributable to the non-compliant height of buildings, including with respect to the number of storeys and wall heights. This is assessed in the section of this report relating to Clause 3.4.3 Maintenance of Views of the Manly DCP and is included as a reason for refusal.

*(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:

The proposed development is compliant with the requirements of Clause 3.4.1 Sunlight Access and Overshadowing of the Manly DCP, and is therefore acceptable with respect to solar access.

*(e) to ensure the height and bulk of any proposed building or structure in a recreation or conservation 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 subject site is zoned R1 General Residential.

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

The submitted plans demonstrate non-compliant front, side, and/or rear setbacks for each proposed dwelling house. Insufficient information has been provided to establish the exact numerical extent of all the non-compliant setbacks, as the numerical requirements for compliance rely on calculation of wall

heights, and insufficient information has been provided to establish exact wall heights. The objectives of Clause 4.1.4 are addressed as follows:

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

Comment:

Insufficient information is provided to establish the level of non-compliance with respect to setbacks, and therefore with respect to the spatial proportions of the street, the street edge, and the landscape character of the street.

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

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

Comment:

The proposed development provides for suitable visual privacy, as detailed in the section of this report relating to Clause 3.4.2 Privacy and Security of the Manly DCP. The proposed development is compliant with the solar access requirements set by Clause 3.4.1 Sunlight Access and Overshadowing of the Manly DCP. It is anticipated that the proposed development will result in view loss to a number of properties to the south, south-east and south-west and insufficient information is provided to establish whether this view loss is attributable to the non-compliant setbacks. This is assessed in the section of this report relating to Clause 3.4.3 Maintenance of Views of the Manly DCP and is included as a reason for refusal. Insufficient information is provided to establish the level of non-compliance with respect to setbacks, and therefore with respect to space between buildings and the rhythm and pattern of spaces. The proposed development is acceptable with regard to the proposed new driveways, as supported by Council's Traffic Engineer.

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

Comment:

Insufficient information is provided to establish the level of non-compliance with respect to setbacks, and therefore with respect to flexibility in the siting of the proposed buildings.

*Objective 4) To enhance and maintain natural features by:*

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

Comment:

The proposed development is compliant with the total open space and landscaped area. The proposal is supported by a suitable landscape plan, demonstrating acceptable planting. The proposed development does not unreasonably impact upon or detract from the landscaped context of the site, being adjacent to public land to the north-west. The proposal does not impact upon urban bushland.



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

Comment:

Not applicable. The subject site is not classified as bush fire prone land.

#### **4.1.9 Swimming Pools, Spas and Water Features**

The swimming pools proposed on each new lot are not compliant with the maximum height above ground and minimum setbacks stipulated by Clauses 4.1.9.1 Height Above Ground and 4.1.9.2 Location and Setbacks of the Manly DCP, respectively. Insufficient information has been provided to establish the exact extent of the numerical non-compliance with respect to swimming pool heights and setbacks

*Objective 1) To be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties;*

Comment:

Insufficient information has been provided to establish the exact impact of the non-compliant pool heights and setbacks with respect to privacy.

*Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the established character of the locality;*

Comment:

Insufficient information has been provided to establish the exact impact of the non-compliant pool heights and setbacks with respect to streetscape and character.

*Objective 3) To integrate landscaping; and*

Comment:

The proposed development is supported by a suitable landscape plan, demonstrating adequate planting has been integrated around the proposed pools and dwellings.

*Objective 4) To become an emergency water resource in bush fire prone areas.*

Comment:

Not applicable. The subject site is not classified as bush fire prone land.

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

#### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

#### **POLICY CONTROLS**

##### **Northern Beaches Section 7.12 Contributions Plan 2022**

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

A monetary contribution of \$108,100 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$10,810,000.

#### **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

Council is not satisfied that compliance with the development standard set by Clause 4.3 Height of Buildings of the Manly LEP 2013 is unreasonable or unnecessary in the circumstances of the case, or that there are sufficient environmental planning grounds to justify the contravention. The proposed development is not supported by a written request to vary the development standard, in contravention of Clause 4.6 Exceptions to Development Standards of the MLEP. The proposed development will not be in the public interest because it is inconsistent with the objectives of the development standard.

## **PLANNING CONCLUSION**

This proposal, for demolition works, subdivision of three lots into five and construction of five new dwelling houses with swimming pools, associated landscaping and parking has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to the number of submissions (30 in objection), and due to the proposed variation to height of building development standard of 15.3%.

The concerns raised in the objections have been addressed in the relevant section of this report and are resolved where possible or included as reasons of refusal where the matter remains unresolved.

The critical assessment issues related to building height, wall height, number of storeys, setbacks, stormwater management, and view sharing.

Overall, the development does not demonstrate suitable performance against the relevant controls and will result in unreasonable impacts. The proposal has therefore been recommended for refusal.

It is considered that the proposed development does not satisfy the appropriate controls and that all

processes and assessments have been satisfactorily addressed.

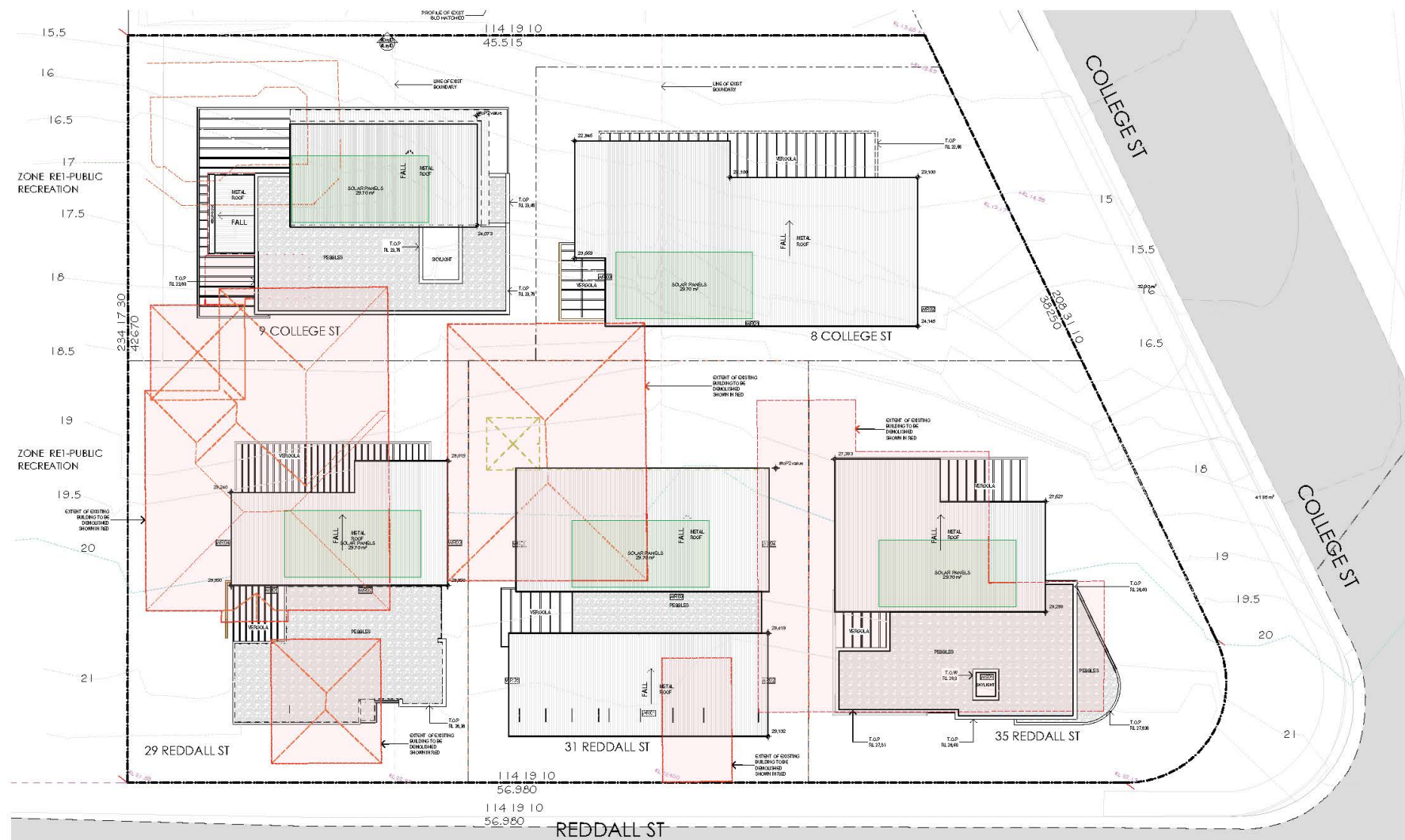
**RECOMMENDATION**

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority REFUSE Development Consent to Development Application No DA2023/0299 for the Demolition works, subdivision of three lots into five and construction of five new dwelling houses with swimming pools, associated landscaping and parking, on land at Lot 82 DP 8076,35 Reddall Street, MANLY, Lot 83 DP 8076,31 Reddall Street, MANLY, Lot 84 DP 8076,29 Reddall Street, MANLY, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.3 Height of Buildings of the Manly Local Environmental Plan 2013. The proposed development is not compliant with the height of buildings development standard. The proposed development is not supported by adequate architectural plans to establish the full extent of non-compliance.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.6 Exceptions to Development Standards of the Manly Local Environmental Plan 2013, with respect to the variation of the development standard set by Clause 4.3 Height of Buildings.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 6.4 Stormwater Management of the Manly Local Environmental Plan 2013.
4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 6.8 Landslide Risk of the Manly Local Environmental Plan 2013, with respect to stormwater management.
5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 6.9 Foreshore Scenic Protection Area of the Manly Local Environmental Plan 2013.
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.4.3 Maintenance of Views of the Manly Development Control Plan.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.7 Stormwater Management of the Manly Development Control Plan.
8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height) of the Manly Development Control Plan. The proposed development includes non-compliant wall heights and numbers of storeys, and the proposal is in contravention of objective (c)(ii) of Clause 4.3 Height of Buildings (on which Clause 4.1.2 of the MDCP relies) with respect to view loss.
9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.1.4 Setbacks (front, side and rear) and Building Separation of the Manly Development Control Plan. Insufficient information has been provided to establish the exact numerical extent of the non-compliant

setbacks.

10. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.1.9 Swimming Pools, Spas and Water Features of the Manly Development Control Plan. Insufficient information has been provided to establish the exact numerical extent of the non-compliant pool setbacks and heights.



DA ISSUE 25/01/2023

NOTES:	REVISIONS:		
	DATE	REV	DESCRIPTION
FOUR DIMENSIONS ARE TO BE TYPED IN REFERENCE TO SCALE DIMENSIONS.			
THE CONTRACTOR IS TO CHECK AND VERIFY FOUR DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE.			
THIS DRAWING IS COPYRIGHT AND SHALL REMAIN THE PROPERTY OF WOLFE COPPIN ARCHITECTURE			

ARCHITECT:

**WOLSKI . COPPIN**  
ARCHITECTURE

SUITE 3, LEVEL 1, 507 MUTARY ROAD MOSMAN NSW 2088  
T: 9952 8477 E: info@wolski.coppin.com.au  
DAVID WOLSKI NEW ARE No. 5297

PROJECT TITLE:

**FIVE RESIDENCES**  
**for Reddall Street Pty Ltd**  
29, 31 & 35 Reddall St + Proposed lots  
8 & 9 College St Manly

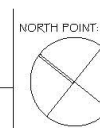
DRAWING TITLE:

**ROOF / SITE PLAN**

DRAWING No:

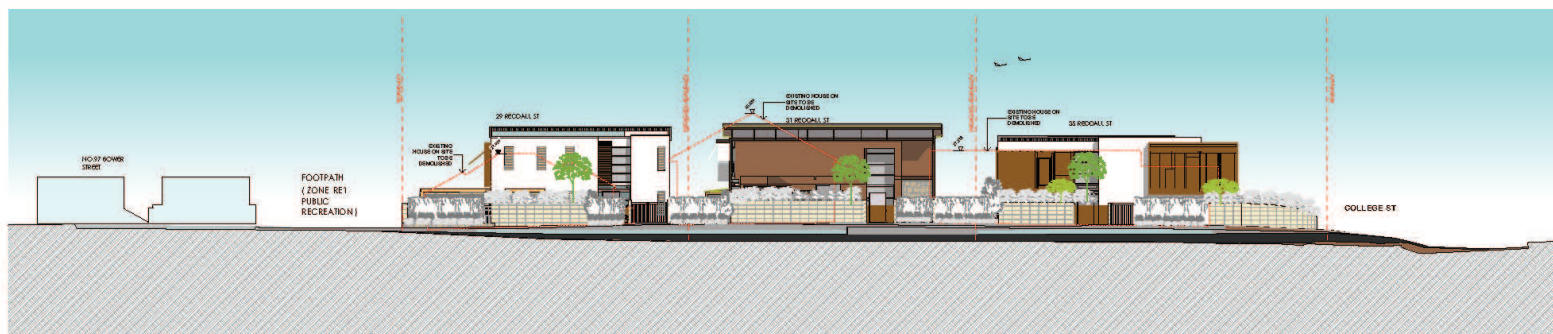
**DA04**

PROJECT No:	REVISION:
<b>22020</b>	
SCALE:	DATE:
1:200 @ A3	25/01/2023

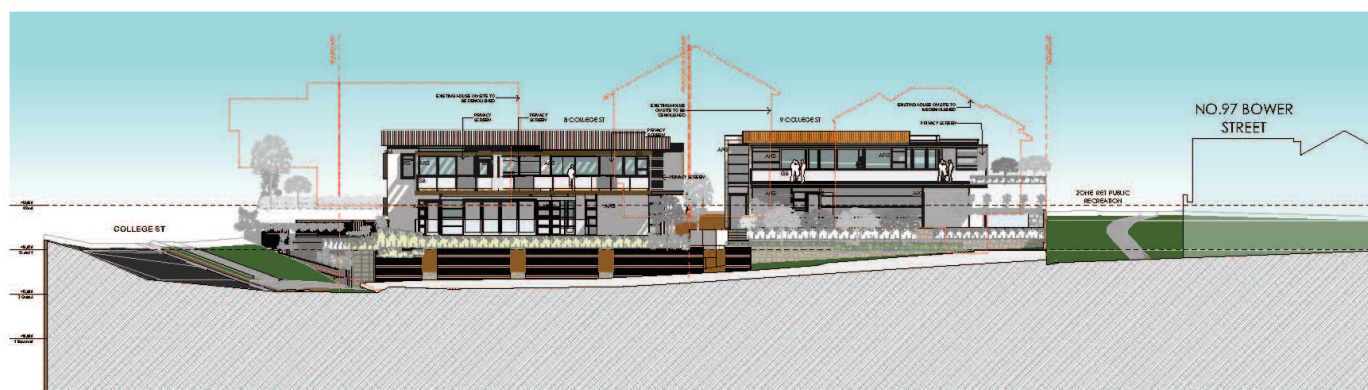


PLOT DATE: 25/01/2023





SOUTH-WEST ELEVATION (REDDALL ST)



NORTH- EAST ELEVATION

DA ISSUE 25/01/2023

NOTES:  
PROPOSED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALE DIMENSIONS.  
THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE.  
THIS DRAWING IS COPYRIGHT AND SHALL REMAIN THE PROPERTY OF WOLSKI & COPPIN ARCHITECTURE.

REVISIONS		
DATE	REV	DESCRIPTION

ARCHITECT:  
**WOLSKI & COPPIN**  
ARCHITECTURE  
SUITE 3, LEVEL 3, 307 MURRAY ROAD, MOSMANN NSW 2088  
T: 9332 5677 E: info@wolskiandcoppin.com.au  
DAVID WOLSKI NEW ABE NO. 6297

PROJECT TITLE:  
**FIVE RESIDENCES**  
for Reddall Street Pty Ltd  
29, 31 & 35 Reddall St + Proposed lots  
8 & 9 College St Manly

DRAWING TITLE:

ELEVATIONS 01

DRAWING No:

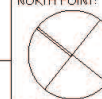
DA05

PROJECT No:  
**22020**

SCALE:  
1:300 @ A3

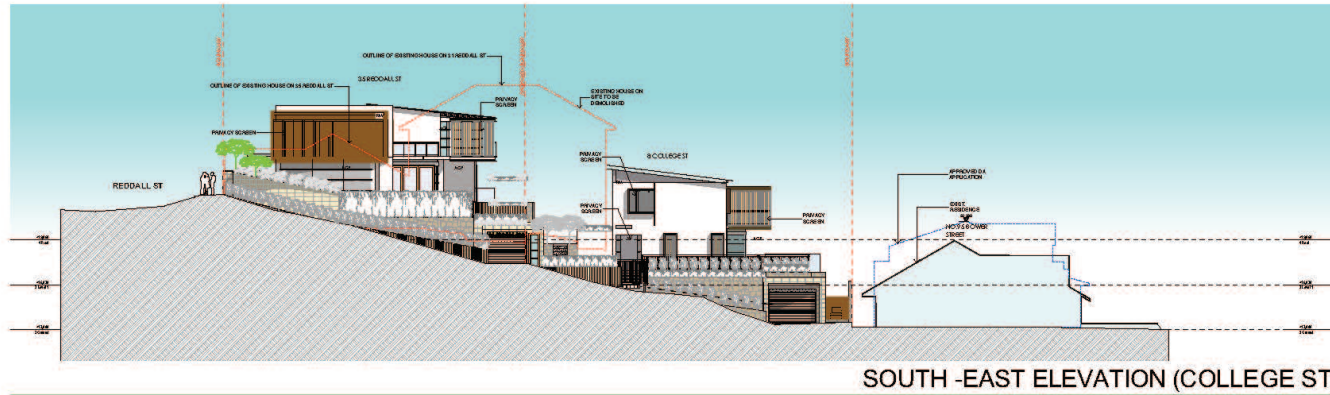
REVISION:  
DATE:  
25/01/2023

NORTH POINT:

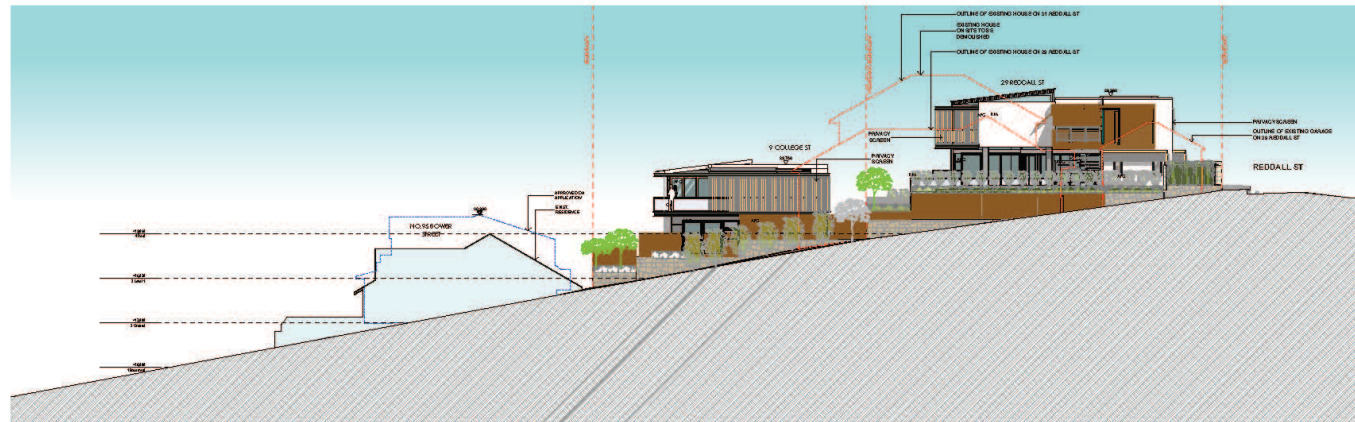


PLOT DATE: 25/01/2023

BIM Server: BIMSRV01 BIM Server: 20/27 35 Reddall Street Manly 5 Residences Study 1 121121



SOUTH - EAST ELEVATION (COLLEGE ST)



NORTH- WEST ELEVATION

DA ISSUE 25/01/2023

NOTES:  
PROVIDED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALE DIMENSIONS.  
THE CONTRACTOR IS TO CHECK AND VERIFY FIGURED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE.  
THIS DRAWING IS COPYRIGHT AND SHALL REMAIN THE PROPERTY OF WOLSKI & COPPIN ARCHITECTURE.

REVISIONS:		
DATE	REV	DESCRIPTION

ARCHITECT:  
**WOLSKI & COPPIN**  
ARCHITECTURE  
SUITE 3, LEVEL 1, 307 MILITARY ROAD, MOSMANN NSW 2088  
T: 9552 5677 E: info@wolskiandcoppin.com.au  
DAVID WOLSKI NEW ABE No. 6297


PROJECT TITLE:  
**FIVE RESIDENCES**  
for Reddall Street Pty Ltd  
29, 31 & 35 Reddall St + Proposed lots  
8 & 9 College St Manly

DRAWING TITLE:  
**ELEVATIONS 02**

DRAWING No:  
**DA06**

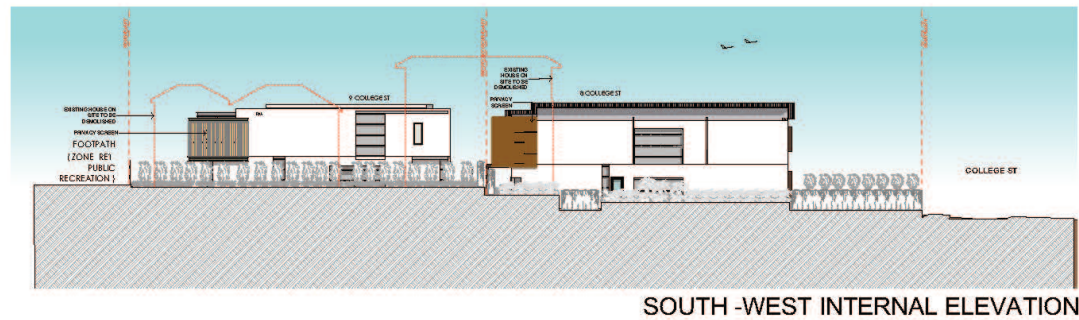
PROJECT No:  
**22020**  
SCALE:  
1:300 @ A3

REVISION:  
DATE:  
25/01/2023

NORTH POINT:  
  
PLOT DATE: 25/01/2023

BIM Server: BIMSRV01 BIM Server: 20/27 35 Reddall Street Manly 5 Residences Study 1 121121





DA ISSUE 25/01/2023

NOTES:  
FOOTED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO WALL DIMENSIONS.  
THE CONTRACTOR IS TO CHECK AND VERIFY FOOTED DIMENSIONS PRIOR TO ANY COMMENCEMENT OF WORK ON SITE.  
THIS DRAWING IS COPYRIGHT AND SHALL REMAIN THE PROPERTY OF WOLSKI & COPPIN ARCHITECTURE.

REVISIONS		
DATE	REV	DESCRIPTION

ARCHITECT:  
**WOLSKI & COPPIN**  
ARCHITECTURE  
SUITE 3, LEVEL 1, 307 MURRAY ROAD, MOSMANN NSW 2088  
T: 9332 5677 E: info@wolski-coppin.com.au  
DAVID WOLSKI NEW ABE NO. 6297

PROJECT TITLE:  
**FIVE RESIDENCES**  
for Reddall Street Pty Ltd  
29, 31 & 35 Reddall St + Proposed lots  
8 & 9 College St Manly


DRAWING TITLE:  
**ELEVATIONS 03**

DRAWING No:  
**DA07**

PROJECT No:  
**22020**

SCALE:  
1:300 @ A3

REVISION:  
DATE:  
25/01/2023

NORTH POINT:  
  
PLOT DATE: 25/01/2023

BIM Server: BIMSRV01 BIM Server: 20/27 35 Reddall Street Manly 5 Residences Study 1 121121

**ITEM 4.2****DA2023/0954 - 10A LENTARA ROAD, BAYVIEW -  
ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE****AUTHORISING MANAGER** Steve Findlay**TRIM FILE REF** 2023/708740**ATTACHMENTS**  
1 [↓](#) Assessment Report  
2 [↓](#) Site Plan & Elevations**PURPOSE**

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

---

**RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT**

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/0954 for Alterations and additions to a dwelling house on land at Lot 39 DP 30648, 10 A Lentara Road, BAYVIEW subject to the conditions set out in the Assessment Report.

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/0954
----------------------------	-------------

<b>Responsible Officer:</b>	Simon Ferguson Tuor
<b>Land to be developed (Address):</b>	Lot 39 DP 30648, 10 A Lentara Road BAYVIEW NSW 2104
<b>Proposed Development:</b>	Alterations and additions to a dwelling house
<b>Zoning:</b>	R5 Large Lot Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Yan Yang
<b>Applicant:</b>	Alex Ka Ip Wong

<b>Application Lodged:</b>	24/07/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	27/07/2023 to 10/08/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	10
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 194,000.00
---------------------------------	---------------

### EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to a dwelling house.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as there were 10 or more unique submissions by way of objection received in response to the notification (10 submissions against the proposal).

Concerns raised in the objections predominantly relate to increased density, bulk and scale, character of the area, noise, traffic and the site being used for short term rental accommodation (STRA).

Many of the resident submissions were in relation to a previous approval (DA2021/0670) which was approved a first floor addition in 2021, but has not yet commenced construction. Concerns were also

raised by many of the objectors in relation to the the use of the development for STRA. This report details that STRA is subject to the provisions of State Environmental Planning Policy (Housing) and is "Exempt Development" under the SEPP, hence not requiring the consent of Council, but the STRA must be conducted in accordance with the applicable Code of Conduct.

The proposal complies with all applicable planning controls, noting that the existing dwelling has a non-compliant front setback.

Through stepping with the topography of the site, the proposal provides a built form that is predominantly two storey in character and scale, and is surrounded by a compliant and adequate landscaped setting. This provides a built form outcome that is consistent with the stated desired future character under the P21DCP.

Critical assessment issues include; building height and resident submissions.

Amended plans were provided which involve a reduction in building height and decreased trafficable area on the proposed ground floor roof terrace.

This report concludes with a recommendation that the NBLPP should grant approval to the development application, subject to the recommended conditions.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposal seeks consent for alterations and additions to the existing dwelling as follows:

### **Basement Level**

- Increased width of the existing vehicle turning area
- Partial demolition of rear wall
- Master bedroom with a walk-in wardrobe
- Patio

### **Ground floor level**

- Partial demolition of rear wall
- Family room addition
- Roof terrace

The approved development application, No. DA2021/0670 is proposed to be constructed in conjunction with this development application.

No trees are proposed to be removed.

### **Amended Plans**

Amended Plans were received on 25 September 2023. The amended plans repositioned the ground floor glass balustrade in order to comply with the height of buildings development standard.

## **ASSESSMENT INTRODUCTION**

The application has been assessed in accordance with the requirements of the Environmental

Planning and Assessment Act 1979 and the associated Regulations. In this regard:

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

#### SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings  
Pittwater 21 Development Control Plan - A4.2 Bayview Heights Locality  
Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy  
Pittwater 21 Development Control Plan - D2.5 Front building line

#### SITE DESCRIPTION

<b>Property Description:</b>	Lot 39 DP 30648 , 10 A Lentara Road BAYVIEW NSW 2104
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment. Access to the site is via a right of way from the north-western side of Lentara Road, through 10 &amp; 10B Lentara Road, respectively. The site has a rear boundary on the southern side of Loquat Valley Road, but there is no vehicular access to the site from Loquat Valley Road.</p> <p>The site is irregular in shape with a a rear boundary of 36.36m along Loquat Valley Road and a depth of 74.10m. The site has a surveyed area of 4047m<sup>2</sup>. The site is located within the R5 Large Lot Residential zone and accommodates a two storey residential dwelling with swimming pool.</p> <p>The site is relatively steep sloping, sloping down approximately 30m from the south-west boundary to the north-east boundary. The average gradient on the site is 25 degrees.</p> <p>The site has lawn area directly to the rear of the dwelling and medium to large shrubs, palms and trees. The rear</p>



portion of the site contains dense native canopy trees and is partially mapped on the Biodiversity Values Map.

Map:



## SITE HISTORY

The land has been used for residential purposes for an extended period of time.

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

**DA2021/0670** - Development Application – Alterations and additions to the existing dwelling (first floor addition). Approved 20 October 2021.

**EPA2023/0022** - Investigate Illegal Land - Investigation of illegal cutting down of multiple trees in Spotted Gum EEC & Biodiversity Values mapped area. Currently under investigation by Council.

**Unauthorised Building Works** - The resident submissions alerted Council that the basement level plans submitted with the application do not accord with published real estate plans of the dwelling. This matter has been sent to Council's Building Compliance team for investigation.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 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 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the Bushfire Report and Height of Buildings.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 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 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b></p>



<b>Section 4.15 Matters for Consideration</b>	<b>Comments</b>
	The proposed development will have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	The concerns raised by objectors regarding the unauthorised use of the dwelling as STRA is addressed in the relevant sections and does not warrant the refusal of the application. Other concerns raised in relation to the built form of the development are addressed under the relevant sections and also do not warrant refusal of the application.

#### **EXISTING USE RIGHTS**

Existing Use Rights are not applicable to this application.

#### **BUSHFIRE PRONE LAND**

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Planning Services dated 5 June 2023) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

#### **NOTIFICATION & SUBMISSIONS RECEIVED**

The subject development application has been publicly exhibited from 27/07/2023 to 10/08/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 10 submission/s from:

<b>Name:</b>	<b>Address:</b>
Mrs Marita Elizabeth Neilson	2 Pindari Place BAYVIEW NSW 2104
John Patrick Warnock Mrs Jacqueline Phylis Warnock	8 Lentara Road BAYVIEW NSW 2104
Odette Elaine Ireland Andrew Ireland	10 Lentara Road BAYVIEW NSW 2104

Name:	Address:
Mr Craig Nigel Burnard Mrs Pauline Enid Burnard	1 Kookaburra Close BAYVIEW NSW 2104
Mrs Kaylene Body-Hatton Mr Gerald Hatton	12 Lentara Road BAYVIEW NSW 2104
Sharon Lee Angel	20 Lentara Road BAYVIEW NSW 2104
Ms Fiona Paula Marie Orenstein	40 Loquat Valley Road BAYVIEW NSW 2104
Mr Alberto Mario Gregori	36 Loquat Valley Road BAYVIEW NSW 2104
Mrs Michelle Clark	7 Lentara Road BAYVIEW NSW 2104
Mr Martin Lennox Rathbone Mrs Margot Johanna Rathbone	22 Lentara Road BAYVIEW NSW 2104

The following issues were raised in the submissions:

- Overdevelopment
- Out of Character
- Use as Short Term Rental Accommodation
- Noise
- Traffic
- Works not approved
- Rubbish
- Stormwater
- Septic
- Tree removal

**NOTE: Many of the issues raised in the submissions were in relation to the previously approved DA2021/0670. The issues discussed below are specific to the current application.**

The above issues are addressed as follows:

- **Overdevelopment**

*The submissions raised concerns with the size and scale of the building, and that additional gross floor area (GFA) would result in additional impacts predominately in relation to noise.*

Comment:

The proposed works under this application are for a "Basement Level" (although not below ground) extension, internal works, a family room and an extension of the existing ground floor terrace. The proposal involves a generally two storey built form that steps well with the steep topography of the land. The overall built form complies with the development standard for building height, under the exception that permits a 10.0m building height on sites where the slope is more than 30% (See further discussion under Clause 4.3 Height of Buildings). The proposal is compliant with the DCP setback controls, save for the existing non-compliant front setback. The proposed works are all located towards the rear of the dwelling and will not intensify the built form in the non-compliant front setback area. The site area is over 4000sqm

and includes adequate landscaping, extensive canopy trees and sufficient spatial separation between neighbouring properties.

Hence, it is not considered that the proposed works will increase the bulk and scale of the development in such a way that will have any adverse visual impact to neighbouring properties.

- **Out of Character**

*The submissions raised concerns that the proposal will not be consistent with desired future character and contrary to the objective for the R5 Large Lot Residential Zone, in particular 'To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.'*

Comment:

The location and siting of the proposed works at the rear of the dwelling are considered to be consistent with the objectives of the R5 Large Lot Residential Zone. The proposed works are additions to a residential dwelling which is within a rural setting. The proposal was sent to various internal referral teams at Council, who are all supportive of the application, subject to conditions (see Referrals Section below).

The Applicant has demonstrated through the provision of various technical reports, that the proposed works will not impact on environmentally sensitive elements of the site or the scenic quality of the area.

- **Use as Short Term Rental Accommodation**

*The submissions raised concerns that the property is used for short term rental accommodation (STRA), and that the proposal would intensify this use.*

Comment:

Council notes the concerns in relation to the dwelling operating as STRA. However, STRA is "Exempt Development" under State Environmental Planning Policy (Housing). Unless the owners of the site are in breach of the requirements of the SEPP, they are permitted to do so without the consent of Council. The Housing SEPP provides that in the Greater Sydney Region, dwellings are not to be 'used for non-hosted short-term rental accommodation for more than 180 days in a 365-day period' (see Part 6, s112 1(b)).

The operation of STRA's is based on the premises being registered as a booking platform and the operator must accord with the rules and obligations under the Code of Conduct.

Any complaints in relation to breaches of the Code of Conduct for persons with a registered STRA are to be directed to the Commissioner for Fair Trading in the NSW Department of Customer Service.

Should it be found that the premises are operating in breach of the Code, and therefore not in accordance with the Exempt Development provisions of SEPP Housing, Council should be informed and carry out the necessary investigations and any enforcement action as required.

- **Noise**

*The submissions raised concerns that the proposal would result in increased noise impacts to adjoining properties.*

Comment:

Many of the submissions regarding noise refer to 'parties', 'gatherings' and 'events', in relation to the dwelling being used as STRA. As discussed above, STRA must adhere to the requirements of the Housing SEPP and does not require consent from Council. Properties used for STRA must also abide by the Code of Conduct for the Short-Term Rental Industry that binds premises under the register. The Code of Conduct also has its own complaints mechanism and obligations on hosts to manage amenity impacts. Whilst the proposal includes additional outdoor areas, it also seeks to enclose a portion of the existing patio. Hence, the net increase of trafficable terraced/patio areas is less than 30sqm, which is considered reasonable given it's compliance with all density controls within the DCP. The proposed works have adequate spatial separation to neighbouring properties, are softened by dense canopy trees and are considered reasonable within the large lot residential context.

- **Traffic**

*The submissions raised concerns that the proposal would result in increased traffic on the local road network and exacerbate parking and safety issues in relation to the existing driveway design.*

Comment:

Similar to the noise issues above, the traffic comments were in relation to the dwelling being used for STRA. There is no direct correlation between the current proposal and any increase in traffic or parking impacts. Any concerns in relation to blind corners, need for 'no stopping' signs, or trailers being parked on the road reserve should be directed to the relevant department at Council.

- **Works not approved**

*The submissions raised concerns that the architectural plans provided with the application differed to real estate brochures for the development. In particular, it was suggested a 'home theatre' exists in the basement level, that is not shown on the submitted plans.*

Comment:

These submissions do not relate directly to the proposal. The plans provided by the applicant match the plans that were approved under DA2021/0670. The issues relating to works not approved have been referred to Council's Building Compliance team for investigation.

- **Rubbish**

*The submissions raised concerns that the operation of the STRA was creating unreasonable amounts of rubbish and was a nuisance.*

Comment:

As stated above, these concerns relate to the dwelling being used for STRA, rather than to the current proposal. No unreasonable impacts in relation to rubbish will stem from the proposed alterations and additions. A waste management plan has been provided with the application and conditions have been imposed in relation to demolition and construction waste.

- **Stormwater**

*The submissions raised concerns that stormwater runoff may impact properties located further down the slope.*

Comment:

The proposal was referred to Council's Development Engineering Team who raised no issues with the application, subject to conditions. The proposal has demonstrated compliance with the P21DCP controls for Stormwater Management.

- **Septic**

*The submissions raised concerns that the proposal would place increased demand on the existing septic system.*

Comment:

The previously approved DA2021/0670 proposed the disconnection of the existing septic tank and connection to the Sydney Water sewer system, as referenced in Condition 9 of the Consent. The property owner is in the process of obtaining all the required approvals for connection to the Sydney Water sewer. The application was referred to Environmental Health who were supportive, subject to conditions. It is considered that the proposal, in conjunction with DA2021/0670, will provide better outcomes in relation to septic impacts, than the current system operating at the site.

- **Tree removal**

*The submissions raised concerns that the illegal tree removal had occurred at the site.*

Comment:

These submissions do not relate to the current proposal. The matter of alleged illegal tree removal has been referred to Council's Environmental Compliance team and is currently under investigation under EPA2023/0022.

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Unsewered Lands)	<b>SUPPORTED WITH CONDITIONS</b> <b>General Comments</b> <b>PROPOSED DEVELOPMENT</b> The proposal involves alterations and additions to the existing dwelling house. Specifically, it comprises the following components: Basement Level

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• Increased width of the existing vehicle turning area to allow for safer access in and out of the existing garage.</li> <li>• Partial demolition of the rear wall to allow for the proposed addition.</li> <li>• Larger master bedroom with a walk-in wardrobe and patio.</li> <li>• Relocated office.</li> </ul> <p>Ground floor level</p> <ul style="list-style-type: none"> <li>• Partial demolition of the rear wall to allow for the proposed addition.</li> <li>• Proposed family room addition.</li> <li>• Extension of existing patio with a roof terrace which also services as the roof for the basement addition.</li> </ul> <p>Before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks: (a) site layout, including access, (b) the development's design and construction methods, (c) the amount of cut and fill that will be required for the development, (d) waste water management, stormwater and drainage across the land, (e) the geotechnical constraints of the site, (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development</p> <p>The SEE advises: The subject site is on unsewered land. The previously approved development Application DA2021/0670 proposed the disconnection of the existing septic tank and connection to the Sydney Water sewer system, as referenced in condition 9 of the DA consent. The property owner is in the process of obtaining all the required approvals for connection to the Sydney water sewer.</p> <p>It is critical that prior to any occupation the premises are connected to the sewer.</p> <p>Therefore, Environmental Health supports the proposal subject to conditions.</p>
Landscape Officer	<p><b>SUPPORTED WITH CONDITIONS</b></p> <p>The proposal is supported with regard to landscape issues.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause R5 Large Lot Residential zone, and the following Pittwater 21 DCP controls (but not limited to):</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> <li>• D2 Bayview Heights Locality</li> </ul> <p>The site exists upon R5 Large Lot Residential zone land and the landscape objectives of the zone includes the provision of: residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality; and limited range of other land uses of a low intensity and scale, compatible with</p>

Internal Referral Body	Comments
	<p>surrounding land uses.</p> <p>No trees are proposed to be removed as part of the works, which is supported. All trees and vegetation shown to be retained shall be protected during works in accordance with the requirements outlined in the conditions of consent.</p> <p>Screen planting shall be installed as required under PDCP Section D2.12 for the undercroft areas, subject to the imposed conditions.</p>
NECC (Bushland and Biodiversity)	<p><b>SUPPORTED WITH CONDITIONS</b></p> <p>Council's Biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity related controls:</p> <ul style="list-style-type: none"> <li>• Biodiversity Conservation Act 2016</li> <li>• Pittwater LEP cl. 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP cl. B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community</li> <li>• Pittwater 21 DCP cl. B4.18 Heathland/Woodland Vegetation</li> </ul> <p>The Development Application seeks consent for alterations and additions to the existing dwelling.</p> <p>Portions of the site are identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR).</p> <p>As the proposed works are situated within existing developed and/or cleared areas, no tree removal is required.</p> <p>A Bushfire Risk Assessment Report (Bush Fire Planning Services June 2023) was submitted with the Application which recommended an Asset Protection Zone (APZ) for a distance of 37m North, and to the property boundary in all other directions. An additional letter (September 2023) was provided to council to clarify the proposed APZ at the request of Council's Biodiversity referrals team due to proposed impacts on native vegetation within the BV Map. The revised APZ as recommended by the Bushfire Consultant is North as an Inner Protection Area to the distance that is currently managed (approx. 24m) and East, South and West as an Inner Protection Area for 10m or to the property boundary, whichever comes first.</p> <p>As no native vegetation is required for removal, the BOS is not triggered and a BDAR is not required to be submitted with the application. However, it should be noted that any future impact to native vegetation within the BV Map, including any future clearing for</p>



Internal Referral Body	Comments
	the APZ, may require a BDAR under the BC Act 2016. This will be outlined further in the appropriate condition.  No objections in relation to Biodiversity, subject to these comments and conditions.
NECC (Development Engineering)	<b>SUPPORTED WITH CONDITIONS</b> The proposal does not require OSD. The submitted Geotechnical report addresses the relevant DCP controls.  Development Engineering support the proposal, subject to conditions as recommended.
NECC (Riparian Lands and Creeks)	<b>SUPPORTED</b> No comment from a riparian land creek perspective
External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

#### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

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

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

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

##### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. A497671 dated 25 May 2023).

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

##### **SEPP (Transport and Infrastructure) 2021**

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

**SEPP (Resilience and Hazards) 2021**

**Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

**Pittwater Local Environmental Plan 2014**

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	8.5m	10.0m	17.6%	No*
Special Height Provisions	10.0m	10.0m	N/A	Yes

\*Clause 4.3 (2D) allows for a maximum height of 10.0m subject to compliance with certain criteria which is discussed in detailed below.

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

#### Detailed Assessment

#### **4.3 Height of buildings**

Clause 4.3 sets a general height limit of 8.5m for the site.

Clause 4.3(2D) is a special height provision for steep sites, which allows for the height to exceed 10.0m if the following is satisfied:

- (a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and*
- (b) the objectives of this clause are achieved, and*
- (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and*
- (d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.*

#### Comment

A portion of the "Basement Level" extension and ground floor balcony exceeds the 8.5m building height resulting in a maximum 10.0m building height (refer to the Figure 1 below). The building footprint is located on a slope that is in excess of 30% (as shown on the below image) and the breach is acceptable in principle subject to the development being consistent with the objectives of the height control which is discussed in detail below:



*(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development.*

Comment

The height and scale of the development is generally compatible with other two/three storey dwellings in the surrounding area.

*(c) to minimise any overshadowing of neighbouring properties.*

Comment

Shadow diagrams have been submitted which confirm that the development will not result in unreasonable overshadowing to neighbouring properties.

*(d) to allow for the reasonable sharing of views.*

Comment

The location of the dwelling and the proposed works will not result in unreasonable view loss from public areas and private property.

*(e) to encourage buildings that are designed to respond sensitively to the natural topography.*

Comment

The proposed development is primarily located within the existing building footprint and does not require the removal of any canopy trees or vegetation. The proposal is terraced to appropriately respond to the sloping topography of the site.

*(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

Comment

The proposed works will have minimal, if any, visual impact on neighbouring properties. There is no tree removal proposed and the proposal will not impact on the natural environment, heritage conservation areas or heritage items.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	3.1m (existing unchanged)	N/A	No (existing)
Rear building line	6.5m	52.75m	N/A	Yes
Side building line	6.5m (SE)	18.70m (proposed works) 8.6m (approved under DA2021/0670)	N/A	Yes
	6.5m (NW)	23.62m (proposed works) 15.7 (existing building)	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	60%	81 %	N/A	Yes

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.2 Bayview Heights Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.18 Heathland/Woodland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
D2.1 Character as viewed from a public place	Yes	Yes
D2.2 Scenic protection - General	Yes	Yes
D2.3 Building colours and materials	Yes	Yes
D2.5 Front building line	No	Yes
D2.6 Side and rear building line	Yes	Yes
D2.7 Building envelope	Yes	Yes
D2.9 Landscaped Area - Non Urban	Yes	Yes
D2.11 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D2.13 Scenic Protection Category One Areas	Yes	Yes

#### Detailed Assessment

##### **A4.2 Bayview Heights Locality**

The proposed development involves an existing/approved three storey dwelling, where the locality



envisages two storey development.

However, the proposed works only relate to internal works and a relatively modest "Basement Level" extension. It is considered that the proposed development involves minimal environmental impact, is set below the general tree canopy height, includes building modulation to minimise bulk, steps with the topography of the land, and provides an appropriate balance between respecting the landform and encouraging development.

As such, the proposed development achieves the intention of the desired character of the area and is acceptable in this regard.

### **C1.6 Acoustic Privacy**

The proposal is considered to provide reasonable levels of acoustic privacy to the neighbouring properties as a result of the large spatial separation.

However, given that noise was one of the key concerns raised in the resident submissions, a detailed assessment has been provided.

#### **Merit Assessment**

- *Noise is substantially contained within each dwelling and noise from any communal or private open space areas are limited.*

#### **Comment:**

The north eastern roof terrace as proposed is located off the existing roof terrace at an elevated ground floor level. The proposal includes a portion of the terrace to be enclosed and the trafficable area of the roof terrace was reduced with the amended plan set. Hence, there is considered to be a relatively minor increase in total trafficable area on the proposed roof terrace. The proposed roof terrace extension is located further than 40m from the closest neighbouring properties and faces the rear of the existing dwelling. This distance, the proposals orientation and the dense canopy trees surrounding the site are all considered sufficient in ensuring noise is contained within the dwelling and noise from private open space areas are limited.

- *Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or private open space.*

#### **Comment:**

Noise emitted from the proposed roof terrace will be contained largely within the site. The amended plans relocated the glass balustrade along the north-eastern elevation of the roof terrace, thereby limiting the area available for social gathering and recreation. The dense canopy trees surrounding the site will also assist in filtering acoustic impacts.

Therefore, the proposal demonstrates that it will not result in offensive noise.

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

### **D2.5 Front building line**

The existing dwelling has a 3.1m setback from the south-western front boundary to the existing building wall.

The proposal is located at the rear of dwelling and does not alter this non-compliant front setback.

Therefore, a merit assessment is not required in this instance.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

### **POLICY CONTROLS**

#### **Northern Beaches Section 7.12 Contributions Plan 2022**

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

A monetary contribution of \$ 970 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 194,000.

### **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP

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

This proposal, for alterations and additions to a dwelling house has been referred to the Northern Beaches Local Planning Panel (NBLPP) as there were 10 or more unique submissions by way of objection received in response to the notification (10 submissions against the proposal).

The concerns raised in the objections have been addressed in the assessment report. The submissions are predominantly related to the use of the dwelling as Short Term Rental Accommodation.

The proposal has been assessed on its merits and is found to be compliant with all planning controls and reasonable in the context of the large lot residential area in which it is situated.

The proposal is consistent with the desired future character of the area.

The critical assessment issues were in relation to; height of buildings, bush fire risk, use of the dwelling and residential amenity.

The overwhelming concerns raised by surrounding property owners is the use of the premises for STRA, however, this use is governed by the provisions of SEPP Housing and the applicable Code of Conduct, and which has its own registration, complaints and reporting procedures. General noise and/or traffic issues associated with use can be directed to Council for investigation or the NSW Police, as applicable.

Overall, the development performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment.

The proposal has therefore been recommended for approval.

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

## RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2023/0954 for Alterations and additions to a dwelling house on land at Lot 39 DP 30648, 10 A Lentara Road, BAYVIEW, subject to the conditions printed below:

## Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

### GENERAL CONDITIONS

#### 1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
01	A	Site Plan and Site Analysis Plan	Nick Karahalios Architectural Drafting	May 2023
05	A	Basement Demolition Plan	Nick Karahalios Architectural Drafting	May 2023
06	A	Ground Floor Demolition Plan	Nick Karahalios Architectural Drafting	May 2023
07	A	Additional Vehicle Turning Area Plan	Nick Karahalios Architectural Drafting	May 2023
08	B	Proposed Basement Plan	Nick Karahalios Architectural Drafting	August 2023
09	B	Proposed Ground Floor Plan	Nick Karahalios Architectural Drafting	August 2023
10A	A	Section X-X	Nick Karahalios Architectural Drafting	August 2023
11	A	North Elevation	Nick Karahalios Architectural Drafting	May 2023
12	A	West Elevation	Nick Karahalios Architectural Drafting	May 2023
13	A	East Elevation & Section B-B	Nick Karahalios Architectural Drafting	May 2023
14	A	Roof and Stormwater Plan	Nick Karahalios Architectural Drafting	May 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Geotechnical Assessment	-	AscentGeo	29.05.2023
Bushfire Risk Assessment	-	Bushfire Planning Services	05.06.2023
Bushfire Letter - Clarification on APZ	-	Bushfire Planning Services	11.09.2023
Waste Management Plan	-	Nick Karahalios	May 2023

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

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	28.07.2023

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **Approved Land Use**

Nothing in this consent shall authorise the use of site as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house, in accordance with the Dictionary of the Pittwater Local Environmental Plan 2014, as follows:

***dwelling house means a building containing only one dwelling.***

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

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

4. **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 Certifier 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 Certifier 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 Certifier 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.

## 5. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.
- Demolition and excavation works are restricted to:
- 8.00 am to 5.00 pm Monday to Friday only.
- (Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).
- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
- i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% 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.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2018
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## FEES / CHARGES / CONTRIBUTIONS

### 6. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$970.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$194,000.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

### 7. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

#### **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

8. **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by AscentGeo Consulting Geotechnical Engineers dated 29 May 2023 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

10. **Off Street Parking Design**

The Applicant shall submit a design for the parking facility in accordance with the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

11. **Amendments to the approved plans**

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

- Sections and Elevations to show the ground floor roof terrace balustrade setback 1250mm from the north-eastern elevation (as shown on proposed ground floor plan)

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

12. **Boundary Identification Survey**

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

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

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

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

13. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

1. Council's relevant development control plan,
2. The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and
3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

14. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

## DURING BUILDING WORK

### 15. Protection of Landscape Features and Sites of Significance

a) all natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed during demolition, excavation and construction works, except where affected by works and detailed on approved plans.

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.

### 16. Tree and Vegetation Protection

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

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) tree protection shall be undertaken as follows:

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



c) the Principal Certifier must ensure that:

i) The arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

**17. Condition of Trees**

a) during the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

b) any mitigating measures and recommendations required by the Arborist/Project Arborist are to be implemented.

c) the owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

**18. Wildlife Protection**

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

**19. Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

**20. Road Reserve**

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

Reason: Public safety.

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

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

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

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

22. **Fit-out as per Approved Plans**

During the fit-out of the Basement Level, there is to be no Wet Bar, Kitchen or cooking facilities installed, which may render this level capable of being used as a separate domicile, secondary dwelling or granny flat. The floor plan must be strictly in accordance with the approved plans.

Reason: To ensure the fit-out and use of rooms is in accordance with the approved plans.

23. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

24. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

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

**BEFORE ISSUE OF THE OCCUPATION CERTIFICATE**

25. **Existing septic tank to be decommissioned and dwelling connected to Sewer**

Prior to the issue of an Occupation Certificate (OC) :

1. The existing septic tank is to be decommissioned in accordance with the requirements of NSW Health "Advisory Note 3 - Destruction, Removal or Reuse of Septic Tanks, Collection Wells, Aerated Wastewater Treatment Systems (AWTS) and other Sewage Management Facilities (SMF)".
2. Dwelling is to be connected to the Sydney Water Sewer.

Details confirming compliance with this requirement are to be supplied to the Principle Certifier.

Reason: To ensure removal of redundant systems and connection of the dwelling to Sewer.

26. **Required Screen Planting**

a) screen planting along the eastern elevation of the basement extension shall be planted in accordance with the following:

- i) from at least the existing dwelling to the northern extent of the proposed patio,
- ii) the selected planting is to comprise of species capable of attaining a height of 3 metres at maturity,
- iii) plants are to be installed at minimum 1 metre intervals (or less) and be of a minimum container size of 200mm at planting, installed in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- iv) where the property is certified Bush Fire Prone Land, any new planting shall be installed and managed in accordance with Planning for Bushfire Protection 2019.

b) details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

27. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Details demonstrating compliance are to be provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

28. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

29. **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 Certifier prior to the issue of an Occupation Certificate.

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

30. **Waste Management Confirmation**

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

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

31. **Certification of Off Street Parking Works**

The Applicant shall submit a certificate from a suitably qualified person certifying that the parking facility was constructed in accordance within this development consent and the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: Compliance with this consent.

32. **No Impacts to native vegetation within Biodiversity Values Map**

Impacts to any native vegetation within the area mapped as Biodiversity Values Map (including for Asset Protection Zones) will require an application for development consent which must be accompanied by a Biodiversity Development Assessment Report prepared by an ecologist accredited in application of the NSW Biodiversity Assessment Method, unless otherwise approved under an existing development consent, Local Land Services Native Vegetation Panel permit, or Threatened Species License.

Compliance is to be confirmed in writing by the Project Ecologist and provided to the Certifier prior to issue of any Occupation Certificate.

Reason: To ensure compliance with the Biodiversity Values Map threshold of the NSW Biodiversity Offsets Scheme

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

33. **Landscape Maintenance**

a) if any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components.

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

c) if any shrub required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with any conditions of consent.

d) the approved landscape planted areas, whether containing lawn, gardens or planters, or other shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

34. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

35. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

36. **No Impacts to native vegetation within Biodiversity Values Map**

Impacts to any native vegetation within the area mapped as Biodiversity Values Map (including for Asset Protection Zones) will require an application for development consent which must be accompanied by a Biodiversity Development Assessment Report prepared by an ecologist accredited in application of the NSW Biodiversity Assessment Method, unless otherwise approved under an existing development consent, Local Land Services Native Vegetation Panel permit, or Threatened Species License.

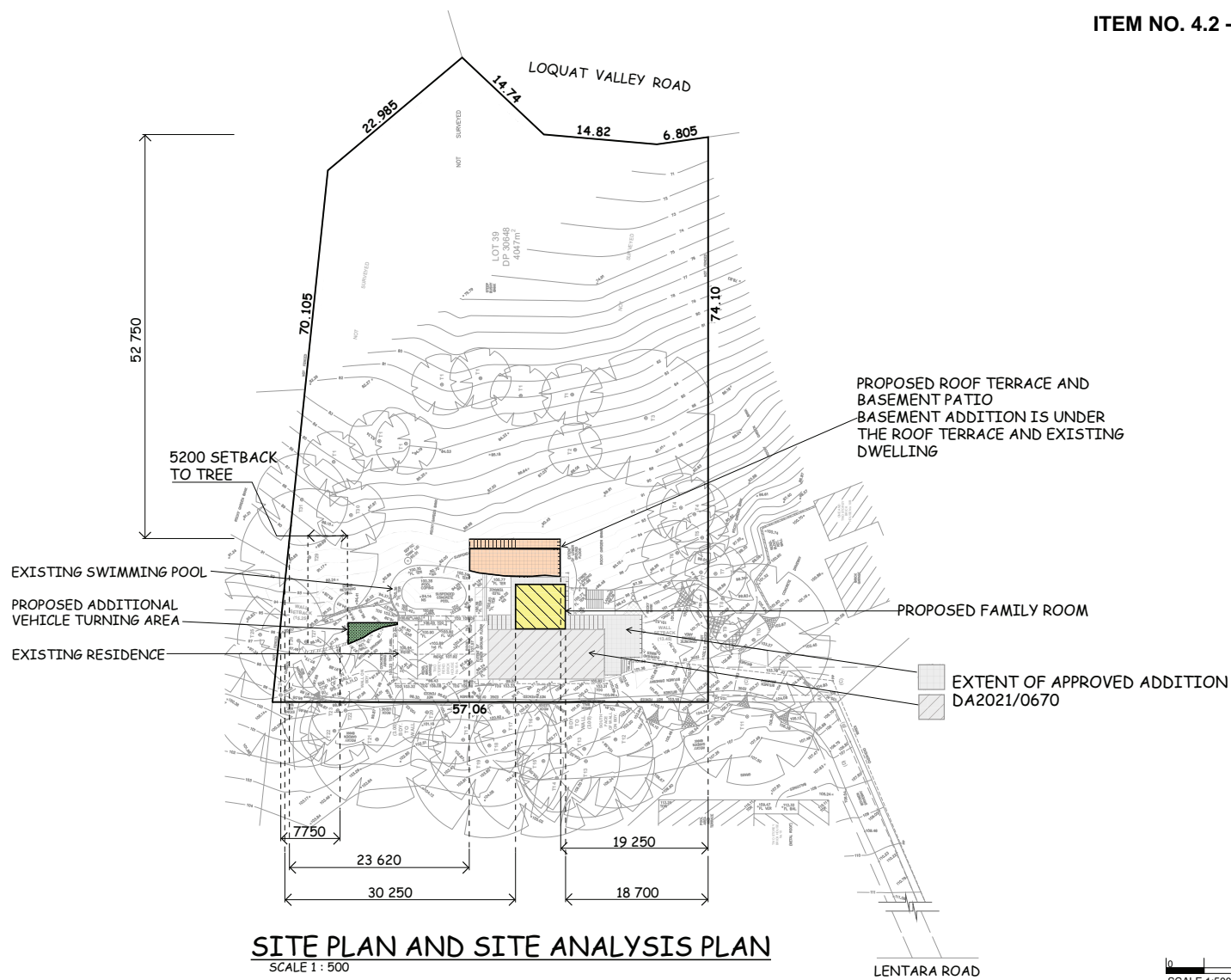
Compliance is to be confirmed in writing by the Project Ecologist and provided to the Certifier prior to issue of any Occupation Certificate.

Reason: To ensure compliance with the Biodiversity Values Map threshold of the NSW Biodiversity Offsets Scheme

37. **No Use as a Secondary Dwelling - Ongoing**

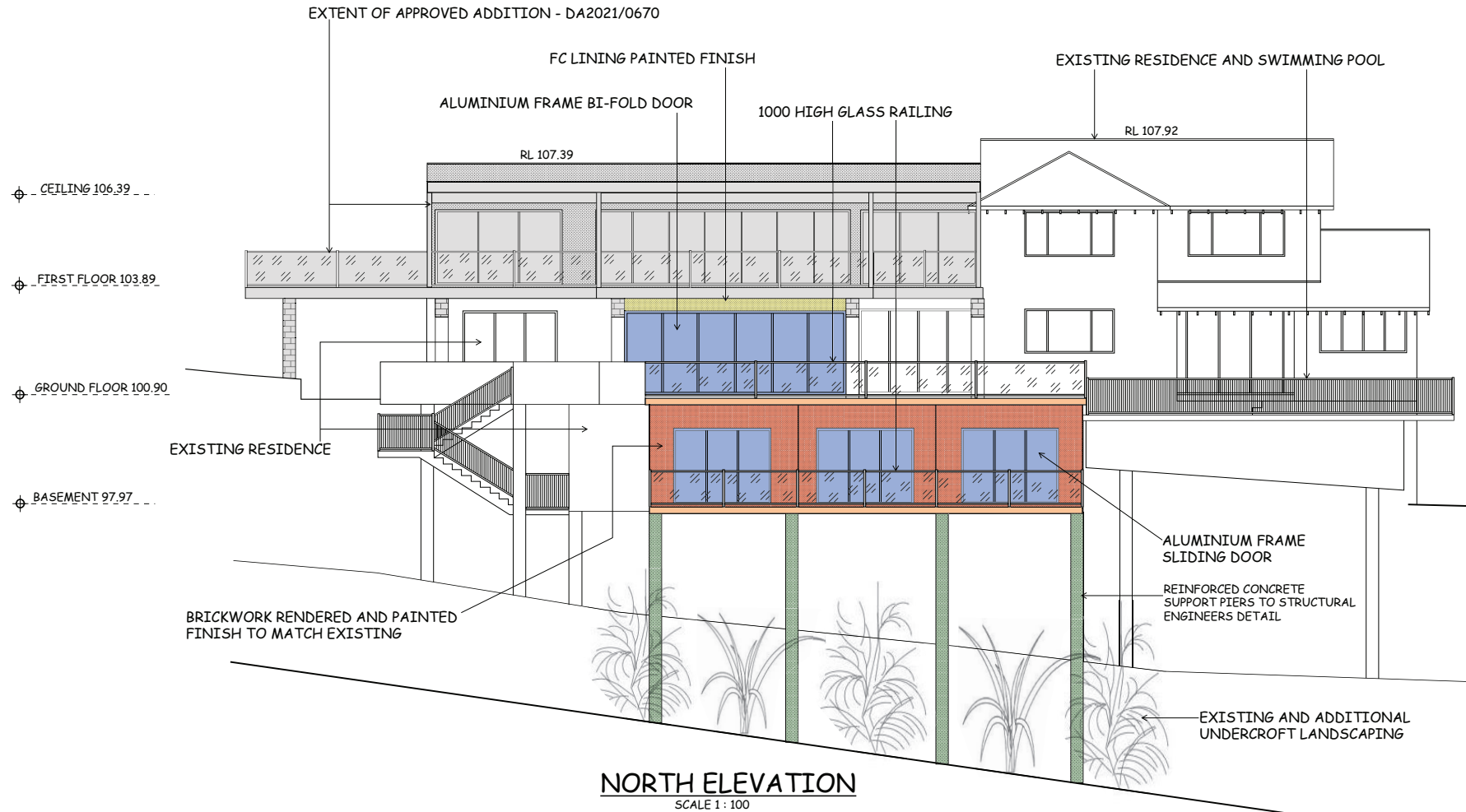
No part of the dwelling house is to be used for the purposes of a secondary dwelling, granny flat or any other type of separate occupancy.

Reason: To ensure compliance with the terms of this consent and that the premises is not used for anything but a single dwelling.



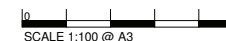
AMENDMENTS:		PROJECT:	FOR:				PREPARED BY: NICK KARAHALIOS ARCHITECTURAL DRAFTING SERVICES 513 BOURKE STREET, SURRY HILLS 2010 MOBILE - 0407 360512 EMAIL - nick@nkdrafting.com.au
ISSUE	DESCRIPTION		DATE	DRAWN BY	JOB No.	SHEET No.	
A	DEVELOPMENT APPLICATION PLANS	PROPOSED ADDITIONS	ALEX WONG				
			MAY 2023	NICK. K	221711	01	
		LOCATION:	10A LENTARA ROAD, BAYVIEW				
			NOTE: THIS DRAWING IS THE COPYRIGHT OF NICK KARAHALIOS ARCHITECTURAL DRAFTING SERVICES AND SHALL NOT BE REPRODUCED IN PART OR WHOLE WITHOUT THEIR WRITTEN APPROVAL.				



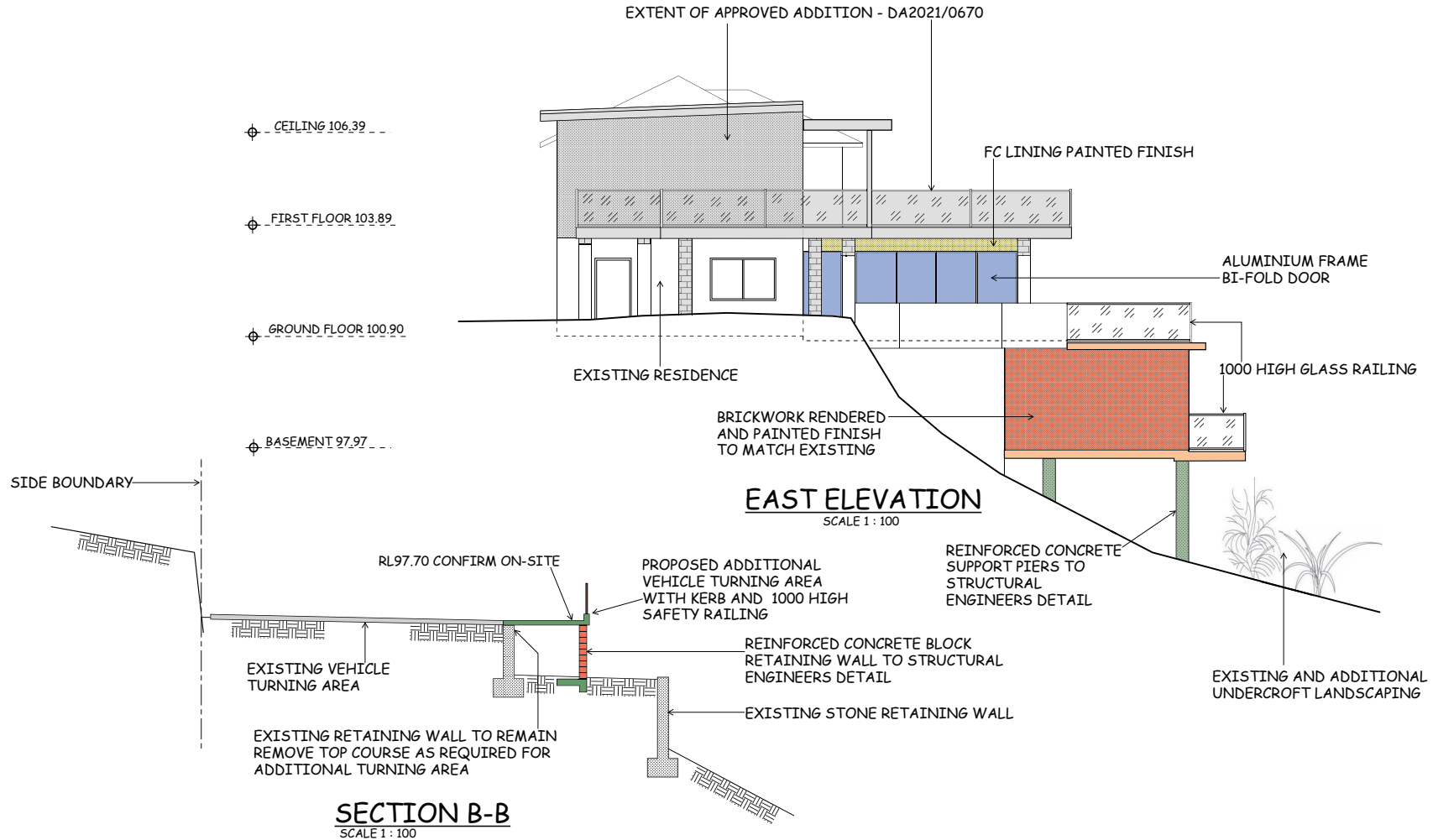


0 1 2 3 4 5  
SCALE 1:100 @ A3

AMENDMENTS:		PROJECT:  PROPOSED ADDITIONS	FOR: ALEX WONG				PREPARED BY: NICK KARAHALIOS ARCHITECTURAL DRAFTING SERVICES 513 BOURKE STREET, SURRY HILLS 2010 MOBILE - 0407 360512 EMAIL - nick@nkdrafting.com.au  NOTE: THIS DRAWING IS THE COPYRIGHT OF NICK KARAHALIOS ARCHITECTURAL DRAFTING SERVICES AND SHALL NOT BE REPRODUCED IN PART OR WHOLE WITHOUT THEIR WRITTEN APPROVAL.
ISSUE	DESCRIPTION		DATE	DRAWN BY	JOB No.	SHEET No.	
A	DEVELOPMENT APPLICATION PLANS						
		LOCATION: 10A LENTARA ROAD, BAYVIEW	MAY 2023	NICK. K	221711	11	

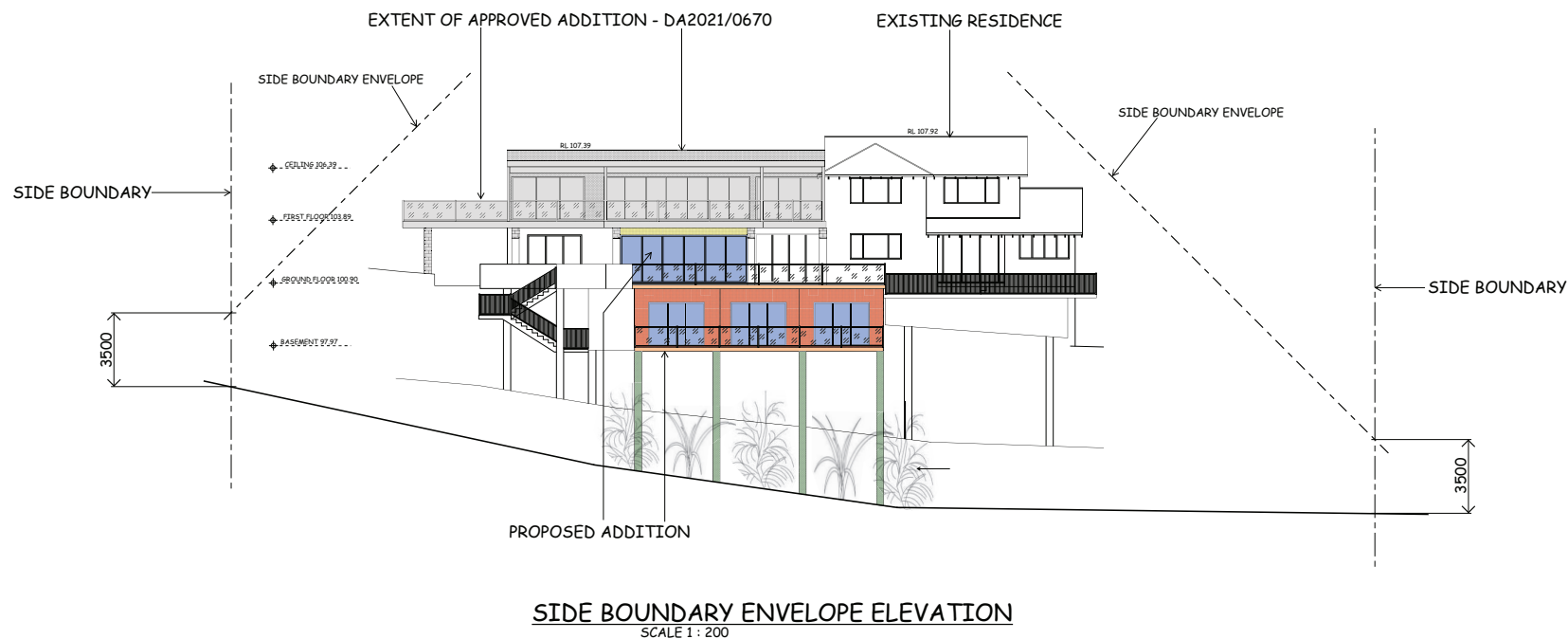


<b>AMENDMENTS:</b>		<b>PROJECT:</b>	<b>FOR:</b>				<b>PREPARED BY:</b>
<b>ISSUE</b>	<b>DESCRIPTION</b>	<p align="center"><b>PROPOSED ADDITIONS</b></p>  <p align="center"><b>LOCATION:</b></p> <p align="center"><b>10A LENTARA ROAD, BAYVIEW</b></p>	<b>ALEX WONG</b>				NICK KARAHALIOS ARCHITECTURAL DRAFTING SERVICE
<b>A</b>	DEVELOPMENT APPLICATION PLANS						513 BOURKE STREET, SURRY HILLS 2010
			<b>DATE</b>	<b>DRAWN BY</b>	<b>JOB No.</b>	<b>SHEET No.</b>	MOBILE - 0407 360512
							EMAIL - nick@nkdrafting.com.au
			MAY 2023	NICK. K	221711	12	<b>NOTE:</b>
							THIS DRAWING IS THE COPYRIGHT OF NICK KARAHALIOS ARCHITECTURAL DRAFTING SERVICES AND SHALL NOT BE REPRODUCED IN PART OR WHOLE WITHOUT THEIR WRITTEN APPROVAL.



SCALE 1:100 @ A3

AMENDMENTS:		PROJECT:  PROPOSED ADDITIONS	FOR: ALEX WONG				PREPARED BY: NICK KARAHALIOS ARCHITECTURAL DRAFTING SERVICES 513 BOURKE STREET, SURRY HILLS 2010 MOBILE - 0407 360512 EMAIL - nick@nkdrafting.com.au  NOTE: THIS DRAWING IS THE COPYRIGHT OF NICK KARAHALIOS ARCHITECTURAL DRAFTING SERVICES AND SHALL NOT BE REPRODUCED IN PART OR WHOLE WITHOUT THEIR WRITTEN APPROVAL.	
ISSUE	DESCRIPTION		DATE	DRAWN BY	JOB No.	SHEET No.		
A	DEVELOPMENT APPLICATION PLANS							
LOCATION:		10A LENTARA ROAD, BAYVIEW		MAY 2023		NICK. K	221711	13



SCALE 1:200 @ A3

AMENDMENTS:		PROJECT:	FOR: ALEX WONG				PREPARED BY: NICK KARAHALIOS ARCHITECTURAL DRAFTING SERVICES 513 BOURKE STREET, SURRY HILLS 2010 MOBILE - 0407 360512 EMAIL - nick@nkdrafting.com.au
ISSUE	DESCRIPTION		DATE	DRAWN BY	JOB No.	SHEET No.	
A	DEVELOPMENT APPLICATION PLANS	LOCATION: 10A LENTARA ROAD, BAYVIEW	MAY 2023	NICK K	221711	14	NOTE: THIS DRAWING IS THE COPYRIGHT OF NICK KARAHALIOS ARCHITECTURAL DRAFTING SERVICES AND SHALL NOT BE REPRODUCED IN PART OR WHOLE WITHOUT THEIR WRITTEN APPROVAL.

**ITEM 4.3****DA2023/0726 - 257 WHALE BEACH ROAD, WHALE BEACH -  
CONSTRUCTION OF AN INCLINATOR AND ASSOCIATED  
LANDSCAPING WORKS****AUTHORISING MANAGER** Adam Richardson**TRIM FILE REF** 2023/708749**ATTACHMENTS**  
1 [↓ Assessment Report](#)  
2 [↓ Site Plan & Elevations](#)  
3 [↓ Clause 4.6](#)**PURPOSE**

This application has been referred to the Northern Beaches Local Planning Panel as the development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

---

**RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT**

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2023/0726 for the Construction of an inclinator and associated landscaping works on land at Lot 171 DP 15376, 257 Whale Beach Road, WHALE BEACH for the reasons for refusal set out in the Assessment Report.

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/0726
<b>Responsible Officer:</b>	Olivia Ramage
<b>Land to be developed (Address):</b>	Lot 171 DP 15376, 257 Whale Beach Road WHALE BEACH NSW 2107
<b>Proposed Development:</b>	Construction of an inclinator and associated landscaping works
<b>Zoning:</b>	C4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Robyn Mary Assunta Denholm
<b>Applicant:</b>	Robyn Mary Assunta Denholm
<b>Application Lodged:</b>	13/06/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	22/06/2023 to 06/07/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	7.8 Limited development on foreshore area
<b>Recommendation:</b>	Refusal
<b>Estimated Cost of Works:</b>	\$ 96,800.00

### EXECUTIVE SUMMARY

This development application seeks consent for the construction of an inclinator and associated landscaping works at the rear of the subject site.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the development resulting in a departure from a non-numerical development standard, being Clause 7.8 Limited development on foreshore area of the PLEP 2014.

The application and breach of the development standard has been supported by a submitted written Clause 4.6 variation request. The written Clause 4.6 variation request is not considered to be well-



founded. The assessment has found that the environmental planning grounds (being topography and precedence) that are advanced within the objection are not considered sufficient to justify the variation.

One (1) submission was received during the notification period raising concerns regarding the size of the deck landing and associated impacts on landscape and foreshore amenity. Amended plans have been provided reducing the size of the decking landing area, overcoming this issue.

This report concludes with a recommendation that the NBLPP refuse the development application.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposed development consists of the construction of an inclinator and associated landscaping works.

### **Application History**

A Request for Further Information (RFI) letter was sent to the applicant on 21 August 2023 raising issues in relation to Clause 7.8 Limited development on foreshore area and the Landscape Referral regarding the size of the deck landing. The proposed inclinator extends below the foreshore building line and is not permitted in the foreshore area under Clause 7.8. A Clause 4.6 variation request was not provided. It was recommended that the proposal be withdrawn, amended to comply with Clause 7.8 or a Clause 4.6 variation request provided. The applicant responded on 11 September providing a Clause 4.6 variation request and amended plans reducing the size of the deck.

## **ASSESSMENT INTRODUCTION**

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

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

## **SUMMARY OF ASSESSMENT ISSUES**

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living  
Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils  
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection  
Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards  
Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area  
Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways  
Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

#### SITE DESCRIPTION

<b>Property Description:</b>	Lot 171 DP 15376 , 257 Whale Beach Road WHALE BEACH NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of Whale Beach Road.</p> <p>The site is irregular in shape with a frontage of 15.285 metres along Whale Beach Road and a depth of 71.64 metres. The site has a surveyed area of 1027m<sup>2</sup>.</p> <p>The site is located within the C4 Environmental Living Zone under the PLEP 2014. The site is currently occupied by a 5 storey split level dwelling that is currently under construction.</p> <p>The site slopes steeply down from the western frontage towards the eastern rear of the site, which a 50% change in grade.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by residential dwellings of varying sizes and styles.</p>

Map:



#### SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- **DA2018/0797** - Development application for Demolition works and construction of a new dwelling house with car stacker garage, swimming pool, front fencing and associated driveway and landscaping works. Approved 28 November 2018. Consent surrendered.
- **DA2019/0309** - Development application for Demolition works and construction of a dwelling house including swimming pool. Approved by Land and Environment Court 24 December 2019.

#### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters are capable of being address through a recommended condition of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to Foreshore Area and Landscaping.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter is capable of being addressed via a recommended condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter is capable of being addressed via a recommended condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 4.15 (1) (c) – the suitability of the site for the development	The site is not considered suitable for the proposed development.

Section 4.15 (1) (d) – any submissions made in	See discussion on “Notification & Submissions Received” in this report.
<b>Section 4.15 Matters for Consideration</b>	<b>Comments</b>
accordance with the EPA Act or EPA Regs	
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

### EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

### BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Building Code and Bushfire Hazard Solutions, dated 5 June 2023) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent. The proposed development is considered to satisfy the requirements of Section 4.14 of the Act.

### NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 22/06/2023 to 06/07/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Housed Architects	Po Box 275 AVALON BEACH NSW 2107

The following issues were raised in the submissions:

- Deck Landing

The above issues are addressed as follows:

- **Deck Landing**

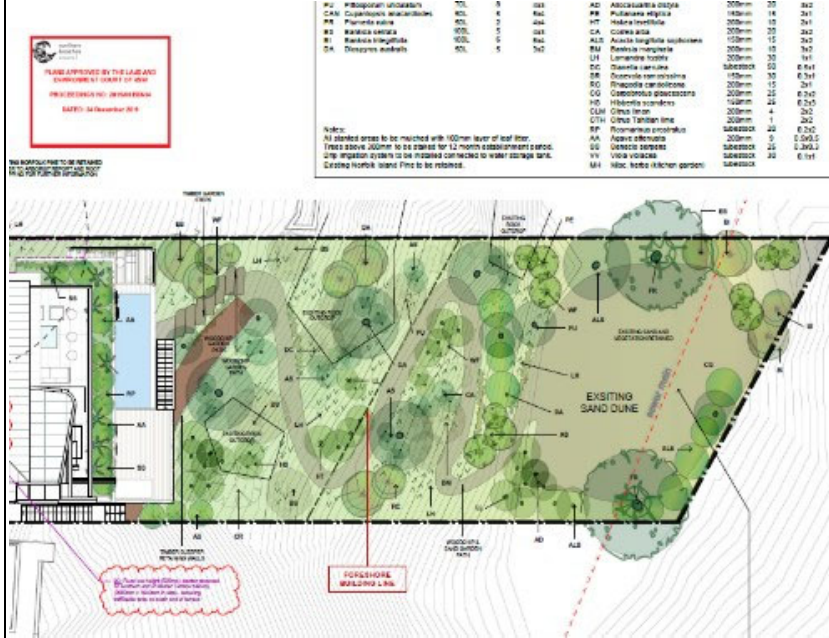
The submissions raised concerns that the proposed deck landing is located on an area of natural dune-scape providing sand and grasses across the beach front properties. This low lying area currently forms a catchment bowl for stormwater runoff and sediment and the submission is concerned that building in this area may impede the existing water course. The submission raises concerns regarding the increased built area due to the deck landing which will continue to diminish the landscape amenity and foreshore outlook.

Comment:

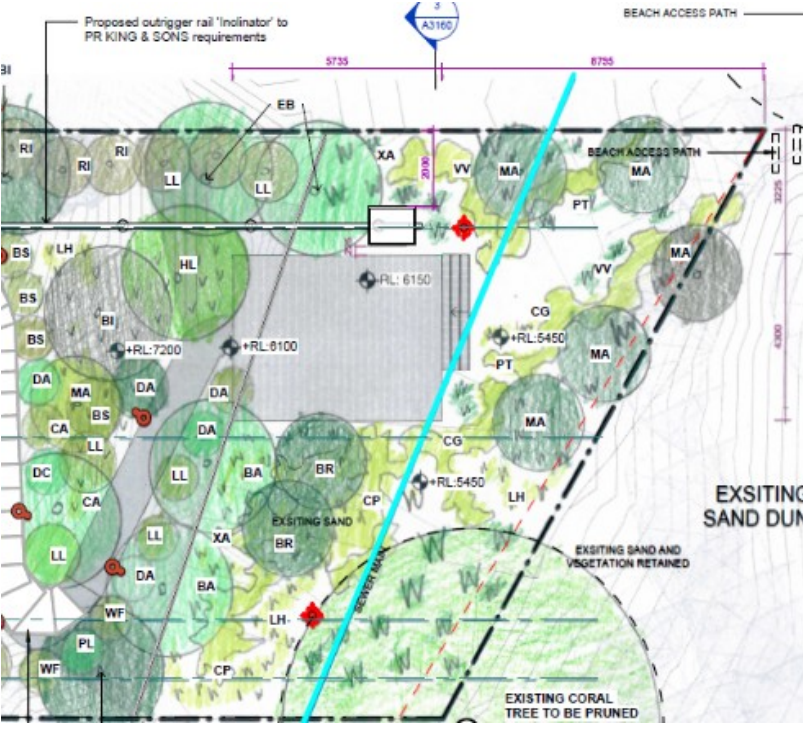
The applicant has provided amended plans reducing the extent of the deck landing and providing increased landscaping. The applicant has also provided a Clause 4.6 written request to vary Clause 7.8 Limited Development on Foreshore Area of the PLEP 2014. A detailed assessment is provided under Clause 4.6 of this report. Furthermore, a detailed assessment on landscaping is provided under D12.10 Landscaped Area of this report.

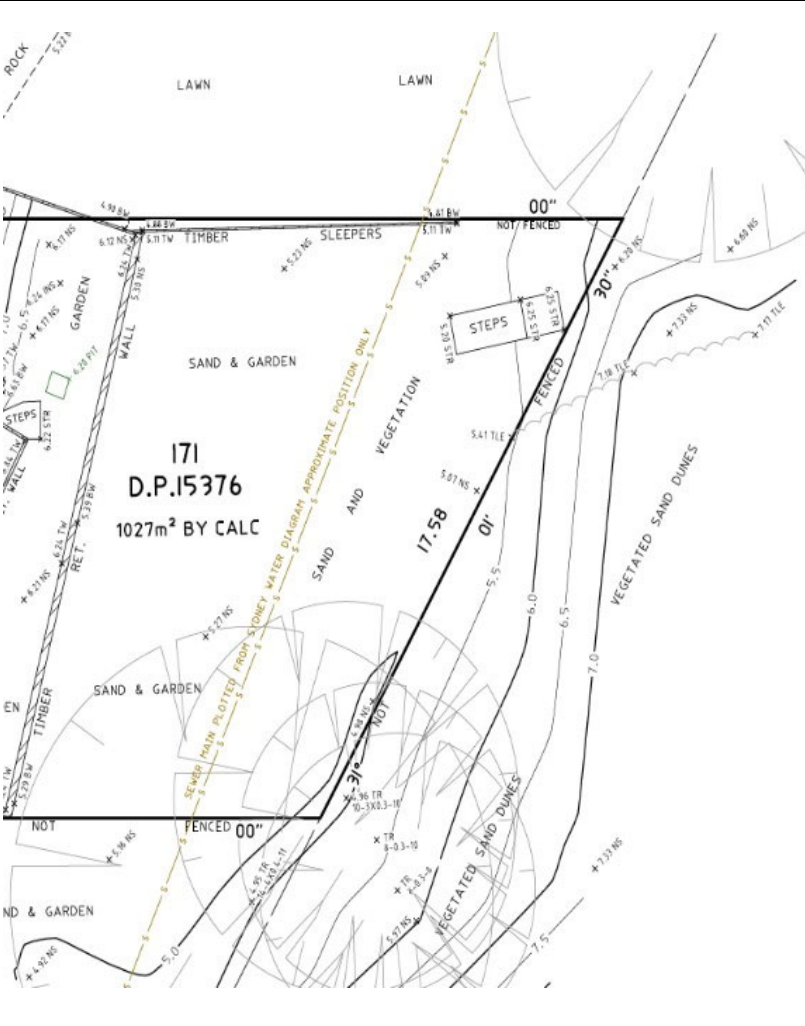
## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p><b><i>Supported, with conditions</i></b></p> <p>Amended Plans Comment 13/09/2023 Amended plans reducing the extent of decking at the base of the inclinator are noted and supported. No objections are raised with regard to landscape issues subject to conditions.</p> <p><u>Original Comment</u> <u>Recommendation: Not supported with regard to landscape issues.</u></p> <p>The plans provided are a little confusing, which is elaborated upon below. In general terms, however:</p> <ul style="list-style-type: none"> <li>• No objections are raised to the proposed inclinator</li> <li>• It is recommended that the deck be reduced to reflect its role as an access path to and from the inclinator. A maximum width of 2m is recommended.</li> <li>• Additional planting be provided in the reduced area.</li> </ul> <p>The application seeks consent for construction of an inclinator and associated landscaping works.</p> <p>The site is noted to have the benefit of a previous consent through the Land and Environment Court for construction of a dwelling, which included landscape works to the rear of the site.(DA2019/0309). Figure 1 below.</p>

Internal Referral Body	Comments
	<p></p> <p>Figure 1. LEC approved Landscape Plans</p> <p>The current application seeks additional landscape works in the lower portion at the rear of the site, including construction of a deck adjacent to a proposed inclinuator, below the foreshore building line. (Figure 2 below).</p>



Internal Referral Body	Comments
	 <p>Figure 2. Proposed Landscape Plan with deck DA2023/0726</p> <p>The deck is located within an environmentally sensitive area within the sand dunes and occupies a relatively large area adjacent to the inclinators (Approximately 26m<sup>2</sup> including additional stairs as drawn).</p> <p>Existing stairs at the end of the property appear to have been constructed that were not part of the approved plans for DA2019/0309. (Figure 1 above and Photo 1 below).</p> <p>The stairs appear on the Survey Plan dated 11/05/2023 (Figure 3 below), but do not appear on the plans submitted with this application (Figure 2 above).</p>

Internal Referral Body	Comments
	 <p>Figure 3. Survey Plan dated 11/05/2023 indicating stairs</p> <p>The submitted plans refer to a 'beach access path' outside of the property boundary. It is unclear if such stairs/path are proposed as part of this DA (Figure 2 above), or whether they exist currently (Photo 1 below).</p>

Internal Referral Body	Comments
	 <p data-bbox="512 1068 1347 1122">Photo 1. Existing site indicating internal stairs and no apparent access stairs beyond the site.</p> <p data-bbox="512 1149 1347 1294">As the stairs indicated on the current plans as 'beach access path' are located within the foreshore reserve area and are outside of the property boundary, approval from Council's Parks Reserves and Foreshores section would be required for new construction. I would defer to the comments of PR&amp;F regarding this aspect.</p> <p data-bbox="512 1321 1347 1435">It is considered that the deck component to provide access to and from the inclinator could be substantially reduced. The width of the deck should be reduced to reflect a structure more aligned with path width as an access in and out of the inclinator structure.</p> <p data-bbox="512 1462 1347 1576">As such, it is recommended that a deck width of 2 metres would be sufficient to provide for inclinator access, the existing paths being 1m wide and the inclinator carriage being 1m wide. The remainder of the area should be planted with local native species.</p>

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p><b>Supported, with conditions</b></p> <p>The proposal seeks approval for the construction of an inclinator and associated landscaping works.</p> <p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> <li>• SEPP (Resilience and Hazards) 2021 - Development within the Coastal Environment</li> <li>• Planning for Bushfire Protection 2019 (PBP 2019)</li> <li>• Pittwater LEP - Part 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP - Clause B4.17 Littoral Rainforest - Endangered Ecological Community</li> </ul> <p>The proposal has been submitted with an accompanying Bushfire report that has determined that the proposed inclinator will have to be built of non-combustible materials in its entirety. No additional comment has been made in relation to the proposed landscaping and has considered that the proposed works satisfy the requirements of PBP 2019.</p> <p>The landscaping schedule submitted with the application will have to be amended in order to avoid the inclusion of plants that have been declared weeds in the Northern Beaches Local Priority Weeds Management Plan (example: <i>Raphiolepis indica</i>).</p> <p>The development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p>
NECC (Coast and Catchments)	<p><b>Supported, with conditions</b></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Coastal Management Act 2016;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.11 &amp; 2.12);</li> <li>• State Environmental Planning Policy (Biodiversity &amp; Conservation) 2021</li> <li>• Relevant LEP and DCP clauses.</li> </ul> <p>The development application concerns the proposal for a new residential inclinator lift and associated decks and landscaping on the property 257 Whale Beach Road, Whale Beach.</p> <p><b>State Environmental Planning Policy (Resilience &amp; Hazards) 2021</b></p> <p>The subject land has been included on the and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience &amp; Hazards) 2021 (SEPP R &amp; H). Hence, Clauses 2.11 and 2.12 of the CM (R &amp; H) apply for this DA.</p>

Internal Referral Body	Comments
	<p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Walter Barda Design dated May 2023, the DA satisfies requirements under clauses 2.11 and 2.12 of the SEPP R&amp;H.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience &amp; Hazards) 2021.</p> <p><b>Development on Foreshore Area</b></p> <p>A section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area.</p> <p>The DA proposes works of an inclinator carries a non-compliance with section 7.8 Limited development on the foreshore area of the Pittwater LEP, Development consent must not be granted for development on land in the foreshore area.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Walter Barda Design dated May 2023, the DA does not satisfy the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.</p>
NECC (Development Engineering)	<p><b>Supported, with conditions</b></p> <p><b>13/07/2023</b></p> <p>Development Application is for construction of an inclinator and associated landscape works.</p> <p><b>Geotech</b></p> <p>Site is mapped on Geotechnical Hazard Map as W Hazard H1. Geotechnical Report by White Geotechnical Group Pty Ltd, Ref: J4876, Dated 13<sup>th</sup> April 2023 with Form 1 and 1A is provided.</p> <p>Development Engineering have no objections to approval subject to conditions as recommended.</p>

Internal Referral Body	Comments
NECC (Flooding)	<p><b>Supported, with conditions</b></p> <p>The proposal seeks consent for a new residential inclinator lift and associated decks and landscaping.</p> <p>Subject to the following conditions, council is satisfied that the proposal is compliant with Section B3.11 of the Pittwater 21 DCP 2021 and Clause 5.21(2)(a-e) of the Pittwater LEP 2014, with consideration of Clause 5.21(3)(a-d) of the Pittwater LEP 2014.</p>
Parks, reserves, beaches, foreshore	<p><b>Supported, with conditions</b></p> <p>No objections are raised to the works in general terms.</p> <p>However, the plans refer to steps indicated as 'Beach Access Path' outside of the property boundary.</p> <p>Reference to such is to be removed from the plans as no approval for works within the adjoining public land/beach is supported.</p> <p>Subject to the above, the proposal can be conditioned to protect Council land and assets.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><b>Supported, with conditions</b></p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>



Aboriginal Heritage Office	<p><b>Supported, with conditions</b></p> <p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area.</p> <p>Whilst the area of works does not contain Aboriginal sites or Aboriginal heritage sensitivity other portions of the DA area do. According to the Due Diligence Code of Practice, any land within 200m of water is considered to have Aboriginal heritage sensitivity and the potential to contain Aboriginal sites. Given the presence of these landscape features in the proposal area there is potential that the works may harm unrecorded Aboriginal sites which are protected under the NPW Act 1974. Harm to these landscape features should therefore be avoided during the construction phase of the works.</p> <p>Inadvertent impacts is considered harm under the NPW Act (1974). Storing materials, parking vehicles on an Aboriginal site or area likely to contain Aboriginal sites is considered harm. During construction all workers and contractors should be made aware of their obligations to avoid harm to Aboriginal sites and areas of Aboriginal sensitivity.</p> <p>If inadvertent impacts do occur works, works should cease and Council, Heritage NSW and the Metropolitan Local Aboriginal Land Council should be contacted.</p>
----------------------------	--

#### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

##### SEPP (Building Sustainability Index: BASIX) 2004

Notwithstanding the cost of works exceeding \$50,000, a BASIX certificate is not required for this type of development, as it is not a type or form of development that is 'BASIX affected development'.



**SEPP (Transport and Infrastructure) 2021**Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

**SEPP (Resilience and Hazards) 2021****Chapter 2 – Coastal Management**

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

**Division 3 Coastal environment area****2.10 Development on land within the coastal environment area**

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
  - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
  - b) coastal environmental values and natural coastal processes,
  - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
  - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
  - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - f) Aboriginal cultural heritage, practices and places,
  - g) the use of the surf zone.

Comment:

The proposed development is not considered to have an adverse impact on the above matters.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
- a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
  - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The proposed development has been designed and sited to avoid adverse impacts on the coastal environment.

**Division 4 Coastal use area**

**2.11 Development on land within the coastal use area**

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
- a) has considered whether the proposed development is likely to cause an adverse impact on the following:
    - i) existing, safe access to and along the foreshore, beach, headland or rock
    - ii) platform for members of the public, including persons with a disability,
    - iii) overshadowing, wind funnelling and the loss of views from public places to
    - iv) foreshores,
    - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
  - b) is satisfied that:
    - i) the development is designed, sited and will be managed to avoid an
    - ii) adverse impact referred to in paragraph (a), or
    - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
  - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposed development has been designed and sited to avoid adverse impacts on the above matters.

**Division 5 General**

**2.12 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed development is not likely to cause increased risk of coastal hazards.

**2.13 Development in coastal zone generally—coastal management programs to be considered**

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

The proposal has been reviewed against all relevant legislation and policies.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

**Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

**Pittwater Local Environmental Plan 2014**

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	2.3m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	No
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes

7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	No
7.10 Essential services	Yes

#### Detailed Assessment

#### **Zone C4 Environmental Living**

The underlying objectives of the C4 Environmental Living zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

#### Comment:

The proposed inclinor is a minor structure that does not cause ecological or scientific impacts. However, the proposed inclinor impacts on the aesthetic values as it would be visible from the public domain and foreshore disrupting visual amenity.

- *To ensure that residential development does not have an adverse effect on those values.*

#### Comment:

The proposed inclinor will be visible from Whale Beach whereby impacting on the aesthetic values of the area.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

#### Comment:

The proposed inclinor does not necessitate excessive excavation and is sited close to natural ground level. However, it is considered that waterway access stairs are a more effective means of access to integrate with the landform and landscape and overcome the site's topography.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

#### Comment:

The proposed development does not require the removal of any significant vegetation and retains the existing rock outcrops. The proposal provides new plantings and landscaping to enhance foreshore vegetation and wildlife corridors.

#### 4.6 Exceptions to development standards

##### Description of non-compliance:

Development standard:	Clause 7.8 Limited Development on Foreshore Area
Requirement:	Foreshore Building Line (FBL)
Proposed:	10.4m extension into Foreshore Area
Percentage variation to requirement:	Non-numerical development standard

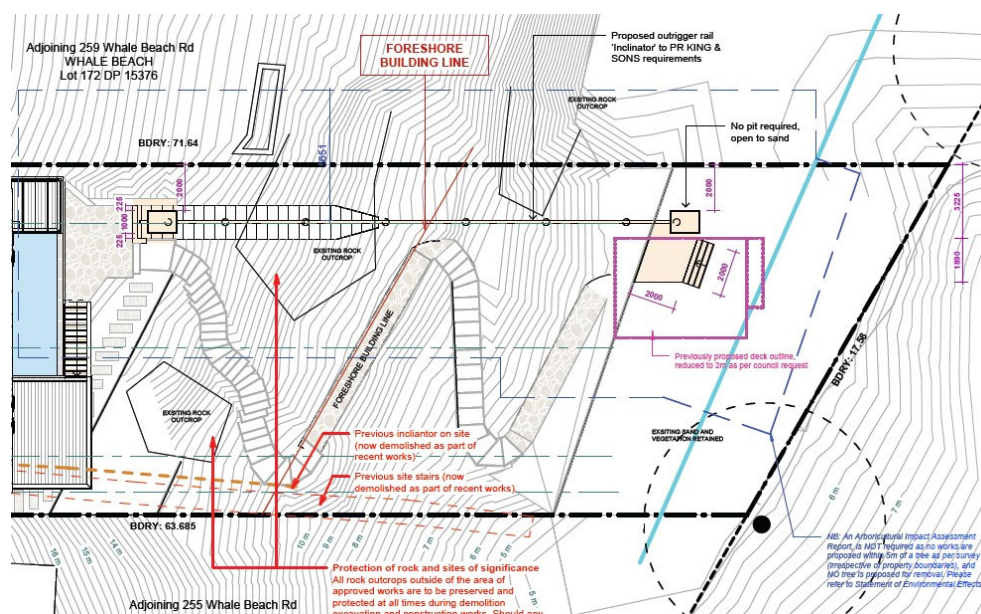


Figure 1 - Site plan showing inclinator within the foreshore area

##### Assessment of request to vary a development standard:

The following assessment of the variation to 7.8 Limited development on foreshore area development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

##### Clause 4.6 Exceptions to development standards:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

7.8 Limited development on foreshore area development standard is not expressly excluded from the operation of this clause.

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Secretary has been obtained.*

**Clause 4.6 (4)(a)(i) (Justification) assessment:**

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

Comment:

The Applicant's written request has not adequately demonstrated that the objectives of the development standard are achieved by the variation to the development standard.

In this regard, the Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's

written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

*'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'*

s 1.3 of the EPA Act reads as follows:

*1.3 Objects of Act (cf previous s 5)*

*The objects of this Act are as follows:*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

- Topography - The rear of the site is extremely steep with a fall of approximately 10.65m and a gradient of 50%. The inclinator will provide improved access to the lower portion of the site. The inclinator allows the transport of items from the dwelling to the lower portion of the site, to provide for enhanced enjoyment of the foreshore and an ease of maintenance.
- Precedence - An inclinator was previously located at the subject site that extended into the foreshore area. There is a precedence with other inclinators being approved within the foreshore area on nearby sites.
- The proposed development is consistent with the objectives of the standard and for the zone.

The environmental planning grounds advanced by the applicant within the Cause 4.6 written request are not sufficient to justify the variation. While the rear of the site is steep and the inclinator would improve the scope of access, the site already benefits from an existing formed pathway to the foreshore area and rear of the site (Figure 2). As such, the existing pathway appropriately provides access to the lower portion of the site allowing transport of items and maintenance, in to what is otherwise a vegetated area with little useable area. Clause 7.8 permits waterway access stairs within the foreshore area to serve the purpose of providing reasonable access to the foreshore, whereby an inclinator is not considered necessary for that purpose. Additionally, the site obtains vehicular access from Whale Beach Road and an inclinator is not fundamental to provide access to the site in any way. The rear of the site adjoins Whale Beach, which in itself is directly accessible from an car park. If the inclinators purpose is in part to access Whale Beach, then such access is available in a way that does



not involve topography. Therefore, the site topography and improved access provided by the inclinator is not a sufficient environmental planning ground to justify the variation.



Figure 2 - Existing stairs and pathway

The written clause 4.6 also advances environmental planning grounds which put forward justification that the incursion into the foreshore area is acceptable on the basis of precedence and recent approvals of other inclinators within the foreshore area on nearby sites and that also an inclinator was previously located at the subject site that extended into the foreshore area. The survey plan of the previous inclinator shows that a minor portion of the rail extends into the foreshore area. However, as the inclinator has since been demolished it is not existing and bears no weight to this assessment.

It is considered that 'precedence' does not constitute a sufficient environmental planning ground. As was articulated by Commissioner Dickson in *WZSydney Pty Ltd v Ku-ring-gai Municipal Council [2023] NSWLEC1065*, the following must be considered when determining if there are sufficient environmental planning grounds:

- *firstly, whether the grounds advanced are environmental planning grounds,*
- *secondly, whether the environmental planning grounds advanced in the written request focus on the aspect or element of the development that contravenes the*

- standard, or in the alternative promote the benefits that will be realised by the development as a whole,*
- *thirdly, I must be satisfied that the environmental planning grounds are “sufficient” to justify, or inform, the aspect or element that contravenes the development standard.*

The grounds advanced for precedence are based on assertions and circumstances which have no relationship or association with this site and development, other than similarity of built form. The arguments of precedence is not established by the facts of the application before Council. The assessment of this application is bound to the development proposed under this application and the particulars to which the site relates. As such, the assessment and approval of inclinators under other development applications is not relevant to the consideration of environmental planning grounds under this application. Therefore, precedence is not a sufficient environmental planning ground and does not contribute to Council's satisfaction of sufficient environmental planning grounds.

As such, the applicant's written request to vary Clause 7.8 Limited development on foreshore area is not well-founded and cannot be supported in this instance.

In this regard, the applicant's written request has not demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, and therefore does satisfy cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has not adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Limited development on foreshore area development standard and the objectives of the C4 Environmental Living zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the provision, pursuant to 'Clause 7.8 Limited development on foreshore area' of the PLEP 2014 are:

*(a) to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,*

Comment:

The proposed inclinator is slimline and sited close to ground level to avoid impacts on natural foreshore processes and the significant and amenity of the area. Council's Coast and Catchment Officer has also reviewed the application and raised no objection to approval, subject to recommended conditions of consent. However, the subject site adjoins Whale Beach to the rear, whereby the proposed inclinator will be visible from the public domain. The rear of the site and adjoining properties is typified by an open grassy dune-scape. The proposed inclinator would disrupt the visual significance and amenity of the area by its built form.

*(b) to ensure continuous public access along the foreshore area and to the waterway.*

Comment:

The proposed inclinator is wholly contained within the property boundaries and does not disrupt public access to the foreshore. Council's Parks, Reserves Beaches and Foreshore Team have also reviewed the application and raised no objection to approval subject to conditions.

**Zone objectives**

The underlying objectives of the C4 Environmental Living zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment:

The proposed inclinator is a minor structure that does not cause ecological or scientific impacts. However, the proposed inclinator impacts on the aesthetic values as it would be visible from the public domain and foreshore disrupting visual amenity.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment:

The proposed inclinator will be visible from Whale Beach whereby impacting on the aesthetic values of the area.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

Comment:

The proposed inclinator does not necessitate excessive excavation and is sited close to natural ground level. However, it is considered that waterway access stairs are a more effective means of access to integrate with the landform and landscape and overcome the site's topography.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment:

The proposed development does not require the removal of any significant vegetation and retains the existing rock outcrops. The proposal provides new plantings and landscaping to enhance foreshore vegetation and wildlife corridors.

**Conclusion:**

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the C4 Environmental Living zone.

**Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:**

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Limited development on foreshore area Development Standard is assumed by the Local Planning Panel.

**7.1 Acid sulfate soils**

Clause 7.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map.

The proposed works are not within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

As such, a preliminary assessment on acid sulfate soils was not required and the proposal satisfies this clause.

**7.6 Biodiversity protection**

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

*(a) whether the development is likely to have:*

*(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*

*(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*

*(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*

*(iv) any adverse impact on the habitat elements providing connectivity on the land, and*

Comment:

The development has been assessed by Council's Bushland and Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

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

Comment:

The development has been assessed by Council's Bushland and Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

The development has been assessed by Council's Bushland Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

**7.7 Geotechnical hazards**

Under Clause 7.7 Geotechnical Hazards, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

- (a) site layout, including access,*
- (b) the development's design and construction methods,*
- (c) the amount of cut and fill that will be required for the development,*
- (d) waste water management, stormwater and drainage across the land,*
- (e) the geotechnical constraints of the site,*
- (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

The proposed development is supported by a geotechnical risk assessment that demonstrates all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

Development consent must not be granted to development on land to which this clause applies unless:



*(a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and*

Comment:

The proposed development is supported by a geotechnical risk assessment. The proposal is for an inclinor that is not considered to impact on existing stormwater management. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

*(b) the consent authority is satisfied that:*

- (i) the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or*
- (ii) if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or*
- (iii) if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.*

Comment:

The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent. As such, Council can be satisfied that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

## 7.8 Limited development on foreshore area

Under Clause 7.8 Limited Development on Foreshore Area, development consent must not be granted for development on land in the foreshore area except for the following purposes:

- *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
- *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

Comment:

The proposed development is for an inclinor sited within the foreshore area prescribed by the Foreshore Building Line under the PLEP 2014. Inclinors are not expressly permitted within the foreshore area under Clause 7.8 and the proposal therefore contravenes this development standard. A detailed assessment on the variation is provided under Clause 4.6 of this report.

Development consent must not be granted under this clause unless the consent authority is satisfied that:

- *the development will contribute to achieving the objectives for the zone in which the land is located, and*
- *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- *the development will not cause environmental harm such as:*
  - *pollution or siltation of the waterway, or*
  - *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora*

- habitats, or*
    - *an adverse effect on drainage patterns, or*
    - *the removal or disturbance of remnant riparian vegetation, and*
- *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
- *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.*

Comment:

The proposed development is inconsistent with the objectives of the C4 Environmental Living zone. The appearance of the proposed development is incompatible with the surrounding area as it disrupts the grassy dune-scape appearance. The proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats, drainage patterns or remnant riparian vegetation. The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway. The proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural or natural significance of the land. The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following:

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*
- *public access to link with existing or proposed open space,*
- *public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- *public access to be located above mean high water mark,*
- *the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment:

The proposed development will retain continuous public access to and along the foreshore. The proposed development does not impact upon any public access.

**Pittwater 21 Development Control Plan**

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	35.9m	N/A	Yes
Rear building line	Foreshore Building Line	Within Foreshore Area	N/A	No



Side building line	South - 2.5m	Inclinor: 11.9m Lower Landing: 10.1m	N/A N/A	Yes Yes
	North - 1m	Inclinor: 2.0m	N/A	Yes
Landscaped area	60%	61.2% (628.52m <sup>2</sup> )	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.17 Littoral Rainforest - Endangered Ecological Community	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.6 Side and rear building line	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

**C1.19 Incline Passenger Lifts and Stairways**

The control requires the following:

*Incline passenger lifts and stairways shall:*

- i) be designed and located so they do not involve excessive excavation, or the removal of natural rock or trees, and*
- ii) be erected as near as possible to the ground level (existing) of the site, and shall not involve the erection of high piers or visible retaining structures, and*
- iii) be located and designed to minimise the effects of noise from the motor and overlooking of adjoining dwellings, and*
- iv) be painted to blend in with surrounding vegetation and screened by landscaping and*
- v) be set back two (2) metres from the side boundary to the outer face of the carriage*
- vi) be located wholly on private land, and*
- vii) have a privacy screen where there is a direct view within 4.5m to a window of a habitable room of another dwelling.*

*The noise level shall not exceed 60dB(A), when measured one metre from any adjoining premises.*

Comment:

The proposed inclinator does not involve excessive excavation, or the removal of natural rocks or trees and is sited as near as possible to the existing ground level and does not require the erection of high piers or visible retaining structures. The proposed inclinator is located so that it does not adjoin any dwellings or habitable spaces to minimise the effects of noise from the motor and does not cause overlooking impacts. The inclinator will be painted to blend in with surrounding vegetation and landscape planting is proposed to screen the inclinator. The proposed inclinator is setback 2.0m from the northern side boundary to the outer face of the carriage and is located wholly on private land. The inclinator does not allow a direct view within 4.5m of a habitable room of another dwelling, thus a privacy screen is not required. If the application were approved a condition would be recommended ensuring the noise level of the inclinator does not exceed 60dB(A) when measured one metre from any adjoining properties.

#### **D12.10 Landscaped Area - Environmentally Sensitive Land**

Description of non-compliance

This control requires at least 60% of the site area to be landscaped area.

Provided the outcomes of this control are achieved, the following may be permitted on the landscaped proportion of the site:

- impervious areas less than 1 metre in width (e.g. pathways and the like);
- for single dwellings on land zoned R2 Low Density Residential or E4 Environmental Living, up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)).

The proposal provides 61.2% (628.5m<sup>2</sup>) landscaped area, including the 6% variation permitted for the pathways and paved private open space which complies subject to achieving the outcomes of the control.

### Merit Consideration

With regards to the consideration for a variation, the development is considered against the underlying outcomes of the control as follows:

- *Achieve the desired future character of the Locality.*

Comment:

The proposal maintains the low density residential nature of the area and therefore achieves the desired future character of the Locality.

- *The bulk and scale of the built form is minimised.*

Comment:

The proposed inclinator provides compliant side setbacks and is sited close to ground level with a maximum height of 2.3m. The proposed inclinator is not considered to contribute to bulk and scale.

- *A reasonable level of amenity and solar access is provided and maintained.*

Comment:

The proposed inclinator does not immediately adjoin any habitable structures to the north and is well screened by vegetation. As such, a reasonable level of amenity and solar access is maintained.

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

Comment:

The proposal does not require the removal of any trees and provides new plantings to visually reduce the appearance of the inclinator.

- *Conservation of natural vegetation and biodiversity.*

Comment:

The proposal has been reviewed by Council's Bushland and Biodiversity Team deeming it acceptable subject to the recommended conditions.

- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*

Comment:

The proposed inclinator is not considered to impact on the existing stormwater management or natural drainage channels.

- *To preserve and enhance the rural and bushland character of the area.*

Comment:

The proposal retains significant vegetation and rock outcrops across the site which preserves the bushland character of the area.

- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*

Comment:

The proposal maintains sufficient soft surface to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance

**THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

**CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

**POLICY CONTROLS****Northern Beaches Section 7.12 Contributions Plan 2022**

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

**CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

- Consistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent 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 Council is not satisfied that:

1) The Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of Clause 7.8 Limited Development on Foreshore Area has adequately addressed and demonstrated that:

a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and

b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

### PLANNING CONCLUSION

This proposal, for the construction of an inclinor and associated landscaping works has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to a variation to the non-numerical development standard, being Clause 7.8 Limited development on foreshore area under the PLEP 2014.

The concerns raised in the objections have been addressed under the relevant sections of this report and resolved by amended plans reducing the size of the deck landing area.

The critical assessment issues relating to the Clause 4.6 variation have been assessed in this report. Council is not satisfied that the applicant's written request has demonstrated that there are sufficient environmental planning grounds to justify the variation.

This report concludes with a recommendation that the NBLPP refuse the development application. It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

**RECOMMENDATION**

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority REFUSE Development Consent to Development Application No DA2023/0726 for the Construction of an inclinator and associated landscaping works on land at Lot 171 DP 15376,257 Whale Beach Road, WHALE BEACH, for the reasons outlined as follows:

- 1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.6 Exceptions to development standards of the Pittwater Local Environmental Plan 2014.**

Particulars:

- i. The environmental planning grounds advanced by the applicant in relation to topography and precedence are not deemed sufficient to justify the variation. As such, Council is not satisfied that there are sufficient environmental planning grounds to justify contravening the development standard.

- 2. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Environmental Planning and Assessment Act 1979.**

Particulars:

- i. The proposed inclinator is not permitted development within the foreshore area and results in an adverse visual impacts on the public domain. Therefore, the site is not considered to be suitable for the proposed development.

- 3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause Zone C4 Environmental Living of the Pittwater Local Environmental Plan 2014.**

Particulars:

- i. The proposed inclinator is visible from the public domain and disrupts the aesthetic values of the area.

- 4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.8 Limited development on foreshore area of the Pittwater Local Environmental Plan 2014.**

Particulars:

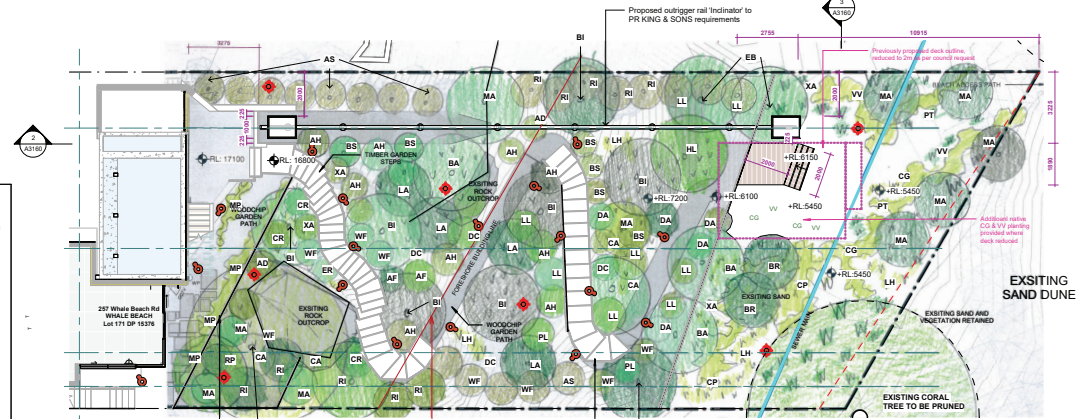
- i. Inclinators are not permitted development within the foreshore area.

**DEVELOPMENT APPLICATION  
Northern Beaches Council  
Construction of New Inclinor, Landing &  
Associated Landscaping Works  
257 Whale Beach Rd  
WHALE BEACH NSW 2107  
Lot 171 DP15376**

**PLANT LIST & LANDSCAPE NOTES**

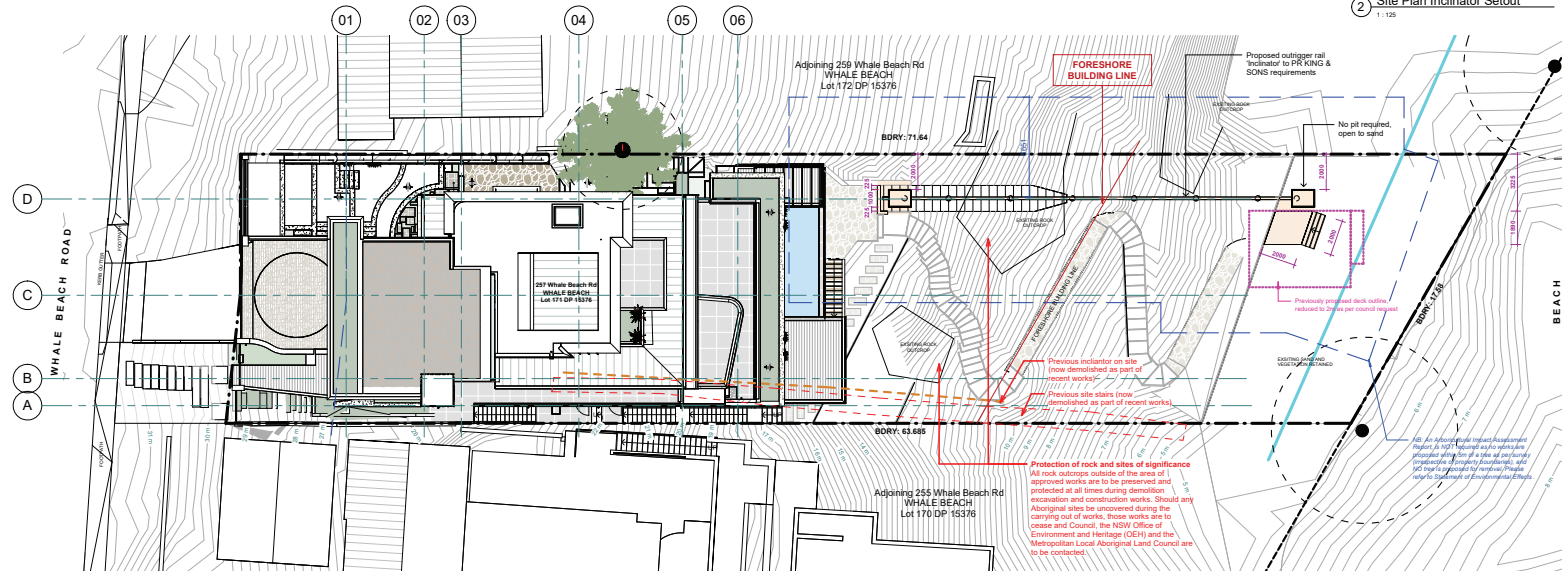
TREES	POT SIZE	QTY	HEIGHT x SPREAD (m)	SHRUBS & GROUNDCOVERS	POT SIZE	QTY	HEIGHT x SPREAD (m)
AS	Acmena smithii	30	2x2	CR	Cortea reflexa	200mm	25
EB	Eucalyptus botrioides	70L	3	WF	Westringia fruticosa	150mm	25
FR	Ficus rubiginosa	50L	1	FN	Ficinia nodosa	150mm	30
PU	Pittosporum undulatum	70L	8	AD	Allocasuarina distyla	200mm	25
MA	Malecaea armillaris	50L	5	PT	Phormium tenax	150mm	20
PR	Plumeria rubra	50L	2	HL	Hakea Laurina	200mm	6
BS	Banksia serrata	100L	5	CA	Correa alba	200mm	20
BI	Banksia integrifolia	100L	8	ALS	Acacia longifolia sopheraea	150mm	15
DA	Diospyros australis	50L	3x2	BM	Banksia marginata	200mm	10
LA	Livistonia australis	100L	5	LH	Lomandra hystrix	200mm	30
BA	Brachychiton acerifolius	100L	3	DC	Dianella caerulea	tubestock	50
AH	Angophora hispida	100L	9	XA	Xanthoreia australis	150mm	12
LL	Leptospermum laevigatum	200mm	15	RI	Raphiolepis indica	500mm	15
				RC	Rhapodia candolleana	200mm	15
				CG	Carpobrotus glaucescens	200mm	25
				HS	Hibbertia scandens	150mm	25
				CLM	Citrus limon	200mm	4
				CTH	Citrus Tahitian lime	200mm	1
				RP	Rosmarinus prostratus	tubestock	20
				AA	Agave attenuata	200mm	9
				SS	Senecio serpens	tubestock	25
				VV	Viola violacea	30	0.1x1
				BR	Banksia robur	200mm	6
				PL	Poa labillardierei	200mm	20
				MP	Myoporum parvifolium	100mm	25
				MH	Misc. herbs (kitchen garden)	tubestock	25

Notes:  
All planted areas to be mulched with 100mm layer of leaf litter.  
Trees above 300mm to be staked for 12 month establishment period.  
Drip irrigation system to be installed connected to water storage tank.  
Existing Norfolk Island Pine to be retained.



**1 Landscape Rear**  
1:100

**2 Site Plan Inclinor Setout**  
1:125



**Walter Barda Design**

architecture  
landscape  
interiors  
Nominated Architect: Adrian Ball Reg. 7745  
2/04 13-15 Wentworth Avenue, Sydney NSW 2000  
www.walterbardadesign.com.au ABN: 48 072 130 513  
Office: 02 9264 4240

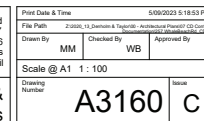
Revisions		
No.	Description	Date
1	INCLINATOR & REAR GARDEN ON REUSE	16.08.2023
2	AMENDED DA - IN RESPONSE TO ADDITIONAL INFO REQUEST	30.08.2023

257 WBR - Whale Beach	
Denholm & Taylor	
This Drawing must not be used for Construction unless signed as Approved	
© Copyright - This document is and shall remain the property of Walter Barda Design Pty Ltd.	
Walter Barda Design Conditions of Use: This Document may only be used for the purpose for which it is recommended and in accordance with the terms of engagement for the commission.	

Project Number	2020.13
Project Status	CD
Sheet	Inclinor Plans

Print Date & Time	5/8/2023 9:16:20 PM
File Path	2020_13_Denholm & Taylor - Architecture Plan 02-01.dwg
Drawn By	MM
Checked By	WB
Approved By	-
Scale	@ A1 As indicated
Drawing Number	A3159 B







*request to vary  
a development standard*



## REQUEST TO VARY A DEVELOPMENT STANDARD

257 WHALE BEACH ROAD  
WHALE BEACH NSW 2107

September 2023

Prepared by Rebecca Englund  
B Arch Studies | M Plan | MPIA

Director | Northern Beaches Planning

Phone: 0472 65 74 74

Web: [www.northernbeachesplanning.com.au](http://www.northernbeachesplanning.com.au)

Email: [rebecca@northernbeachesplanning.com.au](mailto:rebecca@northernbeachesplanning.com.au)



### Disclaimer

This report has been prepared on the basis of information available at the date of publication. Whilst attempts have been made to ensure the accuracy of the information in this document, Northern Beaches Planning accepts no responsibility or liability for any errors, omissions or resultant consequences including any loss or damage arising from reliance on information in this publication or referenced in this publication. Reproduction of this report (or part thereof) is not permitted without prior permission from Northern Beaches Planning.

*northern beaches planning*

1

## *introduction*

---

This request to vary a development standard is made by Northern Beaches Planning on behalf of Robyn Denholm in relation to a development application for the construction of an inclinator and associated landscaping works at 257 Whale Beach Road, Whale Beach (**site**). This request is made pursuant to clause 4.6 of Pittwater Local Environmental Plan 2014 (**PLEP 2014**) and with regard to relevant case law.

## *standard to be varied*

---

The foreshore building line bisects the site at a distance of approximately 21m from the rear boundary, as shown on the Foreshore Building Line Map of PLEP 2014.

Clause 7.8(2) of PLEP 2014 states that development consent must not be granted for development on land within the foreshore area (being the land between the foreshore building line and the mean high water mark) except for the following purposes:

- (a) *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
- (b) *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

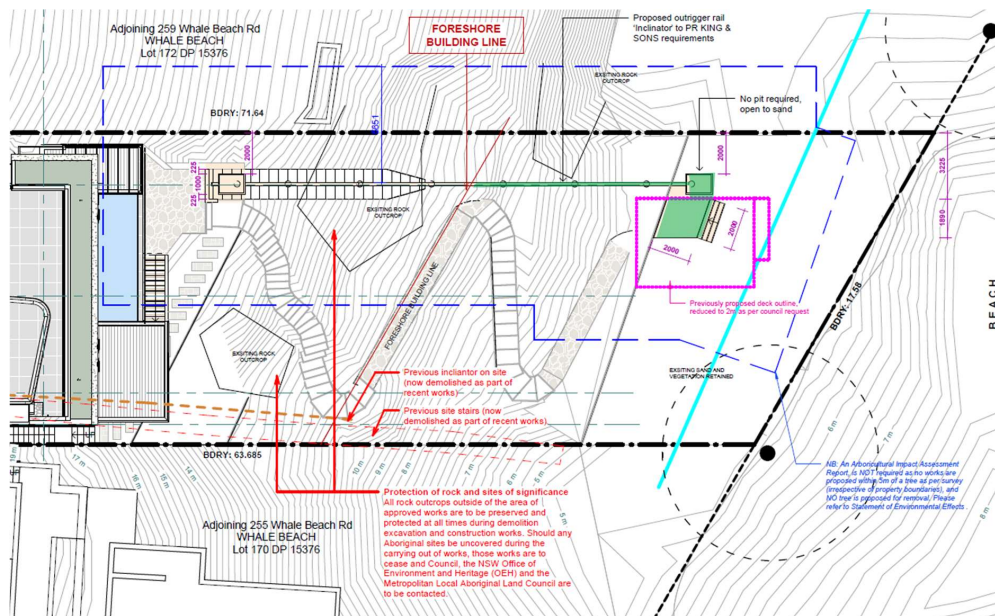
The foreshore building line control is a fixed standard relating to the siting of buildings on a site, consistent with the definition of a development standard, as defined by the EP&A Act. As such, the provisions of clause 4.6 of PLEP 2014 can be applied.

Pursuant to clause 4.6(2) of PLEP 2014, consent may be granted for development even though the proposal contravenes a development standard prescribed by an environmental planning instrument. Whilst this clause does not apply to those standards expressly excluded from this clause, the foreshore building line development standard of clause 7.8 of PLEP 2014 is not expressly excluded and thus, the provisions of clause 4.6 can be applied in this instance.

## *extent of the proposed breach*

---

The development application seeks consent for the construction of an inclinator and associated landscaping works, part of which are proposed within the foreshore area. The works within the foreshore area, being the works the subject of this clause 4.6 variation request, are highlighted in green on the extract of the Site Plan prepared by Walter Barda Design, in **Figure 1** below.



**Figure 1: Extract of Site Plan with works the subject of this clause 4.6 request highlighted in green.**

For the avoidance of doubt, the platform has also been included in this request, however noting that this forms part of the access walkway, this area could be readily described “waterway access stairs” which are expressly permitted within the foreshore area under the provisions of clause 7.8(2)(b) of PLEP 2014.

unreasonable or unnecessary

Pursuant to clause 4.6(4) of PLEP 2014, consent can only be granted if the consent authority is satisfied that the applicant's written request to vary the development standard has addressed the criteria of clause 4.6(3) of PLEP 2014. Clause 4.6(3)(a) of PLEP 2014 requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

In accordance with the decision of the NSW LEC in the matter of *Wehbe v Pittwater Council* [2007] NSWLEC 827, one way in which strict compliance with a development standard may be found to be unreasonable or unnecessary is if it can be demonstrated that the objectives of the standard are achieved, despite non-compliance with the development standard.

The proposed works within the foreshore area are consistent with the objectives of the foreshore building line development standard, as prescribed by clause 7.8(1) of PLEP 2014, as follows:

1. *to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,*



Comment: The term “natural foreshore processes” is not defined by PLEP 2014 but can reasonably be assumed to relate to natural processes such as wave action, tidal inundation, and erosion that occur along foreshore areas.

Unlike the majority of sites burdened by the foreshore building line, the foreshore area within and adjacent to the site is not identified on the Coastal Risk Planning Map of PLEP 2014 and is not identified as being subject to coastal erosion, wave and tidal inundation or coastal hazards in general. Nonetheless, the application has been referred to Council’s Coast and Catchment Team in relation to the consideration of potential coastal hazards, and no concern was raised in relation to the location or design of the proposed inclinor, or the development application in general.

PLEP 2014 does not identify or describe the significance or amenity of the foreshore area, and in particular, there is nothing to suggest that the foreshore area at the subject site has any particular historic, scientific, cultural, social, archaeological or architectural, natural or aesthetic significance.

The proposed inclinor rail will not adversely impact the visual qualities of the foreshore area, noting that the track will be finished in dark and earthy tones, to blend with surrounding vegetation. The footprint and visibility of the resultant structures has been appropriately minimised and is comparably minor, particularly in consideration of the other types of development that are expressly permitted within the foreshore area, including swimming pools, boatsheds, access stairs and the like. Further, the use of the inclinor will not result in any adverse impacts upon the amenity of the foreshore area, or that of adjoining properties, with regards to visual or acoustic privacy.

The consent authority can be satisfied that the proposed development will not impact on natural foreshore processes or affect the significance and amenity of the foreshore area.

2. *to ensure continuous public access along the foreshore area and to the waterway.*

Comment: The works are set back well above MHW, are wholly maintained within private property and do not impact upon public access along the foreshore area or to the waterway. Continuous public access along the foreshore and to the waterway is maintained.

As such, strict compliance with the foreshore building line development standard is unreasonable and unnecessary in the circumstances of this case.

### sufficient environmental planning grounds

Clause 4.6(3)(b) of PLEP 2014 requires the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravention of the standard. The specific environmental planning grounds to justify the proposed contravention of the foreshore building line standard are as follows:

## 1. Topography

The rear of the subject site is extremely steep, with fall of approximately 10.65m over the length of the proposed inclinator track and a gradient of approximately 50%. The proposed inclinator will provide improved access to the lower portion of the site, which is a highly used and valued area of the property.

The proposed inclinator will be particularly beneficial to transport items from the dwelling to the lower portion of the site, to provide for enhanced enjoyment of the foreshore area and an ease of maintenance, noting that there is no ability to store surf craft, beach items or gardening equipment downslope of the dwelling.

It is noted that the provision of "safe and contemporary access" on a sloping site was supported as "sufficient environmental planning grounds" in relation to an inclinator approved within the foreshore area at 182 McCarrs Creek Road pursuant to DA2022/0133 in April of this year.

## 2. Precedence

As demonstrated in the survey provided to accompany the development application, an inclinator was previously located at the subject site, extending from the former dwelling into the foreshore area.

There are also examples of other inclinator within the foreshore area of nearby sites including 267 Whale Beach Road and 271 Whale Beach Road. In fact, the inclinator at 271 Whale Beach Road was approved by Council pursuant to DA2019/0534 in October 2019 under the same provisions of PLEP 2014, with the Assessment Report confirming that the inclinator within the foreshore area was consistent with the provisions of clause 7.8 of PLEP 2014.

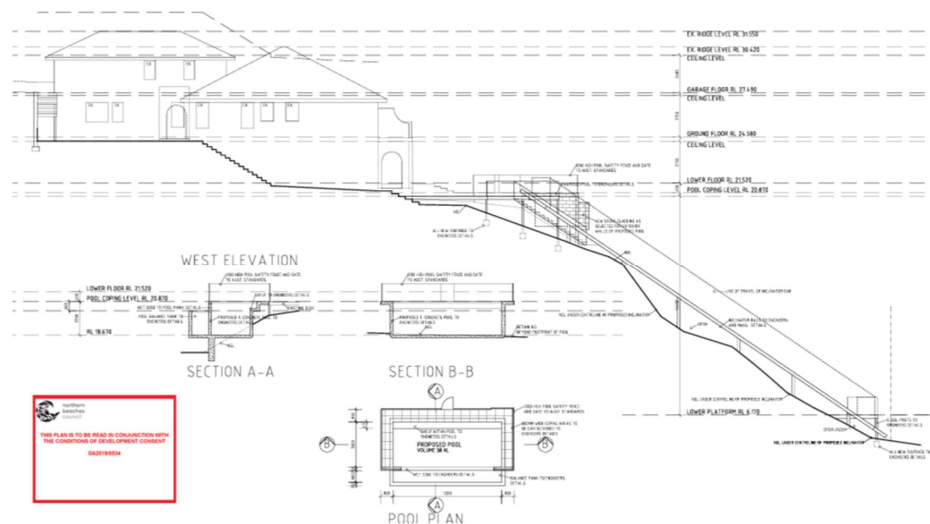


Figure 2: Extract of Stamped Plans for DA2019/0534 at 271 Whale Beach Road  
Source: Northern Beaches Council DA Tracking



There is nothing that differentiates the proposed inclinator from the approved at 271 Whale Beach Road, with no change to the relevant legislation or any case law that would suggest that inclinator are now unacceptable within the foreshore area.

Allowing for the development to appropriately respond to the Applicant's circumstances and the individual context of the site, including the siting & levels of the existing dwelling and the steep terrain of the site, promotes good design and amenity of the built environment, and the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants, consistent with objects (g) and (h) of the EP&A Act.

Consistent with the findings of Commissioner Walsh in *Eather v Randwick City Council* [2021] NSWLEC 1075 and Commissioner Grey in *Petrovic v Randwick City Council* [2021] NSW LEC 1242, the particularly small departure from the standard and absence of impacts consequential of the departure constitute environmental planning grounds, as it promotes the good design and amenity of the development in accordance with the objects of the EP&A Act.

Overall, there are sufficient environmental planning grounds to justify contravention of the foreshore building line development standard in this particular instance.

### public interest

---

Under the provisions of clause 4.6(4)(a) of PLEP 2014, consent must not be granted to a proposal that contravenes a development standard unless the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for the zone in which the development is to be carried out.

As identified above, the proposed development is consistent with the objectives of the foreshore building line development standard. Furthermore, the proposal is consistent with the objectives of the C4 Environmental Living zone, as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific, cultural or aesthetic values.*

Comment: Aside from the site's inclusion in the Biodiversity Area on the Biodiversity Map of PLEP 2014, the site is not identified as having particular ecological, scientific, cultural or aesthetic values. Nonetheless, as confirmed by the supportive referral responses from Council's Landscape Officer, Development Engineer and Coast and Catchment Team, the proposal is of low-impact and will not result in any adverse landscape, engineering or coastal impacts. The resultant development appropriately preserves the natural amenity of the site to a degree that is commensurate with nearby properties and other waterfront sites, noting that residential development is permitted on the land.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment: The proposed inclinator will not result in any adverse ecological, scientific, cultural or aesthetic impacts and inclinator that are ancillary to dwelling houses are permitted on the site.

- *To provide for residential development of a low density and scale, integrated with the landform and landscape and not visually prominent.*

Comment: The works are to be predominantly constructed on piers and posts, in order to minimise site disturbance and impacts to vegetation. The track is to be finished in dark colours, to ensure that it blends with the surrounding natural environment. The incorporation of an inclinator on a steeply sloping foreshore site will not be uncharacteristic or jarring in its waterfront setting, particularly noting that the site formerly contained an inclinator and that inclinators are present on nearby sites.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment: The proposed development has been designed to minimise impacts upon existing vegetation. As confirmed by Council's Landscape Officer, the proposed inclinator does not result in any adverse impacts upon foreshore vegetation or upon foreshore habitat.

Council can be satisfied that the proposal is in the public's interest, in so far as it is consistent with both the objectives of the zone and the objectives of the foreshore building line development standard.

#### *concurrence*

---

Pursuant to clause 4.6(4) of PLEP 2014, development consent must not be granted to a development that contravenes a development standard unless the concurrence of the Secretary has been obtained.

The foreshore building line development standard is a non-numeric development standard. In accordance with the Local Planning Panels Direction issued by the Minister for Planning and Public Spaces, dated 30 June 2020, the concurrence of the Secretary can be assumed by the Northern Beaches Local Planning Panel.

#### *others matters for consideration*

---

Pursuant to clause 7.8(3) of PLEP 2014, consent must not be granted unless the consent authority is satisfied with respect to various matters. These matters are addressed, as follows:

- (a) *the development will contribute to achieving the objectives for the zone in which the land is located, and*

Comment: As discussed above, the proposed development is consistent with the objectives of the C4 zone.

- (b) *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*

Comment: The inclinator track, being a single rail extending down the site, is to be finished in dark colours that will blend with the surrounding vegetation. The track sits low to the site and will not be overly apparent when viewed from neighbouring properties or the beachfront. Further, the lower platform structure will be screened by the foreshore dunes, which sit higher than the lower platform along the rear boundary.

Consistent with the findings of the NSW LEC in the matter of *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191, to be compatible in an urban design context is to be capable of existing in harmony together. The proposed inclinator will sit harmoniously in this specific context, and most observers would not find the visual impact of the proposed development to be offensive, jarring or unsympathetic in this context, particularly noting the existence of other inclinators and access structures within the foreshore area of nearby sites.

- (c) *the development will not cause environmental harm such as—*
- i. *pollution or siltation of the waterway, or*
  - ii. *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
  - iii. *an adverse effect on drainage patterns, or*
  - iv. *the removal or disturbance of remnant riparian vegetation, and*

Comment: The proposed development will not cause environmental harm, as endorsed in the referral responses from Council's Development Engineers, Landscape Officer and Coast & Catchment Team.

- (d) *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*

Comment: The proposed development will not generate congestion or conflict in relation to use of open space areas or the waterway. The works are wholly maintained within private property and do not extend within the portion of the foreshore area that is within the public domain.

- (e) *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*

Comment: The proposed development does not compromise continuous public access along the foreshore and to the waterway. As above, the works are wholly maintained within private property and do not extend within the portion of the foreshore area that is within the public domain.

- (f) *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*

Comment: Aside from the site's inclusion in the Biodiversity Area on the Biodiversity Map of PLEP 2014, the site is not identified as having particular ecological, scientific, cultural or aesthetic values. Nonetheless, as confirmed by the supportive referral responses from

Council's Landscape Officer, Development Engineer and Coast and Catchment Team, the proposal is of low-impact and will not result in any adverse landscape, engineering or coastal impacts. The resultant development appropriately preserves the natural amenity of the site to a degree that is commensurate with nearby properties and other waterfront sites, noting that residential development is permitted on the land.

- (g) *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*

Comment: Not applicable.

- (h) *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change, have been considered.*

Comment: The proposal has been reviewed by Council's Coast & Catchment Team with regard to sea level rise, coastal erosion and recession, with no concerns raised in this regard.

Council can be satisfied of the matters listed in clause 7.8(3) of PLEP 2014.

### *conclusion*

---

Overall, the consent authority can be satisfied that this written request has adequately addressed all relevant matters and that the provisions of clause 4.6 of PLEP 2014 have been met. As such, there is no jurisdictional impediment to the granting of consent in relation to the proposed variation of the foreshore building line development standard.



**Rebecca Englund**

B Arch Studies | M Plan | MPIA

**Director | Northern Beaches Planning**

## 5.0 NON PUBLIC MEETING ITEMS

ITEM 5.1	MOD2023/0397 - 42 NORTH STEYNE, MANLY - MODIFICATION OF DEVELOPMENT CONSENT DA2021/2257, APPROVED BY THE LAND AND ENVIRONMENT COURT FOR ALTERATIONS AND ADDITIONS TO AN EXISTING BUILDING TO COMPRISE SHOP TOP HOUSING AND STRATA- SUBDIVISION
AUTHORISING MANAGER	Rod Piggott
TRIM FILE REF	2023/708759
ATTACHMENTS	1 <a href="#">↓</a> Assessment Report 2 <a href="#">↓</a> Site Plans & Elevations

### PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

---

### RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

- A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 and Floor Space Ratio Development Standard of Clause 4.4 pursuant to clause 4.6 of MLEP 2013 as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
- B. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. Mod2023/0397 for Modification of Development Consent DA2021/2257, approved by the Land and Environment Court for alterations and additions to an existing building to comprise shop top housing and strata-subdivision. on land at Lot 100 DP 1069144,75 The Corso, MANLY, Lot 101 DP 1069144,75 The Corso, MANLY, Lot 102 DP 1069144,75 The Corso, MANLY, Lot 1 DP 1280856,42 North Steyne, MANLY subject to the conditions set out in the Assessment Report.

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2023/0397
<b>Responsible Officer:</b>	Maxwell Duncan
<b>Land to be developed (Address):</b>	Lot 100 DP 1069144, 75 The Corso MANLY NSW 2095 Lot 101 DP 1069144, 75 The Corso MANLY NSW 2095 Lot 102 DP 1069144, 75 The Corso MANLY NSW 2095 Lot 1 DP 1280856, 42 North Steyne MANLY NSW 2095
<b>Proposed Development:</b>	Modification of Development Consent DA2021/2257, approved by the Land and Environment Court for alterations and additions to an existing building to comprise shop top housing and strata-subdivision.
<b>Zoning:</b>	Manly LEP2013 - Land zoned E1 Local Centre
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Steyne Hotel Operations Pty Ltd ATF Steyne Hotel Operations Trust Barecall Pty Ltd Steyne Hotel Freehold Pty Ltd
<b>Applicant:</b>	The Trustee For Steyne Hotel Operations Trust
<b>Application Lodged:</b>	03/08/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	11/08/2023 to 08/09/2023
<b>Advertised:</b>	11/08/2023
<b>Submissions Received:</b>	6
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: This clause do not apply to a modification, but proposal does exceed control by 19.2% 4.4 Floor space ratio: This clause do not apply to a modification, but proposal does exceed control by 12.12% and 22.96%
<b>Recommendation:</b>	Approval

### EXECUTIVE SUMMARY

The application seek approval for a modification of the consent of DA2021/2257, granted consent by the Land and Environment Court for alterations and additions to an existing building to comprise shop top housing and strata and stratum subdivision.

The modifications proposed under this application generally relate to the conversion of the existing bottle shop to a hotel reception/entrance to Hotel Steyne and minor internal and external alterations to the approved shop top housing development at 42 North Steyne.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to a variation to the Height of Buildings and Floor Space Ratio (FSR) development standard of more than 10%.

The non-compliance with the building height and FSR development standard arises from the approved non-compliant FSR and building height. The approved building has an approved height of 15m and total gross floor area of 1582sqm. The proposed modified works are below the maximum building height at 14.7m and the proposed alterations reduce the overall gross floor area by 14sqm (1568sqm total gross floor area). The works proposed under this application do not increase the maximum gross floor area or building height approved under DA2021/2257.

A total of six objections were received as part of the exhibition of the application. Issues raised include noise and compliance with the existing conditions of consent. The issues raised in objection have been reviewed and they do not warrant the refusal of the application.

The modified development is substantially the same as the approved development and the modifications do not materially impact the amenity of surrounding properties, alter the approved design or impact on the natural environment.

This report concludes with a recommendation that the **NBLPP** should grant approval to the application, subject to the conditions attached to this report.

## PROPOSED DEVELOPMENT IN DETAIL

This modification application lodged pursuant to Section 4.56 of the EP&A Act seeks to modify the approval issued under development consent DA2021/2257.

The modifications proposed include:

- Hotel lift 3 & level access relocated
- Remove existing bottle shop and replace with hotel reception
- Hotel room adjusted to accommodate hotel lift 3 entry
- Adjustment of ground floor layout
  - hotel reception relocated to existing bottle shop
  - cafe and kitchen relocated
  - toilets relocated
  - floor levels raised to meet flood levels
  - residential garbage relocated
  - redesign residential lobby & entry
- Convert storage commercial area into residential storage area
- Remove bedroom 2 window on unit 201
- Addition of sliding doors to studies
- Curved corners to glazing (level 4)
- Modification of mullions & transom
- Mew skylights added on the roof level; and



- Modification of strata and stratum subdivision

## ASSESSMENT INTRODUCTION

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

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

## SUMMARY OF ASSESSMENT ISSUES

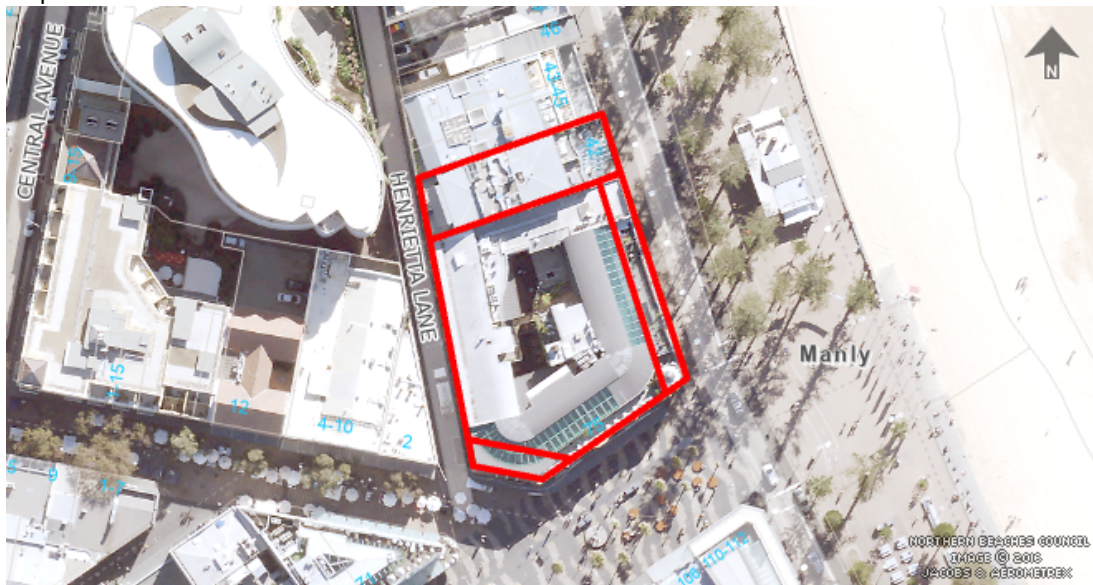
Environmental Planning and Assessment Act 1979 - Section 4.56 - Environmental Planning and Assessment Act 1979 - Section 4.56 - with S4.15 Assessment  
Assessment - SEPP (Sustainable Buildings) 2022  
Manly Local Environmental Plan 2013 - 4.3 Height of buildings  
Manly Local Environmental Plan 2013 - 4.4 Floor space ratio  
Manly Development Control Plan - 5.5 Road Widening and Realignment

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 100 DP 1069144 , 75 The Corso MANLY NSW 2095 Lot 101 DP 1069144 , 75 The Corso MANLY NSW 2095 Lot 102 DP 1069144 , 75 The Corso MANLY NSW 2095 Lot 1 DP 1280856 , 42 North Steyne MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The subject sites are commonly known as 75 The Corso, Manly and 42 The Corso, Manly (Lot 1, DP 1034722 and Lot 100, DP 1069144).</p> <p>The site is irregular in shape with a primary frontage of 34.075m along The Corso and secondary frontages of 53.525m along North Steyne, 13.665m along Sydney Road and 56m along Henrietta Avenue. The land has total area of 2216m<sup>2</sup>.</p> <p>The site is situated in the E1 Local Centre zone (formerly</p>

	<p>B2 Local Centre zone) under the Manly Local Environmental Plan 2013 (MLEP 2013).</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by multi-level commercial, residential, and mixed-use developments. Manly Beach is located directly opposite the property to the east</p>
--	---

Map:



## SITE HISTORY

The land has been used for residential and commercial purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

**DA2021/2257** - Alterations and additions to an existing building to comprise of shop top housing and strata subdivision.

Approved by the Land and Environment Court on 20 September 2022, by way of consent orders.

**Mod2022/0630** - Modification of Development Consent DA2021/2257, approved by the Land and Environment Court for alterations and additions to an existing building to comprise shop top housing and strata subdivision.

The proposed modifications included:

- Construction of a swimming pool and spa to the approved fourth level terrace along the Market Lane frontage.
- Associated landscaping.

### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and 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 (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2021/2257, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.56 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.56- Other Modifications	Comments
(1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2021/2257, for the following reasons:</p> <ul style="list-style-type: none"> <li>• The modified development remains consistent with the original approval in terms of use and density of development.</li> <li>• The proposed is maintained within the footprint of the original consent.</li> <li>• The bulk and scale of the development remain largely the same and the visually is not significantly altered from the original approval when viewed from the street and adjoining properties.</li> </ul>
(b) it has notified the application in accordance with:	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental

Section 4.56- Other Modifications	Comments
(i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of DA2021/2257.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

#### Section 4.15 Assessment

In accordance with Section 4.56 of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.56 the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>Part 4, Division 2 of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p>Clause 29 of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p>Clauses 36 and 94 of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to BCA compliance.</p> <p>Clause 61 of the EP&amp;A Regulation 2021 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 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent..</p> <p>Clause 69 of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</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 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

#### EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

#### BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

#### NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 11/08/2023 to 08/09/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 6 submission/s from:

Name:	Address:
Mr Ray Caryl Stone	704 / 9 - 15 Central Avenue MANLY NSW 2095
Mr Jesse Alex Chester	7 / 24 The Crescent MANLY NSW 2095
Mr Gregory Ernest Brown	8 Macquarie Road PYMBLE NSW 2073
Mr Gavin John Stow Mrs Samantha Barbara Stow	505 / 9 - 15 Central Avenue MANLY NSW 2095
Ms Zina Dybac	509 / 9 - 15 Central Avenue MANLY NSW 2095
Mr Faustino Miguel Martinez De Morentin	508 / 9 - 15 Central Avenue MANLY NSW 2095

The following issues were raised in the submissions:

- **Acoustic report**
- **Proposed paving**
- **Compliance with conditions**
- **Heritage**

The above issues are addressed as follows:

- **Acoustic report/ Noise from Steyne Hotel courtyard**

The submissions raised concerns about the suitability of the acoustic reports finding and

recommendations from DA2021/2257 the parent DA. The submission also noted that conditions from DA91/2011 are to be continuously maintained.

Comment:

This modification application does not propose any changes to the acoustic operation of the subject site. Conditions relating to 91/2011 are not relevant to this modification application.

- **Proposed paving**

The submissions raised concerns about proposed paving to Henrietta Lane. This matter was dealt with under the parent development application.

Comment:

This matter was dealt with under the parent development application by way of condition (Condition No. 21 *Submission Roads Act Application for Civil Works in the Public Road*). The applicant is to submit a application for infrastructure on the roadway, pursuant to he Sections 138 and 139 of the *Roads Act* 1993 prior to the issue of the construction certificate. The condition states that engineering plans submitted as part of this application where to incorporate details of the road pavement, kerb and gutter for the reconstruction of the road.

- **Compliance with conditions**

The submissions raised concerns that existing conditions are to be complied with.

Comment:

Excluding design changes shown on the proposed architectural plans, no existing construction or operational are proposed to be altered or deleted.

- **Heritage**

The submissions raised concerns that there are outstanding heritage issues raised by Council's Heritage advisor.

Comment:

Additional information provided by the applicant has addressed concerns raised by Council's Heritage advisor, with the heritage advisor supporting the proposal, subject to conditions.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<b><i>Supported, subject to conditions</i></b> The application has been investigated with respects to aspects relevant the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.



Internal Referral Body	Comments
	<p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
<p>Environmental Health (Industrial)</p>	<p><b>Supported, subject to conditions</b></p> <p>This modification application seeks consent to amend the Land and Environment Court determination, dated 20 September 2022, which approved 'alterations and additions to an existing hotel, including the construction of a shop top housing development and strata subdivision' (DA Ref 2021/2257) at 75 The Corso &amp; 42 North Steyne, Manly.</p> <p>The modifications proposed in this application are described in detail in Section 4 and generally include:</p> <ul style="list-style-type: none"> <li>- Demolition plan changes to satisfy new BCA requirements</li> <li>- Internal layout changes</li> <li>- Minor design changes</li> <li>- Subdivision</li> </ul> <p>Renzo Tonin and Associates have addressed potential noise impacts that may occur due to the new modifications. The report has stated;</p> <p><i>With this ceiling treatment, and with the acoustic treatments already detailed in the Original Acoustic Report, there will be no change in the noise impacts (either on 42 North Steyne itself, or on surrounding development).</i></p> <p>Environmental Health recommends approval subject to conditions.</p>
<p>Environmental Health (Food Premises, Skin Pen.)</p>	<p><b>Supported, subject to conditions</b></p> <p>This modification application seeks consent to amend the Land and Environment Court determination, dated 20 September 2022, which approved 'alterations and additions to an existing hotel, including the construction of a shop top housing development and strata subdivision' (DA Ref 2021/2257) at 75 The Corso &amp; 42 North Steyne, Manly.</p> <p>The modifications proposed in this application are described in detail in Section 4 and generally include:</p> <ul style="list-style-type: none"> <li>- Demolition plan changes to satisfy new BCA requirements</li> <li>- Internal layout changes</li> <li>- Minor design changes</li> <li>- Subdivision</li> </ul> <p>The relocation of the cafe and kitchen can still achieve compliance with the AS4674:2004.</p> <p>Environmental Health recommends approval subject to conditions.</p>

Internal Referral Body	Comments
NECC (Coast and Catchments)	<p><b>Supported, without conditions</b> The modification application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Resilience &amp; Hazards) 2021 and has also been assessed against requirements of the Manly LEP 2013 and Manly DCP.</p> <p><b>Coastal Management Act 2016</b> The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed modifications are in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p><b>State Environmental Planning Policy (Resilience &amp; Hazards) 2021</b> The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience &amp; Hazards) 2021 (SEPP R &amp; H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R &amp; H) apply for this DA.</p> <p>Comment: On internal assessment, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&amp;H.</p> <p>As such, it is considered that the modification application does comply with the requirements of the State Environmental Planning Policy (Resilience &amp; Hazards) 2021.</p> <p><b>Manly LEP 2013 and Manly DCP</b> No coastal related issues identified.</p> <p>As such, it is considered that the modification application does comply with the requirements of the coastal relevant clauses of the Manly LEP 2013 and Manly DCP.</p>

Internal Referral Body	Comments
NECC (Development Engineering)	<b>Supported, without conditions</b> The proposed modifications to the existing approval have been reviewed and are supported no further development engineering conditions are required.
NECC (Flooding)	<b>Supported, subject to condition</b> The proposed modifications primarily relate to internal layout changes and modifications to internal floor levels. Raising of the floor levels at ground level has been undertaken to protect the lifts and stairs from floodwaters entering from Henrietta Lane where the FPL is 5.53m AHD. It is considered that this requirement, conditioned in DA2021/2257, has now been met.
NECC (Water Management)	<b>Supported, without conditions</b> This application was assessed in consideration of: <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Northern Beaches Water Management for Development Policy (WM Policy); and</li> <li>• Relevant LEP and DCP clauses</li> </ul> <p>The condition of consent (DA2021/2257 under the court approval LEC No. 2022/00032828) related to stormwater treatment measures and groundwater interference are unaffected by the proposed modifications.</p> <p>NECC Water Management has no objection to the proposal</p>
Strategic and Place Planning (Heritage Officer)	<b>HERITAGE COMMENTS</b>
	Discussion of reason for referral
	<b>Supported, subject to conditions</b>  The proposal has been referred as the site is a heritage item, being <b>Item I111 - Hotel Steyne, 75 The Corso</b> and is located within the <b>C2 - Manly Town Centre Conservation Area</b> . It is also in the vicinity of a number of heritage items: <b>Item I168 - Ocean foreshores</b> - Manly municipal area, boundary adjacent to the ocean <b>Item I174 - Beach Reserve</b> —Merrett Park North Steyne and South Steyne
	Details of heritage items affected
	Details of the heritage item, as contained within the heritage inventory, are: <b>Item I111 - Hotel Steyne, 75 The Corso</b> <u>Statement of significance</u> This building is a fine example of Inter-War Art Deco style Hotel. Landmark building on the corner of The Corso and South Steyne. <u>Physical description</u> Original Hotel built 1862 and rebuilt in 1936 in Inter-war Art Deco Style of polychrome brickwork with heavy brick modelling along parapet and corrugated asbestos roof. Significant elements

Internal Referral Body	Comments																					
	<p>include: fan shaped lintels to windows; tile and brick detailing beneath windows; original tiling to ground floor, octagonal corner 'tower'.</p> <p><b>C2 - Manly Town Centre Conservation Area</b> <u>Statement of significance</u></p> <p>The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today.</p> <table><tr><th colspan="3">Other relevant heritage listings</th></tr><tr><td>SEPP (Biodiversity and Conservation) 2021</td><td>No</td><td></td></tr><tr><td>Australian Heritage Register</td><td>No</td><td></td></tr><tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr><tr><td>National Trust of Aust (NSW) Register</td><td>No</td><td></td></tr><tr><td>RAIA Register of 20th Century Buildings of Significance</td><td>No</td><td></td></tr><tr><td>Other</td><td>No</td><td></td></tr></table> <p><b>Consideration of Application</b></p> <p><b>Amended Plans - submitted 20 September 2023</b></p> <p>The proposal seeks consent for modifications to the LEC approved DA 2021/2257, involving changes to the heritage item and the approved shop top housing development.</p> <p>The existing Bottle Shop at the southern portion of Hotel Steyne, facing The Corso is proposed to be replaced with the hotel accommodation reception. The existing staircase in this area is proposed to be rebuilt with the insertion of a new lift core, which requires partial demolition at the ground floor level for the erection of the new lift. The works involve the removal of the furniture and interior fittings, but do not involve the removal of any brick walls and are limited to partitions and doors at the ground level and partial demolition of an existing room for the new lift core. The proposed works also include the removal of the steps at the entrance to The Corso, to provide accessible entry. The proposed works for the new shop top housing involve reconfiguration of the ground floor layout and changes to the fenestration of the main facade facing North Steyne.</p> <p>Heritage raised a number of concerns on the original plans</p>	Other relevant heritage listings			SEPP (Biodiversity and Conservation) 2021	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register	No		RAIA Register of 20th Century Buildings of Significance	No		Other	No	
Other relevant heritage listings																						
SEPP (Biodiversity and Conservation) 2021	No																					
Australian Heritage Register	No																					
NSW State Heritage Register	No																					
National Trust of Aust (NSW) Register	No																					
RAIA Register of 20th Century Buildings of Significance	No																					
Other	No																					

Internal Referral Body	Comments
	<p>submitted with this Modification. In response to this, the applicants have submitted an <i>Amended Statement of Heritage Impact (HIS)</i> by City Plan Heritage (dated 18 September 2023), along with amended plans by Squillace Architecture/Interiors, received by Council on 20 September 2023. Each issue is discussed below:</p> <p><b>Relocation of hotel lobby to existing bottle shop</b> There are no objections to the hotel lobby being relocated to the area currently occupied by the bottle shop. The Amended HIS provided more information on the fabric to be demolished for this relocation and concluded that this area had been modified, particularly in 2003 and any original fabric had either been removed, or was possibly concealed behind existing walls/ceilings. On this basis, heritage is able to support this work on the basis that demolition works in this area are supervised by a built heritage specialist and any original fabric revealed during demolition, is retained in-situ or salvaged and stored for future re-use.</p> <p>The other concern with this relocation was proposed changes to the doors fronting The Corso and any signage. The Amended HIS and plans now propose that the existing timber and glass manual sliding doors will be retained, with the end door (where steps are to be removed), will be made a full length door to match the remaining doors. This is an acceptable heritage outcome. Signage changes are limited to changes to the wording of the Bottle Shop under awning sign to refer to Accommodation. This minor change is considered acceptable on heritage grounds.</p> <p><b>Changes to fenestration on 42 North Steyne</b> This issue has been reconsidered and no heritage objections are now raised to the proposed changes to the fenestration detailing on the building at 42 North Steyne.</p> <p><b>Heritage Interpretation Strategy</b> It is acceptable for the interpretation panels to remain located in the portion of the development known as 41 North Steyne, in the new café, as opposed to being in the hotel lobby. This location is identified in the approved <i>Heritage Interpretation Strategy</i> document by City Plan dated February 2023, on page 22. The only difference is that this area will now only be used as a café not a “café and hotel reception”, which is not important as the focus for these interpretation panels is the history of the original building at 41 North Steyne, which is being demolished as part of this development. However, it is considered the approved <i>Heritage Interpretation Strategy</i> report by City Plan (dated February 2023) should be updated to refer to the new plans, the subject of this Modification application, including the plan extract referred to on page 22 of the report.</p> <p>Having reviewed the amended plans and amended Heritage</p>

Internal Referral Body	Comments
	<p>Impact Statement it is considered that the previous heritage concerns have now been addressed.</p> <p><b>Therefore, no objections are raised on heritage grounds, subject to the imposition of a number of conditions.</b></p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013:</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? Yes - Previously Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p>
Strategic and Place Planning (Urban Design)	<p><b>Supported, without conditions</b></p> <p>This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment.</p> <p>The Modification Application Mod2023/0397 seeks consent for alterations and additions at 75 The Corso MANLY NSW 2095.</p> <p>The applicant seeks consent for modifications that relate primarily to demolition, internal and layout changes, in part resulting from changes to NCC/BCA provisions. The proposed changes include:</p> <ul style="list-style-type: none"> <li>• remove bedroom 2 window on unit 201</li> <li>• addition of sliding doors to studies</li> <li>• curve corners to glazing</li> <li>• slight modification of mullions &amp; transom</li> <li>• new skylights added on the roof level</li> <li>• floor levels raised to meet flood levels</li> </ul> <p>Urban Design raise no objection to the proposed development.</p> <hr/> <p><b>Please note:</b> Regarding any view impacts and any impacts on solar amenity and overshadowing these matters will be dealt with under</p>

Internal Referral Body	Comments
	the evaluation of Councils Planning Officer. Any impacts of non-compliances regarding heritage will be dealt with under the evaluation of Councils Heritage Officers, and any Landscape non-compliances will be dealt with under the evaluation of Councils Landscape Officers.
Traffic Engineer	<b>Supported, without conditions</b> The proposed modification does not impact upon the approved quantum of parking or access to it. There is also no change to the development yield. There are therefore no traffic engineering issues preventing approval of the modification and no additional conditions to apply
Waste Officer	<b>Supported, subject to conditions.</b> To enhance the public amenity of Manly CBD Council will not permit the presentation of bins on public land awaiting collection. Council will provide a "wheel out/ wheel in" service for all residential waste and recycling bins from the designated waste bin storage room within the building. To ensure an efficient provision of service the bin storage room must meet access requirements for collection staff.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<b>Supported, subject to conditions</b> The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.  These recommendations were imposed under the original condition of consent.
Nominated Integrated Development - WaterNSW - Water Management Act 2000, s90(2) - Water management works approval to construct and use a specified water supply/drainage/flood work at a specified location	<b>Supported, without conditions</b> WaterNSW has reviewed the information submitted with the application regarding the proposed modifications relating to the subdivision, demolition, internal layout changes and other alterations to comply with BCA requirements of 42 North Steyne & 75 The Corso, Manly NSW 2095 and considers that for the purposes of the Water Management Act 2000, no further investigation is required by this agency

#### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

#### **SEPP (Transport and Infrastructure) 2021**

##### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

##### Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

#### **SEPP (Biodiversity and Conservation) 2021**

##### **Chapter 6 – Water catchments**

The subject property is located within the Sydney Harbour Catchment and Sydney Harbour Foreshores and Waterways Area therefore the provisions of Chapter 6 Water catchments of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* apply to this development. Accordingly, an assessment under Chapter 6 has been carried out as follows:

##### **Division 3 Development in Foreshores and Waterways Area**

##### **6.28 General**

*(1) In deciding whether to grant development consent to development in the Foreshores and Waterways Area, the consent authority must consider the following—*

*(a) whether the development is consistent with the following principles—*

- (i) Sydney Harbour is a public resource, owned by the public, to be protected for the public good,*
- (ii) the public good has precedence over the private good,*
- (iii) the protection of the natural assets of Sydney Harbour has precedence over all other interests,*
- (b) whether the development will promote the equitable use of the Foreshores and Waterways Area, including use by passive recreation craft,*
- (c) whether the development will have an adverse impact on the Foreshores and Waterways Area, including on commercial and recreational uses of the Foreshores and Waterways Area,*
- (d) whether the development promotes water-dependent land uses over other land uses,*
- (e) whether the development will minimise risk to the development from rising sea levels or changing flood patterns as a result of climate change,*
- (f) whether the development will protect or reinstate natural intertidal foreshore areas, natural landforms and native vegetation,*
- (g) whether the development protects or enhances terrestrial and aquatic species, populations and ecological communities, including by avoiding physical damage to or shading of aquatic vegetation,*
- (h) whether the development will protect, maintain or rehabilitate watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.*
- (2) Development consent must not be granted to development in the Foreshores and Waterways Area unless the consent authority is satisfied of the following—*
  - (a) having regard to both current and future demand, the character and functions of a working harbour will be retained on foreshore sites,*
  - (b) if the development site adjoins land used for industrial or commercial maritime purposes—the development will be compatible with the use of the adjoining land,*
  - (c) if the development is for or in relation to industrial or commercial maritime purposes—public access that does not interfere with the purposes will be provided and maintained to and along the foreshore,*
  - (d) if the development site is on the foreshore—excessive traffic congestion will be minimised in the zoned waterway and along the foreshore,*
  - (e) the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from—*
    - (i) the Foreshores and Waterways Area, and*
    - (ii) public places, landmarks and heritage items.*

Comment:

The proposed modification maintains consistency with the above principles. The proposed modification will not have any unreasonable impact upon the foreshore area.

**SEPP (Resilience and Hazards) 2021**

**Chapter 2 – Coastal Management**

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

**Division 3 Coastal environment area**

**2.10 Development on land within the coastal environment area**

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

- a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
- b) coastal environmental values and natural coastal processes,
- c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
- d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- f) Aboriginal cultural heritage, practices and places,
- g) the use of the surf zone.

Comment:

The proposed modifications are generally relatively minor compared to the previous approval, and will not significantly alter any impacts to the above matters for consideration.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
  - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
  - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

No significant impacts will be caused by the proposed modifications.

**Division 4 Coastal use area**

**2.11 Development on land within the coastal use area**

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
  - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
    - i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
    - ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
    - iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
    - iv) Aboriginal cultural heritage, practices and places,
    - v) cultural and built environment heritage, and
  - b) is satisfied that:

- i) the development is designed, sited and will be managed to avoid an
  - ii) adverse impact referred to in paragraph (a), or
  - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposal will remain consistent with the aims and considerations for the coastal environment of Manly along North Steyne.

**Division 5 General**

**2.12 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

No significant impacts will be caused by the proposed modifications.

**2.13 Development in coastal zone generally—coastal management programs to be considered**

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

The proposed modifications are generally relatively minor, and will not cause any increased risk of coastal hazards.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

**Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential and commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential and commercial land use.

### Manly Local Environmental Plan 2013

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

### Principal Development Standards

Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings	12m	15m	Natural ground level - 14.7m (Top of new glazing level 4)	19.2%	No
Floor Space Ratio	Site C: 3:1 (914.1sqm) Site C + D: 2.5:1 (396sqm)	Site C: 3.7:1 (1142sqm) Site C + D: 2.77:1 (440sqm)	Site C: 3.68:1 (1124sqm) Site C + D: 2.8:1 (444sqm)  Total reduction of 14sqm of gross floor area across the site	22.96% 12.12%	No No

### Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision—consent requirements	Yes
4.3 Height of buildings	No
4.4 Floor space ratio	No
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.13 Design excellence	Yes
6.14 Requirement for development control plans	Yes
6.15 Tourist and visitor accommodation	Yes
6.16 Gross floor area in Zone B2	Yes

### Detailed Assessment



requirements of Clause 4.6.

The application has been made under Section 4.56 of the Environmental Planning and Assessment (EPA) Act 1979, which is a free standing provision that in itself authorises the development to be approved notwithstanding any breach of development standards. Section 4.56 is subject to its own stand-alone tests (such as the substantially the same test and consideration of all relevant Section 4.15 matters) and does not rely upon having a Clause 4.6 variation in order to determine the modification application.

Clause 4.6 regulates whether development consent may be granted, not whether an existing consent may be modified, and therefore does not apply to Section 4.56 modification applications. As such, the applicant is not required to submit a written request adequately addressing the matters required to be demonstrated by cl 4.6(3).

Notwithstanding that Clause 4.6 does not apply to Section 4.56 modification applications, the merits of the variation have been assessed with regard to the objectives of the height of buildings development standard and the underlying objectives of the E1 Local Centre zone. Notwithstanding that Clause 4.6 does not strictly apply, the assessment has also taken into consideration the relevant tests of the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

**Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,**

Comment:

The objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard (As detailed below). Demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

**There are sufficient environmental planning grounds to justify contravening the development standard,**

Comment:

The development promotes good design and amenity of the built environment, noting that the proposed alterations will not contribute to any unreasonable impact on amenity considerations (i.e solar access, privacy and view loss) to neighbouring properties.

**The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.**

4.3 Height of buildings

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

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

Comment:

The height of building non-compliance under this application is in reference to the proposed



glazing alterations to the level 4 apartment. The approved height of the approved shop top housing development is not altered.

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

Comment:

The works will allow for an appropriate relationship and spatial separation with surrounding development. The visual bulk of the swimming pool as viewed from public open space (Manly Beach) is not adverse nor unreasonable.

*c) to minimise disruption to the following—*

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

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

*(iii) views between public spaces (including the harbour and foreshores),*

Comment:

The proposed development will not result in unreasonable view loss to and from private and public open spaces.

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

Comment:

The solar impacts of this aspect of the development are minor and acceptable in terms of the impacts on habitable rooms of the adjoining properties and 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:

The site is not located in recreation or protection zone.

Zone objectives

The underlying objectives of the E1 Local Centre zone

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Comment:

The proposed development retains the use of the site as shop top housing, so includes retail premises at ground level. This supports the needs of the people who live in, work in, and visit the local area.

- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*

Comment:

As above, the proposed development retains retail premises at ground level, which will provide employment opportunities. The subject site is accessible in that it is located within short walking distance of regular bus, ferry services and courtesy bus services.

- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*

Comment:

The subject site is located within short walking distance of bus and ferry services, as well as walking and cycling paths. The site adjoins The Corso and will contribute the Manly townscape.

- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

Comment:

The application includes a commercial premise on the ground floor.

- *To minimise conflict between land uses in the zone and adjoining zones and ensure amenity for the people who live in the local centre in relation to noise, odour, delivery of materials and use of machinery.*

Comment:

The proposed residential apartments and neighbouring residential development will retain suitable levels of amenity.

- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*

Comment:

The proposed development will contribute the diverse nature of North Steyne and The Corso.

- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

Comment:

As above, the architectural design of the development will complement the townscape of Manly.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the

E1 Local Centre zone.

**Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:**

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Comment:

The subject application is made under Section 4.56 of the EPA Act. As such, Clause 4.6 does not strictly apply and the concurrence of the Secretary is not required to be obtained.

**4.4 Floor space ratio**

Description of non-compliance:

Development standard:	Floor space ratio
Requirement:	Site C: 3:1 (914.1sqm) Site C + D: 2.5:1 (396sqm)
Proposed:	Site C: 3.68:1 (1124sqm) Site C + D: 2.8:1 (444sqm)  Total reduction of 14sqm of gross floor area across the site.  <b>Approved</b> Site C: 3.7:1 (1142sqm) Site C + D: 2.77:1 (440sqm)
Percentage variation to requirement:	Site C: 22.96% Site C + D: 12.12%

Assessment of request to vary a development standard:

Whilst the modification application will result in a floor space ratio that exceeds the maximum permitted by Clause 4.4 of the Manly LEP 2013, the application does not strictly need to address the requirements of Clause 4.6.

The application has been made under Section 4.55 of the Environmental Planning and Assessment (EPA) Act 1979, which is a free standing provision that in itself authorises the development to be approved notwithstanding any breach of development standards. Section 4.56 is subject to its own stand-alone tests (such as the substantially the same test and consideration of all relevant Section 4.15 matters) and does not rely upon having a Clause 4.6 variation in order to determine the modification application.

Clause 4.6 regulates whether development consent may be granted, not whether an existing consent may be modified, and therefore does not apply to Section 4.56 modification applications. As such, the applicant is not required to submit a written request adequately addressing the matters required to be demonstrated by cl 4.6(3).

Notwithstanding that Clause 4.6 does not apply to Section 4.56 modification applications, the merits of the variation have been assessed with regard to the objectives of the floor space ratio development standard and the underlying objectives of the E1 Local Centre zone. Notwithstanding that Clause 4.6 does not strictly apply, the assessment has also taken into consideration the relevant tests of the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,

Comment:

The objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard (As detailed below). Demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

**There are sufficient environmental planning grounds to justify contravening the development standard,**

Comment:

The development promotes good design and amenity of the built environment, noting that the proposed alterations will not contribute to any unreasonable impact on amenity considerations (i.e solar access, privacy and view loss) to neighbouring properties.

**The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.**

#### 4.4 Floor space ratio

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

*a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*

Comment:

The proposed floor space alterations will not compromise the scale of the development when viewed from the North Steyne or Henrietta Lane.

*b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*

Comment:

The proposed bulk and scale of the proposed development is not unreasonable impacted by the proposed alterations to floor space noting that the change comes as a result of internal alterations.

*c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*

Comment:

As noted above, the approved building envelope and will not change the bulk and scale of the development.

*d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*

Comment:

The proposed amendments to gross floor area does not unreasonably impact on the amenity of the neighbouring properties.

*e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres,*

Comment:

The proposed commercial use at the ground floor of the development encourages business and employment opportunities in the area.

Zone objectives

The underlying objectives of the E1 Local Centre zone

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Comment:

The proposed development retains the use of the site as shop top housing, so includes retail premises at ground level. This supports the needs of the people who live in, work in, and visit the local area.

- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*

Comment:

As above, the proposed development retains retail premises at ground level, which will provide employment opportunities. The subject site is accessible in that it is located within short walking distance of regular bus, ferry services and courtesy bus services.

- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*

Comment:

The subject site is located within short walking distance of bus and ferry services, as well as walking and cycling paths. The site adjoins The Corso and will contribute the Manly townscape.

- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

Comment:

The application includes a commercial premise on the ground floor.

- *To minimise conflict between land uses in the zone and adjoining zones and ensure amenity for the people who live in the local centre in relation to noise, odour, delivery of materials and use of machinery.*

Comment:

The proposed residential apartments and neighbouring residential development will retain suitable levels of amenity.

- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*

Comment:

The proposed development will contribute the diverse nature of North Steyne and The Corso.

- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

Comment:

As above, the architectural design of the development will complement the townscape of Manly.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the E1 Local Centre zone.

**Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:**

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Comment:

The subject application is made under Section 4.56 of the EPA Act. As such, Clause 4.6 does not strictly apply and the concurrence of the Secretary is not required to be obtained.

**Manly Development Control Plan**

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.1 FSR (Consideration of Exceptions including Arcades)	Yes	Yes
4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)	Yes	Yes
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Yes	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	Yes	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre	Yes	Yes
4.2.5.6 Late Night Venues	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
5.1.1 General Character	Yes	Yes
5.1.2 The Corso	Yes	Yes
5.5 Road Widening and Realignment	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

#### Detailed Assessment

#### **5.5 Road Widening and Realignment**

The subject site is identified within Schedule 1 - Map E as land to be acquired for road widening and



realignment.

However, as a consequence of a judgement of Biscoe J in the matter of *Triton Services Group Pty Ltd v Manly Council* [2011] NSWLEC 69, in which Council was found to have not served notice under s262(3) of the Local Government Act 1919 (now repealed) for its proposed widening of North Steyne, no road widening order within the meaning of s25 of the Roads Act 1993 applies to the Subject Site. Road widening is no longer being pursued by Council and the road reserve closed.

Therefore the provisions the provisions of this Clause are not applicable to the assessment of this application

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

#### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

#### **POLICY CONTROLS**

##### **Northern Beaches Section 7.12 Contributions Plan 2022**

Section 7.12 contributions were levied on the Development 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 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs

- Consistent with the objects of the Environmental Planning and Assessment Act 1979

## **PLANNING CONCLUSION**

This proposal, for modification of DA2021/2257 has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to the variation to the Height of Building and Floor Space Ratio development standards.

The concerns raised in the objections have been addressed and resolved by way of existing condition, the conditions will ensure reasonable levels of amenity will be retained to neighbouring residential properties.

The critical assessment issues include general amenity and BCA compliance.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Northern Beaches Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2023/0397 for Modification of Development Consent DA2021/2257, approved by the Land and Environment Court for alterations and additions to an existing building to comprise shop top housing and strata-subdivision. on land at Lot 100 DP 1069144,75 The Corso, MANLY, Lot 101 DP 1069144,75 The Corso, MANLY, Lot 102 DP 1069144,75 The Corso, MANLY, Lot 1 DP 1280856,42 North Steyne, MANLY, subject to the conditions printed below:

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN- 351259 MOD2023/0397	The date of this notice of determination	<p>Modification of Development Consent DA2021/2257, approved by the Land and Environment Court for alterations and additions to an existing building to comprise shop top housing and strata-subdivision.</p> <p>Add Condition 1B -Modification of Consent 2 - Approved Plans and supporting Documentation</p> <p>Add Condition 36C. Building Code of Australia Fire Safety Requirements</p> <p>Add Condition 36D. Access and Facilities for Persons with Disabilities</p> <p>Add Condition 36E. Mechanical ventilation Plans</p> <p>Add Condition 36F. Photographic Heritage Record - Bottle Shop</p> <p>Add Condition 36G. Update of Heritage Interpretation Plan</p> <p>Add Condition 58A. Works to Bottle Shop</p> <p>Add Condition 86B. Acoustic Treatment</p> <p>Add Condition 86C. Kitchen Design, construction and fit out of food premises certification</p> <p>Add Condition 86D. Mechanical Ventilation certification</p> <p>Add Condition 86E. Registration of food Business</p> <p>Add Condition 86F. Certification of Works as Executed</p> <p>Add Condition 98C. Works to Bottle Shop</p>
PAN-281320 MOD2022/0630	1 March 2023	<p>Modification of Development Consent DA2021/2257, approved by the Land and Environment Court for alterations and additions to an existing building to comprise shop top housing and strata-subdivision.</p> <p>Add Condition 1A -Modification of Consent - Approved</p>

		Plans and supporting Documentation Add Condition 98A - Swimming Pool and Spa mechanical plant and equipment Add Condition 36A - Swimming Pool water Add Condition 36B - Acoustic Report Implementation Add Condition 86A - Acoustic Certification Add Condition 36B - Finishes and colour scheme Add Condition 98B - Swimming pool trough
--	--	---

### **Modified conditions**

#### **A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:**

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

#### **Squillace**

<b>Approved Plans</b>				
<b>Plan Number</b>	<b>Revision Number</b>	<b>Plan Title</b>	<b>Drawn By</b>	<b>Date of Plan</b>
DA-018	C	Lower Basement Level - Demolition Plan	Squillace	22 June 2023
DA-019	D	Basement Level - Demolition Plan	Squillace	22 June 2023
DA-020	D	Ground Level - Demolition Plan	Squillace	22 June 2023
DA-021	E	Level 1 - Demolition Plan	Squillace	31 August 2023
DA-022	D	Level 2 - Demolition Plan	Squillace	22 June 2023
DA-023	D	Level 3 - Demolition Plan	Squillace	22 June 2023
DA-024	D	Level 4 - Demolition Plan	Squillace	22 June 2023
DA-098	C	Lower Basement Plan	Squillace	22 June 2023
DA-099	F	Basement Floor Plan	Squillace	22 June 2023
DA-100	G	Ground Floor Plan	Squillace	31 August 2023
DA-101	G	Level 1 Floor Plan	Squillace	31 August 2023
DA-102	E	Level 2 Floor Plan	Squillace	22 June 2023
DA-103	E	Level 3 Floor Plan	Squillace	22 June 2023
DA-104	F	Level 4 Floor Plan	Squillace	31 August 2023
DA-105	F	Roof Plan	Squillace	22 June 2023
DA-201	F	East and West Elevations	Squillace	22 June 2023
DA-202	G	North and South Elevations	Squillace	22 June 2023
DA-401	F	Section A	Squillace	22 June 2023
DA-402	E	Section B	Squillace	22 June 2023

DA-403	C	Section C	Squillace	22 June 2023
DA-1010	B	New hotel entry plan - Finishes	Squillace	14 September 2023
Sheet 1 of 6 sheets	N/A	Location Plan	LTS	13 July 2023
Sheet 2 of 6 sheets	N/A	Lower basement	LTS	13 July 2023
Sheet 3 of 6 sheets	N/A	Basement	LTS	13 July 2023
Sheet 4 of 6 sheets	N/A	Ground	LTS	13 July 2023
Sheet 5 of 6 sheets	N/A	Levels 1 -3	LTS	13 July 2023
Sheet 6 of 6 sheets	N/A	Level 4 and above	LTS	13 July 2023
Strata Sheet 1 of 7	N/A	Location Plan	LTS	13 July 2023
Strata Sheet 2 of 7	N/A	Basement	LTS	13 July 2023
Strata Sheet 3 of 7	N/A	Ground	LTS	13 July 2023
Strata Sheet 4 of 7	N/A	Level 1	LTS	13 July 2023
Strata Sheet 5 of 7	N/A	Level 2	LTS	13 July 2023
Strata Sheet 6 of 7	N/A	Level 3	LTS	13 July 2023
Strata Sheet 6 of 7	N/A	Level 4	LTS	13 July 2023

Approved Reports and Documentation				
Document Title	Version Number	Prepared By	Date of Document	

BASIX Certificate No. 1246451M_04	04	EPS	27 June
Acoustic report	N/A	Renzo Tonin & Associates	15 June 2023

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

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

**B. Add Condition 36C. Building Code of Australia Fire Safety Requirements - to read as follows:**

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the BCA Compliance Capability Statement, dated 31/7/2023, Project No. 11120, prepared by AED and the Fire Engineering DA Statement dated 5/7/2023, Ref 12613651, Rev 0 prepared by GHD, are to be considered as part of the assessment for any Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

**C. Add Condition 36D. Access and Facilities for Persons with Disabilities - to read as follows:**

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. In particular the Accessibility Compliance Capability Statement prepared by AED, dated 3/7/2023 is to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

**D. Add Condition 36E. Mechanical ventilation Plans - to read as follows:**

Where Mechanical ventilation is required to be installed in the food premises ,prior to any Construction Certificate (CC) being issued, detailed plans must be submitted to and approved by the Principle certifier that demonstrate compliance with the following:

- Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings"; and

Any external structures are required to submit a separate development application. No approval is provided for any external works beyond those shown on the approved plans.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

**E. Add Condition 36F. Photographic Heritage Record - Bottle Shop to read as follows:**

A simple photographic heritage record is to be made of the bottle shop area, as a record of this area prior to works.

This photographic record should be made using digital technology and should:

- Identify the location of property, date of survey and author of survey;
- Include a site plan at a scale of 1:200;
- Include photographs of all internal and external areas to be altered, referenced to a plan and catalogue sheet.

This record must be submitted to Council's Heritage Advisor, for approval prior to commencement of any demolition or works. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To provide an historical photographic record of the bottle shop area, prior to any demolition or works.

**F. Add Condition 36G. Update of Heritage Interpretation Plan to read as follows:**

The Heritage Interpretation Plan by City Plan Heritage, dated February 2023 is to be updated, so that it refers to and is consistent with, the amended plans which relocate the hotel lobby to the existing bottle shop.

This updated Heritage Interpretation Plan is to be submitted to Council's Heritage Advisor for approval. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that the Heritage Interpretation Plan accurately reflects the approved plans.

**G. Add Condition 58A. Works to Bottle Shop - to read as follows:**

All demolition works to the existing bottle shop area are to be supervised by a built heritage specialist. If significant original fabric is revealed during demolition, this fabric is to be recorded and remain in-situ, or removed and stored for future use on-site.

Confirmation of appointment of this built heritage specialist is to be provided to Council's Heritage Advisor prior to commencement of any demolition or works. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that any significant original fabric is not destroyed as a result of works to the bottle shop area.

**H. Add Condition 86B. Acoustic Treatment - to read as follows:**

Prior to the issue of a Occupation Certificate, documentation is to be submitted to the Principal Certifying Authority that a double layer ceiling that has been recommended in the Original Acoustic Report dated 28 October 2021, has been applied to the new ground floor kitchen area.



Reason: To ensure the noise amenity of the surrounding area

**I. Add Condition 86C. Kitchen Design, construction and fit out of food premises certification - to read as follows:**

Prior to the issuing of any occupation certificate, certification is to be provided to the Principal Certifier by a suitably qualified person demonstrating that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Reason: To ensure that the kitchen complies with Australian Standard design requirements.

**J. Add Condition 86D. Mechanical Ventilation certification - to read as follows:**

Where Mechanical ventilation is required to be installed in the food premises it must comply with the following:

- Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings";

Any external structures are required to submit a separate development application. No approval is provided for any external works beyond those shown on the approved plans.

Certification is to be provided to the Principal Certifier prepared by a suitably qualified person to demonstrate that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

**K. Add Condition 86E. Registration of food Business - to read as follows:**

The food business must be registered with the appropriate regulatory authority, prior to the Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

**L. Add Condition 86F. Certification of Works as Executed - to read as follows:**

A suitably qualified engineer and/or registered surveyor is to certify that the completed works have been constructed in accordance with this consent and in particular that ground floor levels have been set at or above the levels shown on Drawing DA-100/F.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

**M. Add Condition 98C. Works to Bottle Shop - to read as follows:**

Commercial waste and recycling bins are not to be placed at the kerbside or upon any public land awaiting collection.

Waste collection arrangements must include a procedure whereby the collection contractor enters the property to retrieve the bins from the dedicated bin storage area and then returns the bins to the dedicated bin storage area immediately after emptying.

Reason: To maintain public amenity in Henrietta Lane.

© This work is copyright. Apart from any use permitted by law, no part of this work may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage or retrieval system, without the prior written permission of the copyright owner.  
The use of this drawing is conditional on your agreement to the Squillace Transfer Agreement as found on our website at [www.squillace.com.au](http://www.squillace.com.au)



STATUS

**SECTION 4.55**










Do not scale drawing. Verify all dimensions on site. Report any discrepancies in documentation to architect. This drawing is for the purpose of council approval and as such, is not suitable for construction.

GRAPHIC SCALE



DRAWING NOTES

LEGEND

-  EXISTING WALLS TO REMAIN
-  EXISTING COLUMNS TO BE DEMOLISHED / RELOCATED
-  EXISTING STRUCTURAL WALL TO BE DEMOLISHED
-  EXISTING NON STRUCTURAL WALL TO BE DEMOLISHED INVESTIGATE & DEMOLISH ALL NON-LOAD BEARING WALLS
-  EXISTING FLOOR TO BE DEMOLISHED
-  EXCAVATE
-  NEW WALLS
-  ADAPTIVE REUSE OF EXISTING STRUCTURE
-  EXISTING WITH NO NEW WORKS

ISS	DATE	PURPOSE OF ISSUE
C	22.06.2023	ISSUE FOR SECTION 4.55
A	11.11.2021	ISSUE FOR DA
A	02.11.2021	ISSUE FOR DA
P4	21.10.2021	ISSUE TO CONSULTANTS
P3	18.10.2021	PRELIMINARY ISSUE
P2	18.10.2021	PRELIMINARY ISSUE
P1	01.10.2021	ISSUE TO CONSULTANTS

CLIENT  
IRIS

**squillace**

ARCHITECTURE / INTERIORS

[www.squillace.com.au](http://www.squillace.com.au)

**SYNOPSIS**  
180 Allison Street, Burry Hills, NSW 2010  
Ph: +61 2 854 1300  
ABN: 24 132 554 703

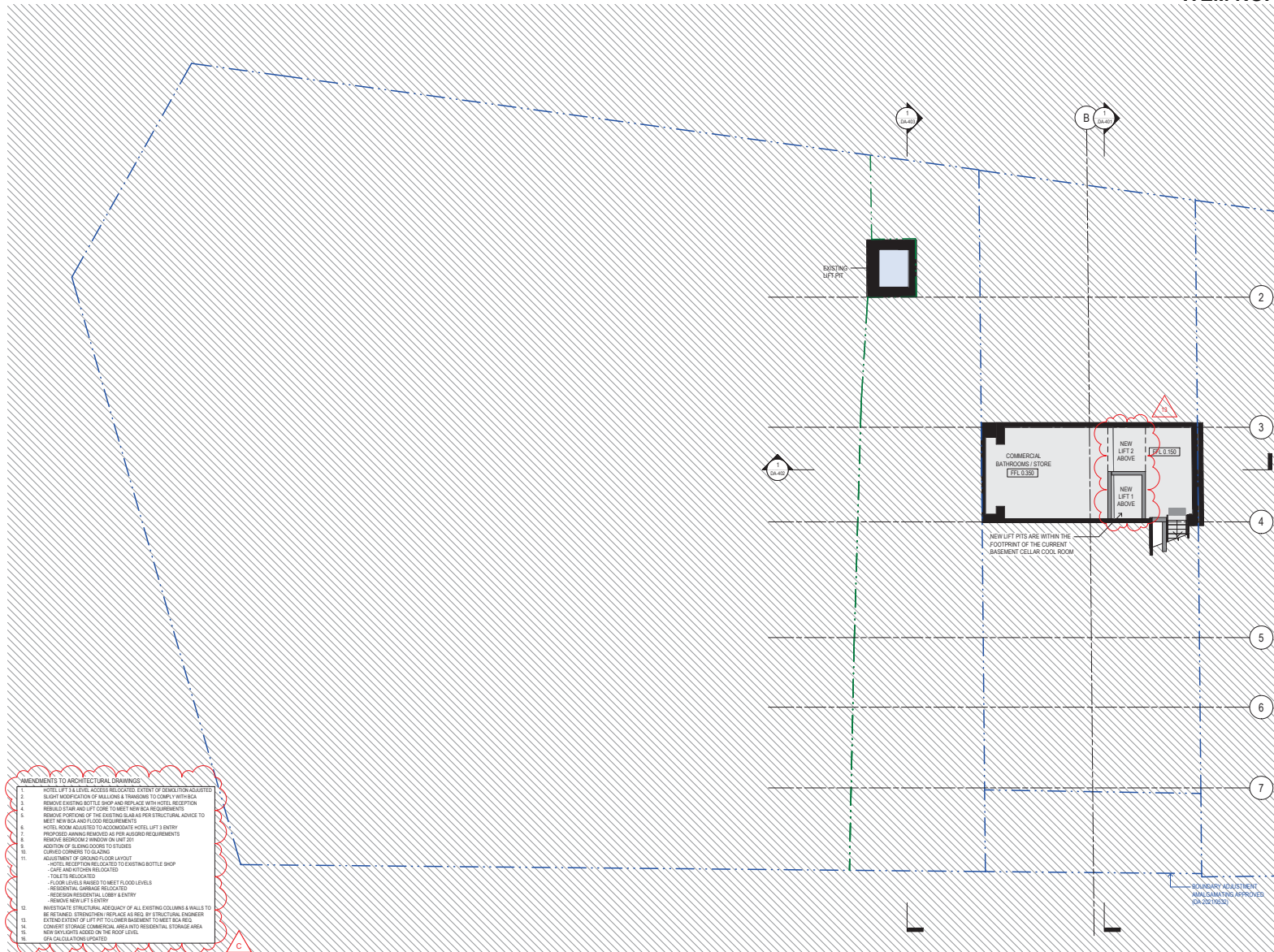
**NOMINATED ARCHITECT**  
Vince Squillace Reg No. 4468 (NSW)  
17239 (VIC), 3877 (QLD), AR1173 (NT)

**PROJECT**  
**MANLY APARTMENTS**  
42 NORTH STEVE MANLY  
LOT 100-102 IN DP 1069144  
LOT 1 DP 1034722

DRAWING NO. ISSUE  
**DA-098 C**  
JOB NO. SCALE DATE  
IR2014 1:100@ A1 22.06.2023

DRAWING TITLE  
**LOWER BASEMENT PLAN**

DRAWN BY CHECKED BY  
FO FO



**1 LOWER BASEMENT LEVEL PLAN**  
1:100 @ A1

© This work is copyright. Apart from any use permitted by law, no part of this work may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage or retrieval system, without the prior written permission of the copyright owner.

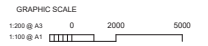
The use of this drawing is conditional on your agreement to the Squillace Architects Transfer Agreement as found on our website at [www.squillace.com.au/ta](http://www.squillace.com.au/ta)



STATUS

**SECTION 4.55**

Do not scale drawing. Verify all dimensions on site.  
Report any discrepancies in documentation to architect.  
This drawing is for the purpose of council approval  
and as such, is not suitable for construction.



**DRAWING NOTES**

**LEGEND**

- EXISTING WALLS TO REMAIN
- EXISTING COLUMNS TO BE DEMOLISHED / RELOCATED
- EXISTING STRUCTURAL WALL TO BE DEMOLISHED
- EXISTING NON STRUCTURAL WALL TO BE DEMOLISHED
- INVESTIGATE & DEMOLISH ALL NON-LOAD BEARING WALLS
- EXISTING FLOOR TO BE DEMOLISHED
- EXCAVATE
- NEW WALLS
- ADAPTIVE REUSE OF EXISTING STRUCTURE
- EXISTING WITH NO NEW WORKS

F	22.08.2023	ISSUE FOR SECTION 4.55
E	11.07.2022	ISSUE FOR DA NEGOTIATION
D	19.05.2022	ISSUE FOR DA NEGOTIATION
C	21.03.2022	ISSUE FOR DA NEGOTIATION
B	11.11.2021	ISSUE FOR DA
A	02.11.2021	ISSUE FOR DA
PA	21.10.2021	ISSUE TO CONSULTANTS
ISS	DATE	PURPOSE OF ISSUE

CLIENT  
IRIS

**squillace**

ARCHITECTURE /  
INTERIORS

[www.squillace.com.au](http://www.squillace.com.au)

SYDNEY  
180 Allison Street, Surry Hills, NSW 2010  
Ph: +61 2 8564 1300  
ABN: 24 132 554 793

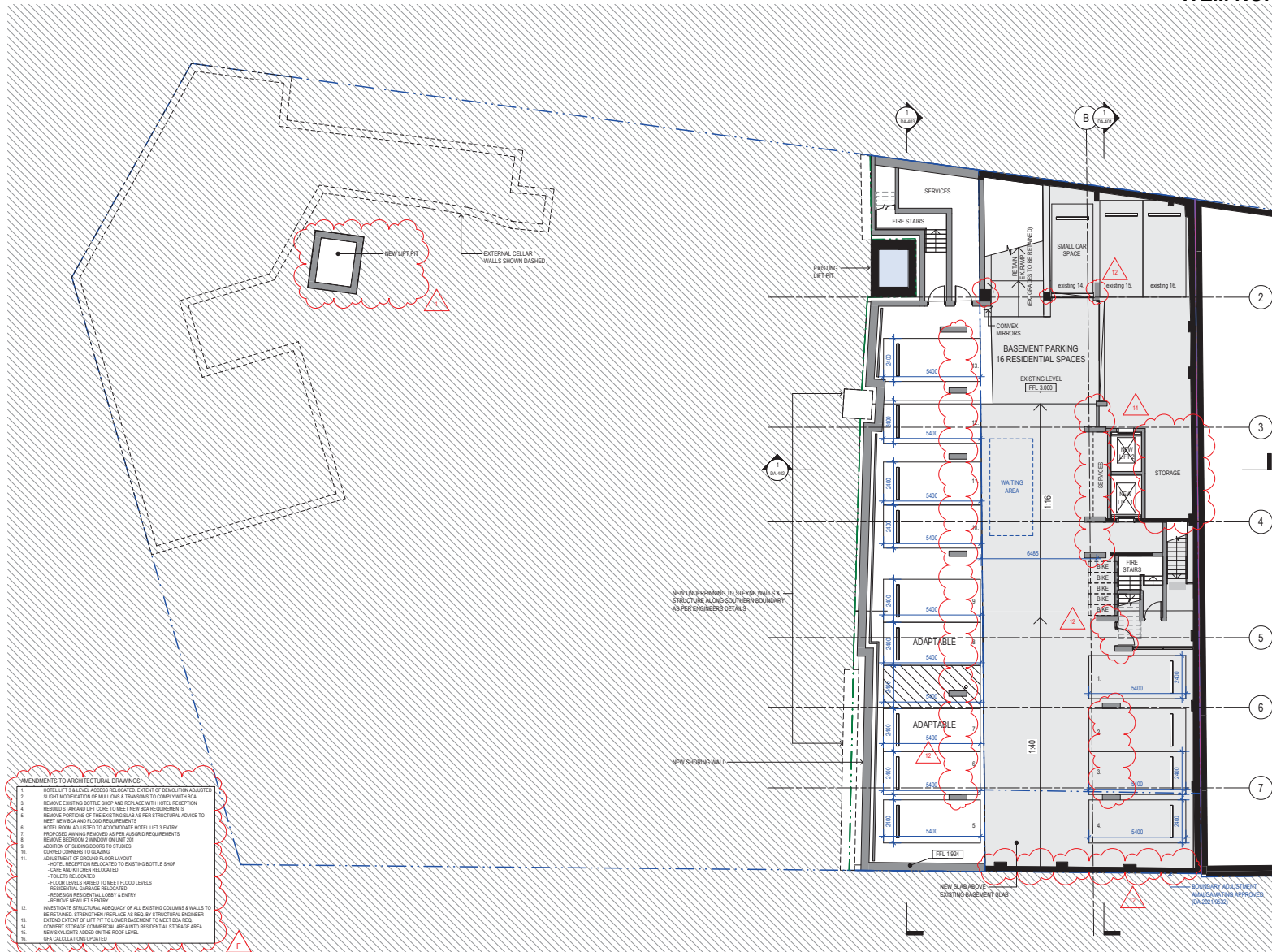
NOMINATED ARCHITECT  
Vince Squillace (Reg No: 4448 (NSW)),  
17239 (VIC), 3877 (QLD), A61173 (NT)

PROJECT  
**MANLY APARTMENTS**  
42 NORTH STEVE, MANLY  
LOT 106-102 IN DP 1069144  
LOT 1 DP 1034722

DRAWING NO. ISSUE  
**DA-099 F**  
JOB NO. SCALE DATE  
IR12014 1:100 @ A1 22.06.2023

DRAWING TITLE  
**BASEMENT FLOOR PLAN**

DRAWN BY CHECKED BY  
FO FO



**1 BASEMENT LEVEL PLAN**  
1:100 @ A1

## SECTION 4.55











Do not scale drawing. Verify all dimensions on site.  
Report any discrepancies in documentation to architect.  
This drawing is for the purpose of council approval  
and is such, is not suitable for construction.

GRAPHIC SCALE

Figure 1: Schematic representation of the experimental design. The top part shows a timeline for two groups: 1:200 @ A3 and 1:100 @ A1. The 1:200 @ A3 group has a single bar from 0 to 5000. The 1:100 @ A1 group has a bar from 0 to 2000 and another from 2000 to 5000. The bottom part shows a bar chart with two bars: one from 0 to 2000 and another from 2000 to 5000.

## DRAWING NOTES

LEGEND

- |   |   |
|---|---|
|  | EXISTING WALLS TO REMAIN                          |
|  | EXISTING COLUMNS TO BE DEMOLISHED / RELOCATED     |
|  | EXISTING STRUCTURAL WALL TO BE DEMOLISHED         |
|  | EXISTING NON STRUCTURAL WALL TO BE DEMOLISHED     |
|  | INVESTIGATE & DEMOLISH ALL NON-LOAD BEARING WALLS |
|  | EXISTING FLOOR TO BE DEMOLISHED                   |
|  | DICAVATE  |
|  | NEW WALLS   |
|  | ADAPTIVE REUSE OF EXISTING STRUCTURE              |
|  | EXISTING WITH NO NEW WORKS                        |
- |              | PURPOSE OF ISSUE         |
|--------------|--------------------------|
| G 31.08.2023 | ISSUE FOR SECTION 4.55   |
| F 22.06.2023 | ISSUE FOR SECTION 4.55   |
| F 11.06.2023 | ISSUE FOR DA NEGOTIATION |
| D 11.07.2022 | ISSUE FOR DA NEGOTIATION |
| C 10.06.2022 | ISSUE FOR DA NEGOTIATION |
| B 11.11.2021 | ISSUE FOR DA             |
| A 30.11.2021 | ISSUE FOR DA             |

CLIENT  
IRIS

**squillace**

ARCHITECTURE / INTERIORS

[www.squillace.com.au](http://www.squillace.com.au)

**SYDNEY**  
1/80 Albion Street, Surry Hills, NSW 2010  
Ph: +61 2 8354 1300  
ABN: 24 132 554 753

**NOMINATED ARCHITECT**  
Vince Squillace Reg No. 6468 (NSW),  
17219 (VIC), 3677 (QLD), AR1173 (NT)

PROJECT  
MANLY APARTMENTS  
42 NORTH STEYNE, MANLY  
LOT 100-102 IN DP 1069144  
LOT 1 DP 1034722

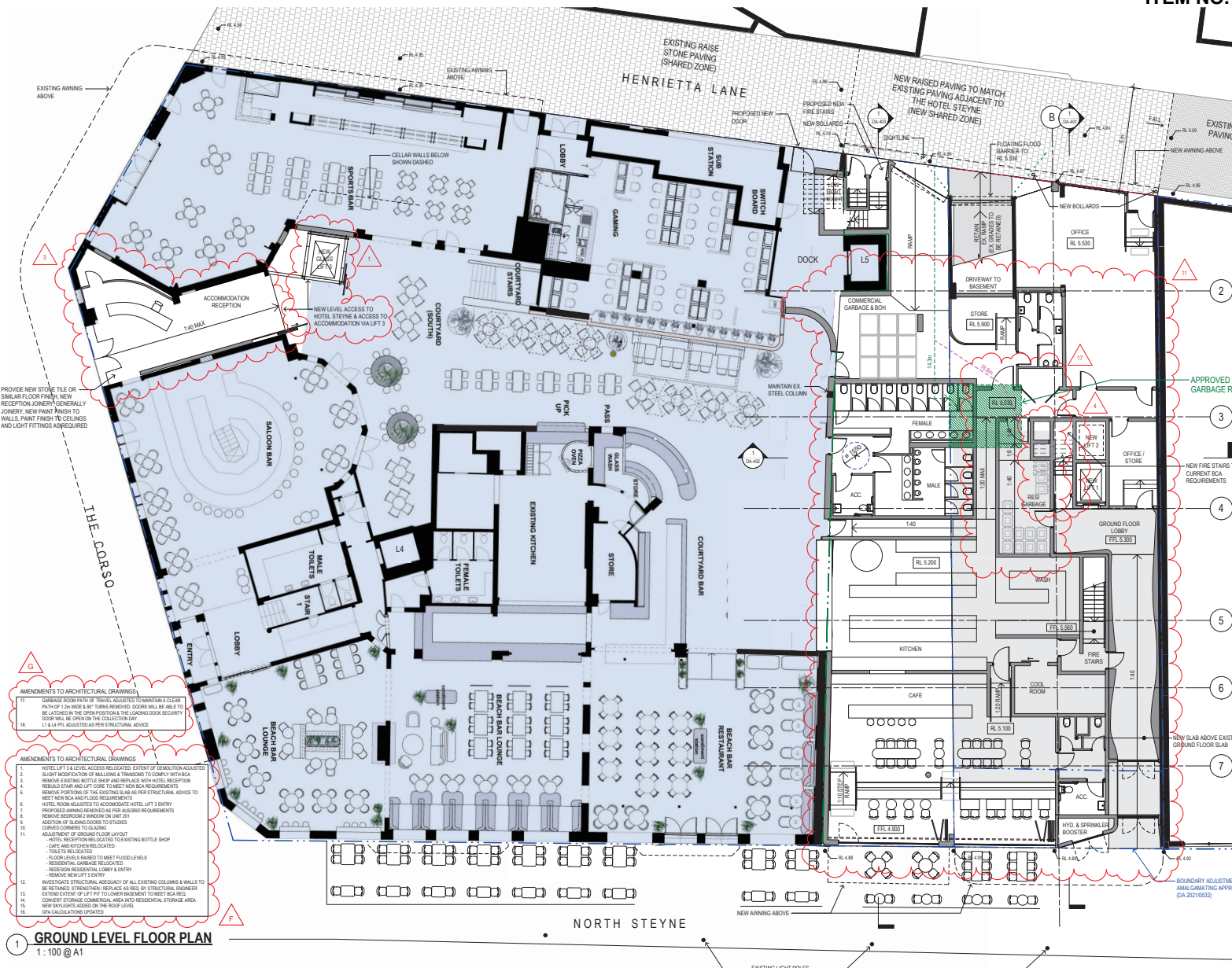
DRAWING NO. DA-100 ISSUE G

JOB NO.	SCALE	DATE
IRI2014	1 : 100@ A1	31.08.2023

DRAWING TITLE  
GROUND FLOOR PLAN

DRAWN BY  
FO

CHECKED BY  
VS





© This work is copyright. Apart from any use permitted by law, no part of this work may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage or retrieval system, without the prior written permission of the copyright owner.

The use of this drawing is conditional on your agreement to the Squillace Architects Transfer Agreement on hand on our website at [www.squillace.com.au/ta](http://www.squillace.com.au/ta)



STATUS

**SECTION 4.55**

Do not scale drawing. Verify all dimensions on site.  
Report any discrepancies in documentation to architect.  
This drawing is for the purpose of council approval  
and as such, is not suitable for construction.



**DRAWING NOTES**

**LEGEND**

- EXISTING WALLS TO REMAIN
- EXISTING COLUMNS TO BE DEMOLISHED / RELOCATED
- EXISTING STRUCTURAL WALL TO BE DEMOLISHED
- EXISTING NON STRUCTURAL WALL TO BE DEMOLISHED INVESTIGATE & DEMOLISH ALL NON-LOAD BEARING WALLS
- EXISTING FLOOR TO BE DEMOLISHED
- EXCAVATE
- NEW WALLS
- ADAPTIVE REUSE OF EXISTING STRUCTURE
- EXISTING WITH NO NEW WORKS

ISS	DATE	PURPOSE OF ISSUE
G	31.08.2023	ISSUE FOR SECTION 4.55
F	20.08.2023	ISSUE FOR SECTION 4.55
E	01.09.2022	ISSUE FOR DA NEGOTIATION
D	11.07.2022	ISSUE FOR DA NEGOTIATION
C	18.05.2022	ISSUE FOR DA NEGOTIATION
B	11.11.2021	ISSUE FOR DA
A	02.11.2021	ISSUE FOR DA

CLIENT  
IRIS

**squillace**

ARCHITECTURE / INTERIORS

[www.squillace.com.au](http://www.squillace.com.au)

SYDNEY  
180 Albany Street, Surry Hills, NSW 2010  
Ph: +61 2 8554 1300  
ABN: 24 132 554 793

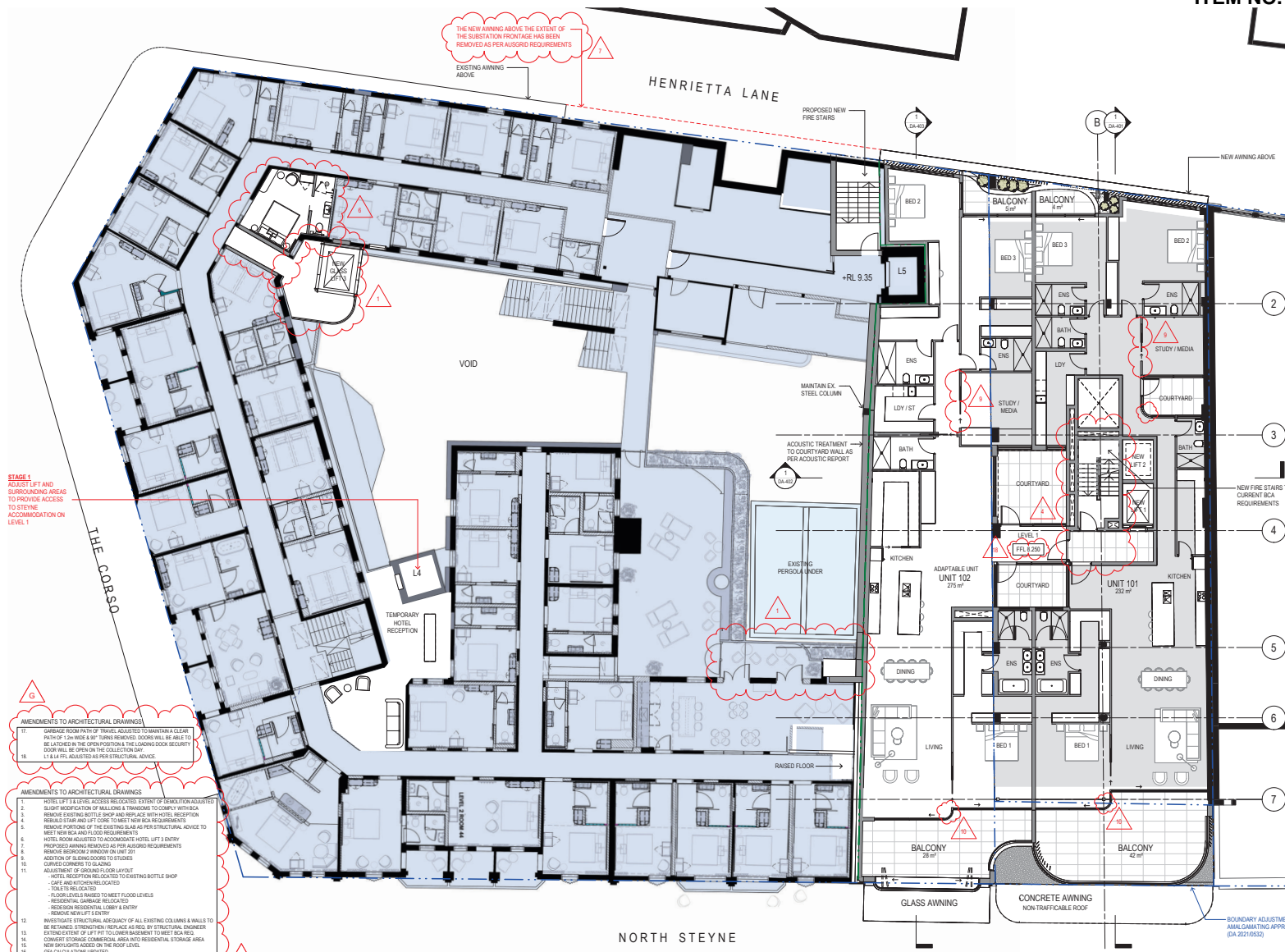
NOMINATED ARCHITECT  
Vince Squillace (Reg. No. 1468 (NSW))  
17239 (VIC), 3877 (QLD), AR1173 (NT)

PROJECT  
**MANLY APARTMENTS**  
42 NORTH STEYNE, MANLY  
LOT 100-102 IN DP 1009144  
LOT 1 DP 1034722

DRAWING NO. **DA-101** SCALE **1:100 @ A1** DATE **31.08.2023**

DRAWING TITLE  
**LEVEL 1 FLOOR PLAN**

DRAWN BY **FO** CHECKED BY **VS**



**LEVEL 1 FLOOR PLAN**  
1:100 @ A1

**AMENDMENTS TO ARCHITECTURAL DRAWINGS**

17. GARAGE ROOM FAN OF TRAVEL ADJUSTED TO MAINTAIN A CLEAR PATH OF 1.2m WIDE & 8" TURN REMOVED. DOORS WILL BE ABLE TO BE LATCHED IN THE OPEN POSITION & THE LOADING DOOR SECURITY DOOR WILL BE OPEN ON THE COLLECTION DAY.  
L1 & L4 FFL ADJUSTED AS PER STRUCTURAL ADVICE

**AMENDMENTS TO ARCHITECTURAL DRAWINGS**

2. HOTEL LIFT 3 & L4 LEVEL ACCESS RELOCATED. EXISTING DEMOLITION ADJUSTED.  
3. SLIGHT MODIFICATION OF WALLS & TRANSOMS TO COMPLY WITH BCA.  
4. REMOVE EXISTING BOTTLE SHOP AND REPLACE WITH HOTEL RECEPTION.  
5. REBUILD STAIR AND LIFT CORE TO MEET NEW BCA REQUIREMENTS.  
6. REMOVE PORTIONS OF THE EXISTING BALCONY AS PER STRUCTURAL ADVICE TO MEET NEW BCA AND FLOOD REQUIREMENTS.  
7. HOTEL ROOM ADJUSTED TO ACCOMMODATE HOTEL LIFT 3 ENTRY.  
8. PROPOSED AWNING REMOVED AS PER ASSESSING REQUIREMENTS.  
9. REMOVE SECONDARY WINDOW IN UNIT 201.  
10. ADDITION OF SLIDING DOORS TO STUDIOS.  
11. CHANGES CONSIDER TO LIFT CORE.  
12. ADJUSTMENT OF GROUND FLOOR LAYOUT.  
13. HOTEL RECEPTION RELOCATED TO EXISTING BOTTLE SHOP.  
14. DATE AND ROOMS RELOCATED.  
15. FLOOR LEVELS RAISED TO MEET FLOOD LEVELS.  
16. RESIDENTIAL GARAGE RELOCATED.  
17. REMOVE NEW LIFT 3 ENTRY.  
18. INVESTIGATE STRUCTURAL ADEQUACY OF ALL EXISTING COLUMNS & WALLS TO BE RETAINED. STRENGTHEN / REPLACE AS REQ. BY STRUCTURAL ENGINEER.  
19. EXTEND EXISTING OF LIFT PITY TO COVER ADJACENT TO MEET BCA REQ.  
20. CONVERT STORAGE COMMERCIAL AREA INTO RESIDENTIAL STORAGE AREA.  
21. NEW IMPROVEMENTS BASED ON THE ROOF LEVEL.  
22. QFA CALCULATIONS UPDATED.

© This work is copyright. Apart from any use permitted by law, no part of this work may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage or retrieval system, without the prior written permission of the copyright owner.

The use of this drawing is conditional on your agreement to the Squillace Elevators Transfer Agreement as found on our website at [www.squillace.com.au/ta](http://www.squillace.com.au/ta)



STATUS

**SECTION 4.55**

Do not scale drawing. Verify all dimensions on site. Report any discrepancies in documentation to architect. This drawing is for the purpose of council approval and as such, is not suitable for construction.

**GRAPHIC SCALE**

1:200 @ A1  
1:100 @ A1

**DRAWING NOTES**

**LEGEND**

- EXISTING WALLS TO REMAIN
- EXISTING COLUMNS TO BE DEMOLISHED / RELOCATED
- EXISTING STRUCTURAL WALL TO BE DEMOLISHED
- EXISTING NON STRUCTURAL WALL TO BE DEMOLISHED INVESTIGATE & DEMOLISH ALL NON-LOAD BEARING WALLS
- EXISTING FLOOR TO BE DEMOLISHED
- EXCAVATE
- NEW WALLS
- ADAPTIVE REUSE OF EXISTING STRUCTURE
- EXISTING WITH NO NEW WORKS

ISS	DATE	PURPOSE OF ISSUE
E	22.06.2023	ISSUE FOR SECTION 4.55
D	11.07.2023	ISSUE FOR DA NEGOTIATION
C	19.05.2022	ISSUE FOR DA NEGOTIATION
B	11.11.2021	ISSUE FOR DA
A	02.11.2021	ISSUE FOR DA
PA	21.10.2021	ISSUE TO CONSULT TANTS
P3	18.10.2021	PRELIMINARY ISSUE
ISS		

CLIENT

IRIS

**squillace**

**ARCHITECTURE / INTERIORS**

[www.squillace.com.au](http://www.squillace.com.au)

**BYMNY**  
180 Allison Street, Surry Hills, NSW 2010  
Ph: +61 2 854 1300  
ABN: 24 132 554 703

**NOMINATED ARCHITECT**  
Vince Squillace Reg No: A486 (NSW)  
17239 (VIC), 3877 (QLD), A81173 (NT)

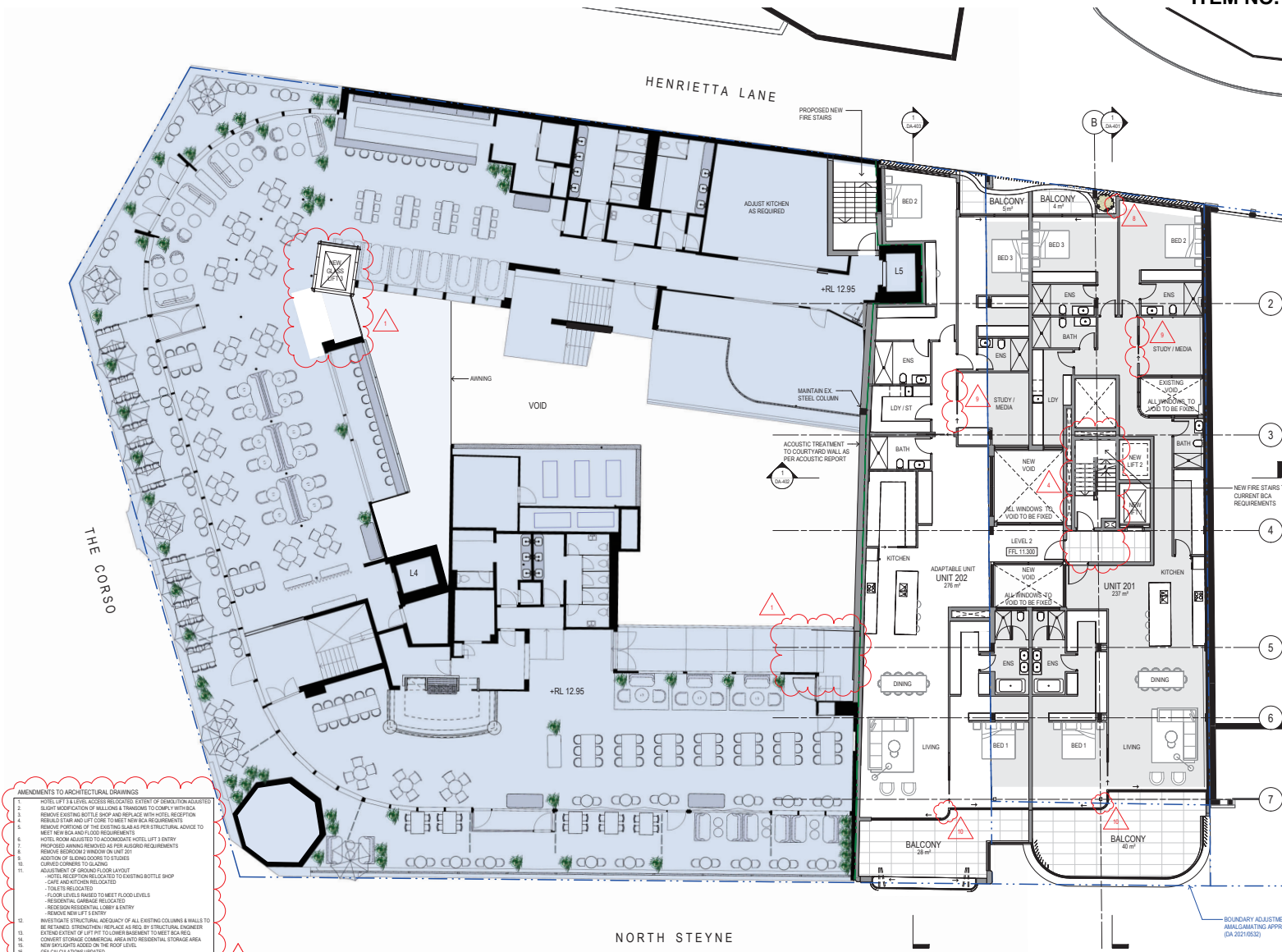
**PROJECT**  
**MANLY APARTMENTS**  
42 NORTH STEYNE, MANLY  
LOT 1 DP 1034722

**DRAWING NO.**  
**DA-102 E**

**JOB NO.** SCALE **DATE**  
IR2014 1:100 @ A1 22.06.2023

**DRAWING TITLE**  
**LEVEL 2 FLOOR PLAN**

**DRAWN BY** **CHECKED BY**  
FO FO



- REVISIONS TO ARCHITECTURAL DRAWINGS**
- HOTEL LIFT 3 ACCESS RELOCATED: EXTENT OF REMEDIATION ADJUSTED
  - SLIGHT MODIFICATION OF WALLS & TRANSOMS TO COMPLY WITH BCA
  - REMOVE EXISTING BOTTLE SHOP AND REPLACE WITH HOTEL RECEPTION
  - REBUILD STAIR AND LIFT CORE TO MEET NEW BCA REQUIREMENTS
  - REMOVE PORTIONS OF THE EXISTING BALCONY PER STRUCTURAL ADVICE TO MEET NEW BCA AND FLOOD REQUIREMENTS
  - HOTEL ROOM ADJUSTED TO ACCOMMODATE HOTEL LIFT 3 ENTRY
  - PROPOSED AWNING REMOVED AS PER ASSESSOR REQUIREMENTS
  - REMOVE SECONDARY WINDOW ON UNIT 201
  - ADDITION OF GLAZED DOORS TO STUDIOS
  - CORNER CORNER TO GLAZING
  - ADJUSTMENT OF GROUND FLOOR LAYOUT
  - HOTEL RECEPTION RELOCATED TO EXISTING BOTTLE SHOP
  - DATA AND STORAGE RELOCATED
  - TOWERS RELOCATED
  - FLOOR LEVELS RAISED TO MEET FLOOD LEVELS
  - RESIDENTIAL GARAGE RELOCATED
  - RELOCATE RESIDENTIAL LOBBY & ENTRY
  - REMOVE NEW LIFT ENTRY
  - INVESTIGATE STRUCTURAL INTEGRITY OF ALL EXISTING COLUMNS & WALLS TO BE RETAINED. STRENGTHEN/REPLACE AS REQ. BY STRUCTURAL ENGINEER
  - EXTEND EXTENT OF LIFT PIT TO COVER REINFORCEMENT TO MEET BCA REQ
  - CONVERT STORAGE COMMERCIAL AREA INTO RESIDENTIAL STORAGE AREA
  - NEW WALLS ADDED ON THE ROOF LEVEL
  - GFA CALCULATIONS UPDATED

**1 LEVEL 2 FLOOR PLAN**  
1:100 @ A1



© This work is copyright. Apart from any use permitted by law, no part of this work may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage or retrieval system, without the prior written permission of the copyright owner.

The use of this drawing is conditional on your agreement to the Squillace Electronic Transfer Agreement as found on our website at [www.squillace.com.au/eta](http://www.squillace.com.au/eta)



STATUS

SECTION 4.55










Do not scale drawing. Verify all dimensions on site. Report any discrepancies in documentation to architect. This drawing is for the purpose of council approval and as such, is not suitable for construction.

GRAPHIC SCALE



DRAWING NOTES

LEGEND

-  EXISTING WALLS TO REMAIN
-  EXISTING COLUMNS TO BE DEMOLISHED / RELOCATED
-  EXISTING STRUCTURAL WALL TO BE DEMOLISHED
-  EXISTING NON STRUCTURAL WALL TO BE DEMOLISHED INVESTIGATE & DEMOLISH ALL NON-LOAD BEARING WALLS
-  EXISTING FLOOR TO BE DEMOLISHED
-  EXCAVATE
-  NEW WALLS
-  ADAPTIVE REUSE OF EXISTING STRUCTURE
-  EXISTING WITH NO NEW WORKS

ISS	DATE	PURPOSE OF ISSUE
E	22.06.2023	ISSUE FOR SECTION 4.55
D	11.07.2023	ISSUE FOR DA NEGOTIATION
C	19.05.2022	ISSUE FOR DA NEGOTIATION
B	11.11.2021	ISSUE FOR DA
A	02.11.2021	ISSUE FOR DA
PA	21.10.2021	ISSUE TO CONSULT TANTS
P3	18.10.2021	PRELIMINARY ISSUE

CLIENT

IRIS

**squillace**

ARCHITECTURE / INTERIORS

[www.squillace.com.au](http://www.squillace.com.au)

SYDNEY  
180 Allison Street, Surry Hills, NSW 2010  
Ph: +61 2 8564 1300  
ABN: 24 132 554 703

NOMINATED ARCHITECT  
Vince Squillace Reg No. 4848 (NSW)  
17239 (VIC), 3877 (QLD), AR1193 (NT)

PROJECT

MANLY APARTMENTS

42 NORTH STEYNE, MANLY

LOT 103-102 IN DP 1069144

LOT 1 DP 1034722

DRAWING NO.

DA-103

ISSUE

E

JOB NO.

IR2014

SCALE

1:100 @ A1

DATE

22.06.2023

DRAWING TITLE

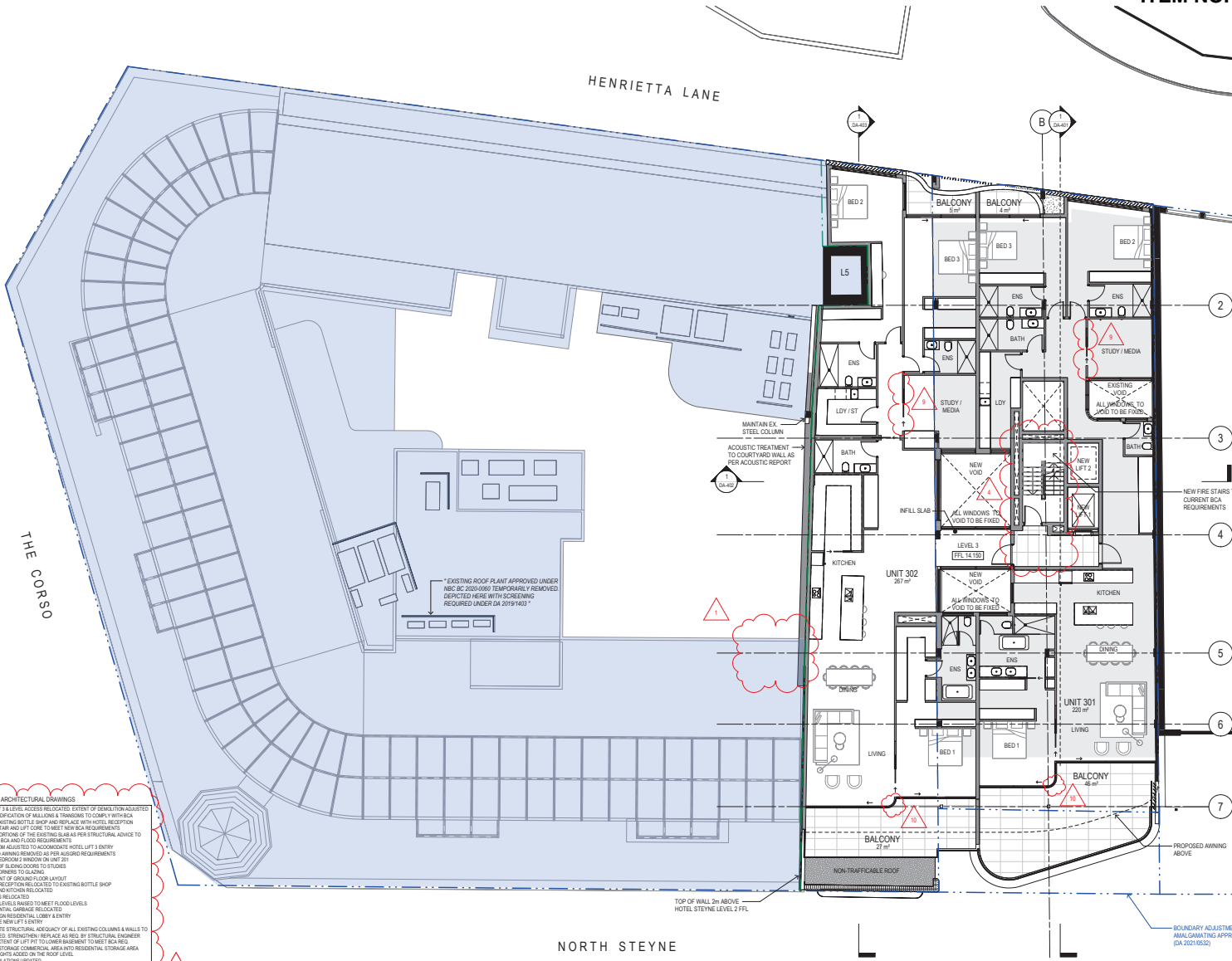
LEVEL 3 FLOOR PLAN

DRAWN BY

FO

CHECKED BY

FO



- REVISIONS TO ARCHITECTURAL DRAWINGS
1. HOTEL LIFT 3 LEVEL ACCESS RELOCATED: EXTENT OF RENOVATION ADJUSTED
  2. SLIGHT MODIFICATION OF WALLS & TRANSOMS TO COMPLY WITH BCA
  3. REMOVE EXISTING BOTTLE SHOP AND REPLACE WITH HOTEL RECEPTION
  4. REBUILD STAIR AND LIFT CORE TO MEET NEW BCA REQUIREMENTS
  5. REMOVE PORTIONS OF THE EXISTING BALCONY PER STRUCTURAL ADVICE TO MEET NEW BCA AND FLOOD REQUIREMENTS
  6. HOTEL ROOM ADJUSTED TO ACCOMMODATE HOTEL LIFT 3 ENTRY
  7. REMOVE SECONDARY WINDOW ON UNIT 201
  8. PROPOSED AWNING REMOVED AS PER ASSURED REQUIREMENTS
  9. ADDITION OF SLIDING DOORS TO STUDIOS
  10. CORNER CORNER TO BALCONY
  11. ADJUSTMENT OF GROUND FLOOR LAYOUT
  12. HOTEL RECEPTION RELOCATED TO EXISTING BOTTLE SHOP
  13. DASH AND WINDOW RELOCATED
  14. TOLTS RELOCATED
  15. FLOOR LEVELS ADJUSTED TO MEET FLOOD LEVELS
  16. REDESIGN RESIDENTIAL LOBBY & ENTRY
  17. REMOVE NEW LIFT 3 ENTRY
  18. INVESTIGATE STRUCTURAL ASSOCIACY OF ALL EXISTING COLUMNS & WALLS TO BE RETAINED. STRENGTHEN/REPLACE AS REQ. BY STRUCTURAL ENGINEER
  19. EXTEND EXTENT OF LIFT 3 TO COVER MANAGEMENT TO MEET BCA REQ
  20. CONVERT STORAGE COMMERCIAL AREA INTO RESIDENTIAL STORAGE AREA
  21. NEW WALLS ADDED ON THE ROOF LEVEL
  22. QFA CALCULATIONS UPDATED

1 LEVEL 3 FLOOR PLAN  
1:100 @ A1

© This work is copyright. Apart from any use permitted under the Copyright Act 1968, all rights are reserved. The use of this drawing is conditional on your agreement to the Squillace Architects Transfer Agreement as found on our website at [www.squillace.com.au](http://www.squillace.com.au)



STATUS

**SECTION 4.55**

Do not scale drawing. Verify all dimensions on site. Report any discrepancies in documentation to architect. This drawing is for the purpose of council approval and as such is not suitable for construction.

**GRAPHIC SCALE**

1:200 @ A1 0 2000 5000  
1:100 @ A1

**DRAWING NOTES**

**LEGEND**

- EXISTING WALLS TO REMAIN
- EXISTING COLUMNS TO BE DEMOLISHED / RELOCATED
- EXISTING STRUCTURAL WALL TO BE DEMOLISHED
- EXISTING NON STRUCTURAL WALL TO BE DEMOLISHED INVESTIGATE & DEMOLISH ALL NON-LOAD BEARING WALLS
- EXISTING FLOOR TO BE DEMOLISHED
- EXCAVATE
- NEW WALLS
- ADAPTIVE REUSE OF EXISTING STRUCTURE
- EXISTING WITH NO NEW WORKS

I	DATE	PURPOSE OF ISSUE
1	31.08.2023	ISSUE FOR SECTION 4.55
H	20.08.2023	ISSUE FOR SECTION 4.55
D	17.01.2023	ISSUE FOR SECTION 4.55
E	05.10.2022	ISSUE FOR SECTION 4.55
E	11.07.2022	ISSUE FOR DA NEGOTIATION
D	21.08.2022	ISSUE FOR DA NEGOTIATION
D	10.03.2022	ISSUE FOR DA NEGOTIATION
ISS	DATE	PURPOSE OF ISSUE

CLIENT

IRIS

**squillace**

**ARCHITECTURE / INTERIORS**

[www.squillace.com.au](http://www.squillace.com.au)

SYDNEY

180 Albany Street, Surry Hills, NSW 2010  
Ph: +61 2 8554 1300  
ABN: 24 132 554 793

NOMINATED ARCHITECT

Vince Squillace (Reg No. 14848 (NSW))  
17219 (VIC), 3877 (QLD), AR1173 (NT)

PROJECT

**MANLY APARTMENTS**

42 NORTH STEYNE, MANLY

LOT 100-102 IN DP 1009144

LOT 1 DP 1034722

**DRAWING NO.**

**DA-104 I**

**ISSUE**

**JOB NO.**

**SCALE**

**DATE**

**IR2014**

**1:100 @ A1**

**31.08.2023**

**DRAWING TITLE**

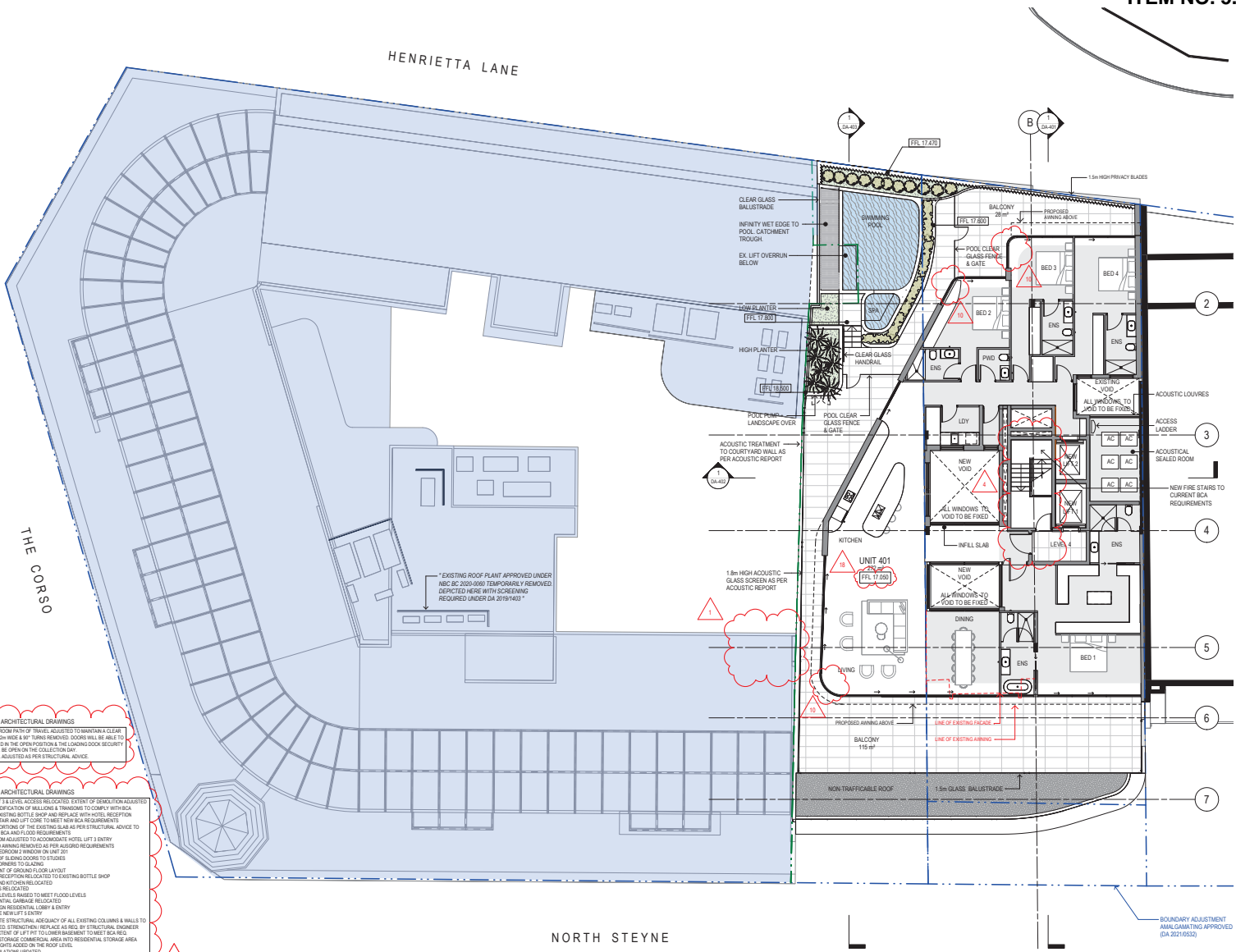
**LEVEL 4 FLOOR PLAN**

**DRAWN BY**

**FO**

**CHECKED BY**

**VS**



- AMENDMENTS TO ARCHITECTURAL DRAWINGS**
17. GARAGE ROOM FAN OF TRAVEL ADJUSTED TO MAINTAIN A CLEAR PATH OF 1.2m WIDE & 80° TURN REMOVED. DOORS WILL BE ABLE TO BE LATCHED IN THE OPEN POSITION & THE LOADING DOCK SECURITY DOOR WILL BE OPEN ON THE COLLECTION DAY.
  18. L1 & L4 FFL ADJUSTED AS PER STRUCTURAL ADVICE.
- AMENDMENTS TO ARCHITECTURAL DRAWINGS**
1. HOTEL LIFT 3 ENTRY ACCESS REQUESTED: EXTENT OF RENOVATION ADJUSTED
  2. SLIGHT MODIFICATION OF WALLS & TRANSOMS TO COMPLY WITH BCA
  3. REMOVE EXISTING BOTTLE SHOP AND REPLACE WITH HOTEL RECEPTION
  4. REBUILD STAIR AND LIFT CORE TO MEET NEW BCA REQUIREMENTS
  5. REMOVE PORTIONS OF THE EXISTING SLAB AS PER STRUCTURAL ADVICE TO MEET NEW BCA AND FLOOD REQUIREMENTS
  6. HOTEL ROOM ADJUSTED TO ACCOMMODATE HOTEL LIFT 3 ENTRY
  7. REMOVE BEDROOM 1 WINDOW ON UNIT 201
  8. PROPOSED AWNING REMOVED AS PER ASSIGNED REQUIREMENTS
  9. HOTEL ROOM ADJUSTED TO ACCOMMODATE HOTEL LIFT 3 ENTRY
  10. ADDITION OF GLASS DOORS TO STUDIOS
  11. CORRIDOR CORNER TO GLASSING
  12. ADJUSTMENT OF GROUND FLOOR LAYOUT
  13. HOTEL RECEPTION RELOCATED TO EXISTING BOTTLE SHOP
  14. LIFT AND STAIRS RELOCATED
  15. FLOOR LEVELS ADJUSTED TO MEET FLOOD LEVELS
  16. RESIDENTIAL GARAGE RELOCATED
  17. REMOVE NEW LIFT 3 ENTRY
  18. INVESTIGATE STRUCTURAL ADEQUACY OF ALL EXISTING COLUMNS & WALLS TO BE RETAINED. STRENGTHEN / REPLACE AS REQ. BY STRUCTURAL ENGINEER
  19. EXTEND EXTENT OF LIFT 3 ENTRY TO COVER ADJACENT TO MEET BCA REQ.
  20. CONVERT STORAGE COMMERCIAL AREA INTO RESIDENTIAL STORAGE AREA
  21. NEW IMPROVEMENTS ADDED ON THE ROOF LEVEL
  22. QFA CALCULATIONS UPDATED

**1 LEVEL 4 FLOOR PLAN**  
1:100 @ A1

© This work is copyright. Apart from any use permitted under the Copyright Act 1968, all rights are reserved. The use of this drawing is conditional on your agreement to the Squillace Electronic Transfer Agreement as found on our website at [www.squillace.com.au/eta](http://www.squillace.com.au/eta)



STATUS

**SECTION 4.55**

Do not scale drawing. Verify all dimensions on site. Report any discrepancies in documentation to architect. This drawing is for the purpose of council approval and as such, is not suitable for construction.

**GRAPHIC SCALE**

1:200 @ A1 0 2000 5000  
1:100 @ A1

**DRAWING NOTES**

**LEGEND**

- EXISTING WALLS TO REMAIN
- EXISTING COLUMNS TO BE DEMOLISHED / RELOCATED
- EXISTING STRUCTURAL WALL TO BE DEMOLISHED
- EXISTING NON STRUCTURAL WALL TO BE DEMOLISHED INVESTIGATE & DEMOLISH ALL NON-LOAD BEARING WALLS
- EXISTING FLOOR TO BE DEMOLISHED
- EXCAVATE
- NEW WALLS
- ADAPTIVE REUSE OF EXISTING STRUCTURE
- EXISTING WITH NO NEW WORKS

ISS	DATE	PURPOSE OF ISSUE
F	22.08.2023	ISSUE FOR SECTION 4.55
E	11.07.2022	ISSUE FOR DA NEGOTIATION
D	21.08.2022	ISSUE FOR DA NEGOTIATION
C	19.05.2022	ISSUE FOR DA NEGOTIATION
B	11.11.2021	ISSUE FOR DA
A	02.11.2021	ISSUE FOR DA
P4	21.10.2021	ISSUE TO CONSULTANTS

CLIENT

IRIS

**squillace**

**ARCHITECTURE / INTERIORS**

[www.squillace.com.au](http://www.squillace.com.au)

SYDNEY

180 Allison Street, Surry Hills, NSW 2010  
Ph: +61 2 8564 1300  
ABN: 24 132 554 793

NOMINATED ARCHITECT

Vince Squillace Reg No: 4488 (NSW)  
17259 (VIC), 3877 (QLD), AR1193 (NT)

PROJECT

**MANLY APARTMENTS**

42 NORTH STEYNE, MANLY

LOT 105-102 IN DP 1069144

LOT 1 DP 1034722

DRAWING NO.

**DA-105 F**

JOB NO.

IR2014

SCALE

1:100 @ A1

DRAWING TITLE

**ROOF PLAN**

DRAWN BY

FO

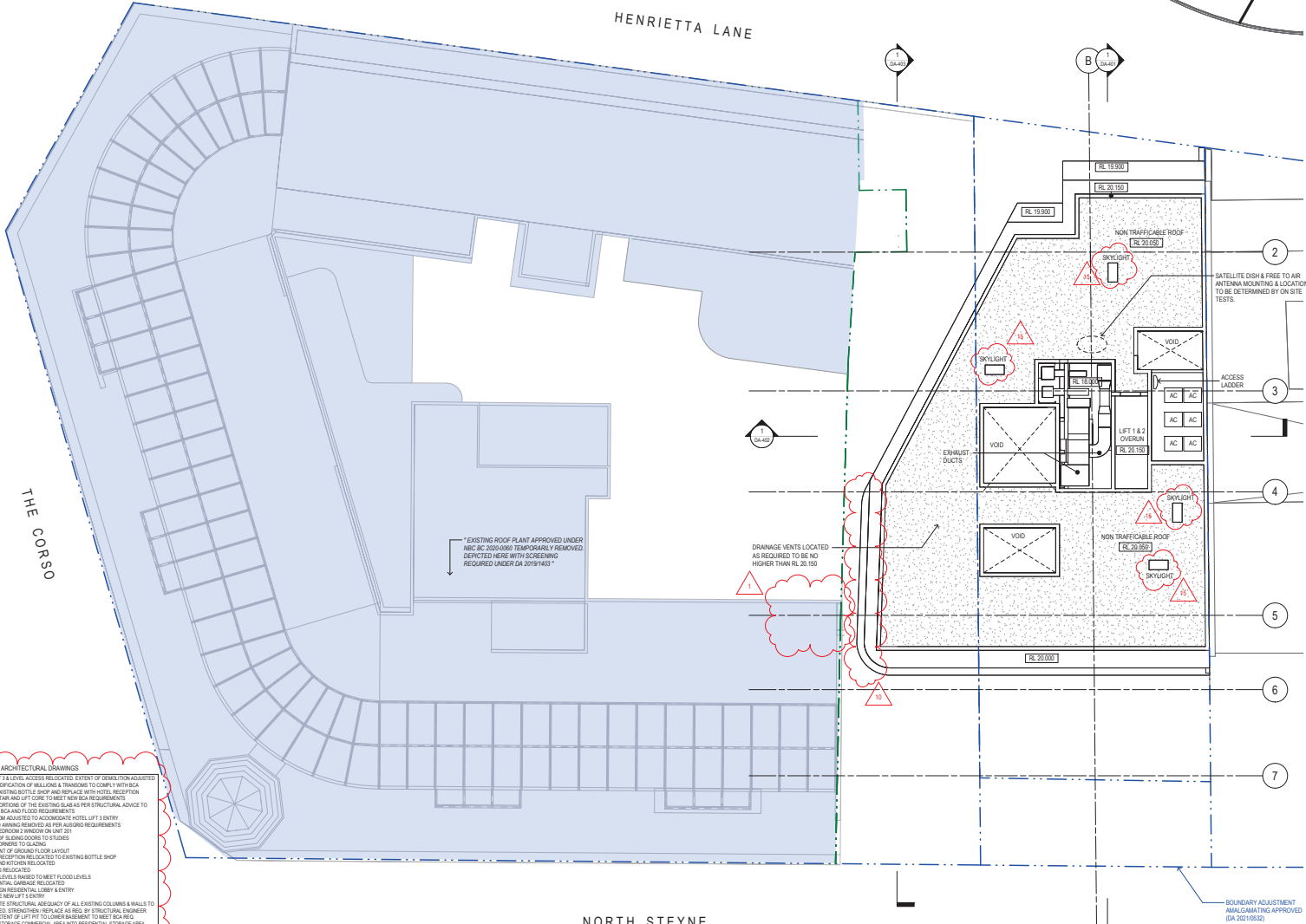
CHECKED BY

FO



- AMENDMENTS TO ARCHITECTURAL DRAWINGS**
- HOTEL LIFT 3 LEVEL ACCESS RELOCATED: EXTENT OF RENOVATION ADJUSTED
  - SLIGHT MODIFICATION OF WALLS & TRANSOMS TO COMPLY WITH BCA
  - REMOVE EXISTING BOTTLE SHOP AND REPLACE WITH HOTEL RECEPTION
  - REBUILD STAIR AND LIFT CORE TO MEET NEW BCA REQUIREMENTS
  - REMOVE PORTIONS OF THE EXISTING BALCONY PER STRUCTURAL ADVICE TO MEET NEW BCA AND FLOOD REQUIREMENTS
  - HOTEL ROOM ADJUSTED TO ACCOMMODATE HOTEL LIFT 3 ENTRY
  - PROPOSED AWNING REMOVED AS PER ASSIGNED REQUIREMENTS
  - REMOVE SECONDARY WINDOW ON UNIT 201
  - ADDITION OF SLIDING DOORS TO STUDIOS
  - CONSIDER CONCRETE TO BALCONY
  - ADJUSTMENT OF GROUND FLOOR LAYOUT
  - HOTEL RECEPTION RELOCATED TO EXISTING BOTTLE SHOP
  - CAFE AND BISTRO RELOCATED
  - TOLTS RELOCATED
  - FLOOR LEVELS ADJUSTED TO MEET FLOOD LEVELS
  - RESIDENTIAL GARAGE RELOCATED
  - REDESIGN RESIDENTIAL LOBBY & ENTRY
  - REMOVE NEW LIFT 3 ENTRY
  - INVESTIGATE STRUCTURAL INTEGRITY OF ALL EXISTING COLUMNS & WALLS TO BE RETAINED. STRENGTHEN / REPLACE AS REQ. BY STRUCTURAL ENGINEER
  - EXTEND EXTENT OF LIFT 3 TO COVER ADJACENT TO MEET BCA REQ.
  - CONVERT STORAGE / COMMERCIAL AREA INTO RESIDENTIAL STORAGE AREA
  - NEW SKYLIGHTS ADDED ON THE ROOF LEVEL
  - GFA CALCULATIONS UPDATED

**1 ROOF PLAN**  
1:100 @ A1



© This work is copyright. Apart from any use permitted under the copyright act 1968, no part may be reproduced by any process, nor may any other exclusive right be exercised, without the permission of Squillace Architects Pty Ltd, Australia.

The use of this drawing is conditional on your agreement to the Squillace Architects Transfer Agreement as found on our website at [www.squillace.com.au/ta](http://www.squillace.com.au/ta)



STATUS

**SECTION 4.55**

Do not scale drawing. Verify all dimensions on site. Report any discrepancies in documentation to architect. This drawing is for the purpose of council approval and as such, is not suitable for construction.

GRAPHIC SCALE

0 2000 5000  
1:100 @ A1

DRAWING NOTES

ISS	DATE	PURPOSE OF ISSUE
F	22.06.2023	ISSUE FOR SECTION 4.55
E	17.01.2023	ISSUE FOR SECTION 4.55
D	05.10.2022	ISSUE FOR SECTION 4.55
C	11.07.2022	ISSUE FOR DA NEGOTIATION
B	11.11.2021	ISSUE FOR DA
A	02.11.2021	ISSUE FOR DA
P1	21.10.2021	ISSUE TO CONSULTANTS

CLIENT  
IRIS

**squillace**

ARCHITECTURE /  
INTERIORS

[www.squillace.com.au](http://www.squillace.com.au)

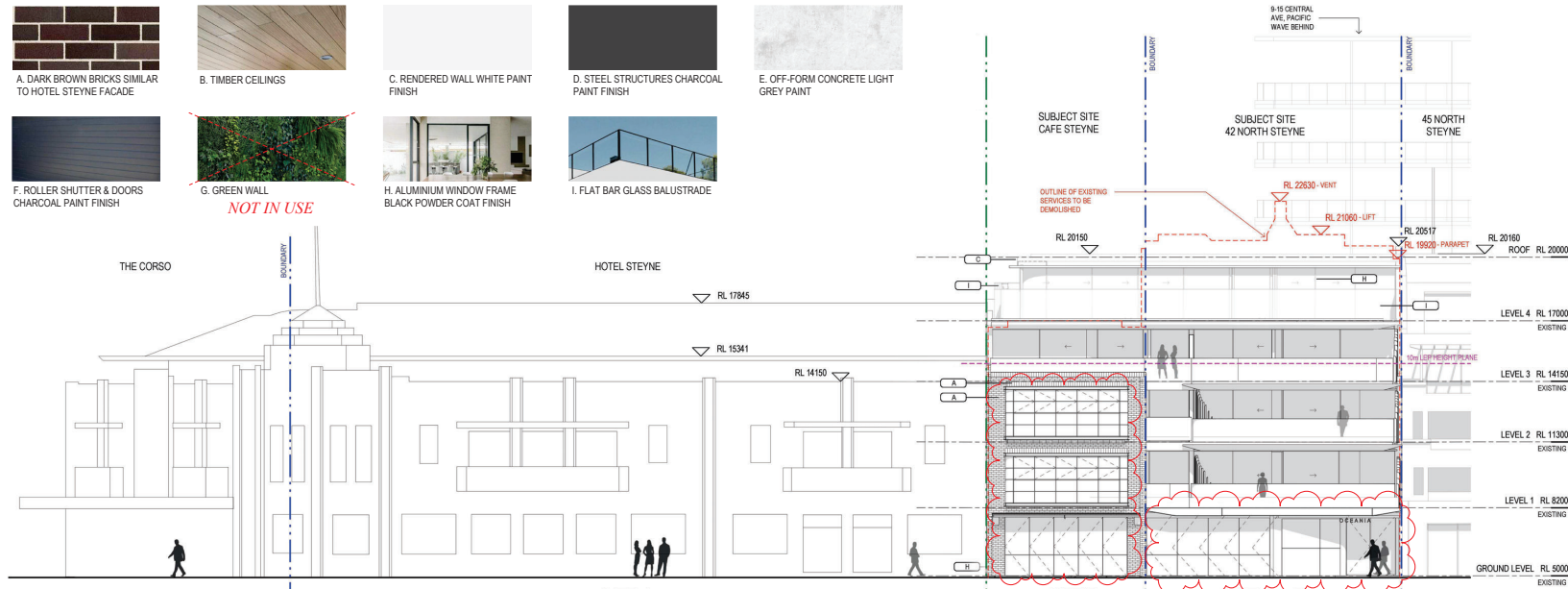
NOMINATED ARCHITECT  
Vince Squillace Reg No: 9488 (NSW),  
17219 (VIC), 3877 (QLD), AR1173 (NT)

PROJECT  
MANLY APARTMENTS  
42 NORTH STEYNE, MANLY  
LOT 100-102 IN DP 1069144  
LOT 1 DP 1034722

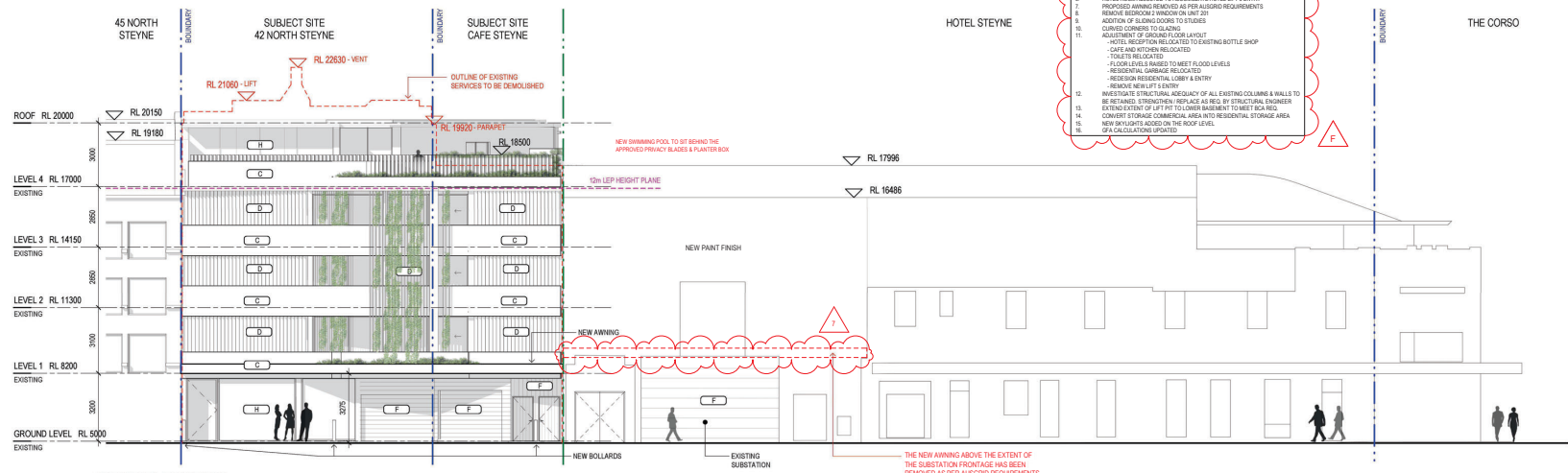
DRAWING NO. ISSUE  
**DA-201 F**  
JOB NO. SCALE DATE  
IR12014 1:100@ A1 22.06.2023

DRAWING TITLE  
EAST & WEST ELEVATIONS

DRAWN BY CHECKED BY  
FO FO



**1 EAST ELEVATION**  
1:100 @ A1



**2 WEST ELEVATION**  
1:100 @ A1



This work is copyright. Apart from any use permitted under the copyright act 1969, no part may be reproduced by any process, nor may any other exclusive right be exercised, without the permission of Squillace Architects Pty Ltd, Australia.

The use of this drawing is conditional on your agreement to the Squillace Architects Transfer Agreement as found on our website at [www.squillace.com.au/ta](http://www.squillace.com.au/ta)



STATUS

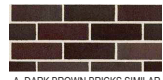
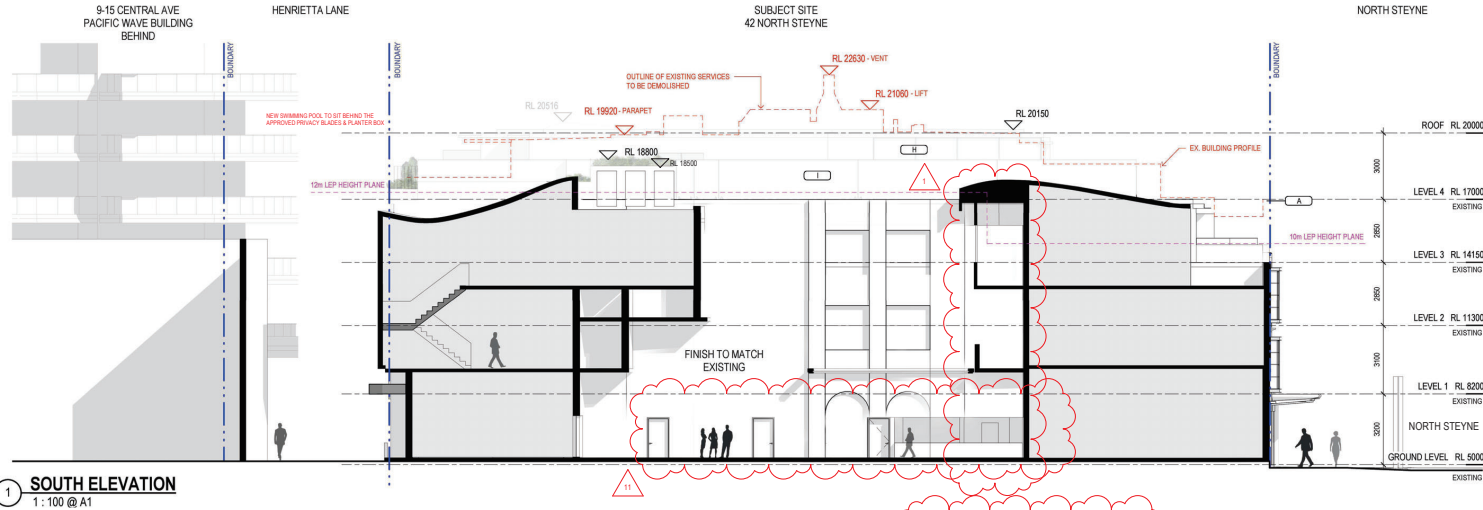
**SECTION 4.55**

Do not scale drawing. Verify all dimensions on site. Report any discrepancies in documentation to architect. This drawing is for the purpose of council approval and as such, is not suitable for construction.

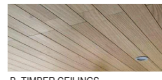
GRAPHIC SCALE

1:500 @ A1 0 2000 5000  
1:100 @ A1

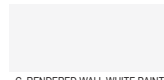
DRAWING NOTES



A. DARK BROWN BRICKS SIMILAR TO HOTEL STEYNE FACADE



B. TIMBER CEILINGS



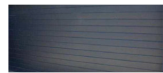
C. RENDERED WALL WHITE PAINT FINISH



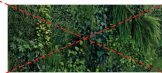
D. STEEL STRUCTURES CHARCOAL PAINT FINISH



E. OFF-FORM CONCRETE LIGHT GREY PAINT



F. ROLLER SHUTTER & DOORS CHARCOAL PAINT FINISH



G. GREEN WALL  
**NOT IN USE**



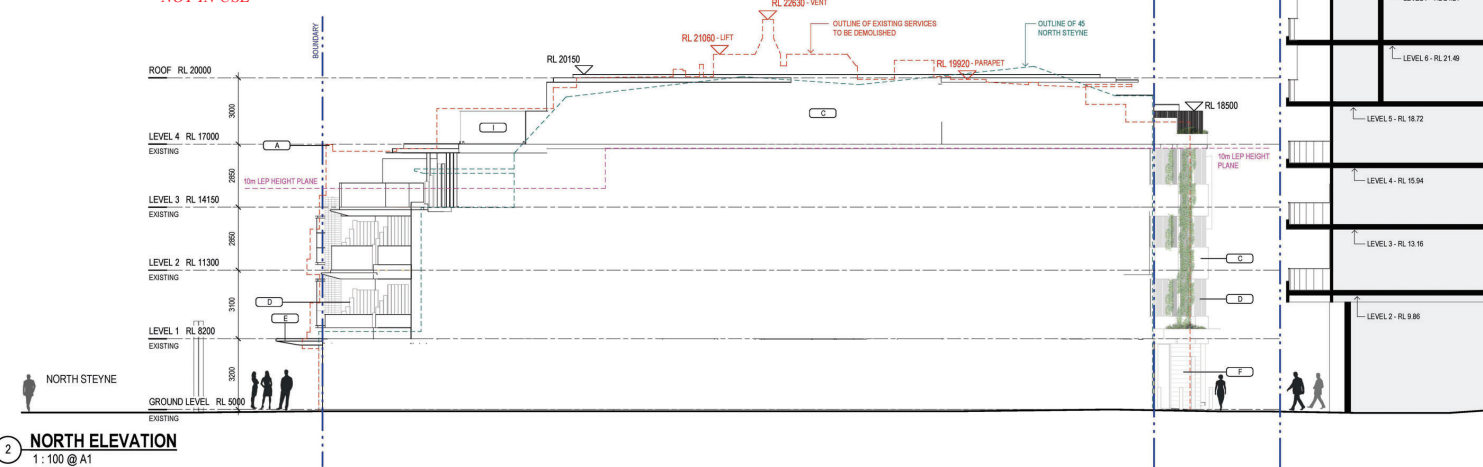
H. ALUMINIUM WINDOW FRAME BLACK POWDER COAT FINISH



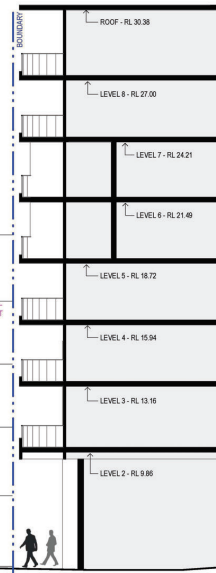
I. FLAT BAR GLASS BALUSTRADE

**AMENDMENTS TO ARCHITECTURAL DRAWINGS**

1. HOTEL LIFT & LIFT ACCESS RELOCATED EXTENT OF DEMOLITION ADJUSTED
2. BLIGHT MODIFICATION OF ALLUIONS & TRANSFORMS TO COMPLY WITH BCA
3. REMOVE EXISTING HOTEL SHOP AND REPLACE WITH HOTEL RECEPTION
4. REMOVE PORTIONS OF THE EXISTING BLUE AS PER STRUCTURAL ADVISE TO MEET NEW BCA AND FLOOD REQUIREMENTS
5. HOTEL ROOM ADJUSTED TO ACCOMMODATE HOTEL LIFT & ENTRY
6. PROPOSED ANNEX REMOVED AS PER AUDIT REQUIREMENTS
7. REMOVE BEDROOM WINDOW ON LIFT 201
8. ADDITION OF SLIDING DOORS TO STUDIES
9. CURVED CORNERS TO BALCONY
10. ADJUSTMENT OF BALCONY FLOOR LAYOUT
11. HOTEL RECEPTION RELOCATED TO EXISTING BOTTLE SHOP
12. CARPARK CORNERS RELOCATED
13. TOILETS RELOCATED
14. FLOOR LEVELS ADJUSTED TO MEET FLOOD LEVELS
15. RESIDENTIAL GARAGE RELOCATED
16. RESIDENTIAL LIFT & ENTRY
17. INVESTIGATE STRUCTURAL ADEQUACY OF ALL EXISTING COLUMNS & WALLS TO BE RETAINED, STRENGTHENED, REPLACE AS REQ. BY STRUCTURAL ENGINEER
18. EXTEND EXISTENT OF LIFT PIT TO UNDER GARMENT TO MEET BCA REQ.
19. CONVERT STORAGE COMMERCIAL AREA INTO RESIDENTIAL STORAGE AREA
20. NEW BALCONIES ADDED ON THE ROOF LEVEL
21. IF A CALCULATIONS UPDATED



**9-15 CENTRAL AVE  
PACIFIC WAVE BUILDING**



CLIENT  
IRIS

**squillace**

ARCHITECTURE /  
INTERIORS

[www.squillace.com.au](http://www.squillace.com.au)

SYDNEY  
180 Allison Street, Surry Hills, NSW 2010  
Ph: +61 2 8564 1300  
ABN: 24 132 554 793

NOMINATED ARCHITECT  
Vince Squillace Reg No: 9480 (NSW)  
17219 (VIC), 3877 (QLD), AR1173 (NT)

PROJECT  
MANLY APARTMENTS  
42 NORTH STEYNE, MANLY  
LOT 1 DP 1034722

DRAWING NO. ISSUE  
**DA-202 G**  
JOB NO. SCALE DATE  
IRI2014 1:100@ A1 22.06.2023

DRAWING TITLE  
NORTH & SOUTH ELEVATIONS

DRAWN BY CHECKED BY  
FO FO

**ITEM 5.2****DA2023/1398 - 6 QUINTON ROAD, MANLY - ALTERATIONS  
AND ADDITIONS TO A DWELLING HOUSE****AUTHORISING MANAGER****Adam Richardson****TRIM FILE REF****2023/708779****ATTACHMENTS**

- 1** [↓ Assessment Report](#)
- 2** [↓ Site Plan & Elevations](#)

**PURPOSE**

This application has been referred to the Northern Beaches Local Planning Panel as it is a development involving the demolition of a heritage item.

---

**RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT**

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/1398 for Alterations and additions to a dwelling house on land at Lot 29 DP 2428, 6 Quinton Road, MANLY subject to the conditions set out in the Assessment Report.

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/1398
----------------------------	-------------

<b>Responsible Officer:</b>	Brittany Harrison
<b>Land to be developed (Address):</b>	Lot 29 DP 2428, 6 Quinton Road MANLY NSW 2095
<b>Proposed Development:</b>	Alterations and additions to a dwelling house
<b>Zoning:</b>	Manly LEP2013 - Land zoned R1 General Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Sarah Ann Falzarano Tonino Falzarano
<b>Applicant:</b>	Timothy Hugh West

<b>Application Lodged:</b>	06/10/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	13/10/2023 to 27/10/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 170,000.00
---------------------------------	---------------

### EXECUTIVE SUMMARY

This development application seeks consent for the alterations and additions to an existing dwelling house.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the proposal including partial demolition of a heritage item, in particular the removal of internal walls and the removal of part of the existing external walls and roofing to accommodate new windows/skylights. The demolition proposed are not considered to significantly alter the original building fabric of the existing dwelling house, and are supported by Council's Heritage Advisor. However, any form of demolition associated with a heritage item is defined as a form of Sensitive Development under the Minister's Direction for Local Planning Panels.



The development application was notified for a period of fourteen (14) days, with two (2) submissions received. The submissions do not raise any material issue which would warrant refusal of the application.

The application has been assessed against the relevant legislation and development controls, and has been found to be an acceptable form of development, sympathetic to the heritage values of the surrounding area.

Based on a detailed assessment of the application, it is considered that, on balance the proposal is a suitable and an acceptable development for the subject site for the reasons outlined in this report.

This report concludes with a recommendation that the NBLPP grant **approval** to the development application, subject to recommended conditions.

### **PROPOSED DEVELOPMENT IN DETAIL**

This development application seeks consent for the alterations and additions to an existing dwelling house.

Specifically, the works comprise of the following:

#### Ground Floor

- Replacement of rear sliding doors and existing windows W01 And W03; and
- Removal of internal walls to accommodate internal reconfigurations.

#### First Floor

- Extension and reconfiguration to an existing bathroom;
- Addition of new internal walls to accommodate a desk area/study nook;
- Demolition of internal walls to accommodate new storage areas to Bedroom 4 within existing roof space (external walls will remain the same and not be altered);
- Storage to Master Bedroom; and
- Addition of a skylight (SL1) and window to internal stairwell (W06).

### **ASSESSMENT INTRODUCTION**

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

#### SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 5.10 Heritage conservation  
 Manly Development Control Plan - 3.4.2 Privacy and Security  
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation  
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping

#### SITE DESCRIPTION

<b>Property Description:</b>	Lot 29 DP 2428 , 6 Quinton Road MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of Quinton Road.</p> <p>The subject site is legally identified as Lot 29, Section 14 in Deposited Plan 2428, No. 6 Quinton Road, Manly. The site is a Local Heritage Item.</p> <p>The site is rectangular in shape with a frontage of 12.19 metres to both Quinton Road and Ocean Lane, with a depth of 35.66 metres. The site has a surveyed area of 434.8m<sup>2</sup>.</p> <p>The site is located within the R1 General Residential zone under the provisions of the Manly Local Environmental Plan 2013 zone and accommodates a dwelling house with a detached garage. Vehicular access is via Ocean Lane to the rear of the site. Public parking is located to the front of the site.</p> <p>The site topography is relatively flat with a minor slope in the land from west to east.</p> <p>The site consists of a garden area to the front and side of the dwelling, with an open lawn area to the rear.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by dwelling houses, dual occupancies and residential flat buildings of various storeys. The buildings located on Quinton Road are all of Local Heritage Significance.</p>

Map:



#### SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

**Application Number: 10.2016.156.1**

Development Application for the alterations and additions to existing dwelling house including demolition of existing garage and rear deck, new double garage, new rear deck, rear boundary fence and external stairs.

Determined on 10 August 2016 by the Development Assessment Unit.

**Application Number: 10.2000.577.1**

Development Application for the extension of deck over existing deck.

Determined on 21 February 2001.

**Application Number: 5.1997.213.1**

Development Application for alterations and additions to existing dwelling.

Determined on 18 August 1997.

#### Application History

The development application was notified for a period of fourteen (14) days, as stated within Council's Community Participation Plan and resulted in two (2) submissions.

An amended plan was received (First Floor Plan) on 27 October 2023 which correctly noted which internal walls were to be removed to accommodate the proposed storage to bedroom 4. The proposal did not require re-notification, as no additional environmental impact would occur.

#### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan 2013 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 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 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a recommended condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a recommended condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a recommended condition of consent.</p>

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

#### EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

#### BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

#### NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 13/10/2023 to 27/10/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	Address:
Mr Craig Beaumont Ryan	3 / 4 Quinton Road MANLY NSW 2095
Mr Paul Andrew Thorpe-Apps	8 Quinton Road MANLY NSW 2095

Two (2) submissions were received during the assessment process, with the issues addressed below:

- **New Window Placement (W01, W03, W06) - Privacy/Acoustic Impacts**

Comment

Concern is raised in relation to the window placement of new windows W01, W03 and W06 and the resultant privacy/acoustic impacts that may occur to the adjoining property to the north and south (No. 4 and No. 8 Quinton Road). It is considered that the placement of these windows are acceptable, for the reason discussed within the DCP section of the report - 'Clause 3.4.2 Privacy and Security'.

## REFERRALS

Internal Referral Body	Comments
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<b><i>Supported, subject to conditions.</i></b>
	The proposal has been referred to Heritage as the subject property is a heritage item, being part of <b>Item I215 - Group of houses</b> - 1–23, 25 and 27 Quinton Road and 1–7 Augusta Road. The site also adjoins a heritage item, being <b>Item 12 - All stone kerbs</b> - Manly municipal area.
	Details of heritage items affected
	Details of the heritage item, as contained within the Manly Heritage Inventory are:  <b>Item I215 - Group of houses</b> <u>Statement of significance</u> The group of houses at 1-23, 25 and 27 Quinton Road are a remarkably intact example of early Twentieth Century development, typical of the Manly area at that time. The street presents a cohesive representation of the changes occurring to the Manly community in the early 1900s, with regard to population increase and changes to typical dwelling types. The group's associations with various local identities over time further solidify this historical significance to Manly. The street's picturesque location and high architectural quality contribute to the group's aesthetic significance, as do the extant details such as fences, rooflines, materials, landscaping and setbacks.  <u>Physical description</u> The architectural style exhibited is predominantly Federation, including both Queen Anne and Arts and Crafts style elements, reflecting the first period of development in the street. Features include asymmetrical designs, face brickwork, use of ornamental timberwork on verandah and "flying" gables, tall with terracotta pots, the use of slate or Marseille terracotta tile roofing, bay windows and wall hung shingles.  Due to the topography of the street, the houses on the western

Internal Referral Body	Comments		
	side of the road exhibit some interesting features, such as the substantial sandstone retaining walls, as well as symmetrical access stairways and picket fences at numbers 15-17, 19-21 and 23-25.		
	Essentially, the streetscape remains little changed, with original setbacks, rooflines, architectural detailing and landscaping aspects such as fences still intact.		
	Other relevant heritage listings		
	SEPP (Biodiversity and Conservation) 2021	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	Consideration of Application		
<p>The proposal seeks consent for alterations and additions to an existing dwelling. In accordance with the inventory, all significant intact fabric should be retained and conserved including joinery and fittings; any further development should preserve the existing form, external surfaces and materials of the building, there shall be no alterations to the façade of the buildings other than to reinstate original features; the principal room layout and planning configuration as well as significant internal original features including ceilings, cornices, joinery, flooring and fireplaces should be retained and conserved; any additions and alterations should be confined to the rear in areas of less significance, should not be visibly prominent and shall be in accordance with the relevant planning controls.</p> <p>It appears to be the original chimney had been removed without an approval. Therefore, reinstatement of the chimney is recommended*. The proposed replacement of the rear gable to the upper level with fixed glazing is considered to be not compatible within the heritage context and the existing weatherboard cladding is recommended to be retained. A detailed external colour scheme should be provided to ensure that the external finishes and colours are compatible with the heritage context.</p> <p>Given the proposed works are mainly confined to the rear of the property and within the existing envelope and not visible from Quinton Road, the impact of the proposal upon the significance of</p>			



Internal Referral Body	Comments
	<p>the heritage item and the streetscape is considered manageable.</p> <p><b>Updated Comments - 06 November 2023</b></p> <p>Heritage have been required to clarify the above comments in reference to the need to re-instate the chimney, which is considered to be an important element of the original fabric of the heritage listed property as described within the heritage inventory, which includes the following quotes:</p> <p><i>"The architectural style exhibited is predominantly Federation, including both Queen Anne and Arts and Crafts style elements, reflecting the first period of development in the street. Features include asymmetrical designs, face brickwork, use of ornamental timberwork on verandah and "flying" gables, tall chimneys with terracotta pots, the use of slate or Marseille terracotta tile roofing, bay windows and wall hung shingles."</i></p> <p><i>"Essentially, the streetscape remains little changed, with original setbacks, rooflines, architectural detailing and landscaping aspects such as fences still intact."</i></p> <p>Demolishing or moving or altering the exterior of any heritage listed property requires consent from Council in accordance with <i>Manly LEP 2013 - 5.10 Heritage conservation</i>. The objectives of Section 3.2 <i>Heritage Considerations of Manly DCP 2013</i> involve to retain and conserve environmental heritage and cultural significance of Manly including, significant fabric, setting, relics and view associated with heritage items and conservation areas. Significant features include roofs, detailing, brickwork, colours and original windows (size, proportion and type). <i>Section 3.2.2.2 Retaining Significant Features and Landscape Setting</i> require to avoid removal of original fabric in order to retain the integrity of the heritage item or conservation area.</p> <p>The most important elements of the building which form part of the streetscape are the roofline, the chimneys and the bull nose verandah. However, as stated above the original chimney has been removed without an approval of a consent from Council. The former chimney (tuck pointed warm face-brickwork), originally located on the street frontage of the northern elevation, shall be reinstated in its original position with all original detailing, including the terracotta chimney pots. The size of the chimney should be 470x470mm (external dimensions), and its location should be approximately 1500mm from the external face of the northern side wall and above the party wall of the bedrooms 1 and 3. The height should be 1 and 2 brick corbels above the ridge level and the terracotta pots above the corbels. Details outlining the design, location and material of the chimney are to be submitted to Council's heritage advisor for endorsement prior to the issue of Construction Certificate.</p>

Internal Referral Body	Comments
	<p>Therefore, no objections are raised on heritage grounds subject to three (3) conditions.</p> <p><u>Consider against the provisions of CL5.10 of MLEP 2013.</u></p> <p>Is a Conservation Management Plan (CMP) Required? No</p> <p>Has a CMP been provided? No</p> <p>Is a Heritage Impact Statement required? Yes</p> <p>Has a Heritage Impact Statement been provided? Yes</p>

#### ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)\*

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

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

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

##### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A500100 dated 28 July 2023).

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

##### SEPP (Resilience and Hazards) 2021

##### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

##### Manly Local Environmental Plan 2013

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

zone objectives of the LEP?	Yes
-----------------------------	-----

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	8.5m	7.975m (Existing height unchanged)	-	Yes
Floor Space Ratio (FSR)	FSR: 0.6:1 (260.88m <sup>2</sup> )	FSR: 0.435:1 (189.2m <sup>2</sup> )	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
5.10 Heritage conservation	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

**5.10 Heritage conservation**

- (a) to conserve the environmental heritage of Manly,  
(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,  
(c) to conserve archaeological sites,  
(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

Comment

The proposal is accompanied by a Heritage Impact Statement prepared by THW Architects which has been reviewed by Council's Heritage Officer, who has recommended conditions of consent. It can be considered that the proposal, subject to these conditions has been designed to conserve the heritage significance of the area. The subject site is not located within any identified areas of Aboriginal Heritage Significance or objects.

**Manly Development Control Plan**

Built Form Controls

Built Form Controls - Site Area: 434.8m <sup>2</sup>	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	North: 6.7m (based on gradient 1:30)	5.0m	-	Yes

	South: 6.7m (based on gradient 1:30)	6.5m	-	Yes
4.1.2.2 Number of Storeys	2 Storeys	2 Storeys	-	Yes
4.1.2.3 Roof Height	Height: 2.5m	2.5m (Existing)	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line: Nil - 3.5m (Eastern side of Quinton Road)	Front Porch: 1.8m Ground Floor: 3.5m First Floor: 5.4m (Front setbacks are existing)	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	1.65m (based on wall height) (Northern Boundary)	Ground Floor: Nil - 0.9m First Floor: 2.2m - 2.3m (Existing)	100.0% -	No Yes
	2.1m (based on wall height) (Southern Boundary)	Ground Floor: 2.5m - 2.7m First Floor: 4.1m - 4.5m (Existing)	-	Yes
	Windows: 3.0m (Northern Elevation)	W01: 0.5m - 0.6m	83.3%	No
	Windows: 3.0m (Southern Elevation)	W03: 2.5m - 2.6m W06: 4.1m - 4.2m	16.7%	No Yes
	Secondary street frontage: Nil (Ocean Lane)	Nil, consistent with prevailing setback (Existing)	-	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55.0% of site area (239.1m <sup>2</sup> )	46.2% (200.8m <sup>2</sup> )	16.0% (38.3m <sup>2</sup> )	No (Existing)
	Open space above ground 25.0% of total open space	6.4% (12.8m <sup>2</sup> )	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 35.0% of open space (70.3m <sup>2</sup> )	> 35.0% (164.8m <sup>2</sup> )	-	Yes
4.1.5.3 Private Open Space	18.0m <sup>2</sup> per dwelling	18.0m <sup>2</sup>	-	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	Dwelling 2 spaces (Existing)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.3 Landscaping	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes

#### Detailed Assessment

#### **3.4.2 Privacy and Security**

##### Description of Non-Compliance

Clause 3.4.2.1 Window Design and Orientation requires the following:

- a) Use narrow, translucent or obscured glass windows to maximise privacy where necessary.
- b) When building close to boundaries, windows must be off-set from those in the adjacent building to restrict direct viewing and to mitigate impacts on privacy.

The proposal includes three (3) new windows:

- **W01** - Highlight window with floor to sill height of 1.9 metres to the new living room area.
- **W03** - Window with floor to sill height of 0.9 metres to new kitchen area.
- **W06** - Window with floor (Level 1) to sill height of 1.025 metres however located above the stairwell, greater than 2 metres above treads.

W01 is located within close proximity to the northern neighbour's bedroom window, however, is placed in a similar location to that of the existing window being replaced. The proposed window will be larger in size, but will incorporate a highlight window design. As the northern neighbour (No. 8 Quinton Road) is located at a higher level than the subject site, this property has the possibility of direct overlooking into the proposed new window. Therefore, a condition will be included to incorporate obscured glazing into the window design to mitigate potential impacts on visual privacy. This Condition will benefit both properties.

W03 is located more than 3.0 metres when measured from the proposed window to the building on the southern adjoining lot (No. 4 Quinton Road). The new window is located at ground level and will be shaded by existing vegetation. However, given the size of the window, and the location in association with the kitchen bench, a condition will be included for obscured glazing, to aid in the prevention of overlooking to and from the neighbour at No. 4 Quinton Road. This Condition will benefit both properties.

W06 is located 5.0 metres when measured from the proposed window to the building of No. 4 Quinton Road. This window is associated with the stairwell and not a living area or bedroom, this window is narrow in design is elevated more than 2 metres above the stair treads, setback more than 2 metres from floorspace on Level 1 and is not considered to result in an unacceptable privacy impact.

Clause 3.4.2.3 Acoustical Privacy (Noise Nuisance) stipulates that consideration must be given to the protection of acoustical privacy in the design and management of development. Despite the internal reconfigurations to the ground floor, W01 and W03 will be located in an open living space, similar to that of the existing arrangement of the dwelling. Existing windows will be replaced by W01 and W03 in generally similar locations, but will be changed in shape and design. Despite this, as these areas will remain as living areas, the noise to be generated is considered to be similar to existing, which would be acceptable for a residential area of varied density. The layout and arrangement of the dwelling to be modified is reflective of contemporary residential living.

#### Merit Consideration

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

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

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

#### Comment

In way of the recommended conditions the proposal will provide for acceptable privacy levels to surrounding properties, mitigating direct viewing between windows.

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

#### Comment

The proposed windows, subject to conditions will not compromise significant view lines or access to air and light.

**Objective 3) To encourage awareness of neighbourhood security.**Comment

The proposal will not compromise casual surveillance of the street from the property.

Subject to compliance with the recommended conditions, the proposal will be consistent with the requirements and outcomes of this control.

**4.1.4 Setbacks (front, side and rear) and Building Separation**Description of Non-Compliance

Clause 4.1.4.2 Side setbacks and secondary street frontages requires all new windows that face side boundaries to be setback at least 3.0 metres.

The proposed development includes the following new windows which are non-compliant with the above numerical requirement:

- W01: Setback between 0.5 metres - 0.6 metres from northern boundary. Located on ground floor and associated with a living room.
- W03: Setback between 2.5 metres - 2.6 metres from southern boundary. Located on ground floor and associated with a kitchen.

It is noted that the ground floor side setback is non-compliant with the numerical requirement, however, this setback is as existing and will not be unaltered. It is important that this setback / built form remain given the works are associated with an item of environmental heritage and that the works have been design to have a sympathetic impact on the existing dwelling.

Merit Consideration

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

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

The windows are located on the side elevations of the building, which will not be easily viewed from the street. The street elevation of the building will remain as existing to maintain the heritage value of the item. The proposed additions respect the character and setting of the building.

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

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



Comment

The additions will maintain the existing setback of the building resulting in non-compliance with the window numerical requirement of 3.0 metres. W01 is located within close proximity to the northern boundary line, hence the window has been designed as a highlight window with a floor to sill height of 1.9 metres. W03 although non-compliant is located to the ground floor level, and is located at a distance of more than 3.0 metres from the actual building to the south. The side setback area of the subject site consists of vegetation which aid in visual privacy. Recommended conditions have been included to further ensure visual privacy is protected. No additional impacts to view loss, solar access, pattern of buildings or traffic issues will result from the proposed works.

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

The proposed works will not disrupt the existing flexibility of the site.

**Objective 4) To enhance and maintain natural features by:**

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

Comment

The existing topography of the land will be unaltered, with no significant forms of vegetation being proposed for removal. Acceptable dimensions of landscaped open space is maintained on site to accommodate for any future plantings, deep soil zones, and vegetation.

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

The subject site is not located within bush fire prone land and therefore this objective is not relevant.

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

**4.1.5 Open Space and Landscaping**

Clause 4.1.5 Open Space and Landscaping, requires at least 55.0% of the site area to consist of total open space, in this instance 239.1m<sup>2</sup>.

The proposal will maintain an existing non-compliant open space area of 46.2% or 200.8m<sup>2</sup>. As the proposed works will not alter the existing open space area, no further consideration of this control is required for the purpose of this assessment.

**THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

**CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

**POLICY CONTROLS****Northern Beaches Section 7.12 Contributions Plan 2022**

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

A monetary contribution of \$ 850 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 170,000.

**CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

**PLANNING CONCLUSION**

This proposal, for alterations and additions to an existing dwelling house has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to demolition of part of a Local Heritage Item. Therefore, meets the requirements for the determination by the NBLPP for Sensitive Development.

The development application was notified for a period of fourteen (14) days, as stated within Council's Community Participation Plan, with two (2) submissions received.

The critical assessment issues included heritage conservation and various built form non-compliances

under the Manly Development Control Plan 2013, which were found to be acceptable.

Overall, it is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed. Accordingly, the application is referred to the NBLPP with a recommendation for **approval**.

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

## RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2023/1398 for Alterations and additions to a dwelling house on land at Lot 29 DP 2428, 6 Quinton Road, MANLY, subject to the conditions printed below:

## Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

### GENERAL CONDITIONS

#### 1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A 01 - A	Issue A	Site & Roof Plan	THW Architects	28 July 2023
A 02 - A	Issue A	Ground / Landscape & Stormwater Plan	THW Architects	28 July 2023
A 03 - B	Issue B	First Floor Plan	THW Architects	26 October 2023
A 10 - A	Issue A	North Elevations	THW Architects	28 July 2023
A 11 - A	Issue A	South Elevations	THW Architects	28 July 2023
A 12 - A	Issue A	East & West Elevations	THW Architects	28 July 2023
A 20 - A	Issue A	Section	THW Architects	28 July 2023
A 21 - A	Issue A	Section	THW Architects	28 July 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Basix Certificate (No. A500100)	-	THW Architects	28 July 2023
Heritage Impact Statement	-	THW Architects	-
Waste Management Plan	-	Tim Woods - THW Architects	27 July 2023
Preliminary Geotechnical Assessment (Ref. J5139)	-	White Geotechnical Group	21 September

			2023
--	--	--	------

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

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

## 2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifier 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 Certifier 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 Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

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

Reason: Legislative requirement.

### 3. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
  - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less

than \$250,000. The Long Service Levy is calculated on 0.25% 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.

- ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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



- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$850.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$170,000.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

### 5. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any

damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

#### **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

**6. Stormwater Drainage Disposal**

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifier prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifier prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

**7. Amendments to the approved plans**

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

**a)** Windows W01 to the "LIVING" area and W03 to the "KITCHEN" area as shown on the approved plans, are to consist of obscured glazing.

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

Reason: To require amendments to the plans endorsed by the consent authority following

assessment of the development.

8. **Boundary Identification Survey**

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

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

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

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

9. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

1. Council's relevant development control plan,
2. The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and
3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

10. **Rear gable**

The proposed replacement of the rear gable to the upper level, with fixed glazing is considered to be not compatible within the heritage context and the existing weatherboard cladding is to be retained. Details, demonstrating compliance with this condition are to be submitted to the Council's Heritage Advisor for approval prior to the issue of the Construction Certificate.

Reason: To ensure the proposed works are compatible with the heritage context.

11. **External finishes and colour scheme**

Details of the proposed materials and colour scheme is to be submitted to the Council's Heritage Advisor for approval prior to the issue of the Construction Certificate.

Reason: To ensure the external finishes and colour scheme are compatible with the heritage context.

12. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

13. **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 Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

14. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

15. **Re-instatement of original chimney**

The former chimney (tuck pointed warm face-brickwork), originally located on the street frontage of the northern elevation, shall be reinstated in its original position with all original detailing, including the terracotta chimney pots. The size of the chimney should be 470x470mm (external dimensions), and its location should be approximately 1500mm from the external face of the northern side wall and above the party wall of the bedrooms 1 and 3. The height should be 1 and 2 brick corbels above the ridge level and the terracotta pots above the corbels.

Details outlining the design, location and material of the chimney are to be submitted to Council's heritage advisor for endorsement prior to the issue of Construction Certificate.

Reason: To retain the integrity of the heritage property and preserve the significance of the heritage item.

### DURING BUILDING WORK

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

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

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

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

**17. Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

**18. Demolition Works - Asbestos**

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

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

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

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

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

**19. Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

**20. Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance

with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

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

#### BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

21. **Stormwater Drainage Disposal Certification**

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Principal Certifier prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the authority to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure satisfactory management of stormwater.

22. **Waste Management Confirmation**

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

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

23. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

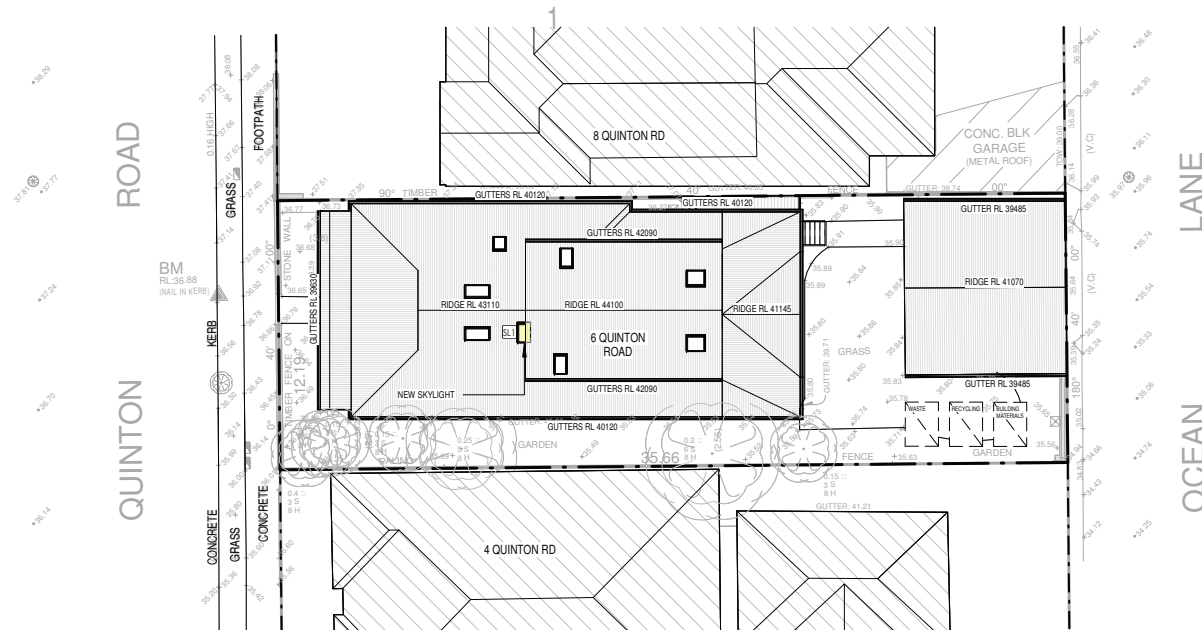
Reason: To ensure bushland management.

**ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES****24. Geotechnical Recommendations**

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

Reason: To ensure geotechnical risk is mitigated appropriately.





**1 SITE AND ROOF PLAN**  
01 1 : 200

ARCHITECTS WORK IS COPYRIGHT AND COVERED BY COPYRIGHT ACT 1968  
DRAWINGS NOT TO BE SCALED. USE FIGURED DIMENSIONS ONLY. CHECK ALL DIMENSIONS ON SITE. PRIOR TO MANUFACTURE MEASURE ALL WINDOW/DOOR OPENINGS ON SITE. ELECTRONIC COPIES OF DRAWINGS SHOULD BE VERIFIED AGAINST PRINTED COPIES TO ENSURE NO LOSS OF INFORMATION. IF IN DOUBT ASK



reg# NSW 7417 - TIM WEST  
ph. 02 9918 5085  
e. tim@thw.net.au  
m. Suite 101 - Level 1, 60 Old Barrenjoey rd, Avalon NSW, 2107

**SURVEY**  
DAW&WALTON CONSULTING SURVEYORS  
e: survey@daw-walton.com.au  
ph: (02) 8065 1156

**PLANNER**  
VAUGHAN MILLIGAN DEVELOPMENT CONSULTING  
PO BOX 49, NEWPORT BEACH, NSW, 2106  
e: vmcd@bigpond.net.au  
ph: 99994922

**ENGINEER**  
BARRENJOEY CONSULTING ENGINEERS  
e: LUCASBCE@BIGPOND.COM  
ph: 0418 620 330

**PROJECT**  
ALTERATIONS & ADDITIONS  
5 QUINTON RD, MANLY, 2095

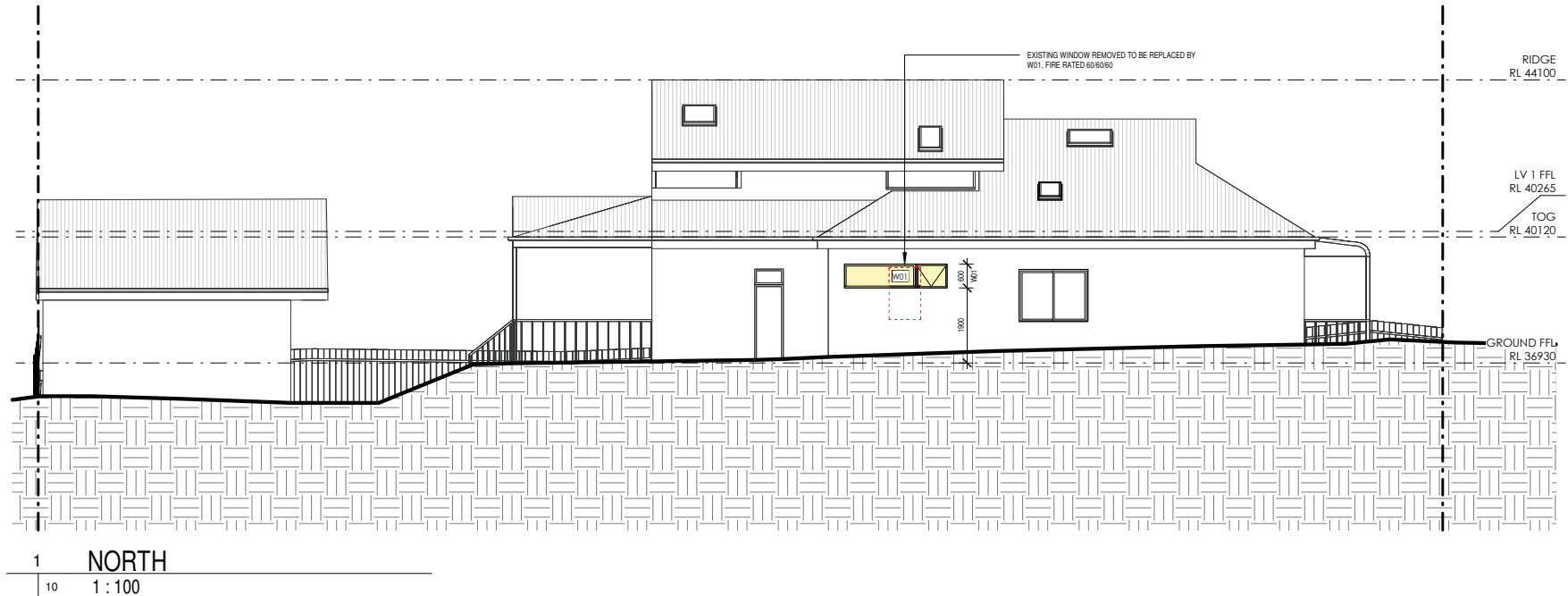
**CLIENT**  
TONY & SARAH FALZARANO  
salsarano@gmail.com  
tonyfz@gmail.com



0 10 20 m

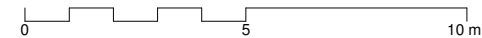
--- DEMOLISHED  
--- HIDDEN  
--- OVERHEAD  
--- EXISTING  
--- PROPOSED  
--- NEW WORKS

<div>ARCHITECT</div> <div> <b>THW</b> ARCHITECTS</div> <div>reg# NSW 7417 - TIM WEST ph. 02 9918 5085 e. tim@thw.net.au m. Suite 101 - Level 1, 60 Old Barrenjoey rd, Avalon NSW, 2107</div>		<div><b>SURVEY</b> DAW&amp;WALTON CONSULTING SURVEYORS e: survey@daw-walton.com.au ph: (02) 8065 1156</div>	<div><b>PLANNER</b> VAUGHAN MILLGAN DEVELOPMENT CONSULTING PO BOX 49, NEWPORT BEACH, NSW, 2106 e: vmdc@bigpond.net.au ph: 99994922</div>	<div><b>PROJECT</b> ALTERATIONS &amp; ADDITIONS 5 QUINTON RD, MANLY, 2095</div>				<div>JOB NUM# <b>194</b></div>	<div>DRAWN BY <b>TC</b></div>	<div>CHK. BY <b>TW</b></div>	<div>PAGE SIZE <b>A3</b></div>
							<div>PROJECT NAME <b>6 QUINTON RD</b></div>		<div>SCALE <b>1 : 200</b></div>		
							<div>DRAWING NAME <b>SITE &amp; ROOF PLAN</b></div>		<div>DRAWING NUMBER <b>A 01 -A</b></div>		
						<div>A 28/07/2023</div>	<div>DA</div>				
						<div>IS DATE</div>	<div>COMMENTS</div>				



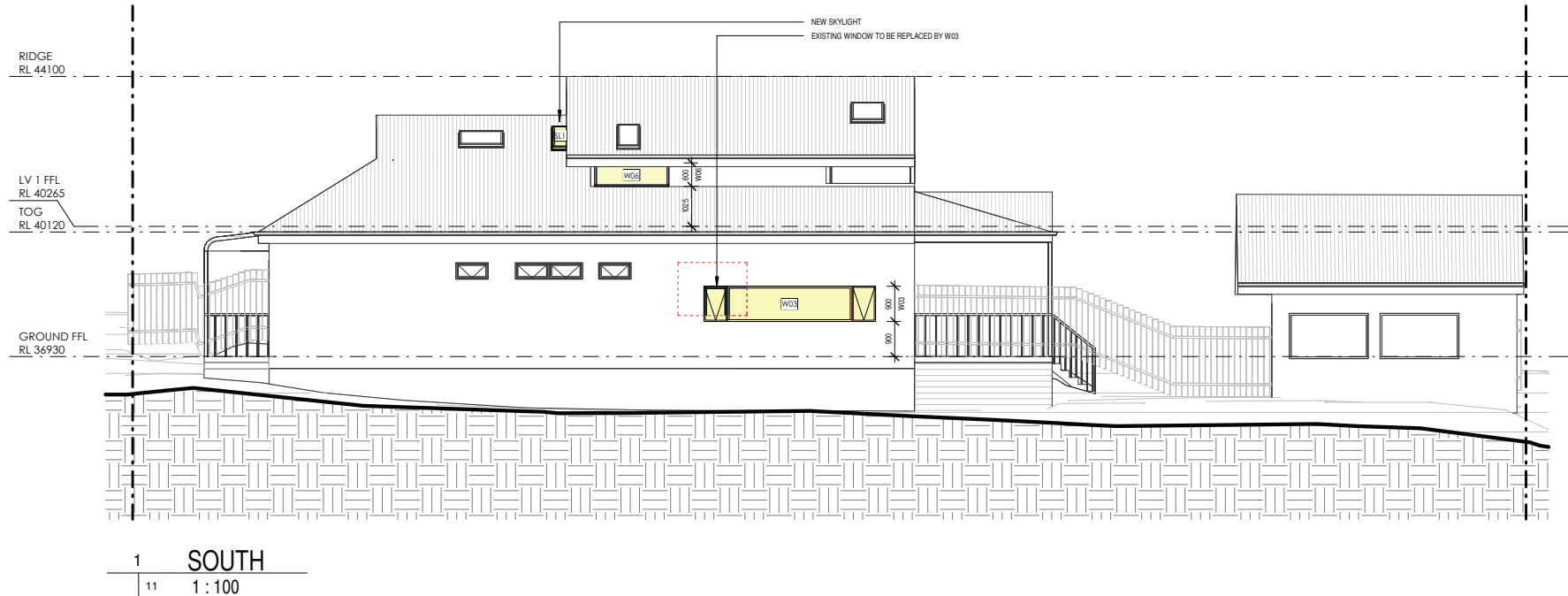
ARCHITECTS WORK IS COPYRIGHT AND COVERED BY COPYRIGHT ACT 1968

DRAWINGS NOT TO BE SCALED. USE FIGURED DIMENSIONS ONLY. CHECK ALL DIMENSIONS ON SITE. PRIOR TO MANUFACTURE MEASURE ALL WINDOW/DOOR OPENINGS ON SITE. ELECTRONIC COPIES OF DRAWINGS SHOULD BE VERIFIED AGAINST PRINTED COPIES TO ENSURE NO LOSS OF INFORMATION. IF IN DOUBT ASK



--- DEMOLISHED  
--- HIDDEN  
--- OVERHEAD  
--- EXISTING  
--- PROPOSED  
--- NEW WORKS

<div>ARCHITECT</div> <div> <b>THW</b> ARCHITECTS</div> <div>reg# NSW 7417 - TIM WEST ph. 02 9918 5085 e. tim@thw.net.au m. Suite 101 - Level 1, 60 Old Barrenjoey rd, Avalon NSW, 2107</div>		<div><b>SURVEY</b> DAW &amp; WALTON CONSULTING SURVEYORS e: survey@daw-walton.com.au ph: (02) 8065 1156</div>	<div><b>PLANNER</b> VAUGHAN MILLIGAN DEVELOPMENT CONSULTING PO BOX 49, NEWPORT BEACH, NSW, 2106 e: vmcd@bigpond.net.au ph: 99994922</div>	<div><b>PROJECT</b> ALTERATIONS &amp; ADDITIONS 5 QUINTON RD, MANLY, 2095</div>	<div>A</div> <div>28/07/2023</div> <div>DA</div> <div>IS</div> <div>DATE</div> <div>COMMENTS</div>				<div>JOB NUM# <b>194</b></div>	<div>DRAWN BY <b>TC</b></div>	<div>CHK. BY <b>TW</b></div>	<div>PAGE SIZE <b>A3</b></div>
									<div>PROJECT NAME <b>6 QUINTON RD</b></div>	<div>SCALE <b>1 : 100</b></div>		
									<div>DRAWING NAME <b>NORTH ELEVATIONS</b></div>	<div>DRAWING NUMBER <b>A 10 -A</b></div>		



ARCHITECTS WORK IS COPYRIGHT AND COVERED BY COPYRIGHT ACT 1968

DRAWINGS NOT TO BE SCALED. USE FIGURED DIMENSIONS ONLY. CHECK ALL DIMENSIONS ON SITE. PRIOR TO MANUFACTURE MEASURE ALL WINDOW/DOOR OPENINGS ON SITE. ELECTRONIC COPIES OF DRAWINGS SHOULD BE VERIFIED AGAINST PRINTED COPIES TO ENSURE NO LOSS OF INFORMATION. IF IN DOUBT ASK

**ARCHITECT**



reg# NSW 7417 - TIM WEST  
ph. 02 9918 5085  
e. tim@thw.net.au  
m. Suite 101 - Level 1, 60 Old Barrenjoey rd, Avalon NSW, 2107

**SURVEY**

DAW & WALTON CONSULTING SURVEYORS  
e: survey@daw-walton.com.au  
ph: (02) 8065 1156

**PLANNER**

VAUGHAN MILLIGAN DEVELOPMENT CONSULTING  
PO BOX 49, NEWPORT BEACH, NSW, 2106  
e: vmcd@bigpond.net.au  
ph: 99994922

**ENGINEER**

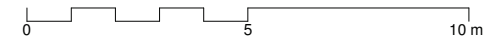
BARRENJOEY CONSULTING ENGINEERS  
e: LUCASBCE@BIGPOND.COM  
ph: 0418 620 330

**PROJECT**

ALTERATIONS & ADDITIONS  
5 QUINTON RD, MANLY, 2095

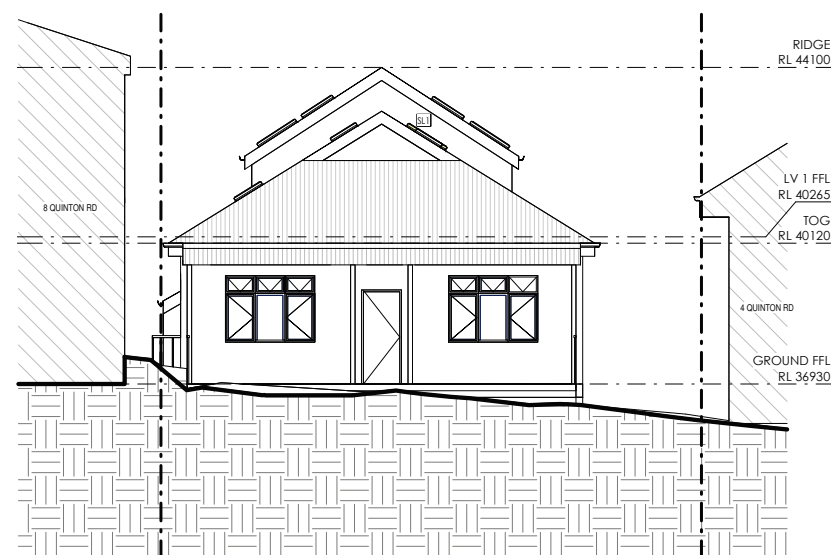
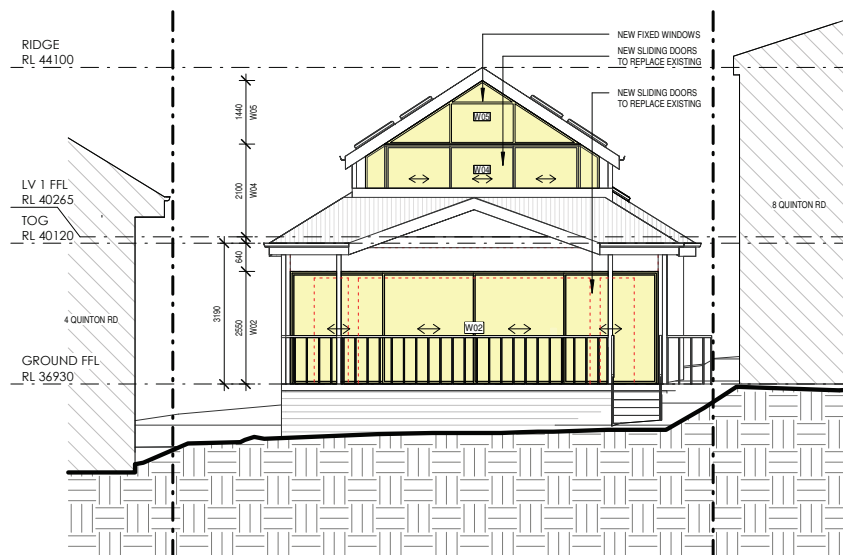
**CLIENT**

TONY & SARAH FALZARANO  
sbfalzarano@gmail.com  
tonyfz@gmail.com



--- DEMOLISHED  
--- HIDDEN  
--- OVERHEAD  
--- EXISTING  
--- PROPOSED  
--- NEW WORKS

JOB NUM# <b>194</b>	DRAWN BY <b>TC</b>	CHK. BY <b>TW</b>	PAGE SIZE <b>A3</b>
PROJECT NAME <b>6 QUINTON RD</b>			SCALE <b>1 : 100</b>
DRAWING NAME <b>SOUTH ELEVATIONS</b>			DRAWING NUMBER <b>A 11 -A</b>
A IS	28/07/2023 DATE	DA COMMENTS	



ARCHITECTS WORK IS COPYRIGHT AND COVERED BY COPYRIGHT ACT 1968

DRAWINGS NOT TO BE SCALED. USE FIGURED DIMENSIONS ONLY. CHECK ALL DIMENSIONS ON SITE. PRIOR TO MANUFACTURE MEASURE ALL WINDOW/DOOR OPENINGS ON SITE. ELECTRONIC COPIES OF DRAWINGS SHOULD BE VERIFIED AGAINST PRINTED COPIES TO ENSURE NO LOSS OF INFORMATION. IF IN DOUBT ASK

**ARCHITECT**



reg# NSW 7417 - TIM WEST  
ph. 02 9918 5085  
e. tim@thw.net.au  
m. Suite 101 - Level 1, 60 Old Barrenjoey rd, Avalon NSW, 2107

**SURVEY**

DAW & WALTON CONSULTING SURVEYORS  
e: survey@daw-walton.com.au  
ph: (02) 8065 1156

**PLANNER**

VAUGHAN MILLGAN DEVELOPMENT CONSULTING  
PO BOX 49, NEWPORT BEACH, NSW, 2106  
e: vmcd@bigpond.net.au  
ph: 99994922

**ENGINEER**

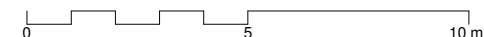
BARRENJOEY CONSULTING ENGINEERS  
e: LUCASBCE@BIGPOND.COM  
ph: 0418 620 330

**PROJECT**

ALTERATIONS & ADDITIONS  
5 QUINTON RD, MANLY, 2095

**CLIENT**

TONY & SARAH FALZARANO  
salsarano@gmail.com  
tonyfz@gmail.com



--- DEMOLISHED  
--- HIDDEN  
--- OVERHEAD  
--- EXISTING  
--- PROPOSED  
--- NEW WORKS

JOB NUM# <b>194</b>	DRAWN BY <b>TC</b>	CHK. BY <b>TW</b>	PAGE SIZE <b>A3</b>
PROJECT NAME <b>6 QUINTON RD</b>			SCALE <b>1 : 100</b>
DRAWING NAME <b>EAST &amp; WEST ELEVATIONS</b>			DRAWING NUMBER <b>A 12 -A</b>
A IS	28/07/2023 DATE	DA COMMENTS	

**ITEM 5.3**

**MOD2023/0493 - 27 SUWARROW STREET, FAIRLIGHT -  
MODIFICATION OF DEVELOPMENT CONSENT DA2019/0011  
GRANTED FOR ALTERATIONS AND ADDITIONS TO MANLY  
GOLF CLUB.**

**AUTHORISING MANAGER** Adam Richardson  
**TRIM FILE REF** 2023/713047  
**ATTACHMENTS** 1 [↓ Assessment Report](#)  
2 [↓ Site Plans](#)

**PURPOSE**

This application has been referred to the Northern Beaches Local Planning Panel as it is a development involving the demolition of a heritage item.

---

**RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT**

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. Mod2023/0493 for Modification of Development Consent DA2019/0011 granted for Alterations and Additions to Manly Golf Club on land at Lot 1 DP 1063317, 27 Suwarrow Street, FAIRLIGHT subject to the conditions set out in the Assessment Report.

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2023/0493
<b>Responsible Officer:</b>	Phil Lane
<b>Land to be developed (Address):</b>	Lot 1 DP 1063317, 27 Suwarrow Street FAIRLIGHT NSW 2094
<b>Proposed Development:</b>	Modification of Development Consent DA2019/0011 granted for Alterations and Additions to Manly Golf Club
<b>Zoning:</b>	Manly LEP2013 - Land zoned RE2 Private Recreation
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Manly Golf Club Limited
<b>Applicant:</b>	IKUS Pty Ltd
<b>Application Lodged:</b>	14/09/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	20/09/2023 to 04/10/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### EXECUTIVE SUMMARY

This modification application seeks approval to modify DA2019/0011 with modifications to the interior and layout of the club building on the ground floor proposed.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as the extent of modified works proposes additional minor internal demolition works to a heritage item (Manly Golf Club House Item No. 46 under Schedule 5 Environmental Heritage of the Manly Local Environmental Plan 2013).

Critical assessment issues included Clause 5.10 Heritage conservation and Clause 5.21 Flood Planning of Manly Local Environmental Plan 2013 and Clause 3.2 Heritage Considerations and 5.4.3

Flood Prone Land of Manly Development Control Plan which have been addressed within this assessment report.

It is noted that the original Development Consent (DA2019/0011 - Alterations and Additions to Manly Golf Club) issued by Council was approved under delegated authorised and should have been referred to the NBLPP.

This report concludes with a recommendation that the NBLPP grant approval to the modification application, subject to recommended conditions.

### PROPOSED DEVELOPMENT IN DETAIL

The proposed modification works relate to the interior of the Manly Golf Club building.

The proposed works are as follows:-

- *"Minor rearrangements to the kitchen/service area comprising minor removal of a wall to increase the serving area.*
- *Relocation of the Pro-Shop to a former office and administrative space. This will require the removal of some walls and installation of new walls. Wall nibs are retained. No significant detailing will be removed.*
- *Majority of the former Pro-Shop area will be used as an additional seating area of the Members Bar plus an office and a storage area. New walls and openings are created here."*

### ASSESSMENT INTRODUCTION

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

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

### SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 5.10 Heritage conservation  
Manly Local Environmental Plan 2013 - 5.21 Flood planning  
Manly Development Control Plan - 3.2 Heritage Considerations  
Manly Development Control Plan - 5.4.3 Flood Prone Land



## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 1063317 , 27 Suwarrow Street FAIRLIGHT NSW 2094
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment which is bordered on the north by Kenneth Road, the south by Balgowlah Road and the west by Quirk Road. The Manly Golf Course Club House, the subject of this application, is accessed via Balgowlah Road.</p> <p>The site is slightly irregular in shape. The site has a surveyed area of approximately 23 Hectares.</p> <p>The site is located within the RE2 Private Recreation zone and accommodates a Golf Course, a Club House, and on-site parking facilities.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by a mixture of developments, including residential development, business development and public recreation</p>

Map:



## SITE HISTORY

**DA2019/0011** - Alterations and Additions to Manly Golf Club approved 17 May 2019

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

are:

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and 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 (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2019/0011, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2019/0011 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The works will result in substantially the same development as that originally granted consent given that the use is not altering, the works affect interior spaces only and will improve the functionality of the club.</li> </ul>
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval	Development Application DA2019/0011 did not require concurrence from the relevant Minister, public authority or approval body.

<b>Section 4.55 (2) - Other Modifications</b>	<b>Comments</b>
body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

#### **Section 4.15 Assessment**

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 (2) the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

<b>Section 4.15 'Matters for Consideration'</b>	<b>Comments</b>
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft	There are no current draft environmental planning instruments.

Section 4.15 'Matters for Consideration'	Comments
environmental planning instrument	
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan 2013 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via an existing condition of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent within the original consent conditions (DA2019/0011).</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via an existing condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 20/09/2023 to 04/10/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments						
Building Assessment - Fire and Disability upgrades	<p><b>Supported, subject to Conditions.</b></p> <p>The application has been investigated with respects to aspects relevant the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage</p>						
Strategic and Place Planning (Heritage Officer)	<table><tr><th>HERITAGE COMMENTS</th></tr><tr><td><b>Supported, no Conditions required.</b></td></tr><tr><td>This application has been referred as the building is a local heritage item, being <b>Item I46 - Manly Golf Club House, Balgowlah Road, Fairlight</b>, listed in Schedule 5 of Manly LEP 2013.</td></tr><tr><td>The site is also in the vicinity of a heritage item, being <b>Item I3 - Street trees, Balgowlah Road, Balgowlah.</b></td></tr><tr><th>Details of heritage items affected</th></tr><tr><td>Details of this heritage item, as contained within the heritage inventory, are: <b>Item I46 - Manly Golf Club House, Balgowlah Road, Fairlight</b> <u>Statement of Significance</u> Listed as an imposing Inter-War Georgian Revival style golf club building, representative of the style, and historically significant. <u>Physical Description</u> Two and one storey rendered Inter-War Georgian Revival style</td></tr></table>	HERITAGE COMMENTS	<b>Supported, no Conditions required.</b>	This application has been referred as the building is a local heritage item, being <b>Item I46 - Manly Golf Club House, Balgowlah Road, Fairlight</b> , listed in Schedule 5 of Manly LEP 2013.	The site is also in the vicinity of a heritage item, being <b>Item I3 - Street trees, Balgowlah Road, Balgowlah.</b>	Details of heritage items affected	Details of this heritage item, as contained within the heritage inventory, are: <b>Item I46 - Manly Golf Club House, Balgowlah Road, Fairlight</b> <u>Statement of Significance</u> Listed as an imposing Inter-War Georgian Revival style golf club building, representative of the style, and historically significant. <u>Physical Description</u> Two and one storey rendered Inter-War Georgian Revival style
HERITAGE COMMENTS							
<b>Supported, no Conditions required.</b>							
This application has been referred as the building is a local heritage item, being <b>Item I46 - Manly Golf Club House, Balgowlah Road, Fairlight</b> , listed in Schedule 5 of Manly LEP 2013.							
The site is also in the vicinity of a heritage item, being <b>Item I3 - Street trees, Balgowlah Road, Balgowlah.</b>							
Details of heritage items affected							
Details of this heritage item, as contained within the heritage inventory, are: <b>Item I46 - Manly Golf Club House, Balgowlah Road, Fairlight</b> <u>Statement of Significance</u> Listed as an imposing Inter-War Georgian Revival style golf club building, representative of the style, and historically significant. <u>Physical Description</u> Two and one storey rendered Inter-War Georgian Revival style							

Internal Referral Body	Comments		
	building, central section two storey with one storey wings either side. 12 and 16 paned timber framed double hinge windows, semi-circular fanlights. Hipped glazed terracotta roof. Rendered bands, projecting portico, some central windows to facade flanked by rectangular pilasters. Rendered stepped fence with moulded posts and curlicue decorations.		
	Other relevant heritage listings		
	SEPP (Biodiversity and Conservation) 2021	No	Comment if applicable
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	Consideration of Application		
	This modification proposes further internal alterations to the Manly Golf Club House building. Internal alterations were approved by DA2019/0011. These proposed changes involve rearrangements to the kitchen/service area, relocation of the Pro-shop and conversion of the former Pro-shop area for an additional seating area for the Members Bar, along with an office and storage. No external changes are proposed or any internal changes which will affect the exterior. The areas to be changed are different to the areas changed by the original DA (which affected the service area, bar and snooker room only).		
	This modification is accompanied by a <i>Heritage Impact Statement (HIS)</i> by Damian O'Toole dated August 2023, which concludes that the works will have a neutral impact on the heritage building. The significance of this item is largely embodied in its external Inter-War Georgian Revival architectural style, although there is some significant internal fabric. As described by the HIS, the interior has been subject to incremental change since it was built in the early 1920's. The areas affected by the proposed changes are reported to have been refurbished circa 2000 and are therefore of low significance. Internal walls proposed to be removed are non-structural and wall nibs are proposed to be retained to maintain an interpretation of the wall. There is no proposed change to external windows or other external features. It is agreed that these proposed internal works will not have an adverse impact upon the heritage significance of the Club House.		
	Additionally, as the works are internal, there will be no physical or visual impact upon the heritage listed street trees in Balgowlah		

Internal Referral Body	Comments
	<p>Road.</p> <p><b>Therefore, no objections are raised on heritage grounds and no conditions required.</b></p> <p>Consider against the provisions of CL5.10 of MLEP 2013: Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? N/A Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p>
External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><b>Supported, subject to Conditions.</b></p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>

#### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

##### SEPP (Transport and Infrastructure) 2021

###### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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



electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

**SEPP (Resilience and Hazards) 2021**

**Chapter 2 – Coastal Management**

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

**Division 3 Coastal environment area**

**2.10 Development on land within the coastal environment area**

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
  - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
  - b) coastal environmental values and natural coastal processes,
  - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
  - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
  - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - f) Aboriginal cultural heritage, practices and places,
  - g) the use of the surf zone.

Comment:

The proposed modified development is not considered likely to cause an adverse impact on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, coastal environmental values and natural coastal processes, the water quality of the marine estate, native vegetation and fauna and their habitats, public open space or aboriginal cultural heritage.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
  - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or

- b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The modified development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1).

**Division 4 Coastal use area**

**2.11 Development on land within the coastal use area**

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
  - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
    - i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
    - iii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
    - iv) foreshores,
    - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
  - b) is satisfied that:
    - i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
    - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
  - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposed modified development is not considered likely to cause an adverse impact on safe access to and along the foreshore, overshadowing, wind funnelling and the loss of views from public places to foreshores, the visual amenity and scenic qualities of the coast, including coastal headlands, or cultural and built environment heritage.

**Division 5 General**

**2.12 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed modified development is not likely to cause increased risk of coastal hazards on that land or other land.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

#### **Coastal Management Act 2016**

The subject site identified as Coastal use area under the Coastal Management Act 2016.

The management objectives for the coastal use area are as follows:

*"(a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that:*  
*(i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and*  
*(ii) adverse impacts of development on cultural and built environment heritage are avoided or mitigated, and*  
*(iii) urban design, including water sensitive urban design, is supported and incorporated into development activities, and*  
*(iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and*  
*(v) the use of the surf zone is considered,*  
*(b) to accommodate both urbanised and natural stretches of coastline."*

#### Comment:

The site is setback from the foreshore and will not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space is not adversely effected. In addition, the surrounding area consists of examples of similar developments.

#### **Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for recreation purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the recreational land use.

#### **Manly Local Environmental Plan 2013**

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

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes

Clause	Compliance with Requirements
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.6 Riparian land and watercourses	Yes
6.12 Essential services	Yes
6.21 Noise impacts—licensed premises	Yes
Schedule 5 Environmental heritage	Yes

#### Detailed Assessment

#### **5.10 Heritage conservation**

The proposed development, has been considered by Council's Heritage Advisor and they have found that the proposal will have no unreasonable impact on the locally listed heritage item to which the application relates. It is noted that the modified development has been supported by a heritage impact statement, as required by Clause 5.10(4) of the MLEP.

#### **5.21 Flood planning**

A review of Council's Flood mapping has indicated that the Club House, the subject of this application, is not affected by any Flood Risk hazard.

#### **Manly Development Control Plan**

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part 3	Yes	Yes
3.1 Streetscapes and Townscapes	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.6 Accessibility	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
Part 4	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.4 Other Development (all LEP Zones)	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
Part 5	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4 Environmentally Sensitive Lands	Yes	Yes
5.4.3 Flood Prone Land	Yes	Yes
5.4.4 Riparian Land and Watercourses	Yes	Yes
Schedules	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

#### Detailed Assessment

### **3.2 Heritage Considerations**

This modification proposes reconfiguration of the approved alterations to the Manly Golf Club House building. Internal alterations were approved by Council pursuant to DA2019/0011. The proposed modification primarily includes rearrangement to the kitchen/service area, relocation of the Pro-shop and conversion of the former Pro-shop area for an additional seating area for the Members Bar, along with an ancillary office and storage. No external changes are proposed or any internal changes which will affect the exterior. The areas to be changed are different to the areas changed by the original DA (which affected the service area, bar and snooker room only).

This modification is accompanied by a Heritage Impact Statement (HIS) by Damian O'Toole dated August 2023, which concludes that the works will have a neutral impact on the fabric of the heritage building. The significance of this item is largely embodied in its external Inter-War Georgian Revival architectural style, although there is some significant internal fabric. As described by the HIS, the interior has been subject to incremental change since it was built in the early 1920's. The areas affected by the proposed changes are reported to have been refurbished circa 2000 and are therefore of low significance. Internal walls proposed to be removed are non-structural and wall nibs are proposed to be retained to maintain an interpretation of the wall. There is no proposed change to external windows or other external features. It is agreed that these proposed internal works will not have an adverse impact upon the heritage significance of the Club House.

#### **5.4.3 Flood Prone Land**

A review of Councils Flood mapping has indicated that the Club House, the subject of this application, is not affected by any Flood Risk hazard.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2022**

Section 7.12 contributions were levied on the Development Application.

It is noted that Section 7.12 Contributions Plan did not come into effect until July 2019. The original consent was granted on 17 May 2019 prior to July 2019 and hence there were no applicable contribution plan that applied to this type of development.

## **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 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

## **PLANNING CONCLUSION**

This proposal, for Section 4.55 (2) Environmental Impact - Modification of Development Consent DA2019/0011 granted for Alterations and Additions to Manly Golf Club has been referred to the Northern Beaches Local Planning Panel (NBLPP) as the proposal includes demolition works to a heritage item.

As stated within the Executive Summary it was noted that the original development consent was approved under delegation and that the proposed works involving demolition works to a heritage item which requires approval by the Northern Beaches Local Planning Panel (NBLPP) and the reason why

this application has been referred to NBLPP.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval.

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



## RECOMMENDATION

THAT Northern Beaches Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2023/0493 for Modification of Development Consent DA2019/0011 granted for Alterations and Additions to Manly Golf Club on land at Lot 1 DP 1063317,27 Suwarrow Street, FAIRLIGHT, subject to the conditions printed below:

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-368453 MOD2023/0493	The date of this notice of determination	<p>Section 4.55 (2) Environmental Impact - Modification of Development Consent DA2019/0011 granted for Alterations and Additions to Manly Golf Club</p> <p>Add Condition No. 1A - Modification of Consent - Approved Plans and supporting documentation</p> <p>Add Condition No. 2A - Compliance with Other Department, Authority or Service Requirements</p> <p>Add Condition No. 5A - Access &amp; Egress</p> <p>Add Condition No. 5B - Access and Facilities for Persons with Disabilities</p>

### Modified conditions

#### **A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:**

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA10	B	Ground Floor Plan	U+I Building Studio	6 July 2023
DA20	B	Ground Floor - Proposed Service Area Layout	U+I Building Studio	6 July 2023
DA40	B	Ground Floor - Proposed Relocated Pro Shop	U+I Building Studio	6 July 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Heritage Impact Statement	1	Damian O'Toole Town Planning & Heritage Services	August 2023

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

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

**B. Add Condition 2A - Compliance with Other Department, Authority or Service Requirements to read as follows:**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Received
Ausgrid	Ausgrid Referral Response	4 October 2023

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

**C. Add Condition 5A - Access & Egress to read as follows:**

The proposed building work is required to comply with Part D of the Building Code of Australia other than where a Performance Solution is proposed. In this regard details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

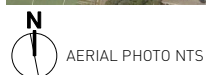
Reason: To ensure adequate provision is made for building occupant safety.

**D. Add Condition 5B - Access and Facilities for Persons with Disabilities to read as follows:**

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with

a disability.



**MANLY GOLF CLUB**  
**27 SUWARROW STREET FAIRLIGHT NSW**  
(38-40 BALGOWLAH ROAD)  
LOT 1 / DP 1063317

**S4.55 (MODIFICATION TO DA) APPLICATION**

REFER APPROVED DA/2019/0011  
DATED 17/05/2019

**DRAWING LIST:**

DA00	COVER SHEET	
DA10	GROUND FLOOR PLAN	1:200
DA20	GR FL-PROPOSED SERVICE AREA LAYOUT	1:50
DA30	GR FL-PROPOSED SNOOKER ROOM & BAR	1:50
DA40	GR FL-RELOCATED PRO-SHOP	1:50



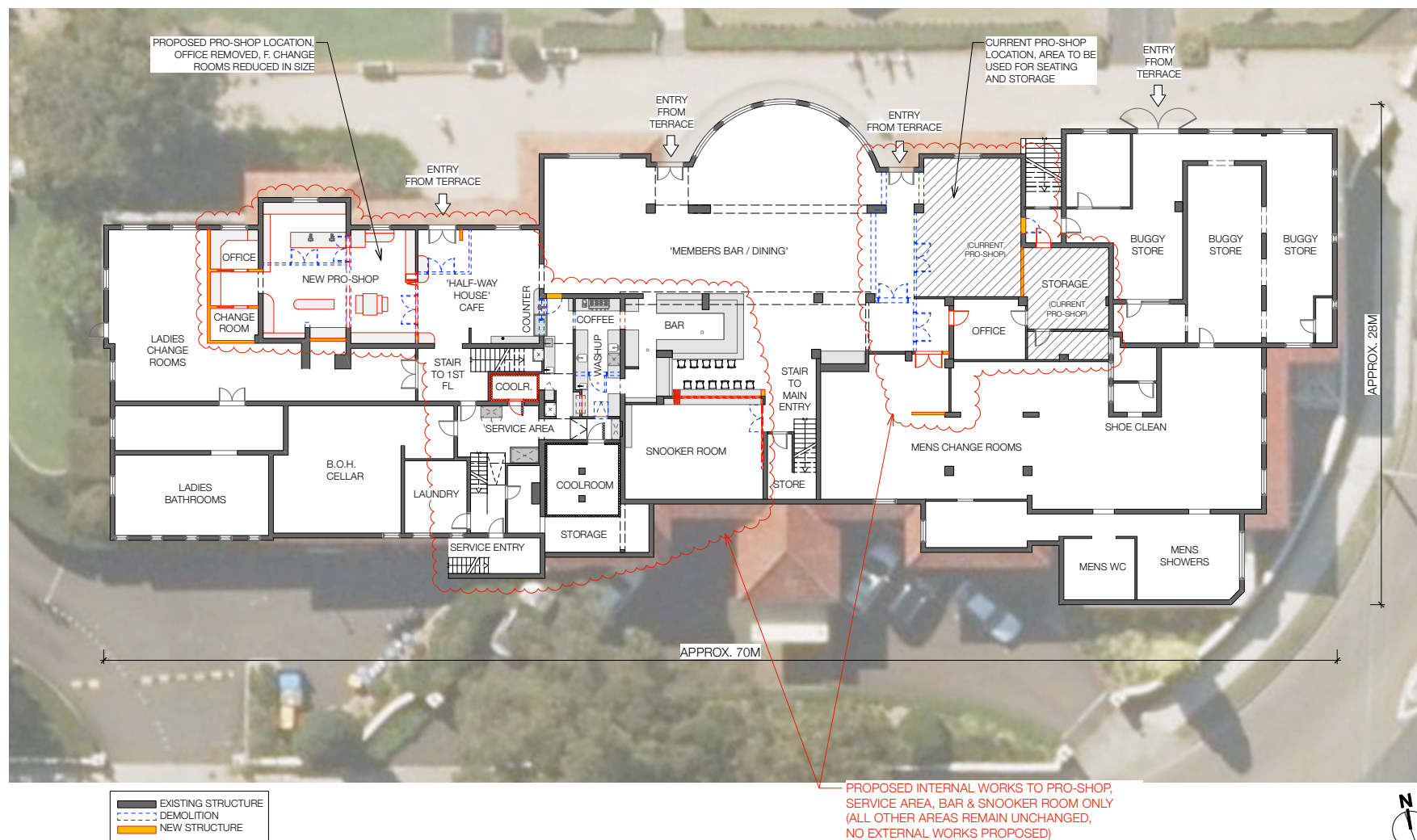
AERIAL PHOTO NTS

**DEVELOPMENT APPLICATION / S4.55**

**COVER SHEET**

Scale	Project & Address	Client	DWG No	Revision	Date
NTS@A3	ALTERATIONS TO EXISTING BUILDING 27 SUWARROW ST FAIRLIGHT NSW 2094	Manly Golf Club Limited	DA01	B	03/07/23

**BUILDINGSTUDIO** ||||| concept | architecture | design | interior ||||| **U+I BUILDING STUDIO** ||||| E: info@uibuildingstudio.com ||||| W: www.uibuildingstudio.com ||||| **U+**



## DEVELOPMENT APPLICATION / S4.55

### GROUND FLOOR PLAN



1:200@A3

Project &amp; Address

Client

DWG No

Revis

Date \_\_\_\_\_

ALTERATIONS TO EXISTING BUILDING

Manly Golf Club Limited

DA10

B

06/07/23

27 SUWARROW ST FAIRLIGHT NSW 2094

BUILDINGSTUDIO ||||

conce

building design

interior

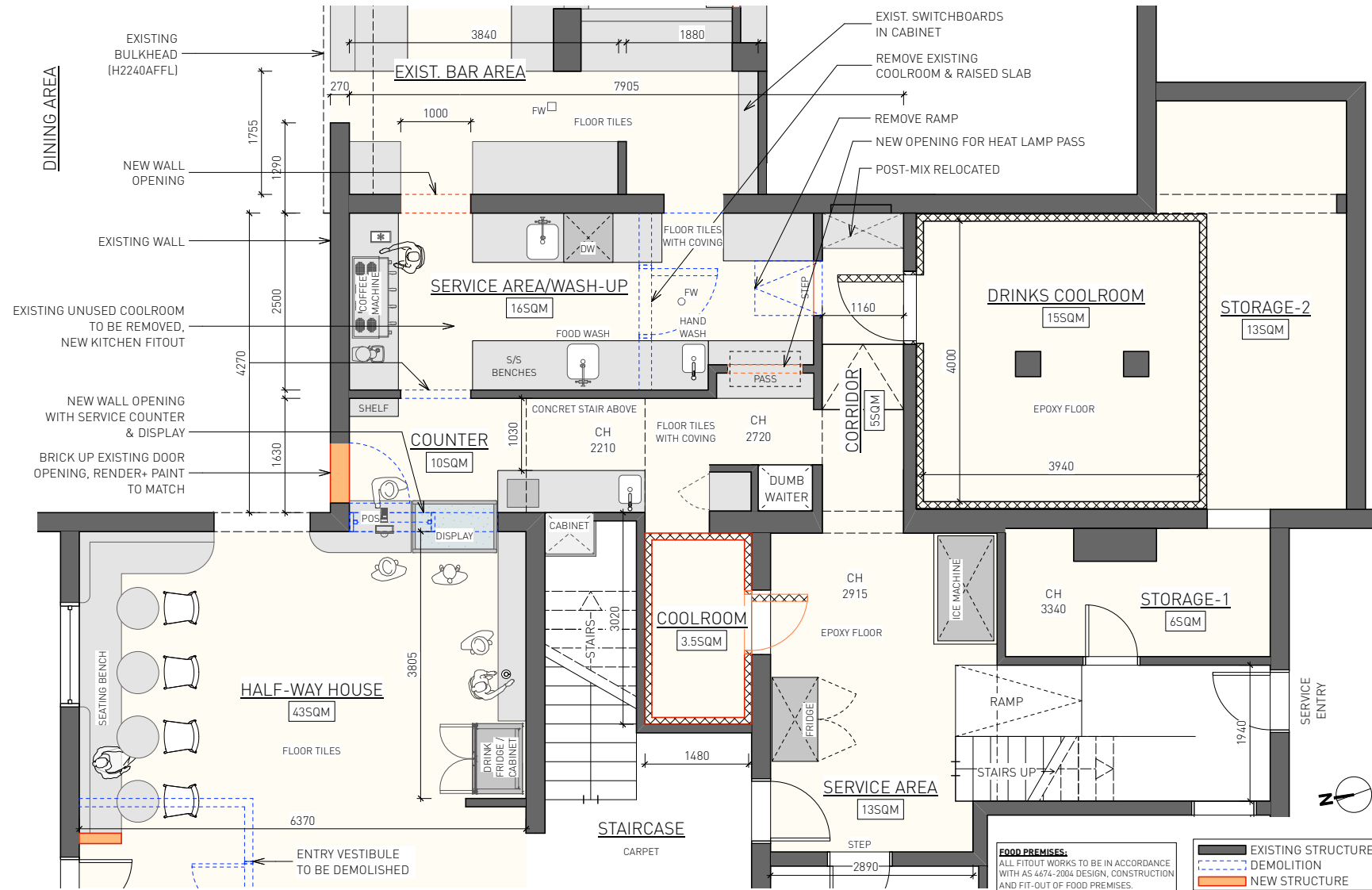
U+I BUILDING STUDIO

|| | ■ || | E: [info@uibuildingstudio.com](mailto:info@uibuildingstudio.com)

W: [www.uibuildingstudio.com](http://www.uibuildingstudio.com)

||  $U^+$  || || ■





**DEVELOPMENT APPLICATION / S4.55**

**GROUND FLOOR - PROPOSED SERVICE AREA LAYOUT**

Scale  
1:500 A3

Project & Address  
ALTERATIONS TO EXISTING BUILDING  
27 SUWARROW ST FAIRLIGHT NSW 2094

Client  
Manly Golf Club Limited

DWG No  
DA20

Revision  
B

Date  
06/07/23

**BUILDINGSTUDIO** ||||| concept | building design | interior ||||| **U+ BUILDING STUDIO** ||||| E: info@uibuildingstudio.com ||||| W: www.uibuildingstudio.com ||||| **U+**

