

AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held via teleconference on

WEDNESDAY 10 JULY 2024

Ashleigh Sherry
Manager Business System and Administration

**Agenda for a Meeting of the Development Determination Panel
to be held on Wednesday 10 July 2024
via teleconference
Commencing at 10:00 AM**

1.0 APOLOGIES & DECLARATIONS OF INTEREST

2.0 MINUTES OF PREVIOUS MEETING

2.1 Minutes of Development Determination Panel held on 26 June 20242

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Development Consent DA2021/1734 granted for Demolition works and
construction of a dwelling house4

ACKNOWLEDGEMENT OF COUNTRY

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

1.0 APOLOGIES & DECLARATIONS OF INTEREST

Nil

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD ON 26 JUNE 2024

RECOMMENDATION

That the Panel note that the minutes of the Development Determination Panel held on 26 June 2024 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

**ITEM 3.1 MOD2024/0082 - 21 HEADLAND ROAD NORTH CURL CURL -
MODIFICATION OF DEVELOPMENT CONSENT DA2021/1734
GRANTED FOR DEMOLITION WORKS AND CONSTRUCTION OF A
DWELLING HOUSE**

PURPOSE

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

RECOMMENDATION

THAT Council as the consent authority **approves** Development Consent to Mod2024/0082 for modification of Development Consent DA2021/1734 granted for Demolition works and construction of a dwelling house on land at Lot 107 DP 6143, 21 Headland Road NORTH CURL CURL, subject to the conditions set out in the Assessment Report.

Reporting manager	Rodney Piggott
TRIM file ref	2024/471060
Attachments	1 Assessment Report 2 Site Plan and Elevations

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2024/0082
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Responsible Officer:	Nick Keeler
Land to be developed (Address):	Lot 107 DP 6143, 21 Headland Road NORTH CURL CURL NSW 2099
Proposed Development:	Modification of Development Consent DA2021/1734 granted for Demolition works and construction of a dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Thomas Michael David McGhee Carmen Maureen McGhee
Applicant:	John O'Grady

Application Lodged:	04/03/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	08/03/2024 to 22/03/2024
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

EXECUTIVE SUMMARY

This modification application seeks to modify Development Consent DA2021/1734 granted for demolition works and construction of a dwelling house.

The application is referred to the Development Determination Panel (DDP) under the discretion of the Executive Manager, Development Assessment due to the contentious nature of the proposed development as it involves an increase to the height of the building above the Land & Environment Court approval, resulting in potential view sharing impacts.

Concerns raised in the objection predominantly relate to the impact of the proposed development upon iconic view corridors towards the south, including St Patrick's Seminary at North Head.

The critical assessment issue includes the proposed increased ceiling and building height and its impact upon and iconic view corridor towards St Patrick's Seminary. Despite demonstrating a compliant building height, it is considered that the proposed increased height will unreasonably obscure elements of the iconic view corridor and does not demonstrate a skillful design in providing acceptable levels of view sharing for surrounding properties. As such, a condition is recommended to limit the height of the first floor ceiling height and overall building height to the RLs approved under the Court approved development consent. No other critical assessment issues exist.

This report concludes with a recommendation that the DDP grant approval to the modification application, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify development consent DA2021/1734 granted for demolition works and construction of a dwelling house.

The modification proposed the following changes:

- Flipping the layout of dwelling east to west.
- Altering setbacks of the first floor.
- Increasing the roof ridge height by 292mm from RL 56.618 to RL 56.910.
- Increasing the roof pitch from 15 degrees to 17 degrees.

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
 Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Development Control Plan - D7 Views

SITE DESCRIPTION

Property Description:	Lot 107 DP 6143 , 21 Headland Road NORTH CURL CURL NSW 2099
Detailed Site Description:	The subject site is located on the southern side of Headland Road. The site is rectangular in shape with a frontage of 10.06m along Headland Road and a depth of 45.265m. The site has a surveyed area of 455.3m². The site is located within the R2 zone under the Warringah LEP and accommodates a split-level dwelling house (ground floor with an under-croft area below an elevated rear deck) as the site slopes away from the street to the rear by around 2m across the depth of the site. The site contains rear and front gardens. The rear and side boundaries are landscaped. The site is not mapped as containing significant trees or natural development constraints. The site is not mapped as flood prone and is mapped as being within the Coastal Environment Area under the SEPP (Resilience and Hazards 2021 – Coastal Provisions). Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by low density residential dwellings, many with ancillary structures and/or outbuildings.

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 **DA2021/1734** for Demolition works and construction of a dwelling house was refused on 14/09/2022 by Council staff. The refusal was appealed to the Land and Environment Court which upheld the appeal on 27/07/2023 with amended plans.

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 DA2021/1734, 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	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 DA2021/1734.
(b) 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.
(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 DA2021/1734.
(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 4.55 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 (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	Warringah Development Control Plan 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 2000 (EP&A Regulation 2000)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent. <u>Clause 29</u> of the EP&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. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This matter has been addressed via a condition in the original consent. <u>Clauses 62 and/or 64</u> of the EP&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. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent

Section 4.15 'Matters for Consideration'	Comments
	authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent. <u>Clause 69</u> of the EP&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 in the original consent.
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	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 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 application has been publicly exhibited from 08/03/2024 to 22/03/2024 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:
Milestone (Aust) Pty Ltd	Suite 9 17 Thurlow Street REDFERN NSW 2016

The following issues were raised in the submissions:

- View loss
- Building bulk
- Insufficient information

The above issues are addressed as follows:

- **View loss**

The submissions raised concerns that the proposed modification will result in additional view loss from the dwelling opposite the subject site.

Comment:

The proposed increased first floor ceiling height and overall building height is expected to unreasonably impact upon the view corridor towards the south from dwellings on the northern side of Headland Road. A condition is recommended to limit the first floor ceiling height and overall building height to the RLs that were approved by the Land and Environment Court. A detailed assessment of the proposed modification in accordance with the objectives of Part D7 of WDCP is included below in this report.

- **Building bulk**

The submissions raised concerns that the proposed increased building height will result in an unreasonable bulk and scale.

Comment:

Subject to the condition outlined above, the bulk and scale of the proposed development is considered to be in keeping with the approved development.

- **Insufficient information**

The submissions raised concerns that the information submitted is insufficient to make an accurate assessment of the proposed development compared to the approved development.

Comment:

The information submitted by the applicant is sufficient for Council to make an accurate and informed assessment of the proposed development compared to the approved development.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	<i>Supported without conditions</i> The Statement of Modification and Working Plans have been reviewed. Development engineering raises no objections to the

Internal Referral Body	Comments
	proposed modification, subject to the retention of the existing engineering conditions 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. 1208107S_02, dated 06/02/2024).

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

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	50

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 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 expected to cause adverse impact to the coastal environment area.

- 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:

Council is satisfied that the proposed development is appropriately designed and sited to ensure adverse impact to the items referred to in subsection (1) is avoided.

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:

Council is satisfied the proposed development will not cause an increased risk of coastal hazards on the site or surrounding land.

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:

All relevant provisions of applicable certified coastal management programs have been considered as part of the assessment of the application.

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.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8m	8.3m*	N/A	Yes

***Note:** The application proposes to increase the approved building height by 0.3m. As discussed under clause 4.3 of WLEP 2011, Council does not consider the proposed height increase acceptable. As such, conditions are recommended to limit the first floor ceiling height (RL 55.460) and overall building height (RL 56.618) to the RLs approved by the Land & Environment Court under the original development consent. Therefore, no change in building height is approved under this modification.

Compliance Assessment

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

Detailed Assessment**4.3 Height of buildings**

The development has been approved with a building height of 8m. The proposal involves an increase to the approved building height by approx. 0.3m. Despite remaining compliant with the maximum 8.5m building height, the proposed increase in building height is considered against the objectives of the clause as follows:

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

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

Comment:

Subject to the condition outlined below, the proposed development will be of a height and scale similar to that of surrounding and nearby development.

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

Comment:

It is considered the proposed increased building height will result in unreasonable and unnecessary disruption upon the view corridor from dwellings on the northern side of Headland Road towards St Patrick's Seminary to the south. The approved development will not impact upon the view of the seminary building. The increased building height will partially or fully obscure the seminary building from internal living areas of the dwelling at 20 Headland Road.

To ensure the view corridor of St Patrick's Seminary is retained, conditions are recommended to limit the first floor ceiling height to RL 55.460 and the overall building height to RL 56.618, which are the same RLs approved by the Land & Environment Court under the original development consent.

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

Comment:

Subject to condition, the proposed development is not expected to adversely impact upon the scenic qualities of the coastal environment.

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

Comment:

Subject to condition, the proposed development is not considered to cause unreasonable visual impact when viewed from the public domain.

Having regard to the control objectives, it is considered the proposed building height increase is not acceptable in this case as it will result in unreasonable impact upon view sharing and amenity of nearby properties. As such, conditions are recommended ensure no further encroachment of the view corridor towards the south occurs.

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	E - 7.2m	6.7m	6.9m*	Yes
	W - 7.2m	6.9m	7m*	Yes
B3 Side Boundary Envelope	E - 5m	Within envelope	Within envelope	Yes
	W - 5m	Within envelope	Within envelope	Yes
B5 Side Boundary Setbacks	E - 0.9m	GF - 0.91m	Unaltered	Yes

		FF - 1.45m	1.06m	Yes
	W - 0.9m	GF - 0.99m	Unaltered	Yes
		FF - 1.14m	1.53m	Yes
B7 Front Boundary Setbacks	6.5m	8m	Unaltered	Yes
B9 Rear Boundary Setbacks	6m	13.4m	Unaltered	Yes
D1 Landscaped Open Space and Bushland Setting	40% (182.1m ²)	40% (182.4m ²)	Unaltered	Yes

***Note:** Due to the recommended condition restricting the first floor ceiling height and overall height of the building to the as approved levels, the wall heights approved under this modification remain the same as the existing approval.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	No	No
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E10 Landslip Risk	Yes	Yes

Detailed Assessment

D7 Views

Merit consideration

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

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

Comment:

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

1. Nature of the views affected

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

Comment to Principle 1:

As established in the original development assessment, dwellings on the northern side of Headland Road enjoy water and coastal interface views towards the south, including iconic elements such as Manly Beach, North Head and St Patrick's Seminary. The dwelling at 20 Headland Road, opposite the subject site, also enjoys distant headland and water views towards the north. Despite this, the southern view corridor is considered to be the most valuable due the iconic elements found in the corridor and closer relative distance.

2. What part of the affected property are the views obtained

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

Comment to Principle 2:

Views towards North Head and St Patrick's Seminary from the living area and balcony at the first floor of the dwelling at 20 Headland Road are obtained towards the south cross the front boundary through a corridor between the dwellings at 19 and 21 Headland Road. Water views

towards Fairy Bower are currently also available, however these views will be obscured by the approved development at 8 Austin Avenue if constructed.

The building height, as approved by the Court, maintains the iconic elements of the view corridor from standing and sitting positions in the internal living area of the dwelling opposite the subject site. The proposed increased ceiling and building height will likely encroach upon the seminary building from a seated position in the living area. Views from a standing position are not expected to be significantly impacted.

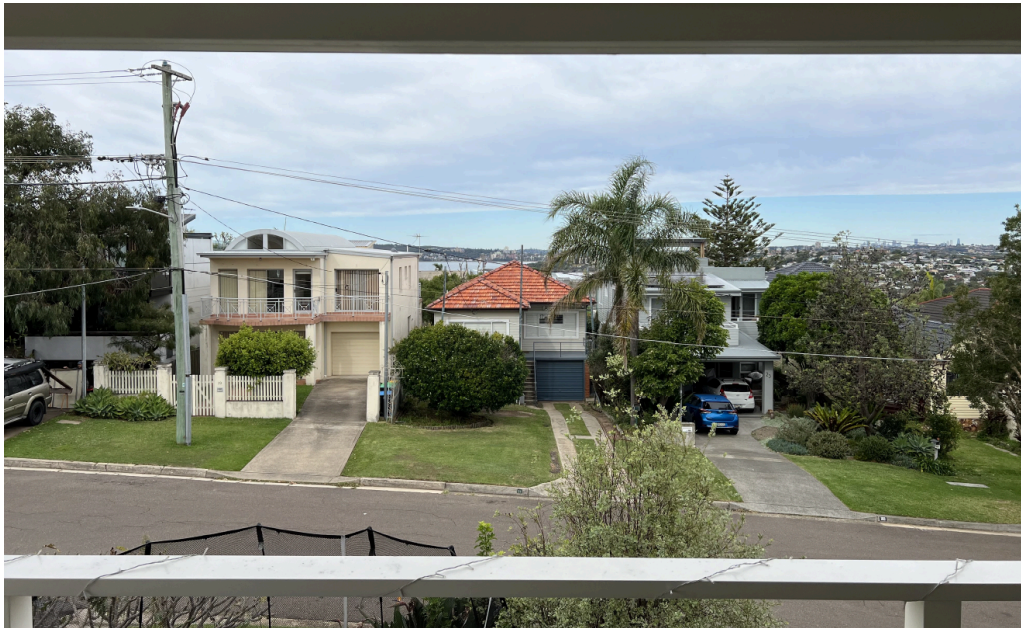


Image 1: Wide angle standing view towards the south from front balcony



Image 2: Sitting view towards the south from internal living room

3. Extent of impact

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

Comment to Principle 3:

It is expected that the proposed increase in building height will likely partially obscure St Patrick's Seminary and the surrounding vegetation curtilage when viewed from the southern living area and balcony of 20 Headland Road. As the framing of St Patrick's Seminary within the surrounding natural vegetation and bushland setting contributes to its iconic status, the partial obscuring of the vegetation curtilage affects the framing and integrity of the view of the seminary building. The development as currently approved will not cause as significant obstruction of the vegetation curtilage or seminary building. Due to the disturbance of the iconic element in this view corridor, the level of view impact of the proposed development is considered to be severe.

4. Reasonableness of the proposal that is causing the impact

“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could

provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."

Comment to Principle 4:

The applicant argues, in part, that due to the development approved at 8 Austin Avenue, it has now obscured the views from 20 Headland Road that were made available by the corridor and that retention of the corridor as a measure for view protection is now redundant. At the time of writing, Council has not received a notice of commencement of development at 8 Austin Avenue. Council does not consider the approval of development at 8 Austin Avenue as sufficient justification to increase the height of the development at the subject site as there is no guarantee that the development will be completed.

As considered by the Land and Environment Court in the determination of the original development application, the applicant has demonstrated that a skilful building design can be implemented to ensure reasonable sharing of views between dwellings (from standing and seated positions) by limiting the first floor ceiling height and overall building height. The approved floor and ceiling height is consistent with the ceiling height requirement for habitable rooms. The approved first floor ceiling height does not unreasonably affect the enjoyment and amenity of the dwelling as it is primarily associated with bedrooms and low use rooms. The raked ceiling above the rear living area and master bedroom will provide a generous sense of space and amenity for dwelling occupants.

As the proposed increase in first floor ceiling height and overall building height is likely to cause unreasonable impact upon the view of iconic elements in the southern view corridor and does not appreciably improve the amenity of the approved dwelling, the modified proposed does not demonstrate a skilful design and is not supported. The applicant has not provided sufficient information to prove that the proposed modification will not cause unreasonable impacts upon the southern view corridor.

To ensure the view corridor towards the south is not further encroached upon, conditions are recommended to limit the first floor ceiling height and the overall building height to the RLs that were approved in the court development consent, that is RL 55.460 and RL 56.618, respectively. This means that no further view impact from the approved development will occur.

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

Comment:

Subject to condition, the proposed development will have no greater view impact to that of the approved development.

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

Comment:

The proposed development does not impact upon canopy trees.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental

Planning and Assessment Act, 1979. Accordingly, conditions are recommended, as outlined above, to ensure no greater view impact is caused by the proposed development and achieve consistency with the control objectives. Subject to condition, 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

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;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

PLANNING CONCLUSION

This proposal, for modification of Development Consent DA2021/1734 granted for demolition works

and construction of a dwelling house has been referred to the Development Determination Panel (DDP) under discretion of the Executive Manager, Development Assessment.

The concerns raised in the objections have been addressed and resolved by a condition to limit the first floor ceiling height and overall building height to the RLs approved under the Court approved development consent. This will ensure iconic view corridors are not unreasonably impacted by the proposed development.

The critical assessment issues involving view sharing are addressed by the condition as described above. No other critical assessment issues exist.

Overall, the development is a high quality design that performs well against the relevant controls and, subject to condition, will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval.

REASON FOR DETERMINATION

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2024/0082 for Modification of Development Consent DA2021/1734 granted for Demolition works and construction of a dwelling house on land at Lot 107 DP 6143,21 Headland Road, NORTH CURL CURL, 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-414597 - Mod2024/0082	The date of this notice of determination	Modification of Development Consent DA2021/1734 granted for Demolition works and construction of a dwelling house - Add Condition No. 1A - Modification of Consent - Approved Plans and supporting documentation - Add Condition No. 13A - Modification of Consent - Amendments to the Approved Plans

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
20189-26 Sheet 3/15	ZA	Ground Floor Plan	Accurate Design and Drafting	05/02/2024
20189-26 Sheet 4/15	ZA	Upper Floor Plan	Accurate Design and Drafting	05/02/2024
20189-26 Sheet 5/15	ZA	North / South Elevations	Accurate Design and Drafting	05/02/2024
20189-26 Sheet 6/15	ZA	East / West Elevations	Accurate Design and Drafting	05/02/2024
20189-26 Sheet 7/15	ZA	Sections	Accurate Design and Drafting	05/02/2024
20189-26 Sheet 8/15	ZA	Site Plan	Accurate Design and Drafting	05/02/2024
20189-26 Sheet 10/15	ZA	Slab Detail	Accurate Design and Drafting	05/02/2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate No. 1208107S_02	-	Abeaut Design	06/02/2024

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 No. 13A - Modification of Consent - Amendments to the Approved Plans to read as follows:

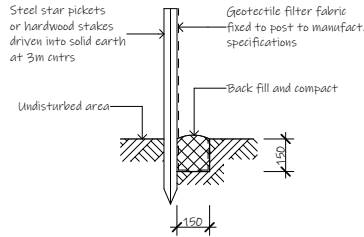
The following amendments are to be made to the approved plans:

- The ceiling height of the first floor shall not exceed RL 55.460.
- The overall building height shall not exceed RL 56.618.

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.

Artisan^{BY} ICON HOMES



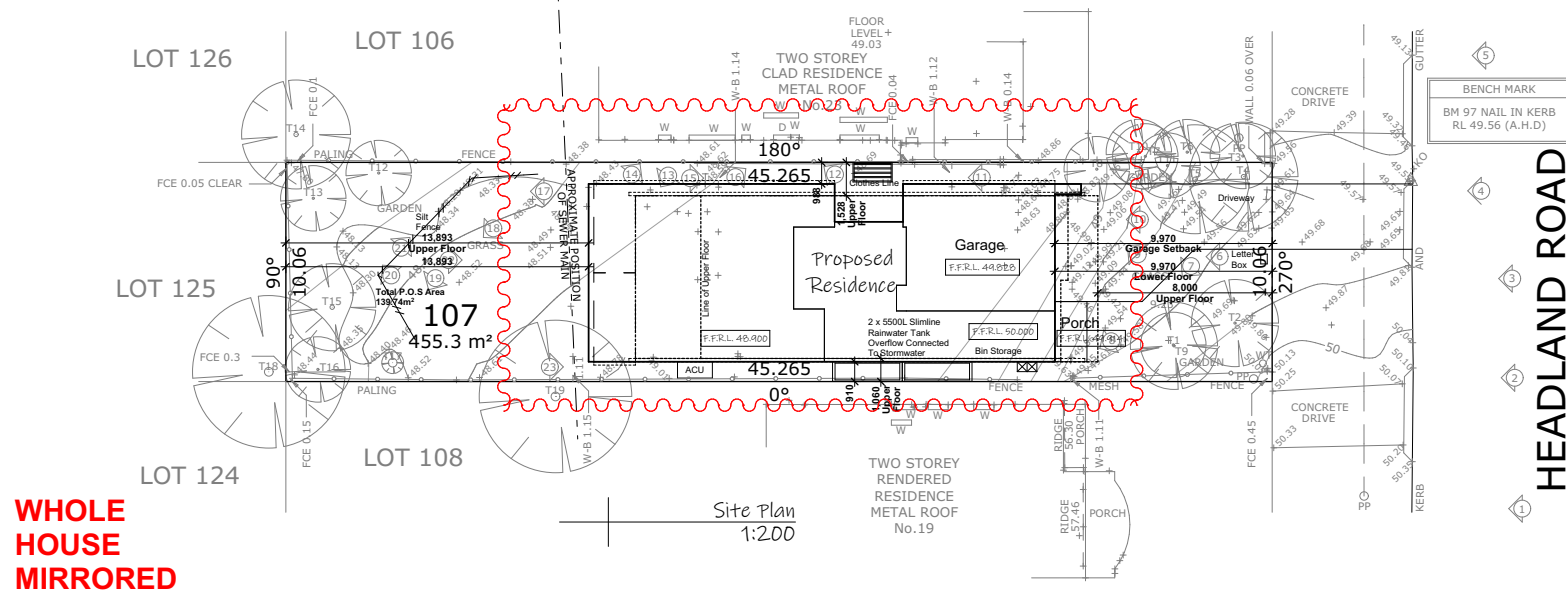
Soil Erosion and Sediment Control Fence
 1. Siltation fencing is to be placed as shown on the site plan as so to prevent silt run off to any adjoining property or to the street. This measure is to be placed prior to any excavation work beginning and is to be removed only when the sites surface has been stabilized, i.e. paved, landscaped or turfed.
 2. 40mm crushed rock aggregate is to be placed as an access driveway to the site and must be maintained throughout the course of construction.

Typical Silt Fence
1:20

	DIAMETER	HEIGHT	TYPE
T1	0.10	3m	-
T2	0.10	3m	-
T3	0.10	4m	-
T4	0.20	7m	PALM
T5	0.20	7m	PALM
T6	0.10	3m	-
T7	0.10	3m	-
T8	0.10	3m	-
T9	0.10	3m	-
T10	0.10	3m	-
T11	0.10	3m	-
T12	0.10	3m	-
T13	0.10	3m	-
T14	0.20	5m	-
T15	0.20	4m	-
T16	0.10	3m	-
T17	0.40	7m	DEAD TREE
T18	0.40	7m	-
T19	0.40	7m	-

LANDSCAPED AREA
182.38sqm - 40.06%

Lot 107
455.30m²
DP: 6143



**WHOLE
HOUSE
MIRRORED**

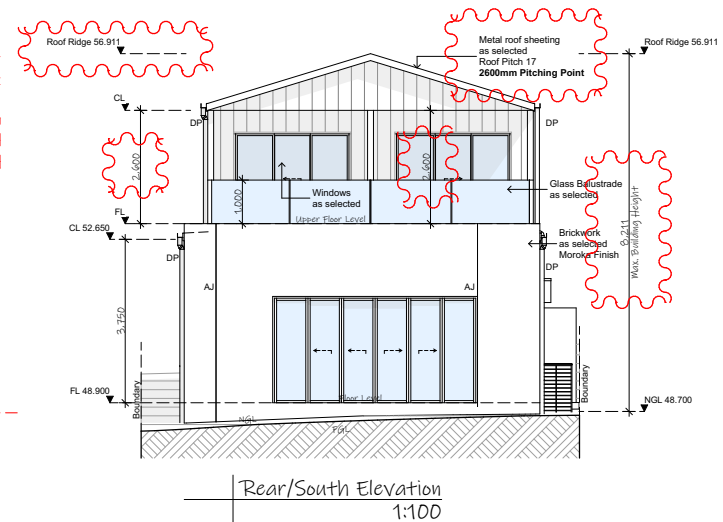
ISSUE: **Z** DRAWING: 20189-26 DATE: 05-02-24 LOT: 107
SHEET: 8/15 PAPER: A3 DP: 6143

not to be used for construction purposes in conjunction with any construction notes on sheet 2

Proposed Residence
#21 Headland Road, North Curl Curl
Icon Job Number: J/0846

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design & drafting

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WHOLE HOUSE MIRRORED

A note: all works to be carried out in conjunction with the construction notes on sheet 2

Icon Job Number: J/0846

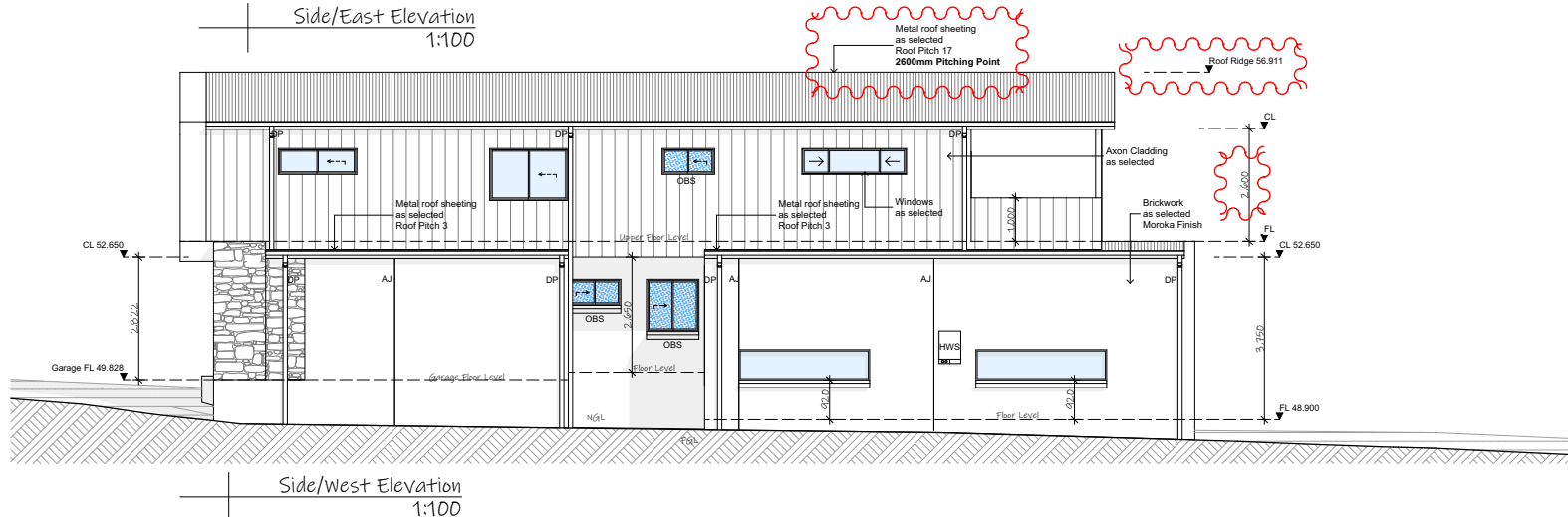
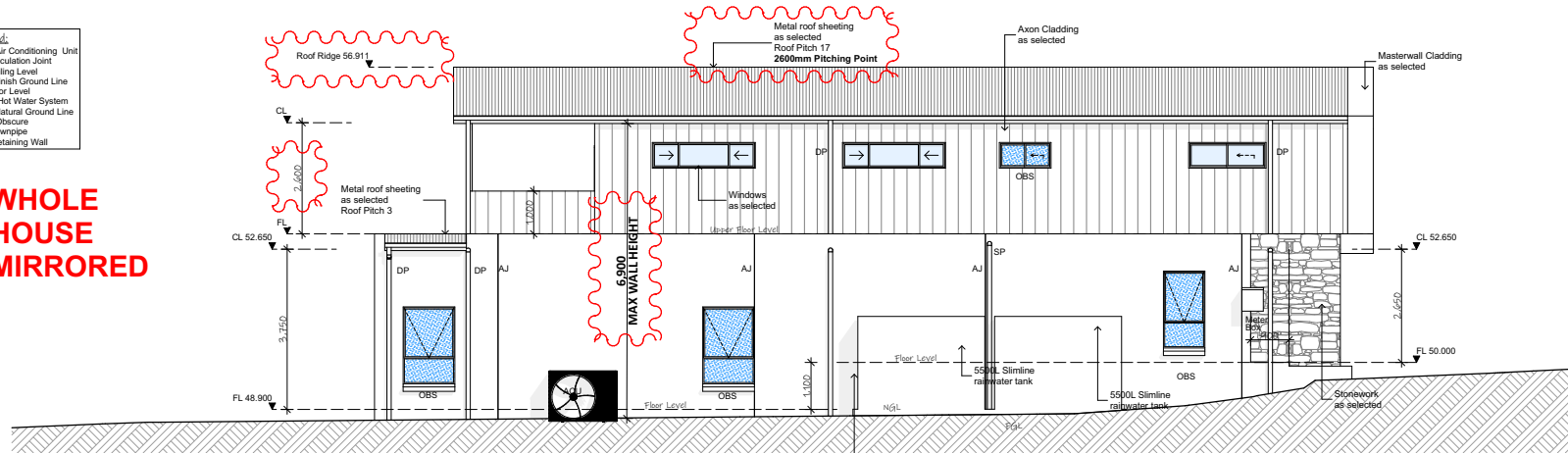
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Legend:
 ACU - Air Conditioning Unit
 AJ - Articulation Joint
 CL - Ceiling Level
 FGL - Finish Ground Line
 FL - Floor Level
 HWS - Hot Water System
 NGL - Natural Ground Line
 OBS - Obscure
 DP - Downpipe
 RW - Retaining Wall

**WHOLE
HOUSE
MIRRORED**



ISSUE: **Z** DRAWING: 20189-26 DATE: 05-02-24 LOT: 107
 SHEET: 6/15 PAPER: A3 DP: 6143

A note: All works to be carried out in conjunction with construction notes on sheet 2

Proposed Residence
#21 Headland Road, North Curl Curl
 Icon Job Number: J/0846

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