

AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

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

WEDNESDAY 11 SEPTEMBER 2024

Ashleigh Sherry
Manager Business System and Administration

**Agenda for a Meeting of the Development Determination Panel
to be held on Wednesday 11 September 2024
via teleconference
Commencing at 10:00 AM**

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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 THE DEVELOPMENT DETERMINATION PANEL MEETING HELD ON 28 AUGUST 2024

RECOMMENDATION

That the Panel note that the minutes of the Development Determination Panel Meeting held on 28 August 2024 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1 REV2024/0022 - 11 BRISSENDEN AVENUE COLLAROY - REVIEW OF DETERMINATION OF APPLICATION DA2023/0638 FOR DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL AND STUDIO

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION

THAT Council as the consent authority **refuses** Development Consent to REV2024/0022 for Review of Determination of Application DA2023/0638 for Demolition works and construction of a dwelling house including swimming pool and studio on land at Lot 11 DP 978060 & Lot 12 DP 978060, 11 Brissenden Avenue COLLAROY, for the reasons for refusal set out in the Assessment Report.

Reporting manager	Thomas Prosser
TRIM file ref	2024/626740
Attachments	1 Assessment Report 2 Site Plan and Elevations

REVIEW OF DETERMINATION ASSESSMENT REPORT

Application Number:	REV2024/0022
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Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 11 DP 978060, 11 Brissenden Avenue COLLAROY NSW 2097 Lot 12 DP 978060, 11 Brissenden Avenue COLLAROY NSW 2097
Proposed Development:	Review of Determination of Application DA2023/0638 for Demolition works and construction of a dwelling house including swimming pool and studio
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
Applicant:	Ben William James Moffat

Application Lodged:	24/07/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	07/08/2024 to 21/08/2024
Advertised:	Not Advertised
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 1,537,059.00
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EXECUTIVE SUMMARY

This Review of Determination application has been made pursuant to Section 8.3 of the Environmental Planning and Assessment Act 1979 regarding the refusal of Development Application DA2023/0638, which sought consent for demolition works and the construction of a two storey dwelling house including a detached studio and swimming pool.

This review application is referred to the Northern Beaches Development Determination Panel (the

DDP) as the determination DA2023/0638 was made by the DDP and therefore, the review application is required to be referred to the DDP for consideration.

The application was publicly notified for 14 days and received a total of 4 submissions via way of objection. The issues raised within the submissions relate to building bulk and scale, view loss, privacy impacts (visual and acoustic), stormwater management, the rear setback for the studio and geotechnical concerns. These issues have been considered during this assessment.

The reasons for refusal of Development Application DA2023/0638 related to building bulk and scale, view loss, stormwater management and privacy impacts. These reasons for refusal have been assessed in detail under this review application together with the additional documentation and supporting information submitted with this application. The development proposed under the subject review application is generally consistent with the development refused under DA2023/0638; however, the following minor amendments have been made to the current application:

- The north-western corner of the first floor has been setback 1.1m further to the east of the previous development.
- The ridge height of the dwelling house has been increased from RL19.54 metres (m) Australian Height Datum (AHD) to RL19.76m AHD, which is a 0.22m increase.

The assessment made under the current review application has concluded that the amended development has not adequately responded to the reasons for refusal imposed under DA2023/0638. The amended development subject to this review application remains excessive in building bulk and scale and would result in adverse view loss, privacy impacts and stormwater management impacts. In addition, the assessment also concluded that the development does not comply with the pool safety requirements outlined in Australian Standard AS1926-2012 – Swimming Pool Safety due to the pool filter box being located directly adjacent to the pool safety fence (i.e. side boundary fence).

As such, these reasons for refusal imposed under DA2023/0638 are still relevant to the review of determination application. These reasons for refusal have been amended where appropriate to reflect the current proposal and additional reasons for refusal have been recommended in relation to privacy and pool safety requirements; however, all existing reasons for refusal remain.

It is recommended that the DDP refuse the application for the reasons attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

Proposed Development under Development Application DA2023/0638

The applicant sought approval for demolition works and the construction of a two storey dwelling house with a double garage and five bedrooms including a new detached studio, in-ground swimming pool, removal of three prescribed trees and provision of new landscaping.

This development application was refused by the DDP on 13 March 2024. The reasons for refusal were as follows:

1. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Particulars

The proposed development is not compliant with the relevant development standards and principles in relation to: view sharing; side boundary envelopes; and stormwater management.

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 Part 6.4 Development on Sloping Land of the Warringah Local Environmental Plan 2011.

Particulars

Insufficient detail has been provided that will ensure that no detrimental impacts of stormwater discharge to adjoining properties will occur.

3. 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 Part B3 Side Boundary Envelope of the Warringah Development Control Plan 2011.

Particulars

The breach of the side boundary envelope on the east and west elevations will: have an adverse visual impact when viewed from adjoining properties and the public domain; will result in adverse impact on the privacy of adjoining properties; and does not respond to the topography of the surrounding area.

4. 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 Part C4 Stormwater of the Warringah Development Control Plan.

Particulars

Insufficient information has been provided to demonstrate that stormwater from the proposed development on the site can be adequately managed, in accordance with Section 5.5 "Stormwater Drainage from Low Level Properties" of Council's Water Management for Development Policy.

5. 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 Part D7 Views of the Warringah Development Control Plan 2011.

Particulars

The application will result in a minor to severe loss of views enjoyed by adjoining properties and does not by the nature of its design represent an acceptable attempt to meet the principles of view sharing.

Proposed Development under this Review of Determination (REV2024/0022)

The applicant seeks a review of DA2023/0638 for demolition works and the construction of a two storey dwelling house with a double garage and five bedrooms including a new detached studio, in-ground swimming pool, removal of three prescribed trees and provision of new landscaping.

The development proposed under the subject application is generally consistent with the development refused under DA2023/0638; however, the following minor amendments have been made to the current application:

- The north-western corner of the first floor has been setback 1.1m further to the east of the previous development (see **Figure 1** below).
- The ridge height of the dwelling house has been increased from RL19.54 metres (m) Australian Height Datum (AHD) to RL19.76m AHD, which is a 0.22m increase.

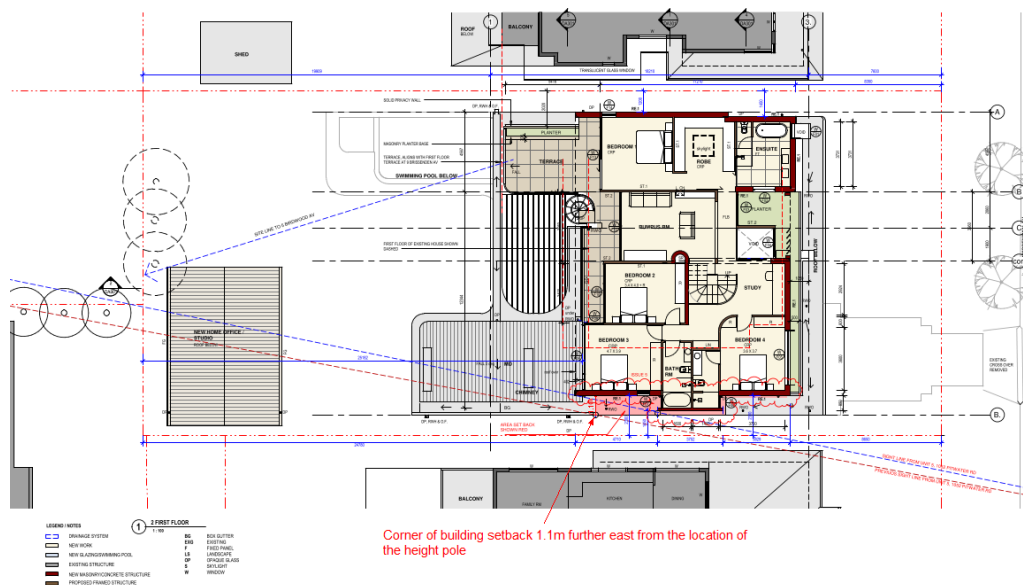


Figure 1: Amendments to north-western corner of the first floor

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.

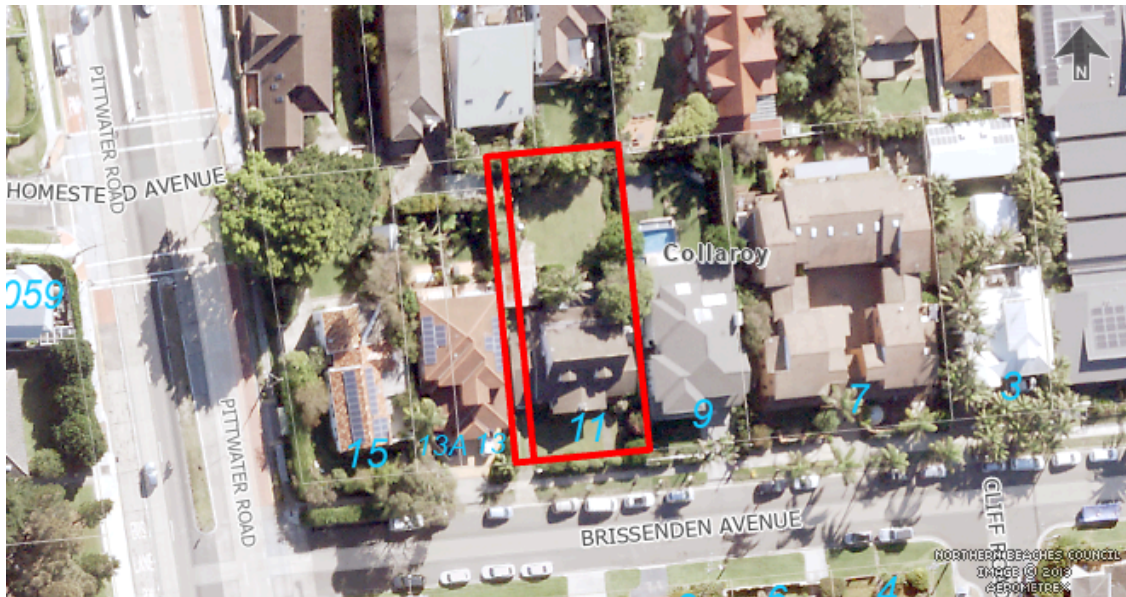
SUMMARY OF ASSESSMENT ISSUES

Environmental Planning and Assessment Act 1979 - Section 8.3 - Environmental Planning and Assessment Act 1979 - Section 8.3
 Warringah Local Environmental Plan 2011 - 6.2 Earthworks
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - B3 Side Boundary Envelope
 Warringah Development Control Plan - C4 Stormwater
 Warringah Development Control Plan - D7 Views
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 11 DP 978060 , 11 Brissenden Avenue COLLAROY NSW 2097 Lot 12 DP 978060 , 11 Brissenden Avenue COLLAROY NSW 2097
Detailed Site Description:	The subject site consists of two (2) allotments (Lots 11 & 12 in DP 978060), located on the northern side of Brissenden Avenue, Collaroy. The site is regular in shape with a frontage of 19.71m along Brissenden Avenue and a depth of 45.72 metres (m). The site has a combined surveyed area of 901.1 square metres (sqm). The site is located within the R2 Low Density Residential zone pursuant to the Warringah Local Environmental Plan 2011 (WLEP) and accommodates a two storey dwelling house and outbuildings. The site has a northerly aspect with a fall of approximately 1.5m down towards the rear (northern) boundary of the site. The site has no significant vegetation. Adjoining and surrounding development is characterised predominately by dwelling houses, with the exception of multi-unit dwellings (Birdwood Avenue) to the north of the site. A residential flat building is situated directly to the south, on the opposite side of Brissenden Avenue.

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:

- Development Application DA2023/0638 for demolition works and the construction of a dwelling house including swimming pool and studio refused on 13 March 2024.

APPLICATION HISTORY

The application was lodged on 24 June 2024, which only enables Council to assess and determine the Review of Determination application in 7 weeks and two days, noting that the 6 month prescribed period would elapse after 13 September 2024.

A site inspection was carried out 28 August 2024. Noting the time constraints to assess and determine this Review of Determination application, Council does not have time to provide the applicant opportunity to submit additional information to resolve the assessment issues.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

In accordance with Section 8.3 of the Environmental Planning and Assessment Act 1979 (the Act), an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories; therefore, the applicant may request a review.

In accordance with Section 8.3 (2) of the Act, the request for the review must be made and determined within 6 months after the date of determination of the development application. The application was

determined on 13 March 2024 and the notice of determination was issued on 19 March 2024. The review was lodged on 24 July 2024 and is to be considered by the DDP on 11 September 2024, which is within 6 months of the date of determination.

Section 8.3 (3) provides that the Council may review a determination if in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

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

A review of the original and amended plans has found that there are fundamental similarities between the original and the amended design (being subject of the 8.3 review) and the nature of the intended land use remains the same. Accordingly, it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 8.3 (3) of the Act.

Assessment of Reasons for Refusal under Development Application DA2023/0638

The applicant has made minor amendments to the proposed development and requested that the reasons for refusal imposed under DA2023/0638 be reviewed under this application. These reasons for refusal that are stipulated in the Notice of Determination for DA2023/0628 are examined below to determine if they remain applicable or should be overturned.

1. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Particulars

The proposed development is not compliant with the relevant development standards and principles in relation to: view sharing; side boundary envelopes; and stormwater management.

Comment:

The development has not satisfactorily addressed this reason for refusal for the following reasons:

- While the amended plans have increased the setback of the north-western corner of the first floor by 1.1m, the applicant has not erected height poles or provided certified wire diagrams and montages in accordance with the NSW Land and Environment Court practice note for montages to reflect the view loss impacts of the amended development. As such, Council cannot ascertain the extent of view loss from adjoining properties based off the amended development and therefore, is not satisfied that the development would achieve reasonable view sharing in accordance with the view sharing principles established within the NSW Land and Environment Court Case of *Tenacity Consulting v Warringah Council (2004) NSWLEC 140*.
- The development remains significantly non-compliant with the side building envelope control prescribed by section B3 of the Warringah Development Control Plan 2011 (WDGP) on the eastern elevation of the dwelling house, representing a 35% variation to the numerical control.

The significant variation to the envelope provision on the eastern elevation of the dwelling house gives rise to excessive building bulk and scale and would have an adverse visual impact when viewed from adjoining properties and the public domain. Furthermore, the western elevation of the dwelling house remains non-compliant with the side envelope control and the applicant has not provided sufficient information to demonstrate that the non-compliance would not have an adverse impact upon existing water views from adjoining properties. The breaches to the envelope control also give rise to adverse privacy impacts as a consequence of overlooking from a bedroom windows into the adjoining dwelling house to the east (9 Brissenden Avenue). Consequently, the development is not consistent with the objectives of section B3 of the WDCP due to the built form and amenity impacts.

- The stormwater management scheme seeks to offset on-site detention (OSD) volume by providing rainwater tanks, which is inconsistent with Council's Water Management for Development Policy. Furthermore, the application has not been accompanied by a DRAINS model for the stormwater plans. Therefore, the development is not satisfactory from a stormwater management perspective.

Due to the reasons outlined above, the development is contrary to the expectations of the community and therefore, not in the public interest. Hence, this reason for refusal should remain. However, this reason for refusal is amended to capture the privacy impacts from the first floor east and west facing bedroom windows, which were raised in the original recommended reason for refusal No. 3. The reason for refusal also captures the non-compliance to Part D9 Building Bulk of the WDCP. The amended reason for refusal shall read as follows (amended reason for refusal highlighted in red):

1. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Particulars

(a) The proposed development is not compliant with the relevant development standards and principles in relation to: view sharing, side boundary envelopes, privacy, building bulk and stormwater management.

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 Part 6.4 Development on Sloping Land of the Warringah Local Environmental Plan 2011.

Particulars

Insufficient detail has been provided that will ensure that no detrimental impacts of stormwater discharge to adjoining properties will occur.

Comment:

As demonstrated above, the development is not satisfactory from a stormwater management perspective. Therefore, Council is not satisfied that there would be no detrimental impacts to adjoining properties as a result of stormwater discharge, which is contrary to the requirements of clause 6.4 of the WLEP. Hence, this reason for refusal should remain.

3. 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 Part B3 Side Boundary Envelope of the Warringah Development Control Plan 2011.

Particulars

The breach of the side boundary envelope on the east and west elevations will: have an adverse visual impact when viewed from adjoining properties and the public domain; will result in adverse impact on the privacy of adjoining properties; and does not respond to the topography of the surrounding area.

Comment:

The applicant has stepped the north-western corner of the first floor in approximately 1.1m further from the western boundary when compared to the plans refused under DA2023/0638. The extent of the numerical non-compliance to section B3 of the WDCP on the western elevation is 12.11%, which is acceptable from a building bulk and scale standpoint as the western elevation is sufficiently articulated. Notwithstanding, insufficient information has been provided with this application to demonstrate that the western envelope non-compliance will not result in adverse view loss from surrounding properties. A view corridor towards Collaroy Beach exists down the western side of the property and therefore, in the event that a loss of water views results from the western envelope non-compliance then this non-compliance would not likely be supported. Nonetheless, the applicant has not provided adequate information to demonstrate that the view loss impacts would be acceptable. It is noted that the west-facing bedroom window no longer protrudes outside of the side envelope requirement. Nonetheless, privacy attenuation measures should be incorporated to this window. This is assessed later within this report.

It is noted that no amendments have been made to the eastern elevation of the dwelling house. As outlined above, there is a 35% variation to the side envelope control on the western elevation of the dwelling house, which is a significant variation to section B3 of the WDCP. Council does not support the extent of the breach and considers that the non-compliance gives rise to excessive building bulk and scale. Council also notes that window F14 on the eastern elevation of the first floor, which protrudes outside of the envelope control, would enable overlooking into windows at 9 Brissenden Avenue and therefore, is still not supported.

In this regard, recommended reason for refusal is amended to read as follows (amended reason for refusal highlighted in red):

3. 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 Part B3 Side Boundary Envelope of the Warringah Development Control Plan 2011.

Particulars

(a) The breach of the side boundary envelope control on the eastern elevation of the dwelling house will have an adverse visual impact when viewed from adjoining properties and the public domain; will result in adverse impacts on the privacy of adjoining properties; and does not respond to the topography of the surrounding area.

(b) There is insufficient information to demonstrate that the breach to the side boundary envelope control on the western elevation of the dwelling house will not result in adverse view loss from surrounding properties.

(c) As a consequence, the development is inconsistent with the objectives of Part B3 of the Warringah

Development Control Plan 2011.

4. 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 Part C4 Stormwater of the Warringah Development Control Plan.

Particulars

Insufficient information has been provided to demonstrate that stormwater from the proposed development on the site can be adequately managed, in accordance with Section 5.5 "Stormwater Drainage from Low Level Properties" of Council's Water Management for Development Policy.

Comment:

As demonstrated above and within Council's Development Engineering referral response, insufficient information has been provided to demonstrate compliance with Council's Water Management for Development Policy. Therefore, this reason for refusal shall remain.

5. 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 Part D7 Views of the Warringah Development Control Plan 2011.

Particulars

The application will result in a minor to severe loss of views enjoyed by adjoining properties and does not by the nature of its design represent an acceptable attempt to meet the principles of view sharing.

Comment:

As demonstrated above, the applicant has not provided sufficient information to demonstrate that the amended development would not result in adverse view loss from surrounding properties. In this regard, the view sharing reason for refusal shall remain. However, this reason for refusal is amended to reflect the amended development that forms part of this Review of Determination application. This amended reason for refusal reads as (amended reason for refusal highlighted in red):

5. 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 Part D7 Views of the Warringah Development Control Plan 2011.

Particulars

(a) The application will result in a loss of water views currently enjoyed by adjoining properties.

(b) The view loss is caused in part by non-compliance with Part B3 Side Building Envelope of the Warringah Development Control Plan 2011.

(c) The applicant has not provided sufficient information by way of a view loss analysis to demonstrate that the development would achieve reasonable view sharing in accordance with the view sharing principles established within the NSW Land and Environment Court Case of Tenacity Consulting v Warringah Council (2004) NSWLEC 140.

Conclusion

Having regard to the above assessment, the amended application that is subject to this Review of Determination has not adequately responded to the reasons for refusal imposed under DA2023/0638. As such, the application will be recommended for refusal. Slight revisions to the existing reasons for refusal are recommended to provide subheadings for the particulars within the reasons for refusal. Additionally, two (2) new reasons for refusal have been recommended to capture the privacy impacts that are raised in the reason for refusal No. 3 that was included on the Notice of Determination for DA2023/0638, in addition to the contravention to Part D9 Building Bulk of the WDCP and non-compliance with the pool safety requirements under Australian Standard AS1926-2012 – Swimming Pool Safety.

As such, this Review of Determination is recommended for refusal on the following grounds:

1. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Particulars

(a) The proposed development is not compliant with the relevant development standards and principles in relation to: view sharing, side boundary envelopes, privacy, building bulk and stormwater management.

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 Part 6.4 Development on Sloping Land of the Warringah Local Environmental Plan 2011.

Particulars

(a) Insufficient detail has been provided that will ensure that no detrimental impacts of stormwater discharge to adjoining properties will occur.

3. 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 Part B3 Side Boundary Envelope of the Warringah Development Control Plan 2011.

Particulars

(a) The breach of the side boundary envelope control on the eastern elevation of the dwelling house will have an adverse visual impact when viewed from adjoining properties and the public domain; will result in adverse impacts on the privacy of adjoining properties; and does not respond to the topography of the surrounding area.

(b) There is insufficient information to demonstrate that the breach to the side boundary envelope control on the western elevation of the dwelling house will not result in adverse view loss from surrounding properties.

(c) As a consequence, the development is inconsistent with the objectives of Part B3 of the Warringah Development Control Plan 2011.

4. 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 Part C4 Stormwater of the Warringah Development Control Plan.

Particulars

(a) Insufficient information has been provided to demonstrate that stormwater from the proposed development on the site can be adequately managed, in accordance with Section 5.5 "Stormwater Drainage from Low Level Properties" of Council's Water Management for Development Policy.

5. 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 Part D7 Views of the Warringah Development Control Plan 2011.

Particulars

(a) The application will result in a loss of water views currently enjoyed by adjoining properties.

(b) The view loss is caused in part by non-compliance with Part B3 Side Building Envelope of the Warringah Development Control Plan 2011.

(c) The applicant has not provided sufficient information by way of a view loss analysis to demonstrate that the development would achieve reasonable view sharing in accordance with the view sharing principles established within the NSW Land and Environment Court Case of Tenacity Consulting v Warringah Council (2004) NSWLEC 140.

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 Part D8 Privacy of the Warringah Development Control Plan 2011.

Particulars

(a) The development includes windows on the first floor, namely windows F07 and F14, which are located within 9 metres of windows within habitable rooms on adjoining buildings. This is contrary to the requirements of Part D8 Privacy of the Warringah Development Control Plan 2011.

(b) No privacy attenuation measures have been incorporated to these windows to prevent the future occupants of the development from overlooking into the adjoining buildings. Therefore, the development contravenes the objectives of Part D8 of the Warringah Development Control Plan 2011.

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 Part D9 Building Bulk of the Warringah Development Control Plan 2011.

Particulars

(a) The building building and scale, particularly the eastern elevation of the dwelling house, does not appropriately respond to the flat topography of the site due to the development involving a 35% variation to the side building envelope control under Part B3 of the Warringah Development Control Plan 2011.

(b) As a consequence of the excessive building bulk and scale, the development does not satisfy the requirements or objectives of Part D9 of the Warringah Development Control Plan 2011.

8. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposed development would have an unacceptable impact in terms of the safety for the future occupants of the development due to the location of the pool filter box.

Particulars

(a) The pool filter box is located directly adjacent to the side boundary fence, which is proposed to be used as a swimming pool fence. In this regard, the development does not comply with Australian Standard AS1926-2012 – Swimming Pool Safety.

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 07/08/2024 to 21/08/2024 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 4 submission/s from:

Name:	Address:
Mr Philip David Blanshard	13 Brissenden Avenue COLLAROY NSW 2097
Mr Ross Anthony Corben Mrs Roberta Leader Corben	9 Brissenden Avenue COLLAROY NSW 2097
Mr Craig William Busch	9 - 11 Birdwood Avenue COLLAROY NSW 2097
Mr Christopher Douglas Hunt Mrs Kristine Mary Hunt	5 Birdwood Avenue COLLAROY NSW 2097

During the public exhibition period numerous pieces of correspondence amounting to a total of four (4) individual submissions by way of objection to the development were received. The following issues

were raised in the submissions:

- **Bulk and Scale of Dwelling House and associated Amenity Impacts**

The submissions raised concerns with regards to the bulk and scale of the dwelling house as a consequence of non-compliance with the side building envelope control. The submissions noted that the non-compliance would result in adverse amenity impacts in terms of privacy, solar access and view sharing.

Comment:

This matter has been discussed in various sections of the report, in particular those sections relating to Section 8.3 of the Act and Parts B3 and B9 of the WDCP. In summary, the assessment concluded that the bulk and scale of the dwelling house is unacceptable, noting the significant breach to the side building envelope control on the eastern elevation of the dwelling house.

The assessment also finds that the non-compliance on the western elevation, while of a lesser degree in numerical terms, would result in adverse view loss from surrounding properties. Furthermore, it was concluded that the east and west facing bedroom windows on the first floor would result in adverse privacy impacts, notwithstanding the fact that only the east-facing bedroom window is located outside of the side envelope requirement.

The impacts in relation to solar access are assessed as being acceptable, noting that adjoining properties will retain the required 3 hours of sunlight to private open space on June 21, consistent with the WDCP solar access provision.

Nonetheless, the issues relating to building bulk and scale, view sharing and privacy have been included as recommended reasons for refusal.

- **Detached Studio**

The submissions raised concerns that the detached studio, which is setback 2m from the rear boundary, does not comply with Part B5 of the WDCP. Moreover, the submissions noted that the studio could potentially be used as a secondary dwelling and that the height of the studio, being approximately 4.6m above the existing ground level, would have an adverse visual impact on surrounding properties.

Comment:

In terms of the rear setback to the studio, it is noted that Part B5 of the WDCP enables outbuildings such as studios to be located in the 6m rear setback area, provided the outbuildings do not occupy more than 50% of the 6m rear setback area. In this case, the studio and decking occupies 38% (46.1sqm) of the rear setback area and therefore, is compliant with Part B5 of the WDCP.

In relation to the height of the studio, it is noted that the landscaping plan includes new shrub planting and tree planting around the rear and side facades of the studio, which will appropriately screen and soften the studio.

As it pertains to the use of the studio, the applicant has not sought consent to use the studio as a secondary dwelling and no in-built cooking facilities are provided in the studio. In the event that the application was approved, appropriate conditions could be included on the consent to prevent the studio from being used for separate habitation.

For the reasons detailed above, the concerns relating to the studio are not included in the recommended reasons for refusal.

- **Pool Filter Box**

The submissions raised concerns that the location of the pool filter box, being adjacent to the side boundary fence, would result in adverse noise impacts and also non-compliance with the swimming pool requirements relating to non-climbable zones.

Comment:

As the pool filter box is located adjacent to the side boundary fence, which is being used as a pool fence, it does not comply with Australian Standard AS1926-2012 – Swimming Pool Safety. Hence, this has been included as a recommended reason for refusal.

In the event the application was approved, the noise impacts could be appropriately alleviated through the imposition of a condition that reduces to the noise impacts of the pool filter box to 5dBA, measured from the boundary line.

- **Stormwater Management**

The submissions raised concerns in relation to off-site stormwater impacts as a result of the proposed level spreader that will discharge stormwater into the rear yard of the subject site.

Comment:

As discussed in Council's Development Engineering referral response, which is included in this report, the proposed stormwater management scheme does not comply with Council's Water Management for Development Policy. Therefore, this issue has been included as a recommended reason for refusal.

- **Geotechnical Considerations**

The submissions raised concerns that a Geotechnical Report was not submitted with this application and that due to the clay soil profile on the site, the stormwater scheme would have adverse impacts on neighbouring properties.

Comment:

The site is identified in Area A on the WLEP Landslip Risk Map. A Geotechnical Report is not required for development in Area A. Notwithstanding, the application was accompanied by a Geotechnical Report (prepared by White Geotechnical Consulting, dated 19 June 2024), which concluded that the level spreader would be acceptable from a geotechnical standpoint.

Nonetheless, the stormwater issues have been included as a recommended reason for refusal for the reasons outlined within the Development Engineering referral response, which is included in this report.

The concerns raised within the submissions have been appropriately addressed above. The concerns pertaining to the building bulk and scale, privacy, view loss, stormwater management and swimming pool safety hold merit and have been included in the recommended reasons for refusal that are attached to this report.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	SUPPORTED Note: this review application is undertaken by an alternate Landscape Officer. The application seeks consent for demolition works and construction of a dwelling house including swimming pool and studio. The submitted Arboricultural Impact Assessment (AIA) report for this review application is noted, and upon review no concerns are raised with the recommendations of the AIA report. The Landscape Plans submitted for this review application are noted and include proposed hard and soft landscape elements including replacement tree planting and other planting and generally no concerns are raised, except for the nomination of self-seeding plant species that shall be required by conditions to be substituted, and these are: Cupaniopsis, Raphiolepis and Pennisetum species. No objections are raised with regard to the landscape outcomes, subject to conditions.
NECC (Development Engineering)	NOT SUPPORTED 14/08/2024 <u>Council's Development Engineer does not support this proposal due to the stormwater design.</u> From engineering perspective, this review is to address stormwater design issue raised in the previous DA. Stormwater Statutory declaration letter has been submitted showing a downstream drainage easement cannot be obtained within a reasonable time. <u>Council's Development Engineer does not support this</u>

Internal Referral Body	Comments
	<u>proposal/requests additional information due to the below.</u> - For low level properties, OSD volume does not allow for offset by providing rainwater tank(s) in accordance with Council's 'Water Management for Development Policy'. - A copy of DRAINS model shall be submitted for assessment.

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.
Aboriginal Heritage Office	Reference is made to the proposed development at the above area and Aboriginal heritage. No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

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 (Sustainable Buildings) 2022

State Environmental Planning Policy (Sustainable Buildings) 2022 (SB SEPP) applies to the development pursuant to Chapter Two and aims to encourage the design and delivery of sustainable buildings.

The development is accompanied by BASIX Certificate, demonstrating that the development would satisfy the relevant water, thermal comfort and energy targets. Hence, the development meets the requirements of the SB SEPP.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021 (TI SEPP) requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions. In this regard, the development is consistent with the relevant requirements of the TI SEPP.

SEPP (Biodiversity and Conservation) 2021

Chapter 2 - Vegetation in non-rural areas

Chapter Two of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP) applies to the development pursuant to clause 2.3 and aims to protect the biodiversity and amenity values of trees within non-rural areas of the state.

The development results in the removal of three prescribed trees (i.e. non-exempt trees). The Arborist

Report accompanying the application has assessed these trees as having a low retention value and therefore, the tree removal is acceptable. Council's Landscape Officer concurs with the applicant's assessment and considers that the tree removal could be offset through the provision of three new native trees on the site.

In this regard, the development is considered to meet the requirements of the BC SEPP.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021 (RH SEPP) as the site is located within the Coastal Use Area within the meaning of Chapter 2. 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 development is satisfactory with regards to the matters prescribed under clause 2.11 of the RH SEPP. While it is acknowledged that there is view loss from private property to Narrabeen Beach to the north, notwithstanding the fact that the applicant has not provided sufficient information to demonstrate that the impact is appropriately quantified and reasonable, the view loss is from private property and not public spaces to foreshores.

Moreover, the dwelling house is not located immediately within the foreshore area and therefore, while the bulk and scale of the development is excessive, this would not significantly reduce the scenic qualities of the coastline, noting that the site is not directly within the foreshore or visible from the foreshore.

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 development is not likely to increase the risk of coastal hazards within the locality.

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 development does not contravene any coastal management programs.

As such, it is considered that the application complies with the requirements of Chapter 2 of the RH SEPP.

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.

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	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.39m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	No

Detailed Assessment

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*

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.

- (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.

- (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.

(f) the likelihood of disturbing relics

Comment:

The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

(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.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the requirements of clause 6.2 of the WLEP.

6.4 Development on sloping land

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) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment:

The site is located in Area A of Council's Landslip Risk Map. This is an area that represents a very low risk of landslip. therefore, Council is satisfied that the development presents no serious risk in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment:

As detailed earlier within this report, Council's Development Engineers have advised that the development does not comply with Council's Water Management for Development Policy. Hence, the applicant has not demonstrated that the development will not cause significant detrimental impacts as a result stormwater discharge from the property, thereby conflicting with this requirement.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment:

The site is located in Area A of Council's Landslip Risk Map. This is an area that represents a very low

risk of landslide. Therefore, it is considered that the development presents no serious risk in relation to both property and life, or potential presence of subsurface flow conditions. As such, it is considered that the proposal will not result in adverse impacts or effects on the existing subsurface flow conditions.

As demonstrated above, the development does not satisfy the requirements of clause 6.4 of the WLEP. This matter has been included as a recommended reason for refusal.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.1m	-	Yes
B3 Side Boundary Envelope	4m / 45 degrees (west)	Outside Envelope	12.11%	No
	4m / 45 degrees (east)	Outside Envelope	35%	No
B5 Side Boundary Setbacks	0.9m (west)	1.2m (ground floor) - 1.45m - 2.3m (first floor)	-	Yes
	0.9m (east)	1.2m (ground floor) - 1.2m - 2.02m (first floor)	-	Yes
B7 Front Boundary Setbacks	6.5m	6.76m	-	Yes
B9 Rear Boundary Setbacks	6m (dwelling house)	15.4m	-	Yes
	no more than 50% of 6m rear setback area (studio)	46.1sqm or 38%	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	371.9sqm or 41%	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	No
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	No	No
C7 Excavation and Landfill	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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	No	No
D9 Building Bulk	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B3 Side Boundary Envelope

Description of non-compliance

As discussed within the section of this report relating to section 8.3 of the Act, the amended development proposed under the subject Review of Determination application (REV2024/0022) remains non-compliant with Part B3 of the WDCP. **Figures 2-5** below depict the extent of the non-compliance for the development refused under DA2023/0628 and the development proposed under REV2024/0022.

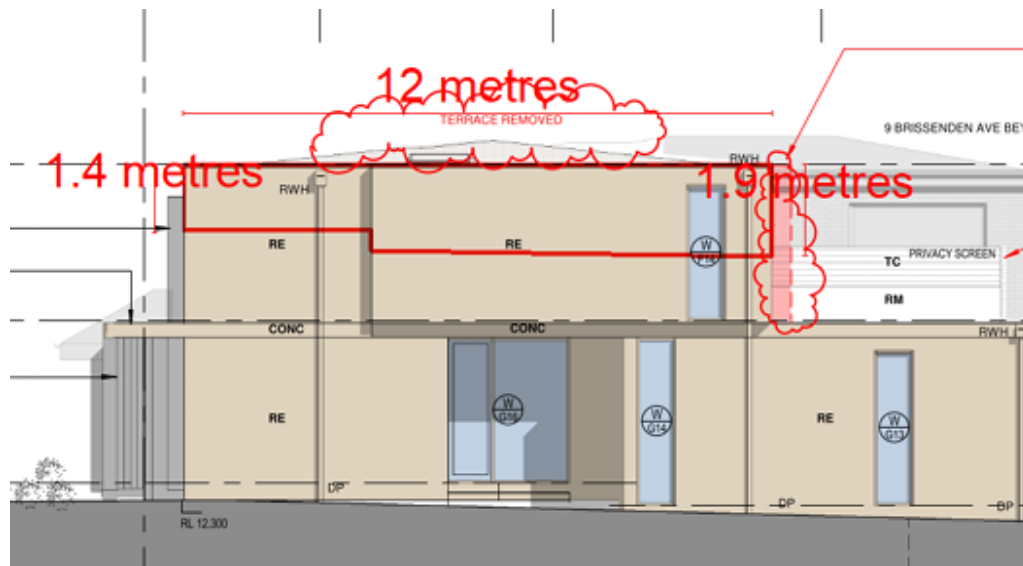


Figure 2: eastern envelope breach that was not supported under DA2023/0628

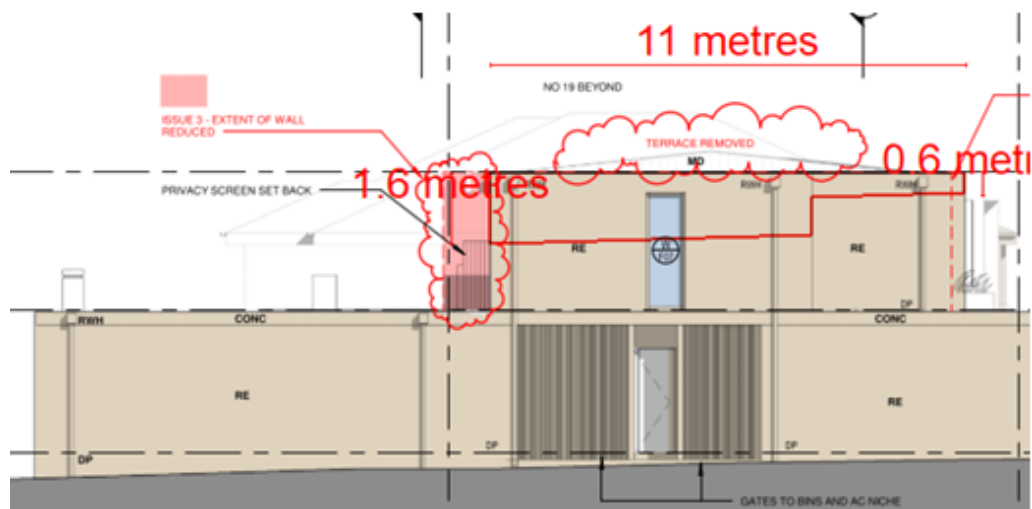


Figure 3: western envelope breach that was not supported under DA2023/0628

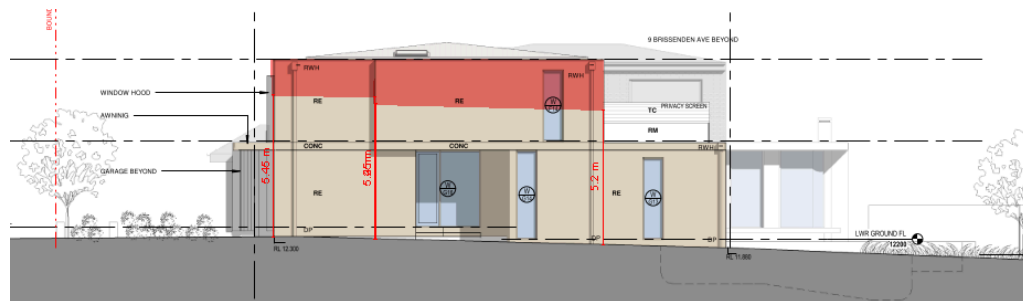


Figure 4: eastern envelope breach proposed under REV2024/0022 - no change to extent of non-compliance when compared to DA2023/0628 (numerical non-compliance still 35%)

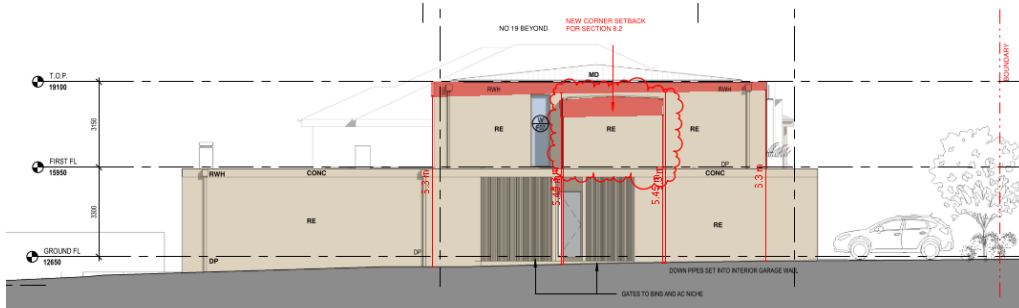


Figure 5: western envelope breach proposed under REV2024/0022 - extent of numerical non-compliance reduced when compared to DA2023/0628 (numerical non-compliance reduced from 33% to 12.11%)

Merit consideration

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

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

Comment:

While the changes to the north-western corner of the building have reduced the bulk and scale of the western elevation, no changes have been made to the eastern elevation of the dwelling house. The extent of the non-compliance on the eastern elevation is significant in numerical terms and results in excessive building bulk and scale. The amended development is considered to be visually dominant when viewed from both the public domain and from adjoining private properties, thereby failing this objective.

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

Comment:

Due to the north-south orientation of the allotments on Brissenden Avenue, and noting that all private open space on adjoining properties is located in the rear yards (i.e. northern portions of the sites), the subject site and adjoining properties will receive the required 3 hours of sunlight on June 21, in accordance with the WDCP solar access provision.

As discussed earlier within this report, Window F14 protrudes outside of the envelope requirement on the eastern elevation and would enable overlooking into habitable rooms at 9 Brissenden Avenue. No privacy attenuation measures have been provided to this window. Hence, the development fails to achieve this objective.

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

Comment:

The site is relatively flat. In this regard, the extent of the breach on the eastern elevation is not considered to be an appropriate response to the site topography. There are no environmental constraints, such as a steep slope or flooding constraints, that would result in a taller building. Hence, the development fails to achieve this objective.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the objectives of this control. Therefore, this matter forms a recommended reason for refusal.

C4 Stormwater

As discussed in the section of the report relating to Council's Development Engineering referral response, the development does not comply with Council's Water Management for Development Policy and therefore, fails to comply with Part C4 of the WDCP. Council is not satisfied that the development adequately meets the objectives of Part C4, which read as follows:

- *Improve the quality of water discharged to our natural areas to protect and improve the ecological and recreational condition of our beaches, waterways, riparian areas and bushland;*
- *To minimise the risk to public health and safety;*
- *To reduce the risk to life and property from any flooding and groundwater damage;*
- *Integrate Water Sensitive Urban Design measures in new developments to address stormwater and floodplain management issues, maximise liveability and reduce the impacts of climate change.*
- *Mimic natural stormwater flows by minimising impervious areas, reusing rainwater and stormwater and providing treatment measures that replicate the natural water cycle*
- *Reduce the consumption of potable water by encouraging water efficiency, the reuse of water and use of alternative water sources*
- *To protect Council's stormwater drainage assets during development works and to ensure Council's drainage rights are not compromised by development activities.*

Hence, the development is recommended for refusal on this basis.

D7 Views

It is noted that a view corridor towards Collaroy Beach and Narrabeen Beach exists down the western portion of the subject site. During the course of the notification for DA2023/0628, submissions raising concern of view loss were received from the following properties:

- 13 Brissenden Avenue, Collaroy (to the west of the site); and
- 5/1052 Pittwater Road, Collaroy (to the south of the site).

The applicant erected height poles to demonstrate the proposed building envelope. This assisted Council undertake a view loss assessment under DA2023/0628, where it was determined that the development would result in severe view loss from 5/1052 Pittwater Road, Collaroy, which was not supported due to the view loss arising from non-compliance with the WDCP side building envelope

provision. In particular, it was the non-compliance on the western elevation of the dwelling house that created the impact. It is important to note that the view loss from 13 Brissenden Avenue was assessed as being minor and acceptable.

Under the current application, the owners of the 13 Brissenden Avenue objected to the application on the grounds of view loss. As the impacts from this property have been assessed as being minor and acceptable, a site inspection was not undertaken from this property due to the revised design removing elements of the building in the north-western corner of the upper floor, which in turn would not alter the finding of the previous assessment as the impacts would be lesser than those assessed as being minor and acceptable under DA2023/0628. As such, no further assessment of views or view loss has been provided for 13 Brissenden Avenue within this report.

No objections from 5/1052 Pittwater Road were received on the amended application. Nonetheless, a detailed view loss assessment has been undertaken from this property based off the photos provided within the assessment report for DA2023/0628.

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:

A very specific view is present to the north from 5/1052 Pittwater Road, which incorporates the shoreline of Narrabeen Beach, forested ridgeline of Narrabeen Headland, and very minor parts of the Tasman Sea. While the view is filtered, it is considered to hold moderate to high value in accordance with this planning principle.

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

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

Comment to Principle 2:

The views identified from 5/1052 Pittwater Road are obtained from a balcony, living room and kitchen, in both a standing and seated position. All views are gained across a front boundary. The view could be generally described as being between a "corridor" between the side boundaries of 11 and 13 Brissenden Avenue.

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:

As depicted in **Figure 1** of this assessment report, the amended development under this Review of Determination application has setback the north-western corner of the building 1.1m further to the east from the previous design. As such, the corner of the building would be approximately 1.1m to the east of the height pole depicted in **Figure 6**.



Figure 6: existing view from front balcony of 5/1052 Pittwater Road (source: Assessment Report for DA2023/0628 - note: the new development is approximately 1.1m to the east of this height pole)

The applicant has not erected height poles or provided certified wire diagrams and montages in accordance with the NSW Land and Environment Court practice note for montages to reflect the view loss impacts of the amended development proposed under REV2024/0022. As such, Council cannot ascertain the extent of view loss from the amended scheme from 5/1052 Pittwater Road. Nonetheless, it appears that the shoreline of Narrabeen Beach (which includes the land-water interface) and forested ridgeline of Narrabeen Headland would be completely lost. If this is the case, the extent of impact can be described as moderate to 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:

While there have been amendments to the western facade of the building, which is specifically confined to the north-western corner of the upper floor, the amended scheme still protrudes outside of the side building envelope requirement. The applicant has not provided sufficient information to demonstrate that the impacts created by the non-compliance are acceptable. Should the impact be moderate to severe, then this would not be acceptable in the circumstance where compliance with the WDCP side building envelope requirement would have a lesser impact.

For these reasons, it is considered that the applicant has not demonstrated that reasonable view sharing is achieved based off the amended development.

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

Comment:

Not relevant to the proposed development.

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

Comment:

Not relevant to the proposed development.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the objectives of this control and the view sharing planning principles established within the NSW Land and Environment Court. Hence, the development is recommended for refusal in this regard.

D8 Privacy

Description of non-compliance

Part D8 of the WDCP requires windows to be located so they do not provide direct or close views (ie from less than 9m away) into the windows of other dwellings. As noted earlier within this report, windows F07 and F14 provide direct views into habitable rooms on adjoining dwellings within a distance of 9m, thereby non-compliant with the requirements of this control.

Merit consideration

The development is considered against the underlying objectives of the control as follows:

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

Comment:

No privacy attenuation measures have been provided to the aforementioned windows. Hence, the overlooking would be unreasonable as the separation between the buildings to the west and east is 4m and 5m respectively. Thus, the development is not designed to provide a high level of visual privacy for the occupants and neighbours, thereby conflicting with this objective.

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

Comment:

A design solution such as screening has not been provided.

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

Comment:

Reasonable security for the occupants and visitors of the development is provided.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the objectives of this control. This matter forms a recommended reason for refusal.

D9 Building Bulk

As a consequence of the significant bulk and scale of the eastern elevation of the dwelling house, which is represented by the 35% variation to the side building envelope control, the development is not satisfactory with the requirements or objectives of this control, insofar as the development does not minimise the visual impact of development when viewed from adjoining properties and the streetscape. This matter is included as a recommended reason for refusal.

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 \$15,371 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,537,059.

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, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

PLANNING CONCLUSION

This proposal, for demolition works and construction of a two storey dwelling house including a detached studio and swimming pool has been referred to the DDP due to the application being a Review of Determination of a previous Development Application that was refused by the DDP.

The application was publicly notified for 14 days and received a total of 4 submissions via way of objection. The issues raised within the submissions relate to building bulk and scale, view loss, privacy impacts (visual and acoustic), stormwater management, the rear setback for the studio and geotechnical concerns. These issues have been considered during this assessment.

The assessment made under the current review application has concluded that the amended development that is subject to this review application has not adequately responded to the reasons for refusal imposed under DA2023/0638. The amended development subject to this review application remains excessive in building bulk and scale and would result in adverse view loss, privacy impacts and stormwater management impacts. Additional issues pertaining to privacy impacts and non-compliance with the swimming pool requirements for 'non-climbable zones' were identified in the assessment and also preclude the development from being supported.

Consequently, it is recommended that the DDP refuse the application for the reasons attached to this report.

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

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No REV2024/0022 for the Review of Determination of Application DA2023/0638 for Demolition works and construction of a dwelling house including swimming pool and studio on land at Lot 11 DP 978060, 11 Brissenden Avenue, COLLAROY, Lot 12 DP 978060, 11 Brissenden Avenue, COLLAROY, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Particulars

(a) The proposed development is not compliant with the relevant development standards and principles in relation to: view sharing, side boundary envelopes, privacy, building bulk and stormwater management.

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 6.4 Development on Sloping Land of the Warringah Local Environmental Plan 2011.

Particulars

(a) Insufficient detail has been provided that will ensure that no detrimental impacts of stormwater discharge to adjoining properties will occur.

3. 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 Part B3 Side Boundary Envelope of the Warringah Development Control Plan 2011.

Particulars

(a) The breach of the side boundary envelope control on the eastern elevation of the dwelling house will have an adverse visual impact when viewed from adjoining properties and the public domain; will result in adverse impacts on the privacy of adjoining properties; and does not respond to the topography of the surrounding area.

(b) There is insufficient information to demonstrate that the breach to the side boundary envelope control on the western elevation of the dwelling house will not result in adverse view loss from surrounding properties.

(c) As a consequence, the development is inconsistent with the objectives of Part B3 of the Warringah Development Control Plan 2011.

4. 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 Part C4 Stormwater of the Warringah Development Control Plan.

Particulars

(a) Insufficient information has been provided to demonstrate that stormwater from the proposed development on the site can be adequately managed, in accordance with Section 5.5

"Stormwater Drainage from Low Level Properties" of Council's Water Management for Development Policy.

5. 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 Part D7 Views of the Warringah Development Control Plan 2011.

Particulars

(a) The application will result in a loss of water views currently enjoyed by adjoining properties.

(b) The view loss is caused in part by non-compliance with Part B3 Side Building Envelope of the Warringah Development Control Plan 2011.

(c) The applicant has not provided sufficient information by way of a view loss analysis to demonstrate that the development would achieve reasonable view sharing in accordance with the view sharing principles established within the NSW Land and Environment Court Case of *Tenacity Consulting v Warringah Council (2004) NSWLEC 140*.

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 Part D8 Privacy of the Warringah Development Control Plan 2011.

Particulars

(a) The development includes windows on the first floor, namely windows F07 and F14, which are located within 9 metres of windows within habitable rooms on adjoining buildings. This is contrary to the requirements of Part D8 Privacy of the Warringah Development Control Plan 2011.

(b) No privacy attenuation measures have been incorporated to these windows to prevent the future occupants of the development from overlooking into the adjoining buildings. Therefore, the development contravenes the objectives of Part D8 of the Warringah Development Control Plan 2011.

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 Part D9 Building Bulk of the Warringah Development Control Plan 2011.

Particulars

(a) The building building and scale, particularly the eastern elevation of the dwelling house, does not appropriately respond to the flat topography of the site due to the development involving a 35% variation to the side building envelope control under Part B3 of the Warringah Development Control Plan 2011.

(b) As a consequence of the excessive building bulk and scale, the development does not satisfy the requirements or objectives of Part D9 of the Warringah Development Control Plan 2011.

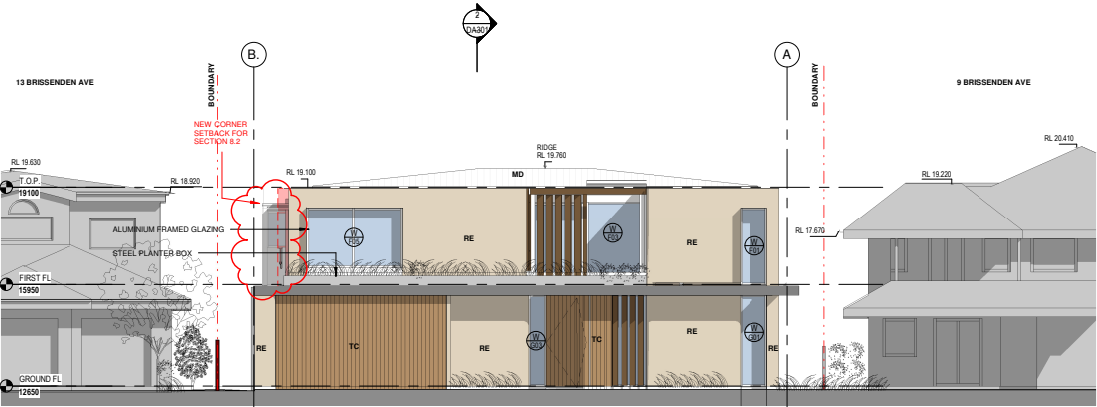
8. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposed development would have an unacceptable impact in terms of the safety for the future

occupants of the development due to the location of the pool filter box.

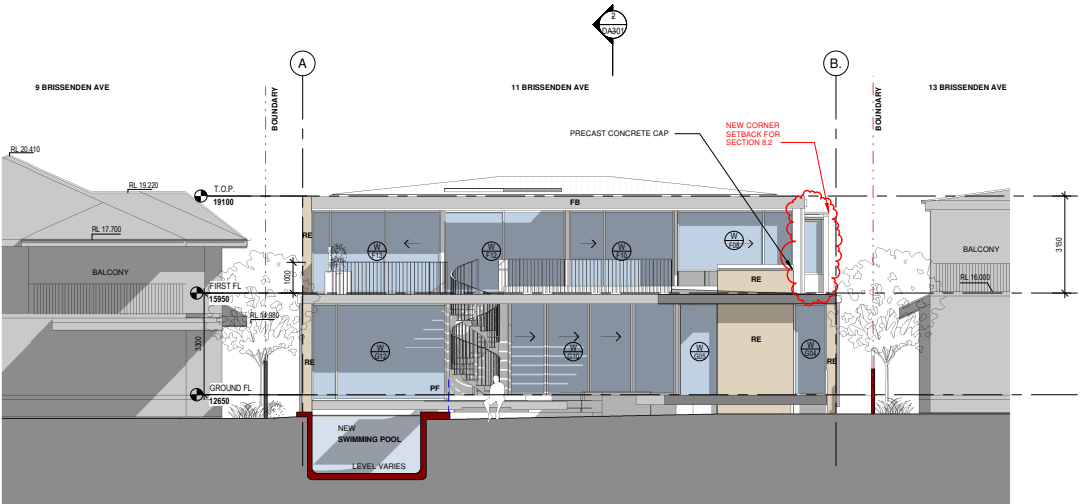
Particulars

(a) The pool filter box is located directly adjacent to the side boundary fence, which is proposed to be used as a swimming pool fence. In this regard, the development does not comply with Australian Standard AS1926-2012 – Swimming Pool Safety.





1 SOUTH STREET
1:100



2 NORTH ELEVATION & POOL CROSS SECTION
1:100

COLOUR CODE	
	NEW GLAZING / SWIMMING POOL
	EXISTING STRUCTURE
	NEW MASONRY/RAMMED EARTH STRUCTURE
	NEW FRAMED STRUCTURE

ISSUE	DATE	DESCRIPTION	BY
5	02.05.24	SECTION 8.2 REVIEW	
3	05.02.24	DA AMMENDMENT 2	
2	20.10.23	DA AMMENDMENT	
1	13.03.23	DA SUBMISSION	

vaughan architects
a.ct.4652meagher@dispendium.com
m. simon.vaughan@da14.996.271
www.vaughanarchitects.com.au
08n.89.644.086.413

PROJECT: 11 BRISSENDEN AVE, COLLAROY 2097
NOTES:
1. All work to be completed in accordance with the DA.
2. All work to be completed in accordance with the DA.
3. All work to be completed in accordance with the DA.
4. All work to be completed in accordance with the DA.
5. All work to be completed in accordance with the DA.

DRAWING: NORTH & SOUTH ELEVATIONS		DRAWING NO: DA201
SCALE: @ A2 1:100	DATE: 02.05.24 CLIENT: Owner	DRAWN BY: Author ISSUE: 5 PROJECT NO: 2101



ITEM 3.2	DA2023/1666 - 7 KANANOOK AVENUE BAYVIEW - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE
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PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION

THAT Council as the consent authority **approves** Development Consent to DA2023/1666 for Alterations and additions to a dwelling house on land at Lot 32 DP 11423, 7 Kananook Avenue BAYVIEW, subject to the conditions set out in the Assessment Report.

Reporting manager	Adam Richardson
TRIM file ref	2024/626786
Attachments	1 Assessment Report 2 Site Plan and Elevations

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/1666
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Responsible Officer:	Michael French
Land to be developed (Address):	Lot 32 DP 11423, 7 Kananook Avenue BAYVIEW NSW 2104
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Applicant:	Gregory Stevan Kaye

Application Lodged:	24/11/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	14/08/2024 to 28/08/2024
Advertised:	Not Advertised
Submissions Received:	8
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 699,710.00
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EXECUTIVE SUMMARY

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

The application is referred to the Development Determination Panel (DDP) due to the proposal receiving more than five (5) objections.

The proposed development was notified in accordance with the Northern Beaches Community Participation Plan (CPP) for fourteen (14) days. Following the receipt of amended Architectural Plans, the application was then renotified for a further fourteen (14) days in accordance with the CPP. A total of seven (7) objections were received.

Concern raised in the objections predominantly relate to the amenity impacts resulting from the

proposal. Issues with stormwater and view loss were recurrent themes in the submissions.

The application includes several variations to the controls provided within Pittwater 21 Development Control Plan. The proposed development has been found to be non-compliant with Controls *Clause D4.5 Front building line*, *Clause D4.6 Side and rear building line*, *Clause D4.8 Building Envelope* and *Clause D4.10 Landscaped Area - Environmentally Sensitive Land*. Notwithstanding this the development, as amended, is considered to have an acceptable impact on views and represents acceptable sharing of views when the proposal is tested against the planning principle.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that, on balance the proposal is an acceptable development for the subject site for the reasons outlined in this report.

This report concludes with a recommendation that the DDP **approve** the development application for the recommended reasons.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for the following:

Lower Ground Floor

- Addition of a driveway and carport.
- Addition of a garage, WC and studio.
- Addition of external stairs adjoining the ground floor.

Ground Floor

- Demolition works.
- Re-structuring of the internal layout to provide two (2) bedrooms, a living room, kitchen, dining room and a sunroom.
- Addition of a timber deck.
- Internal staircase adjoining the first floor.

First Floor

- Addition of a first floor that comprises of one (1) bedroom, and one master bedroom (1) with an adjoining ensuite and a balcony.

External Works

- Demolition of an external paved patio area, fibro garage and an external laundry.
- Minor additional landscaping works.

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 21 Development Control Plan - C1.3 View Sharing
 Pittwater 21 Development Control Plan - D4.5 Front building line
 Pittwater 21 Development Control Plan - D4.6 Side and rear building line
 Pittwater 21 Development Control Plan - D4.8 Building envelope
 Pittwater 21 Development Control Plan - D4.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 32 DP 11423 , 7 Kananook Avenue BAYVIEW NSW 2104
Detailed Site Description:	The subject site consists of one (1) allotment located on the eastern side of Kananook Avenue. The site is irregular in shape with a frontage of 15.24m along Kananook Avenue and a maximum depth of 39.53m. The site has a surveyed area of 600.7m². The site is located within the C4 Environmental Living zone and accommodates a two-storey dwelling. The site slopes downward toward the north-east of the site. There are no details of any threatened species on site. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by a mix of dwellings within a C4 Environmental Living zone.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

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

Application History

A Request for Further Information letter was sent to the applicant on 29 January 2024, requesting, among other concerns, that view sharing issues be addressed. Specifically, Council requested revised plans demonstrating compliance with *Clause C1.3 View Sharing* of the Pittwater 21 Development Control Plan, ensuring reasonable sharing of views from surrounding properties.

Height poles were erected, with conformation of this provided to Council on 04 March 2024.

View Loss inspections were undertaken on 4 April 2024.

On 10 May 2024 the applicant was advised that the view loss impact was unacceptable.

On 5 August 2024 the applicant amended the development to overcome the view loss impacts.

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	See discussion on “Environmental Planning Instruments” in this report.

Section 4.15 Matters for Consideration	Comments
environmental planning instrument	
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)	Part 4, Division 2 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 of consent. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to an amended set of Architectural Plans and documentation that addresses Development Engineering, Building Envelope and View Loss concerns. <u>Clause 61</u> of the EP&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. <u>Clause 69</u> of the EP&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. <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 of 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) Environmental Impact 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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact 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	The site is considered suitable for the proposed development.

Section 4.15 Matters for Consideration	Comments
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 14/08/2024 to 28/08/2024 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 8 submission/s from:

Name:	Address:
Ms Vanessa Louise Orr	2011 Pittwater Road BAYVIEW NSW 2104
Mrs Louisa Parker-Bowles	Address Unknown
Mr Dennis James Meehan Mrs Kristina Meehan	5 Kananook Avenue BAYVIEW NSW 2104
Tina Van Weelden	11 Kananook Avenue BAYVIEW NSW 2104
Mrs Leanne Lucy Turton-Andrews	15 Kananook Avenue BAYVIEW NSW 2104
Mr Daniel Brian Finch	9 Kananook Avenue BAYVIEW NSW 2104
Mr Robert Linnegar	2009 Pittwater Road BAYVIEW NSW 2104
Mrs Karen May Harrison	37 Laurel Road West INGLESIDE NSW 2101

The following issues were raised in the submissions:

- Stormwater
- Trucks or vehicles using adjoining driveway
- View Loss
- Inaccuracies in Architectural Plans and supporting documentation
- Access to Sunlight
- Location of Notification Sign

- Financial Impact
- Streetscape Character
- DCP non-compliances
- Visual Privacy

The above issues are addressed as follows:

- **Stormwater**

The submissions raised concerns that the proposal will result in unreasonable stormwater nuisance to adjoining sites.

Comment:

The original DA as lodged did not meet the necessary stormwater requirements. An amended stormwater plan was submitted on 15 March 2024. Council's Development Engineer has reviewed this plan and provided recommended conditions to increase the orifice plate size to prevent detention tank overflow during the 1% AEP storm event. With these adjustments, the proposed system is considered sufficient in preventing concentration of stormwater flows on downstream properties. Consequently, the proposal is considered supportable in regard to stormwater concerns.

- **Trucks or vehicles using the adjoining driveway**

The submissions raised concerns of trucks and/or vehicles using the adjoining driveway behind the subject site during the construction process.

Comment:

Without the consent of the owner of the adjoining land, there is no ability to conduct any construction works on a site. Any potential development application approval will not extend to permitting the utilisation of someone else's driveway for construction activities on the subject site.

- **View Loss**

The submissions raised concerns that the proposal will result in unreasonable view loss impacts.

Comment:

Assessment against *Clause C1.3 View Sharing* is undertaken elsewhere within this report. It is considered that the proposed view loss impact is supportable in this instance.

- **Inaccuracies in Architectural Plans and supporting documentation**

The submissions raised concerns regarding a proposed building height that does not comply, as well as discrepancies in the depiction of natural ground levels, setbacks, noted tree heights, and certified shadow diagrams within the submitted Architectural Plans and accompanying documentation.

Comment:

The proposal has been assessed against the provided architectural plans, survey data, and other supporting documentation. Additionally, firsthand observation of the visual impact,

including potential view loss resulting from existing trees on the subject site, has been conducted and referenced in the view loss assessment. It should also be noted that the development proposes a compliant building height. It is concluded that the details presented in the plans are considered accurate and fully comply with Council's Development Application and Modification Lodgement Requirements.

- **Access to Sunlight**

The submissions raised concerns that the addition will result in unreasonable overshadowing impacts.

Comment:

The proposal wholly complies with the requirements of *Clause C1.4 Solar Access*. The proposal is considered supportable in this regard.

- **Location of Notification Sign**

The submissions raised concerns regarding the placement of the yellow notification sign, specifically questioning its visibility and clarity.

Comment:

In this instance, the placement of the notification sign was deemed acceptable. Supporting images were submitted, demonstrating its presence throughout the entirety of the notification periods. Additionally, the notification letter was appropriately sent to the relevant neighboring sites. Therefore, it is concluded that the notification of the application was adequate and in accordance with the Northern Beaches Community Participation Plan.

- **Financial Impact**

The submissions raised concerns regarding the property devaluation directly resulting from the proposed view loss.

Comment:

Property value impacts are not a relevant planning consideration for Council under the Section 4.15 of the *EP&A Act 1979*. However, impacts raised as potential causes of property devaluation, such as solar access, privacy and views, have been assessed pursuant to relevant planning controls.

- **Streetscape Character**

The submissions raised concerns regarding the design's potential impact on the amenity of adjoining sites, as well as its effect on the overall streetscape character.

Comment:

The application underwent thorough assessment regarding potential amenity impacts. No concern is raised regarding its impact on the streetscape or the design's conformity with the surrounding locality. Consequently, the application is considered supportable in this instance.

- **DCP non-compliances**

The submissions raised concerns regarding the non-compliances with the following clauses of the Pittwater 21 Development Control Plan: Clause D4.5 Front building line, Clause D4.6 Side and rear building line, D4.8 Building envelope and D4.10 Landscaped Area - Environmentally

Sensitive Land

Comment:

Assessment against the above-mentioned clauses is undertaken elsewhere within this report. It is considered that the amended proposal is supportable in this instance.

• **Visual Privacy**

The submissions raised concerns regarding the privacy impact to the adjoining site at 9 Kananook Avenue, Bayview.

Comment:

The proposal has been assessed against the requirements of *Clause C1.5 Visual Privacy* and is found to be wholly compliant. The building layout is skillfully designed to ensure an acceptable level of privacy impact. Notably, there are no windows on the southern elevation of the first floor that directly face the adjoining site at 9 Kananook Avenue, Bayview. Additionally, the eastern-facing windows that could potentially impact the privacy of adjoining sites are located in transient spaces, such as the staircase, and include a fixed louvred window in the ensuite, which is adequately distanced from the neighboring property. The anticipated privacy impact is consistent with what is expected in a residential setting. Therefore, the proposal is considered acceptable and supportable in this instance.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<i>Supported, subject to Conditions</i> Council's Biodiversity Referrals team have assessed the Development Application for compliance against the following applicable biodiversity related provisions: • Pittwater LEP 2014 cl. 7.6 Biodiversity Protection • Pittwater 21 DCP Cl. B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community The Development Application seeks consent for Alterations and additions to a dwelling house. From review of the documentation submitted with the application no native prescribed trees or vegetation will be removed as a result of the proposed works. To ensure compliance with Pittwater DCP cl. B4.7 Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community). The landscape plan is to be amended to reflect this. No objections in relation to biodiversity, subject to conditions.
NECC (Development Engineering)	<i>Supported, subject to Conditions</i>

Internal Referral Body	Comments
	The subject site falls to the rear and as such stormwater disposal is to be in accordance with clause 5.5 of Council's Water Management for Development Policy. The applicant has provided evidence for the refusal of an easement and as such the only available method of stormwater disposal is via a level spreader. The submitted stormwater management plans have not designed the level spreader in accordance with Appendix 4 of Council's policy and as such the design is not supported. An amended design must be submitted for assessment and approval. The design must ensure the total discharge including bypass flows and controlled flows through the level spreader do not exceed the 20% AEP state of nature storm event. Stormwater flows from the whole site are to be restricted for all storm events up to and including the 1% AEP storm event. This system will require the provision of an on-site stormwater detention (OSD) system. The proposed driveway crossing is acceptable using Council's extra low profile. Development Engineering cannot support the proposal due to insufficient information to address stormwater management in accordance with clause B5 of the DCP. Amended plans submitted 15/03/24 The amended stormwater plan has addressed the issues raised in the previous assessment. The orifice plate size will need to be increased to ensure the detention tanks do not overflow in the 1% AEP storm event, which has been conditioned. The proposed system will ensure no concentration of stormwater flows on the downstream properties. Development Engineering support the proposal, subject to conditions as recommended.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	Supported, subject to Conditions 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. A500758_03 dated 30 July 2024).

Should the application be approved, a condition would be necessary 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.

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	8.3m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone C4 Environmental Living

Zone objectives

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

Comment:

The proposal is considered to adhere to the above-mentioned objective.

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

Comment:

The proposal is considered to adhere to the above-mentioned objective.

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

Comment:

The proposal is considered to adhere to the above-mentioned objective.

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

Comment:

The proposal is considered to adhere to the above-mentioned objective.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	4.9m (dwelling)	24.6%	No
Rear building line	6.5m	>6.5m	N/A	Yes
Side building line	2.5m (north)	1.1m	56%	No
	1m (south)	1.1m	N/A	Yes
Building envelope	3.5m (north)	Outside envelope (at a maximum height of 1.6m for a length of 10.3m)	45.7%	No
	3.5m (south)	Outside envelope (at a maximum height of 2.4m for a length of 7.4m)	68.6%	No
Landscaped area	60%	54% (324.4m ²)- 60% with the additional 6% variation.	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.4 Church Point and Bayview Locality	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	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	No	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C5.1 Landscaping	Yes	Yes
C5.18 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D4.1 Character as viewed from a public place	Yes	Yes
D4.2 Scenic protection - General	Yes	Yes
D4.3 Building colours and materials	Yes	Yes
D4.5 Front building line	No	Yes
D4.6 Side and rear building line	No	Yes
D4.8 Building envelope	No	No
D4.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D4.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

C1.3 View Sharing

Submissions were received regarding view loss impacts to the below four (4) properties:

- 9 Kananook Avenue, Bayview
- 11 Kananook Avenue, Bayview
- 13 Kananook Avenue, Bayview
- 15 Kananook Avenue, Bayview

The dwelling proposed under this DA will be referenced as 'proposed dwelling' or 'subject site' within this view loss assessment.

Council was advised that certified height poles were erected on 28 February 2024. The location of these poles are depicted on the figure below:

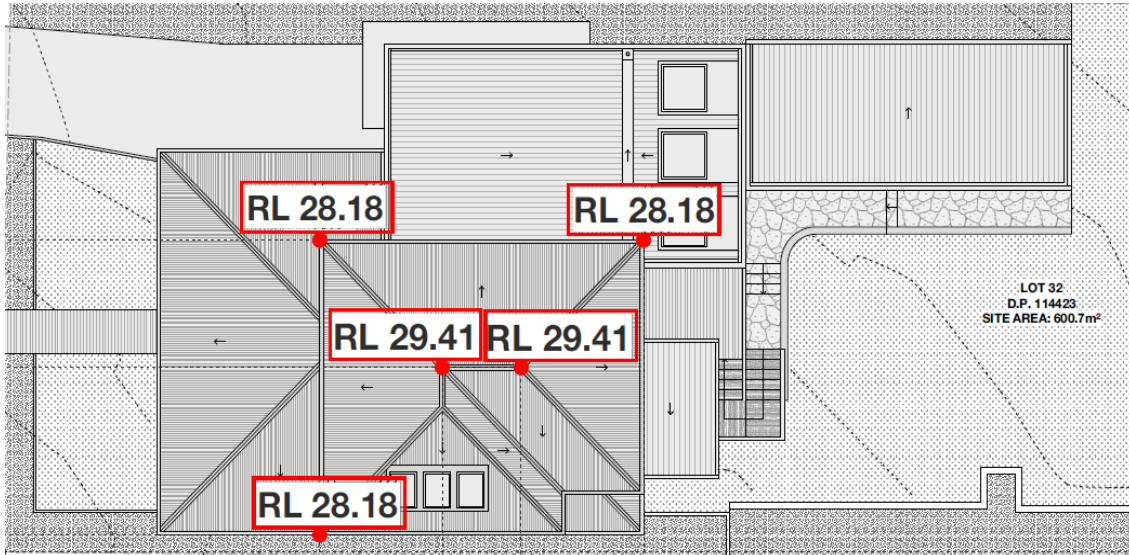


Figure 1: Height Pole locations (original proposal)(provided by the applicant)

A site inspection was conducted at 9 Kananook Avenue, Bayview, and the photos taken from the inspection included the erected height poles. It is important to note that the location of the height poles are not indicative of the proposed dwelling as the alterations to the plans have resulted in a first floor addition that is nearer the front of the site.

It should also be noted that correspondence was sent to the owners of 11 Kananook Avenue, Bayview, 13 Kananook Avenue, Bayview, and 15 Kananook Avenue, Bayview, offering them the opportunity to provide additional commentary to support their submissions following the original installation of height poles. While no further formal submissions were received, responses were received to the invitation to provide comment on the installation of the height poles. The owner of 11 Kananook Avenue, Bayview, sent a supporting email, detailing their concerns about view loss. This included a figure (Figure 13) illustrating vegetation on the subject site obstructing views to the north-east over the subject site. Furthermore, although a site visit to 11 Kananook Avenue, Bayview, wasn't undertaken, the extent of view loss from 11 Kananook Avenue was identifiable from adjoining site inspections.

Following the receipt of amended plans, two (2) further submission were received in relation to view loss.

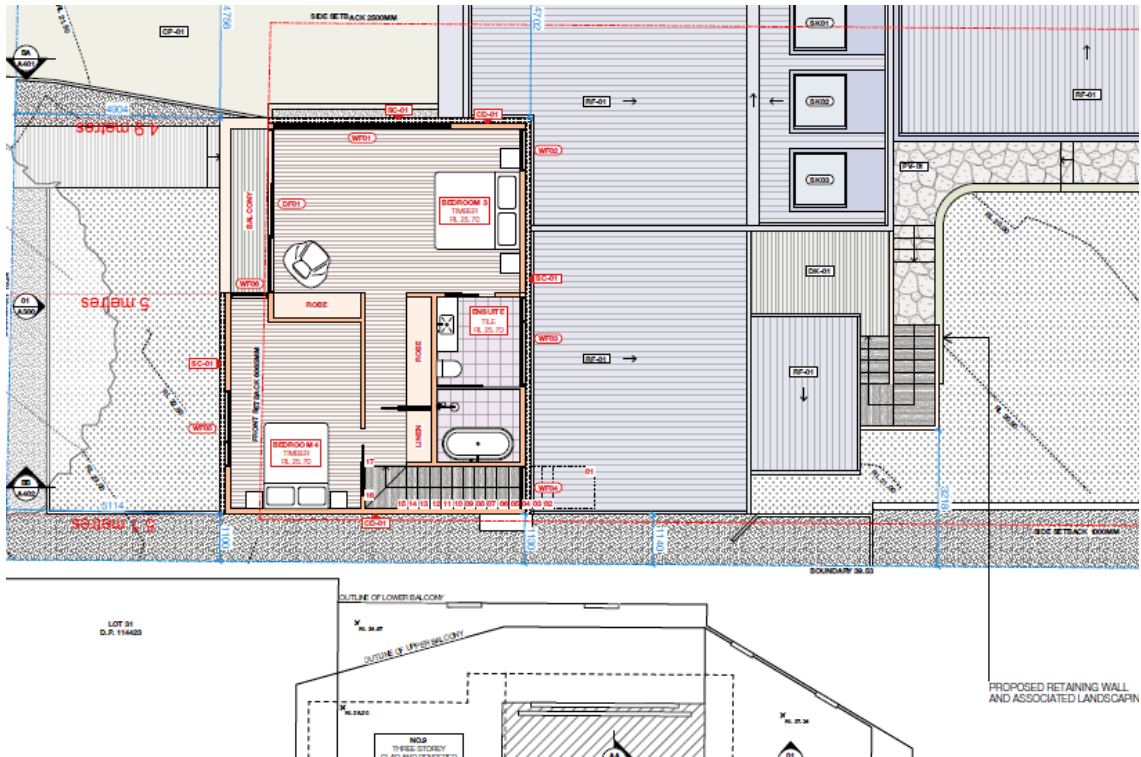


Figure 2: Amended first floor location

The applicant has submitted additional supporting imagery that visually represents the view loss from a seated position in the living area under both the original and amended proposals. These images are detailed below:

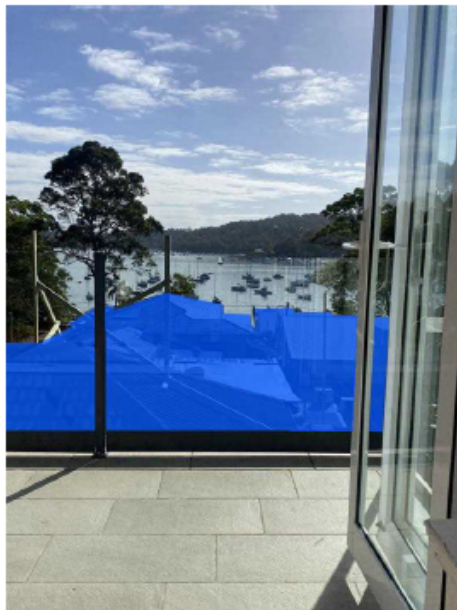


Figure 3: Existing dwelling (Seated view from Living Area)

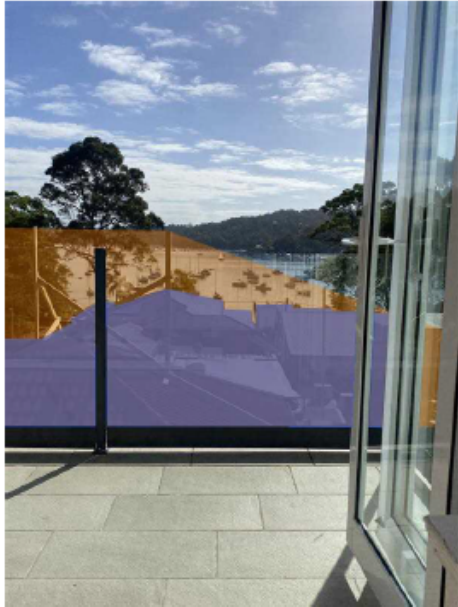


Figure 4:Original proposal (Seated view from Living Area)(depicted in orange)



Figure 5: Amended proposal (Seated view from Living Area)(depicted in orange)

Figure 6 is derived from the stamped plans associated with DA2022/1586, the most recent approval for the site at 9 Kananook Avenue, Bayview.

*Note: During Councils site visit, the area labeled as the dining area in the plan was being used as the living area, with couches and a television present. The dining area was situated in the space labeled as the living area on the plans.

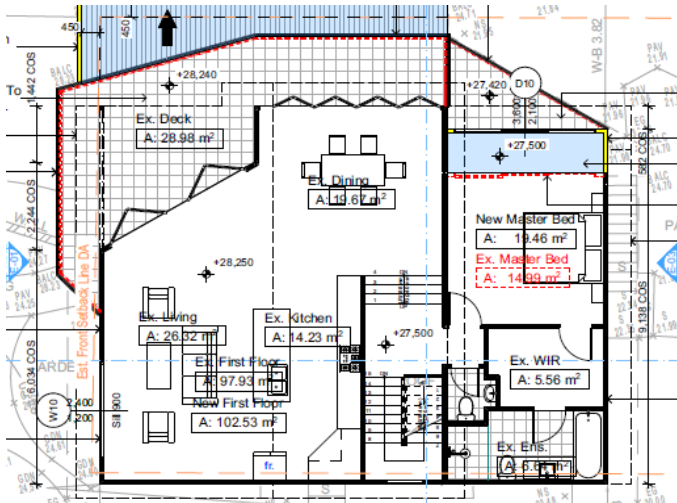


Figure 6: Depiction of the top floor at 9 Kananook Avenue, as shown in the stamped plans for DA2022/1586

Merit consideration

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

- A reasonable sharing of views amongst dwellings.

Comment:

It is considered that the amended proposal achieves a reasonable sharing of views, as detailed below.

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:

The nature of the views affected will be discussed below for each property:

9 Kananook Avenue, Bayview: The views of concern obtained by this site are achieved towards the north-east over the subject site. The views consist of water views toward Old Mangrove Bay, including the land/water interface. The majority of the views obtained by this property are currently unobstructed by vegetation/infrastructure.

11 Kananook Avenue, Bayview: The views of concern obtained by this site are achieved towards the north-east over the subject site. The views consist of water views toward Old

Mangrove Bay, including the land/water interface. The majority of the views obtained by this property are currently obstructed by vegetation.

13 Kananook Avenue, Bayview: The views of concern obtained by this site are achieved towards the north-east over the subject site. The views consist of water views toward Old Mangrove Bay, including the land/water interface. The majority of the views obtained by this property are currently unobstructed by vegetation/infrastructure. It's important to clarify that the addition will not compromise any views on this site. Nonetheless, since a submission regarding concerns about view loss has been received from this site, its assessment remains pertinent.

15 Kananook Avenue, Bayview: The views of concern obtained by this site are achieved towards the north-east over the subject site. The views consist of water views toward Old Mangrove Bay, including the land/water interface. The majority of the views obtained by this property are currently unobstructed by vegetation/infrastructure. It's important to clarify that the addition will not compromise any views on this site. Nonetheless, since a submission regarding concerns about view loss has been received from this site, its assessment remains pertinent.

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

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

Comment to Principle 2:

The location of the obtained views will be discussed below for each property:

9 Kananook Avenue, Bayview: The views mentioned above are obtained from the first-floor, from the north-east facing deck, the dining room, living room, kitchen and master bedroom. There is also a portion of views obtained from the south-eastern end of the ground-floor balcony. The majority of the views are obtained from both a standing and sitting perspective.

11 Kananook Avenue, Bayview: The views mentioned above are obtained from areas on the first-floor along the north-eastern elevation. In this case, there is vegetation on the subject site obstructing views to the north-east over the subject site.

13 Kananook Avenue, Bayview: This proposal does not generate loss of views from the site directly due to the proposed changes. Therefore, no additional assessment is deemed necessary.

15 Kananook Avenue, Bayview: This proposal does not generate any loss of views from the site directly due to the proposed changes. Therefore, no additional assessment is deemed necessary.

3. Extent of impact

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

view loss qualitatively as negligible, minor, moderate, severe or devastating".

Comment to Principle 3:

The extent of impact will be discussed below for each property:

9 Kananook Avenue, Bayview: The majority of views towards the north-east, observed from both seated and standing positions from the top-floor, will experience some form of obstruction, particularly from the north-western side of the first-floor of the dwelling and adjoining deck. It is noted that the amended plans significantly reduces the view loss over the side boundary of the subject site, particularly from the region of the dwelling that is considered the primary living space being the kitchen and living area. This is evidenced by the images provided below and above. Furthermore, remaining water views from the ground-floor balcony will be predominantly maintained pursuant to the relocation of the first floor. It is noted that any views lost from a ground floor level is an expected occurrence in residential settings whereby views extend over the side boundary. Considering the loss of views, particularly from the dining and deck areas, the extent of impact is moderate.



Figure 7: View from Kitchen (standing position)



Figure 8: View from Living Area (seated position)



Figure 9: View from Living Area (seated position)



Figure 10: View from Master Bedroom (standing position)



Figure 11: View from Balcony (first-floor)(standing position)



Figure 12: View from Balcony (ground-floor)(standing position)

11 Kananook Avenue, Bayview: The views toward the north-east over the subject site are almost wholly obstructed by the vegetation on the subject site. Nevertheless, pursuant to the relocation of the first floor, without this obstruction, there would be no loss of views due to the addition. Consequently, the extent of impact is negligible, and no further assessment is warranted.



Figure 13: View from 11 Kananook Avenue, Bayview

13 Kananook Avenue, Bayview: This proposal will not result in any loss of views from the site caused by the proposed changes. Consequently, the extent of impact is negligible, and no further assessment is warranted.

15 Kananook Avenue, Bayview: This proposal will not result in any loss of views from the site caused by the proposed changes. Consequently, the extent of impact is negligible, and no further assessment is warranted.

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 proposed dwelling does not comply with the building envelope control, side setback control, front setback control and landscaped area control of the P21DCP. The dwelling does comply with the building height standard of the PLEP 2014. The non-compliances to the boundary envelope control, front setback control and the side setback control does not result in any unreasonable loss of significant views. The proposed location of the first floor is considered to maintain the majority of significant views over the side boundary achieved from the areas of the adjoining dwelling that are considered as the most significant. The proposal was found to be acceptable in this instance, consistent with the objectives of the controls and subsequently supported.

The question of a more 'skillful design' which provides the residents of the subject site with a similar development potential and amenity, whilst also retaining or reducing the extent of view

loss impact to the current view corridors, was identified within a 'Request for Further Information Letter' dated 29 January 2024, and then later discussed during meetings on 13 February 2024 and 11 June 2024.

The amendments that have been made to the development are considered to adequately promote view sharing, and the proposal is supported in this instance. It is considered that the proposal achieves a 'skillful' and 'sensitive' design that achieves compliance with the planning principle established in *Tenacity v Warringah Council*.

- *Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.*

Comment:

The proposal is considered to adhere to the above-mentioned objective.

- *Canopy trees take priority over views.*

Comment:

The proposal is considered to adhere to the above-mentioned objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP 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.

D4.5 Front building line

Detailed description of non-compliance

Clause D4.5 Front Building Line (Pittwater 21 Development Control Plan) requires that built structures are setback a minimum 6.5m from the front boundary or the established building line, whichever is greater. Permissible built structures within the front setback include driveways, fences and retaining walls.

The development proposes the dwelling and adjoining landscaping works within the front setback area

The proposal presents a 4.9m front setback causing a 24.6% variation. It is noted that the built form of the development has been pushed towards the front property boundary to assist with and overcome view loss impacts.

The proposed works within the front setback area is considered to be supportable as the outcomes of the control have been met as outlined below.

Merit consideration

With regard to the consideration of a variation, the proposed development is considered against the underlying outcomes of the control as follows:

- *Achieve the desired future character of the Locality.*

Comment:

The proposed works within the setback area will not have an adverse impact on the

streetscape streetscape character. The proposal aligns with the desired future character statement of the Church Point and Bayview Locality.

- *Equitable preservation of views and vistas to and/or from public/private places. (S)*

Comment:

The works within the front setback will not result in any unreasonable view loss impacts from surrounding/adjacent properties or from the public domain.

- *The amenity of residential development adjoining a main road is maintained. (S)*

Comment:

The site does not adjoin a main road, therefore no further assessment is required.

- *Vegetation is retained and enhanced to visually reduce the built form. (En)*

Comment:

The proposal includes the retention of sufficient landscaped area for the introduction of further vegetation.

- *Vehicle manoeuvring in a forward direction is facilitated. (S)*

Comment:

Site conditions are not conducive to vehicle maneuvering to enter and exit the site in a forward direction. This is consistent with adjoining and surrounding sites. The site is along a quiet street with adequate street parking. Therefore, no further assessment is required.

- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*

Comment:

The proposed works are not considered to detract from the streetscape. The scale and density of the developments are considered adequate, with the works in the front setback being minor in impact.

- *To encourage attractive street frontages and improve pedestrian amenity.*

Comment:

The proposed design responds adequately to the site topography. The proposed development includes a pedestrian access path toward the front of the dwelling.

- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

Comment:

The proposed development aligns with the existing and desired scenic character of the area.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP 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.

D4.6 Side and rear building line

Detailed description of non-compliance

Clause D4.6 Side and Rear Building Line (Pittwater 21 Development Control Plan) requires that built structures are setback a minimum 6.5m from the rear boundary, 2.5m from one side boundary and 1m from the other side boundary.

The proposal details works within the northern side setback area.
The proposal details a 1.1m setback causing a 56% variation.

The massing within the side setback has been positioned to assist with and overcome view loss issues.

The proposed works within the side setback area is considered to meet the objectives of this clause. Assessment is conducted below:

Merit consideration

With regard to the consideration of a variation, the proposed development is considered against the underlying outcomes of the control as follows:

- *To achieve the desired future character of the Locality. (S)*

Comment:

The impact of the proposed development on the streetscape is considered reasonable in this instance. The development is considered to align with the desired future character statement of the Church Point and Bayview Locality.

- *The bulk and scale of the built form is minimised. (En, S)*

Comment:

The siting of the proposed works provides sufficient space/screening to and from surrounding and adjacent properties. The proposed bulk and scale of the dwelling aligns with surrounding dwellings and is not considered unreasonable.

- *Equitable preservation of views and vistas to and/or from public/private places. (S)*

Comment:

The proposed works within the northern side setback is not considered to impact view sharing and will not interrupt any significant view corridors.

- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

Comment:

The proposed works within the side setback is not considered to impact view sharing

- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*

Comment:

The proposed developments do not introduce excessive opportunity for overlooking, with the

bulk and height of the development considered reasonable. Amenity and solar access is not expected to be negatively affected by the development.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*

Comment:

Mature canopy trees and vegetation are to proposed to remain on site. The proposed developments are not considered to negatively impact views from the streetscape.

- *Vegetation is retained and enhanced to visually reduce the built form. (En)*

Comment:

All mature vegetation is proposed to be retained.

- *To ensure a landscaped buffer between commercial and residential zones is established.*

Comment:

The site does not adjoin a commercial zone. Therefore no further assessment is required.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP 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.

D4.8 Building envelope

Detailed description of non-compliance

Clause D4.8 Building Envelope requires that built structures are sited within an envelope, measured at the side elevations of the dwelling by projecting planes at 45 degrees from a 3.5 metre height.

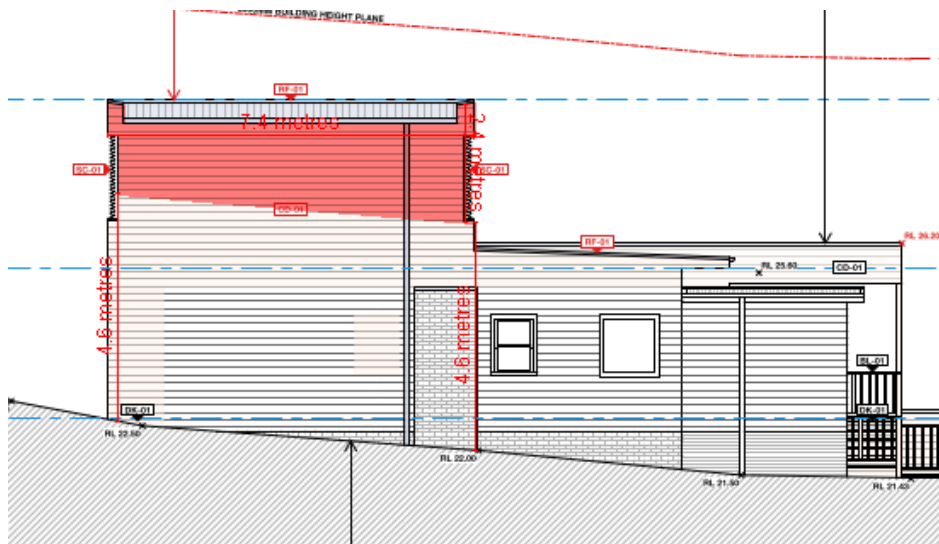


Figure 14: Building envelope non-compliance along the southern elevation

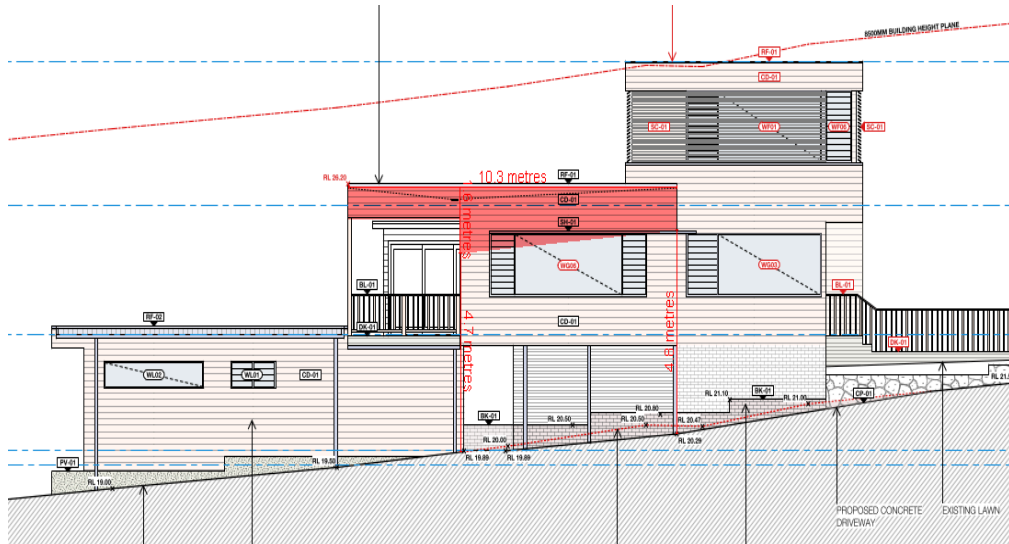


Figure 15: Building envelope non-compliance along the northern elevation

The proposed addition to the dwelling will form an encroachment on the northern elevation for a length of 10.3m at a maximum height of 1.6m.

The proposed addition to the dwelling will form an encroachment on the southern elevation for a length of 7.4m at a maximum height of 2.4m.

The proposed envelope non-compliance is considered supportable and will not adversely affect the amenity of adjoining or surrounding sites, or unreasonably detract from the streetscape. The extent of breach in building envelope is primarily attributed to amendments that were required to be made because of view sharing concerns.

In this instance the variation to *D4.8 Building envelope* is considered to be supportable as the outcomes of the control have been met as outlined below.

Merit consideration

With regard to the consideration of a variation, the proposed development is considered against the underlying outcomes of the control as follows:

- *To achieve the desired future character of the Locality. (S)*

Comment:

The proposal is considered to align with the desired future character of the Church Point and Bayview locality

- *To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*

Comment:

The proposal is similar in terms of bulk and scale to adjacent and surrounding dwellings.

- *To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*

Comment:

The proposed development is considered to respond to, reinforce and sensitively relate to spatial characteristics of the existing natural environment.

- *The bulk and scale of the built form is minimised. (En, S)*

Comment:

The siting of the proposed works provides sufficient space/screening to and from surrounding and adjacent properties. The proposed bulk and scale of the dwelling aligns with surrounding dwellings and is not considered unreasonable.

- *Equitable preservation of views and vistas to and/or from public/private places. (S)*

Comment:

The proposed works is not considered to unreasonably impact view sharing and will not interrupt any significant view corridors.

- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*

Comment:

The proposed development does not introduce excessive opportunity for overlooking, with the bulk and height of the development considered reasonable. Amenity and solar access is not expected to be negatively affected by the development.

- *Vegetation is retained and enhanced to visually reduce the built form. (En)*

Comment:

All mature vegetation is proposed to be retained.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP 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.

D4.10 Landscaped Area - Environmentally Sensitive Land

Detailed description of non-compliance

Clause D4.10 Landscaped Area- Environmentally Sensitive Land (Pittwater 21 Development Control Plan) requires that the total soft landscaped area shall total 60% of the site area.

The proposal presents a 54% (324.4m²) total landscaped area calculation, causing a 10% variation.

A variation to this control permits a revised calculation of the landscaped area, including impervious areas utilised for outdoor recreational purposes, comprising up to 6% of the total site area. This considered, the proposed Landscaped Area meets the 60% requirement and therefore is considered supportable in this instance, as the proposed development is able to provide 60% landscaped area. Assessment against the objectives of the clause is detailed below.

Merit consideration

With regard to the consideration of a variation, the proposed development is considered against the underlying outcomes of the control as follows:

- *Achieve the desired future character of the Locality. (S)*

Comment:

The proposal aligns with the desired future character statement of the Church Point and Bayview Locality.

- *The bulk and scale of the built form is minimised. (En, S)*

Comment:

The bulk and scale of the built form is considered reasonable in this instance..

- *A reasonable level of amenity and solar access is provided and maintained. (En, S)*

Comment:

A reasonable level of amenity and solar access is provided and maintained to the dwelling and surrounding dwellings.

- *Vegetation is retained and enhanced to visually reduce the built form. (En)*

Comment:

The proposal will preserve all mature vegetation.

- *Conservation of natural vegetation and biodiversity. (En)*

Comment:

The proposal is considered to promote the conservation of natural vegetation and biodiversity.

- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)*

Comment:

The proposal will maintain adequate permeable surfaces to assist with stormwater runoff.

- *To preserve and enhance the rural and bushland character of the area. (En, S)*

Comment:

The development is not considered to adversely impact the rural and 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. (En, S)*

Comment:

The proposal will maintain adequate permeable surfaces to assist in the infiltration of water to the water table, minimise runoff 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 PLEP 2014 / P21DCP 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

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

A monetary contribution of \$6,997 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$699,710.

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

PLANNING CONCLUSION

This proposal, for alterations and additions to a dwelling house has been referred to the Development Determination Panel (DDP) due to the proposal resulting in greater than five (5) objections.

It is considered that the concerns raised in the objections have been adequately addressed via an amended proposal.

The critical assessment issues include variations to *Clause D4.6 Side and rear building line* and *Clause C1.3 View Sharing*. These proposed variations will result in acceptable impacts on the environment and amenity of adjoining sites, ultimately leading to the development's ability to meet the objectives of the above clauses.

Overall, the development will result in reasonable impacts to adjoining and nearby properties, and 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 Development Consent to DA2023/1666 for Alterations and additions to a dwelling house on land at Lot 32 DP 11423, 7 Kananook Avenue, 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
A100	O	Demolition Plan - Lower Ground Level	Baikie Corr	30 July 2024
A101	O	Demolition Plan - Ground Level	Baikie Corr	30 July 2024
A102	O	Demolition Plan - Roof Level	Baikie Corr	30 July 2024
A103	O	Demolition Elevation - West	Baikie Corr	30 July 2024

A104	O	Demolition Elevation - East	Baikie Corr	30 July 2024
A105	O	Demolition Elevation - North	Baikie Corr	30 July 2024
A106	O	Demolition Elevation - South	Baikie Corr	30 July 2024
A200	O	Proposed Plan - Lower Ground Level	Baikie Corr	30 July 2024
A201	O	Proposed Plan - Ground Level	Baikie Corr	30 July 2024
A202	O	Proposed Plan - First Level	Baikie Corr	30 July 2024
A203	O	Proposed Plan - Roof Level	Baikie Corr	30 July 2024
A206	O	Proposed Plan - Landscape	Baikie Corr	30 July 2024
A300	O	Proposed Elevation - West	Baikie Corr	30 July 2024
A301	O	Proposed Elevation - East	Baikie Corr	30 July 2024
A302	O	Proposed Elevation - North	Baikie Corr	30 July 2024
A303	O	Proposed Elevation - South	Baikie Corr	30 July 2024
A400	O	Proposed Section - AA	Baikie Corr	30 July 2024
A401	O	Proposed Section - BA	Baikie Corr	30 July 2024
A402	O	Proposed Section - BB	Baikie Corr	30 July 2024
A500	O	Proposed Schedule - Materials and Finishes	Baikie Corr	30 July 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Waste Management Plan	-	-	-
BASIX Certificate	A500758_03	BAIKIE CORR PTY LTD	30 July 2024

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

In the event of any inconsistency between 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	undated

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website 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. **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.

4. General Requirements

- (a) Unless authorised by Council:
 - Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.
 - Demolition and excavation works are restricted to:
 - 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).
- (b) 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.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (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

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$6,997.10 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 \$699,710.00.

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.

6. 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).

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. 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.

8. On-Site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by H&M Consultancy, drawing number 2223-037 Sheets 1 to 5 Revision 3, dated 14/03/24. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

1. The orifice plate is to be increased in size to 50mm and include an inspection outlet.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

9. **Vehicle Crossings Application**

The Applicant is to submit an application with Council for driveway levels to construct one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Standard Drawing Extra Low Profile in accordance with Section 138 of the Roads Act 1993.

Note, driveways are to be in plain concrete only.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

A Council approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

10. **Off Street Parking Design**

The Applicant shall submit a design by a suitably qualified Civil Engineer 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 Sections 2.4 Design of Parking Modules and 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. **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.

12. **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.

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. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

15. **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 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.

16. **Structural adequacy (alterations and additions)**

Prior to the issue of a Construction Certificate, the Certifier shall be satisfied that those components of the building to be retained and/or altered will be structurally sound and able to withstand the excavation and demolition process.

Evidence from a qualified practising structural engineer, demonstrating compliance with the above and detailing, where relevant, means of support for those parts of the retained building

shall be provided to the Certifier and the Principal Certifier.

Reason: To ensure that the development can be undertaken in accordance with accepted construction practices as indicated on the endorsed development plans, without the need for modification of the Development Consent.

DURING BUILDING WORK

17. **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.

18. **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.

19. **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.

20. **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.

21. **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.

22. **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.

23. **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

24. **Native Landscaping**

Any new landscaping is to incorporate a minimum 80% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with species listed in Pittwater Spotted Gum Forest Endangered Ecological Community.

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

Reason: To ensure compliance with the requirement to retain and protect native planting on the site.

25. **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.

26. **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.

27. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the original 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), and Civil Engineers' certification.

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 disposal structures 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 lodgment with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party 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 is to be submitted.

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

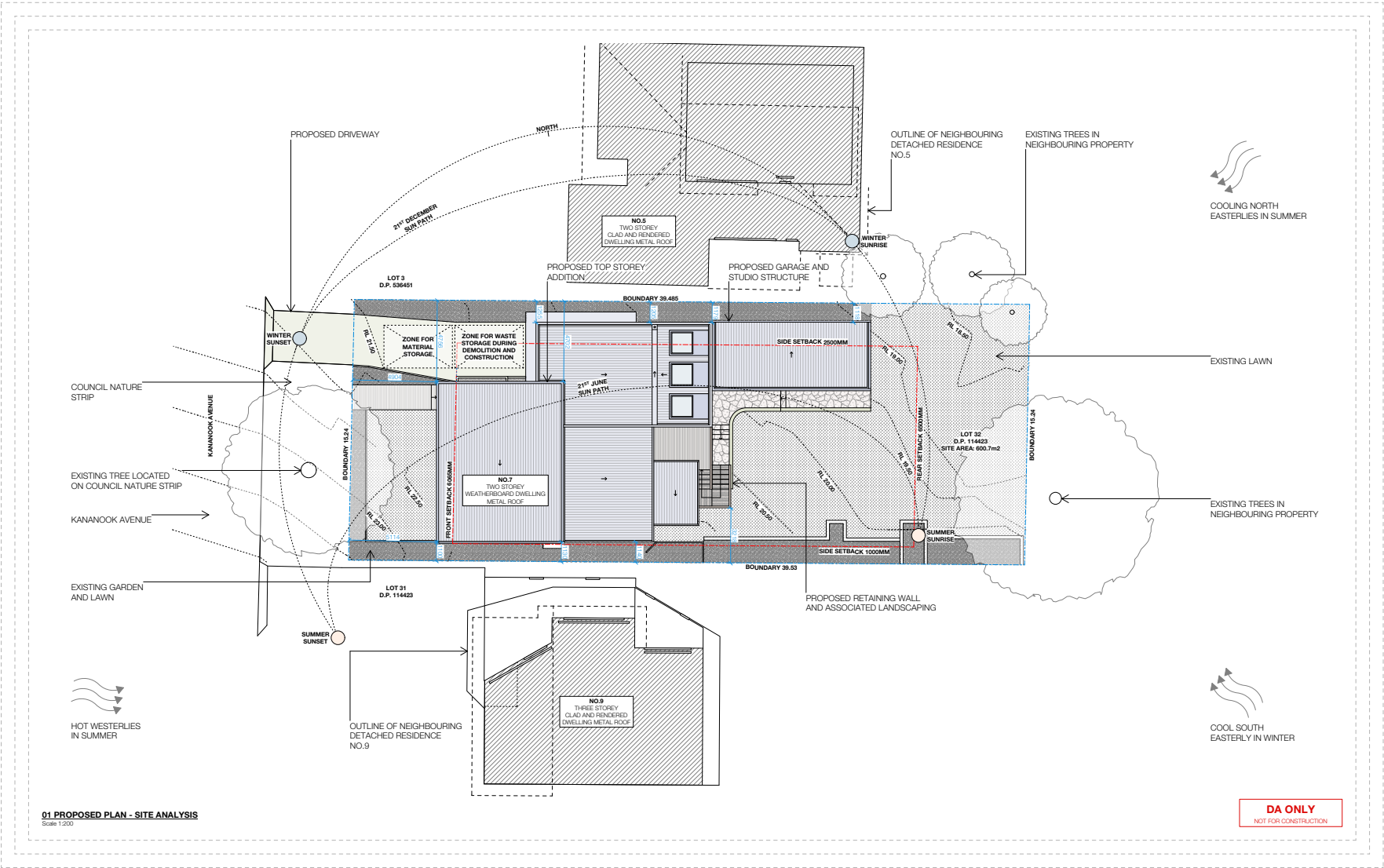
Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

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

The Applicant shall submit a certificate from a suitably qualified Civil Engineer 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 Design of Parking Modules 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.



**BAIKIE
CORR**

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Baikie Corr Pty Ltd
ABN 59 620 201 112
24 Kers Road
Frenchs Forest 2086

Nominated Architect
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Project Contact
Jeffrey Baikie
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0468 716 897

Legend
AFFL Above finished floor level
CL Centreline
EQ Equal
FCL Finished ceiling level
FFL Finished floor level
RL Relative level
VOS Verify on site

Notes
This drawing should be read in conjunction with all relevant contracts, specifications, reports and drawings. Do not scale drawings. Dimensions govern. The contractor shall verify all dimensions and levels on site before construction. It is the builder's responsibility to ensure that all building elements comply with the current Australian Standards and the Building Code of Australia (NCC). This drawing is subject to copyright and is not to be used or reproduced without the consent of Baikie Corr.

Rev	Date	Description
I	16.02.24	Height Poles
J	19.02.24	Height Poles
K	28.05.24	View Analysis
L	05.06.24	View Analysis
M	03.07.24	Amended Design
N	25.07.24	Amended Design
O	30.07.24	Amended Design

Project Address
7 Kananook Avenue,
Bayview NSW 2104
Client
Kylie Crellin
Greg Kaye
Project Number
2012

Sheet Title
Proposed Plan - Site Analysis
Sheet Number
A204

North
North
North

Drawn
JB
Checked
LC

Sheet Size
A3
Sheet Scale
1:200

Stage
DA
Issue
O

Area Calculations

Site Area: 600.7m²

Landscape Area (Existing)

Minimum Landscape Area: 360.4m² (60.0%)

Existing Landscape Area (Yellow): 340.1m² (56.6%)

Existing Variation (Blue): 36.0m² (6.0%)

Total Existing Landscape Area (Yellow + Blue): 376.1m² (62.6%)

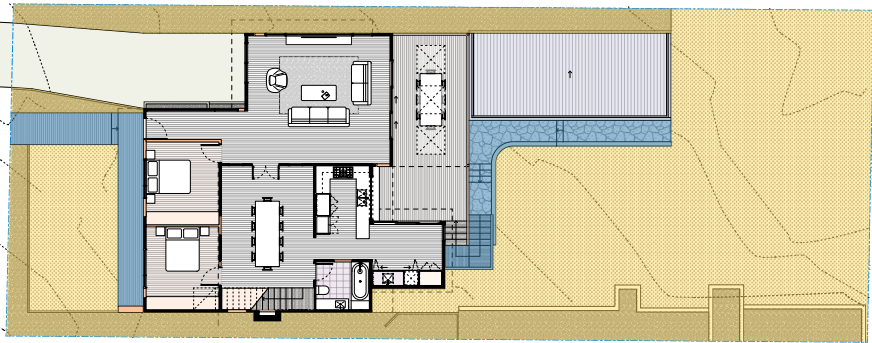
Landscape Area (Proposed)

Minimum Landscape Area: 360.4m² (60.0%)

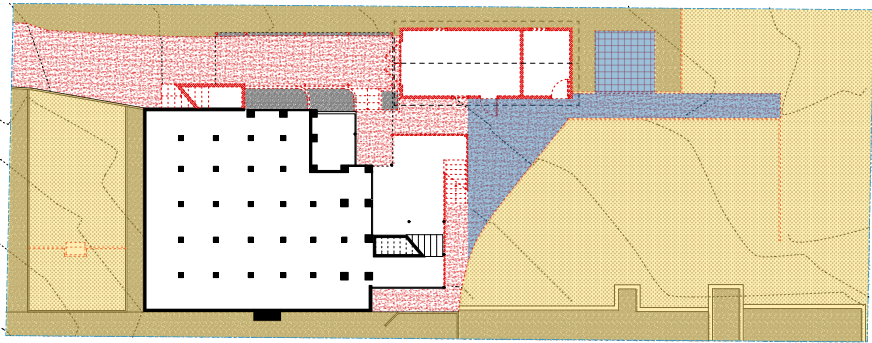
Proposed Landscape Area (Yellow): 324.4m² (54.0%)

Proposed Variation (Blue): 36.0m² (6.0%)

Total Proposed Landscape Area (Yellow + Blue): 360.4m² (60%)



02 CALCULATION - PROPOSED LANDSCAPE
Scale 1:200



01 CALCULATION - EXISTING LANDSCAPE
Scale 1:200

DA ONLY
NOT FOR CONSTRUCTION

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Project Address
7 Kanahook Avenue,
Bayview NSW 2104

Client
Kylie Crellin
Greg Kaye

Project Number
2012

Sheet Title
Proposed Plan -
Site Calculations

Sheet Number
A205

North



Drawn
JB

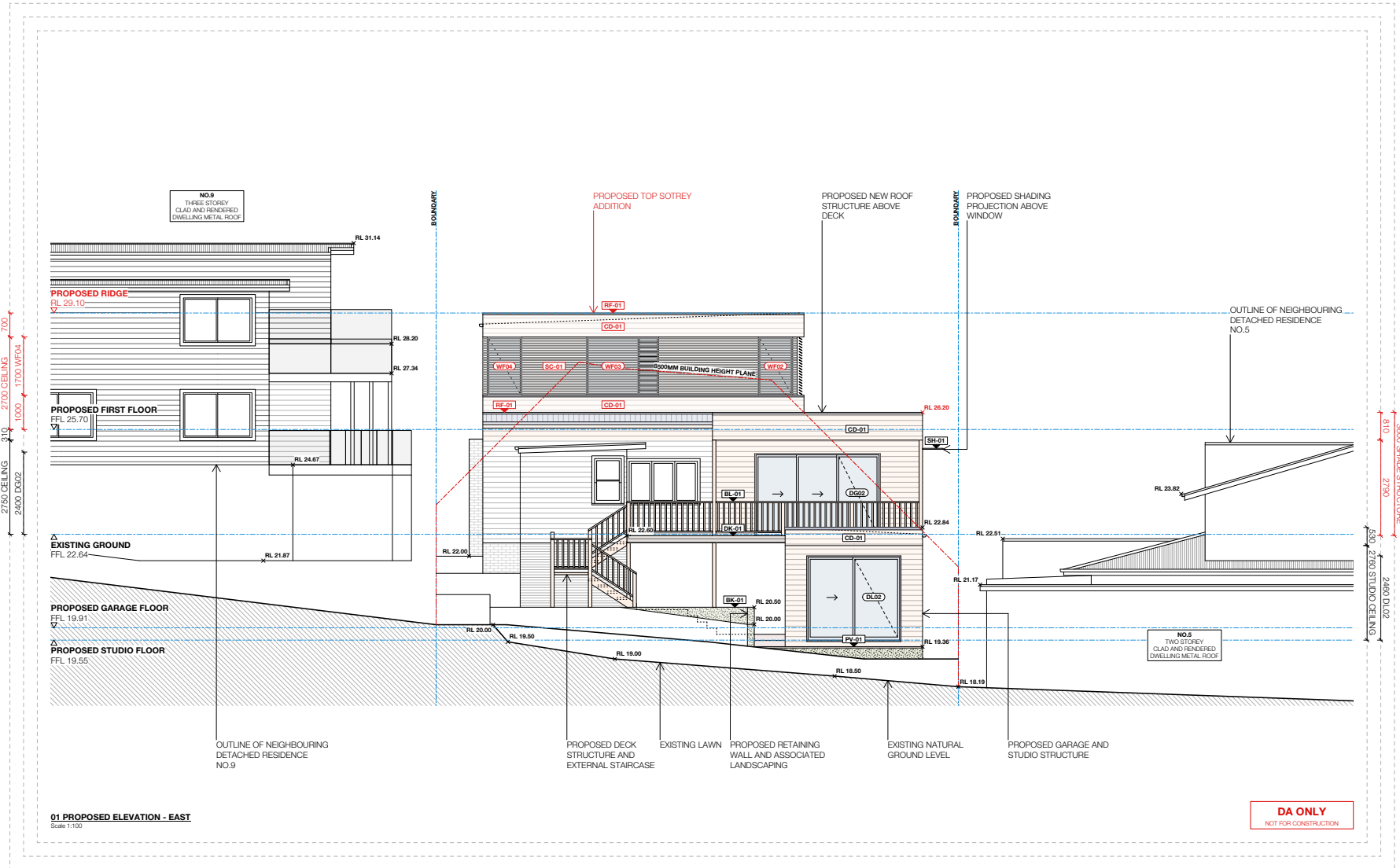
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LC

Sheet Size
A3

Sheet Scale
1:200

Stage
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Project Address
7 Karahook Avenue,
Bayview NSW 2104

Client
Kylie Crellin
Greg Kaye

Project Number
2012

Sheet Title
Proposed Elevation - East

Sheet Number
A301

North

Drawn
JB

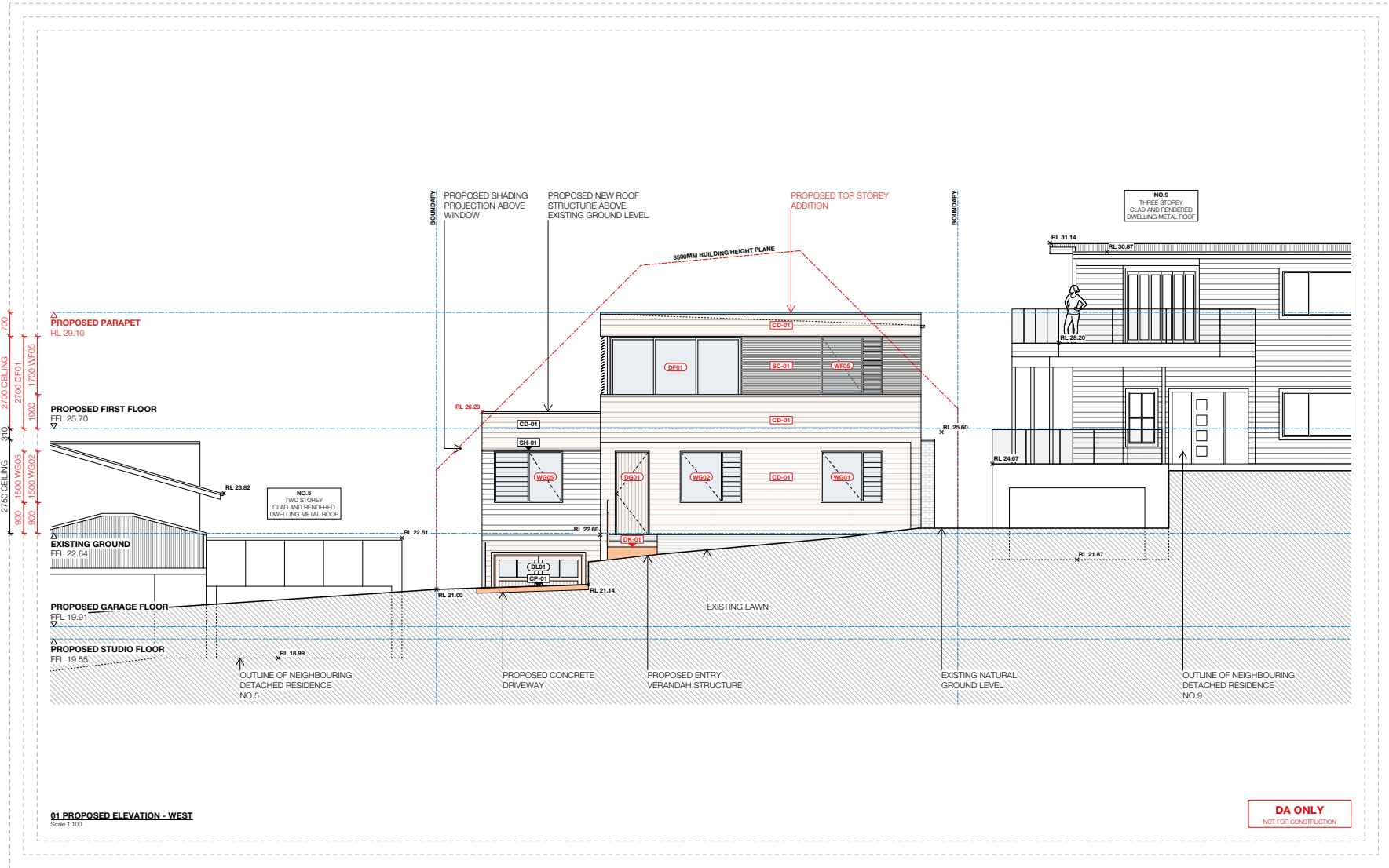
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LC

Sheet Size
A3

Sheet Scale
1:100

Stage
DA

Issue
O



**BAIKIE
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Project Address
7 Karanook Avenue,
Bayview NSW 2104

Client
Kylie Crellin
Greg Kaye

Project Number
2012

Sheet Title
Proposed Elevation - West

Sheet Number
A300

North

Drawn
JB

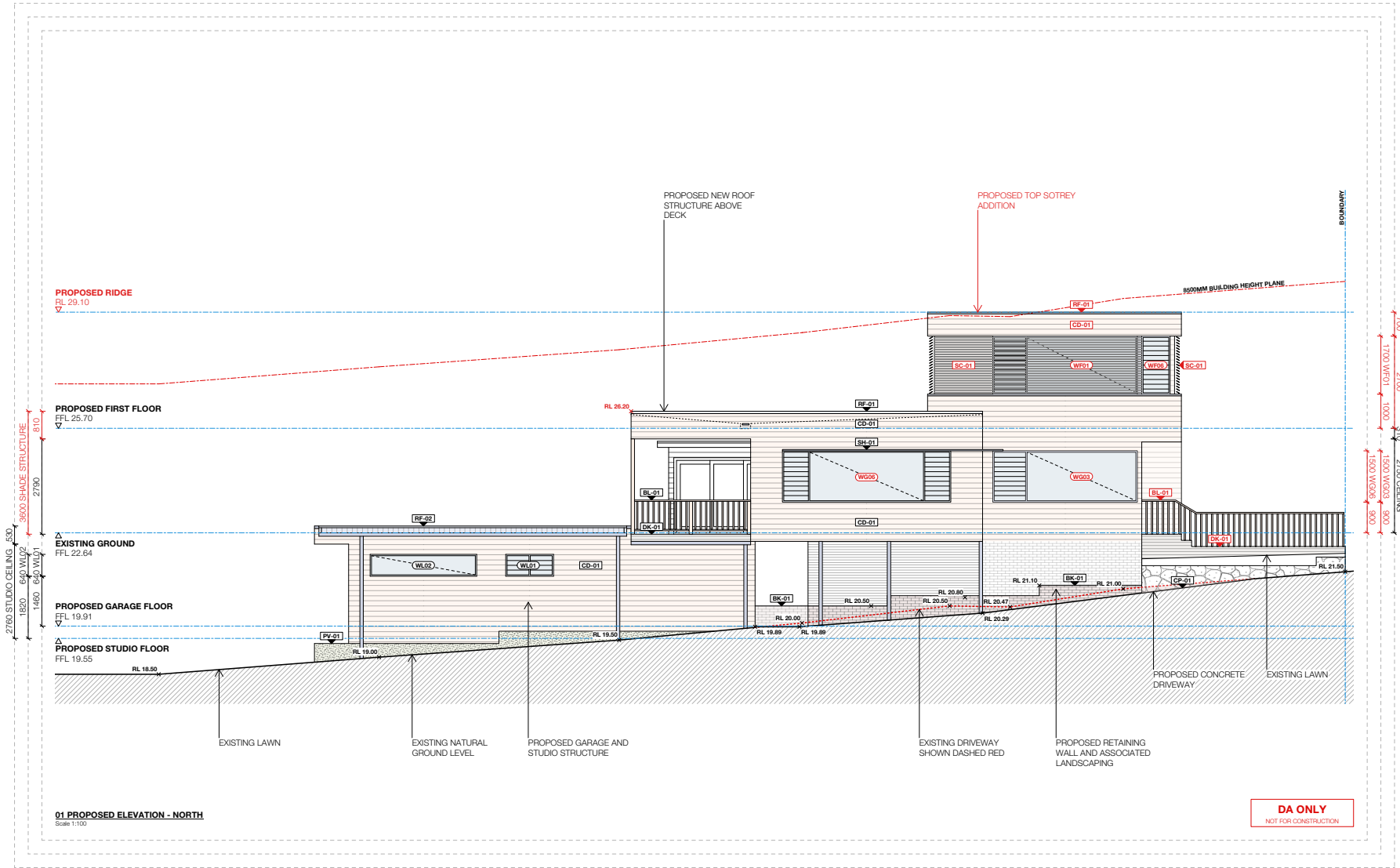
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Sheet Size
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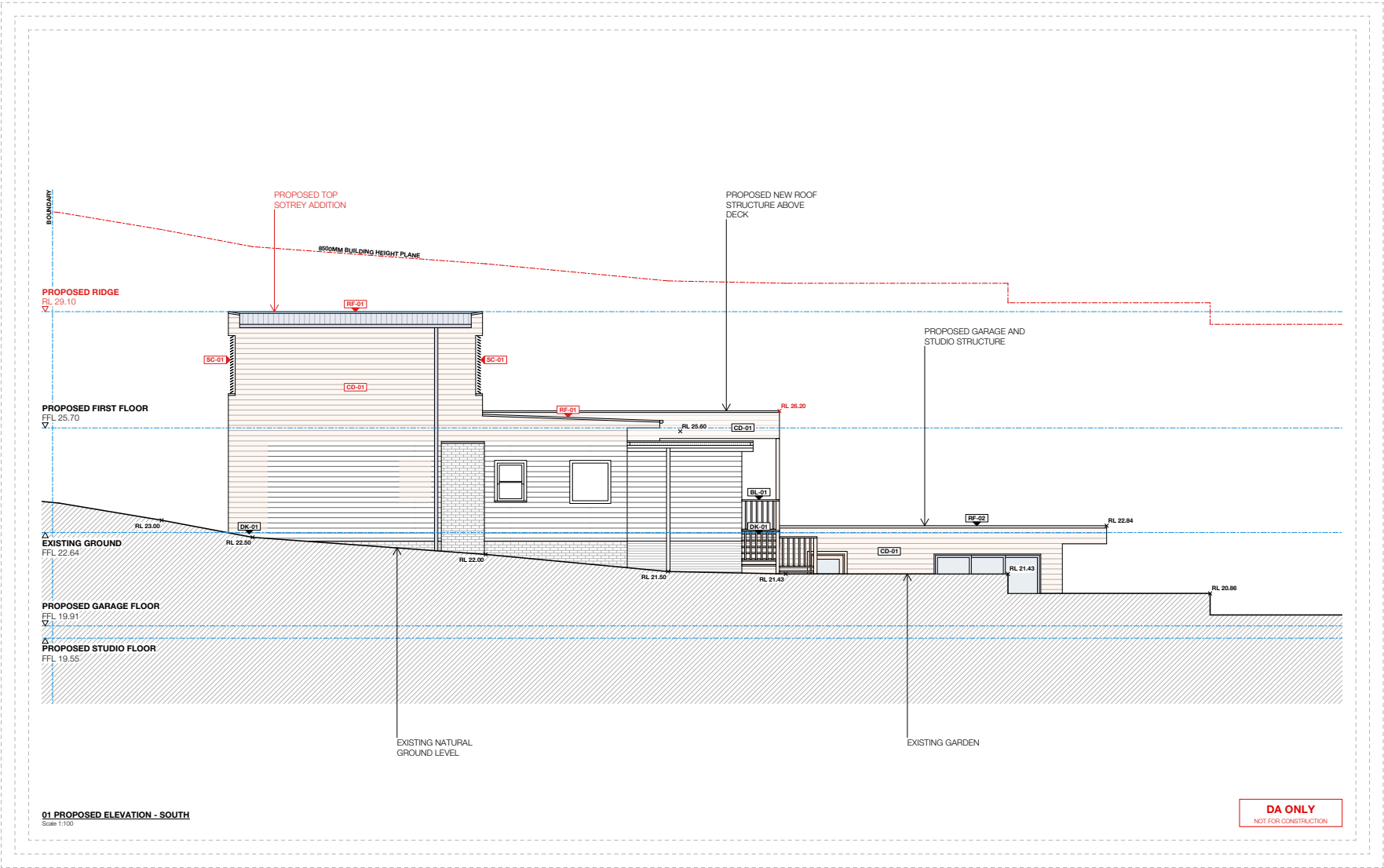
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Stage
DA

Issue
O



BAIKIE CORR	Studio Baikie Corr Pty Ltd ABN 59 620 201 112 24 Kens Road Frenchs Forest 2086	Nominated Architect Liam Corr NSW ARB 10811 liam@baikiecorr.com 0433 725 299	Project Contact Jeffrey Baikie jeffrey@baikiecorr.com 0468 716 897	Legend AFFL Above finished floor level CL Centreline EQ Equal FCL Finished ceiling level FFL Finished floor level RL Relative level VOS Verify on site	Notes This drawing should be read in conjunction with all relevant contracts, specifications, reports and drawings. Do not scale drawings. Dimensions govern. The contractor shall verify all dimensions and levels on site before construction. It is the builder's responsibility to ensure that all building elements comply with the current Australian Standards and the Building Code of Australia (NCC). This drawing is subject to copyright and is not to be used or reproduced without the consent of Baikie Corr.	<table><tr><th>Rev</th><th>Date</th><th>Description</th></tr><tr><td>I</td><td>16.02.24</td><td>Height Poles</td></tr><tr><td>J</td><td>19.02.24</td><td>Height Poles</td></tr><tr><td>K</td><td>28.05.24</td><td>View Analysis</td></tr><tr><td>L</td><td>05.06.24</td><td>View Analysis</td></tr><tr><td>M</td><td>03.07.24</td><td>Amended Design</td></tr><tr><td>N</td><td>25.07.24</td><td>Amended Design</td></tr><tr><td>O</td><td>30.07.24</td><td>Amended Design</td></tr></table>	Rev	Date	Description	I	16.02.24	Height Poles	J	19.02.24	Height Poles	K	28.05.24	View Analysis	L	05.06.24	View Analysis	M	03.07.24	Amended Design	N	25.07.24	Amended Design	O	30.07.24	Amended Design	Project Address 7 Karahook Avenue, Bayview NSW 2104	Sheet Title Proposed Elevation - North	North	Drawn JB	Sheet Size A3	Stage DA
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	Client Kylie Crellin Greg Kaye							Project Number 2012	Sheet Number A302	Checked LC	Sheet Scale 1:100	Issue O																								



**BAIKIE
CORR**

Studio
Baikie Corr Pty Ltd
ABN 59 620 201 112
24 Kers Road
Frenchs Forest 2086

Nominated Architect
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Project Contact
Jeffrey Baikie
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0468 716 897

Legend
AFFL Above finished floor level
CL Centreline
EQ Equal
FCL Finished ceiling level
FFL Finished floor level
RL Relative level
VOS Verify on site

Notes
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Project Address
7 Karahook Avenue,
Bayview NSW 2104

Client
Kylie Crellin
Greg Kaye

Project Number
2012

Sheet Title
Proposed Elevation - South

Sheet Number
A303

North

Drawn
JB

Sheet Size
A3

Stage
DA

Checked
LC

Sheet Scale
1:100

Issue
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ITEM 3.3	DA2024/0199 - 42 BALGOWLAH ROAD BALGOWLAH - USE OF THE PREMISES AS SPECIALISED RETAIL AND OFFICES, ALTERATIONS AND ADDITIONS AND SIGNAGE
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PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION

THAT Council as the consent authority **approves** Development Consent to DA2024/0199 for Use of the premises as Specialised Retail and Offices, alterations and additions and signage on land at Lot 2 DP 530316, 42 Balgowlah Road BALGOWLAH, subject to the conditions set out in the Assessment Report.

Reporting manager	Rodney Piggott
TRIM file ref	2024/626872
Attachments	1 Assessment Report 2 Site Plan and Elevations

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0199
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Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 2 DP 530316, 42 Balgowlah Road BALGOWLAH NSW 2093
Proposed Development:	Use of the premises as Specialised Retail and Offices, alterations and additions and signage
Zoning:	Manly LEP2013 - Land zoned E3 Productivity Support
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Applicant:	Modify Homes Pty Ltd

Application Lodged:	04/03/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	11/07/2024 to 25/07/2024
Advertised:	Not Advertised
Submissions Received:	7
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 3,013,144.00
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EXECUTIVE SUMMARY

The application seeks consent for alterations and additions to the existing building and use as two specialised retail premises.

The application is reported to the Development Determination Panel (DDP) as it attracted more than 5 submissions in objection to the proposal.

The proposal does not rely on any Clause 4.6 variation request as it complies with the 11m height of buildings and 1:1 FSR standards pursuant to the Manly Local Environmental Plan (MLEP). The proposal does not comply with the 4.5m street frontage setback control (Quirk Road) or car parking requirements of the Manly DCP (MDCP). The proposed setback breach is assessed in this report and

the shortfall of 4 car parking spaces is considered acceptable by Council's Traffic section.

At lodgement, the application was referred to Council's Design and Sustainability Advisory Panel for review. The Panel's written advice concluded that *"The Panel does not support the design in its current form"* and provided a total of 22 recommendations in relation to the proposal. The design of the proposed development was significantly amended in response to the DSAP recommendations and other concerns raised following Council's preliminary assessment. The amendments made are considered to adequately address the matters raised by the Panel and Council in that they result in substantial improvements in relation to the overall design outcome and minimisation of impacts to surrounding properties and the public domain. The retention the majority of the existing building fabric in the amended proposal also resolved Council's fundamental concern regarding the characterisation of the development as alterations and additions.

The application was publicly exhibited in accordance with Council's Community Participation Plan. The application was initially notified to 27 surrounding residents/owners and the amended proposal was re-notified to 30 surrounding residents/owners. In response to Council's exhibition a total of 7 submissions were received, all of which were in objection to the proposal. The issues raised in the submissions are addressed in this report and broadly relate to traffic/parking and various amenity impacts. The issues raised in the submissions are sufficiently addressed where necessary by the amendments made to the proposal and the conditions of consent included in the recommendation of this report, specifically in relation to signage and lighting illumination, hours of operation and building finishes. An assessment of each of the concerns raised in the submissions is undertaken in this report and none of the matters raised are found to warrant the refusal of the application in the public interest.

The proposal is considered to satisfy the relevant planning controls and has sufficient merit to be recommended for **approval** by the Development Determination Panel, subject to the conditions listed in the recommendation.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to the existing building and use as two specialised retail premises.

Specifically, the proposal involves the following works:

Ground floor

- Demolition of internal structures and external structures to the north of the existing building
- New warehouse addition to the west of the existing building including a goods lift, fire stair and two internal parking spaces
- New internal fitout as a pet supply store (Petbarn)

First floor

- Demolition of internal structures
- New warehouse addition to the west of the existing building including a goods lift, fire stair, WC facilities and two internal parking spaces
- Demolition of existing roof and construction of a new roof accommodating PV panels and plant equipment

External

- New pedestrian entry to Balgowlah Road
- New driveway crossing and vehicle ramp to Quirk Road
- New ground floor parking area comprising 10 car spaces, bicycle parking, bin store and services
- New first floor parking area comprising 9 car spaces and bicycle parking
- New landscaping and planting, including removal of existing concrete footpath within eastern setback

Hours of operation

The proposed hours of operation for each of the specialised retail tenancies are as follows:

Monday-Friday: 8:30am to 6:00pm

Saturday: 8:00am to 6:00pm

Sunday: 9:00am to 5:00pm

Amendment of Application

Amended Proposal - 28 June 2024

Following lodgement, Council identified various issues relating to the proposed development and requiring amendment of the application. Notably, the originally submitted proposal was considered to constitute a new building rather than alterations and additions to an existing building. In response to Council's request for amendment of the application, the proposal was substantially amended to result in the development described above. The amended proposal was re-notified in accordance with Council's Community Participation Plan.

Amended Proposal - 13 August 2024

The proposal was further amended in response to concerns raised by Council's Traffic section in relation to insufficient car parking provision. The amendments involved the inclusion of four additional car parking spaces internally within the ground and first floor warehouse areas. These additional spaces increase the proposed parking provision from 19 to 23 spaces. As the amendments do not result in any change to the built form and reduce the parking shortfall, the application was not re-notified, in accordance with Council's Community Participation Plan.

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 - Zone E3 Productivity Support
 Manly Local Environmental Plan 2013 - 5.10 Heritage conservation
 Manly Local Environmental Plan 2013 - 6.1 Acid sulfate soils
 Manly Development Control Plan - 3.1.2 Streetscape Improvement in LEP Zone B6 Enterprise Corridor
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 3.4.4 Other Nuisance (Odour, Fumes etc.)
 Manly Development Control Plan - 4.3.2 FSR and Height
 Manly Development Control Plan - 4.3.5 Setbacks
 Manly Development Control Plan - 4.4.2 Alterations and Additions
 Manly Development Control Plan - 4.4.3 Signage

SITE DESCRIPTION

Property Description:	Lot 2 DP 530316 , 42 Balgowlah Road BALGOWLAH NSW 2093
Detailed Site Description:	The subject site consists of one allotment located on the north-western corner of Balgowlah Road and Quirk Road. The site is generally regular in shape with a frontage of 34.14m along Quirk Road and a secondary frontage of 50.595m along Quirk Road. The site has a surveyed area of 1725m². The site is located within the E3 Productivity Support zone and accommodates an existing one and two-storey commercial building. The site is generally flat and does not contain any significant trees. Vegetation on the site is limited to palms, shrubs and bushes. Detailed Description of Adjoining/Surrounding Development Land to the north and west is also zoned E3 Productivity Support and is characterised by a variety of commercial and light industrial uses. Land to the east across Quirk Road is zoned RE2 Private Recreation and accommodates the Manly Golf Club. Land to the south across Balgowlah Road is zoned R1 General Residential and is characterised by a mix of residential development including detached and semi-detached dwellings, dual occupancies and residential flat buildings.

Map:



SITE HISTORY

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

DA0459/1994 - New mail delivery and processing building - Approved 6 June 1995.

DA0024/2004 - Refurbishment - Warehouse shop fitout - Approved 30 March 2004.

DA0387/2005 - Alterations and additions to an industrial warehouse building incl. enclosure of loading dock - Approved 16 December 2005.

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)(iiia) – Provisions of any planning	None applicable.

Section 4.15 Matters for Consideration	Comments
agreement	
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 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 of 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. Additional information was requested in the form of amended plans addressing concerns relating to the description of the development, bulk, scale, building appearance and traffic and car parking. <u>Clause 61</u> of the EP&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. <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 matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. <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 of 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) Environmental Impact 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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact 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 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 application has been publicly exhibited from 11/07/2024 to 25/07/2024 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 7 submission/s from:

Name:	Address:
Ms Susan Elizabeth Silipo	147 A Balgowlah Road BALGOWLAH NSW 2093
Mr Jonathan Bruce Geddes	3 / 149 Balgowlah Road BALGOWLAH NSW 2093
Mr Ewan Anton Christian Berkemeier Mrs Tereza Anntoinette Berkemeier	155 Balgowlah Road BALGOWLAH NSW 2093
Mr Christopher Seldon Cocks	147 Balgowlah Road BALGOWLAH NSW 2093
Mr David Ian Gordon Bowan	169 Balgowlah Road BALGOWLAH NSW 2093
Mr Pasa Saglam	3 Arthur Street DEE WHY NSW 2099
Mrs Charlotte Camille Vergnolle	3 / 153 Balgowlah Road BALGOWLAH NSW 2093

The issues raised in the submissions are addressed as follows:

- Traffic and car parking**

The submissions raised concerns that the proposed development will adversely impact traffic congestion and safety. Concerns were also raised that the proposal will increase demand for on-street car parking.

Comment:

Council's Traffic section raised no objections to the amended proposal in relation to traffic generation or the proposed parking supply. It is noted that the amendments made include increased parking provision totalling 23 spaces. Furthermore, the vehicle access and ramp has been relocated from Balgowlah Road to the northern end of the Quirk Road frontage, thereby reducing potential conflicts between vehicles, cyclists and pedestrians. Hours for deliveries and waste collection are restricted to 10am to 2pm daily to minimise impacts upon traffic and acoustic amenity.

- Amenity**

The submissions raised concerns that the proposed development would adversely impact the amenity of nearby residential properties in relation to privacy, noise, glare and visual impact.

Comment:

The proposal is not considered to adversely impact the privacy of surrounding properties given the 30m distance between the existing/proposed building and the nearest residential dwelling. As noted above, delivery and waste collection hours are restricted by the recommended conditions of consent to maintain residential amenity. Conditions are also recommended in relation to lighting and illuminated signage to minimise glare impacts. The visual impact of the proposal is found to be acceptable as assessed in this report, also noting that the previously proposed yellow finishes have been deleted. A condition is also recommended in relation to colours and finishes.

The above matters raised in the submissions are not found to warrant the refusal of the application.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	Not supported (based on DA as lodged - amended plans and conditions satisfact The application was referred to the DSAP for consideration and comment. The DSAP Report concluded that <i>"The Panel does not support the design in its current the 4.5m setback on Quirk Road."</i> The DSAP made a total of 22 recommendations in relation to Strategic context and surr treatment/aesthetics and Sustainability. The applicant has sought to respond to the DSAP recommendations through an amend Each of the Panel's recommendations are listed below with commentary from the asses <u>Strategic context and surrounding character</u>

Internal Referral Body	Comments
	1. <i>Investigate alternative approaches to the planning and layout of the site at</i> <u>Comment:</u> The amended proposal includes an alternate site layout and building additional building bulk has been relocated to the western side of the site where <u>Scale, built form and articulation</u> 2. <i>The proposed southern projection of the first floor is unacceptable and the</i> <u>Comment:</u> The amended proposal fully complies with the 4.5m setback requirem 3. <i>A larger setback to Quirk Road should be provided if not at the ground lev</i> <u>Comment:</u> The amended proposal retains the existing wall fabric at the eastern (retained, the design response to this recommendation is considered acceptable <u>Access, vehicular movement and car parking</u> 4. <i>Investigate a layout that has carparking at the rear of the site at ground lev</i> <u>Comment:</u> The amended proposal retains car parking at the ground and first floo recommendation is considered acceptable. 5. <i>Investigate a foyer at ground level that could provide pedestrian access fr</i> <u>Comment:</u> This recommendation has not been adopted. Regardless, the amend <u>Landscape</u> 6. <i>Undertake more detailed and extensive investigations of potential impacts considering it is in the SRZ is not considered a suitable exercise in root m distance).ACTION: Council to condition GPR (Ground Penetrating Radar) t</i> <u>Comment:</u> The existing street trees are generally unaffected by the amended pr recommendation is considered acceptable. 7. <i>Plant trees in the carpark area to reduce urban heat.</i> <u>Comment:</u> The amended proposal includes an increase in deep soil landscaped the design response to this recommendation is considered acceptable. 8. <i>Replace small trees on South side verge (Tristaniopsis laurina) with Brushb</i> <u>Comment:</u> The driveway crossing on Balgowlah Road has been deleted from the dimensions of deep soil areas within the site and road verge. The design respon 9. <i>If there is a redesign and reconfiguration of the site, screen the building wi</i> <u>Comment:</u> The design of the amended proposal does not necessitate landscape

Internal Referral Body	Comments
	screened by the existing street trees on Balgowlah Road. With regard to visual b <u>Amenity</u> 10. <i>Consider the incorporation of planters for improved outlook in lieu of, or a</i> <u>Comment:</u> The first floor balconies have been deleted from the amended propos considered acceptable. 11. <i>The amenity of the double height space in the office tenancy would be grei dock right through to Quirk Road thus providing a south facing external w</i> <u>Comment:</u> N/A - The office tenancy has been deleted from the amended propos 12. <i>Provide weather protection from the lift to the upper entry.</i> <u>Comment:</u> N/A - The external lift has been deleted from the amended proposal. <u>Façade treatment/Aesthetics</u> 13. <i>Provide details of the proposed cladding materials and colours</i> <u>Comment:</u> This recommendation has been adopted and a schedule of finishes is 14. <i>Confine the branding and signage to the sign itself.</i> <u>Comment:</u> This recommendation has been adopted and the extent of signage re <u>Sustainability</u> 15. <i>Should the installation of the PV array breach the height limit in order to o</i> <u>Comment:</u> The amended proposal complies with the height standard, inclusive c 16. <i>Provide EV charging points for each tenancy or 20% Of car parking spaces</i> 17. <i>All services should be electric – gas for cooking, hot water and heating sh</i> 18. <i>The Panel strongly supports the use of materials that have low environmei</i> 19. <i>Consider on-site battery storage. Determine whether a battery could be eff. landscape and surrounds.</i> <u>Comment:</u> The applicant advises that these recommendations will be considere 20. <i>Provide bicycle parking.</i> <u>Comment:</u> Sufficient bicycle parking has been provided in the amended proposa 21. <i>Indicate solar hot water panels on the drawings.</i>

Internal Referral Body	Comments
	<u>Comment:</u> The applicant advises that electric hot water systems will be powered 22. <i>Increase natural light and ventilation for the upper retail area.</i> <u>Comment:</u> The amended proposal includes substantial glazing at the northern, e <u>Conclusion</u> The comments and recommendations provided by the DSAP were based on the original recommendations. The amendments made improve the development's overall level of c almost always be improved, the quality of the revised proposal achieves that which is er
Building Assessment - Fire and Disability upgrades	Supported with conditions. The application has been investigated with respect to aspects relevant to the Building C The BCA Assessment report dated 21/12/2024 provided by Nest Consulting Group has the Environmental Planning and Assessment Regulation. Building Code of Australia Report A 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' from an a extent to which the existing building does or does not comply with the deemed-to sa Environmental Planning and Assessment Regulation. The report is to also provide recc existing building, including any modifications to be made by the proposed development <u>Amended BCA Report</u> <u>The application has been investigated with respects to aspects relevant the Build the attached conditions of approval and consideration of the notes below.</u> <u>Note: The proposed development may not comply with some requirements of the</u> -
Landscape Officer	Supported with conditions. The proposal is for alterations and additions to an existing industrial building and use of Manly LEP, and the applicable landscape objectives of the zone include: to create empl to the natural environment. The existing property supports garden planting around parts of the perimeter boundary i and Council consent is not required for management or removal. All existing Brushbox street trees within the road reserve verge of Balgowlah Road front protected. As shown on the Plans the immature Water Gum fronting the property along application be approved with the widened driveway no objections are raised. Removal c management or removal. Any excavation works near the Brushbox street trees within B:

Internal Referral Body	Comments
	recommendations. A Landscape Plan is submitted that improves the streetscape amenity along Balgowlah Gum fronting the property along Quirk Road located near the current driveway; addition entrance. Landscape Referral raise no concerns with the landscape outcomes
NECC (Development Engineering)	Supported with conditions. Geotechnical assessment. The submitted flow chart indicating that a geotechnical rep flow chart is not relevant. The development site is mapped as "Area G3" of the "Geotecl When is a Site Stability (Geotechnical Survey) Report required? a) A Site Stability Report is required with a DA when the proposed development in i) any land identified on the LEP Landslide Risk Map. DAs for developme ii) any excavation greater than 1m below natural ground level for a basen iii) building works (load bearing) on land contained in geotechnical area 'C iv) building works (load bearing) on other land not contained in geotechnic Stability Report, or where otherwise required by Council. Council Stormwater Infrastructure The development site is burdened by Council Infrastructure (Stormwater Pipes).To dem Management for Development Policy, it is required that following details are submitted v application: 1. Accurately locate, confirm dimensions including depth and plot to scale Council' s Pul system and associated infrastructure on the DA site plans that outline the proposal. This carried out by service locating contractor and registered surveyor. (Evidence of method used for locating stormwater system should be provided). Show the stormwater pipe on produce a longitudinal section. Engineering Comments 09.05.24 Geotechnical requirements for the development have been addressed. A survey of Cou development, subject to conditions. Engineering Comments 06.07.24 Amended plans show a removal of proposed access from Balgowlah Road onto Quirk F proposed development, subject to conditions. Engineering Comments 16.08.24 Amended engineering conditions of consent provided in response to amended Architect infrastructure.
Traffic Engineer	Supported with conditions. Amended Comments relating to Revised Car Parking Arrangements and Amended

Internal Referral Body	Comments
	The revised Car Parking Arrangement (Reference 23451) prepared by Varga Traffic Planning Pty Ltd has been reviewed by the Traffic team. All the Council's comments dated July 22, 2024, have been addressed in the amended Traffic and Parking Assessment prepared by Varga Traffic Planning Pty Ltd. - The number of parking spaces has been increased from 19 spaces to 23 spaces. - The parking requirements for the development, with the updated Gross Floor Area section, totalling 26 spaces. The proposal suggests 23 spaces, resulting in a shortfall of 3 spaces. The proposal suggests 23 spaces, resulting in a shortfall of 3 spaces. The proposal suggests 23 spaces, resulting in a shortfall of 3 spaces. - The proposal states that Petbarn is planning to use the ground floor level. A number of customers in the store at any given time. This information was verified by the Traffic team. Conclusion Subject to conditions, the application can be supported on traffic grounds. ----- Amended Comments relating to amended Traffic report and amended Plan (22/07/2024) The amended Traffic and Parking Assessment prepared by Varga Traffic Planning Pty Ltd and the revised Statement of Environmental Effects prepared by Wynne Planning dated June 2024 have been reviewed by the Traffic team. The applicant has made some amendments and provided further information in relation to the Traffic and Parking Assessment. Some of the amendments/further information include: - The site will accommodate 19 car parking spaces, 10 of which will be located on the ground floor. Another 9 car parking spaces will be available on the first floor with access to the site via a ramp. 9 bicycle parking spaces are included in the Architectural Plans to meet the requirements of the Council's Policy on Bicycle Parking. - A pedestrian sightline triangle of 2.0 metres by 2.5 metres, in accordance with the Council's Policy on Pedestrian Safety. - swept path plots demonstrating satisfactory access (forward entry and forward exit) to the site. There are a couple of traffic concerns raised in the Traffic referral comments dated 31 May 2024: - The car parking requirements for warehouse use were initially used in the Traffic and Parking Assessment for 'Specialised retail premises' under the <i>Manly LEP (31 October 2018)</i> and <i>Plan of Management</i> for goods premises – with the definition remaining generally the same. - The parking rates and requirements in schedule 3 of the Manly DCP have not been considered to apply to some components of the subject development. Under the DCP, 100sqm of GFA for warehousing/storage of bulky goods. The application for the subject development proposes 19 vehicle parking spaces plus a loading bay. A definition is provided for the alterations and additions to an existing building, so some relaxation of the requirements is given the following reasons: - The development will intensify the demand for parking on-street or in public parking spaces on the adjoining site.

Internal Referral Body	Comments
	- o The surrounding area already experiences high demand for parking - o Adjoining parking areas on private land are not to be relied upon as - o Alterations and additions to an older warehouse type premises for existing sites with the impacts of such re-development in terms of intensity - o The existing provision of car parking of 17 spaces was approved for a traffic generation rate than retail / bulky goods type activities. • The original traffic report used traffic generation rates for warehouses to estimate traffic. The Direction nominates a traffic generation rate for specialised retail premises. The traffic assessment for the retail component of the development. This should be considered in the development. The development would generate significant traffic levels and the development is not supported. Council does not support the proposal because there would be insufficient on-site parking facilities. The proposal therefore remains unsupported. ----- Comments 31/05/2024 <u>Proposal description:</u> Use of the premises as Specialised Retail and Offices, alterations and additions to the existing commercial building on the site and the addition of an ancillary office. The proposal is for alterations and additions to the existing commercial building on the site and the addition of an ancillary office. The traffic team has reviewed the following documents: • Plans (Master Set) – Project No. M184, Revision A, designed by MODIFY A • Traffic and Parking Assessment prepared by Varga Traffic Planning Pty Ltd, • Statement of Environmental Effects prepared by Wynne Planning dated February 2024 It is noted that: • The site is currently occupied by a two-storey warehouse and ancillary office building. The existing parking facilities is currently provided via an entry/exit driveway off Quirk Road. • Off-street parking is proposed for a total of 17 cars, with 11 parking spaces on the ground floor level is proposed to be retained via the existing driveway and 6 parking spaces on the ground floor level is proposed to be provided via a new entry/exit driveway located at the rear of the site. • Loading/servicing of the proposed development is expected to be undertaken via the existing driveway. <u>Parking requirement and design:</u> • The Manly DCP applies to the subject site. In the Traffic report, the car parking requirement is 17 spaces. However, the proposed use would be more closely aligned to retail with parking requirements of 10 spaces.

Internal Referral Body	Comments
	facilities. According to the <i>TfNSW Guide to Traffic Generating Developments</i> principles analysis is required. • In addition to the car parking spaces, the DCP requires bicycle parking at a confirmed on the amended plans. • According to the TfNSW Guide to Traffic Generating Developments section volumes of traffic in both directions. The site also has frontages to both a lot accommodated from Quirk Road as per the existing condition. The development • The proposed driveway on Balgowlah Road will also result in losing 1 (potential) space(s) given that Balgowlah Road currently suffers from high levels of traffic. • It is noted that swept path plots demonstrating satisfactory access (forward and backward) are provided. • A pedestrian sightline triangle of 2.0 metres by 2.5 metres, in accordance with the DCP. <u>Traffic Impact</u> • The traffic generation rates relating to a warehouse use have been adopted to retail with traffic generation rates expected to be higher. • Neither the Transport for NSW (TfNSW) Guide to Traffic Generating Developments nor the DCP provides a methodology for determining traffic generation for the proposed pet supply store should be determined using the development. <u>Conclusion</u> Further details should be provided prior to further assessment of this application. • direct access across the boundary with a major road is to be avoided where • further information regarding the loss of on-street parking spaces should be provided • a 'first principles' approach should be included in the traffic report to assess the impact of the development.

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)

Housing and Productivity Contribution

Part 2 Development for which contribution is require and determination of contribution, Division 2 Housing and productivity contribution amounts, Clause 7 Base component.

This Clause details the base component amounts that apply to the calculation of the housing and productivity contribution, as set out in the following table:

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	\$12,000	new dwelling lot
	Residential strata subdivision	\$10,000	new strata dwelling lot
	Non-strata multi-dwelling development	\$10,000	new non-strata dwelling
	Commercial development	\$30	square metre of new GFA
	Industrial development	\$15	square metre of new GFA

Comment:

The subject site is located within the Greater Sydney region. The proposal is for alterations and additions to an existing building and change of use from a *warehouse or distribution centre* (industrial) to a *specialised retail premises* (commercial).

The Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024, at section 15, states:

"15 Calculation of HPC units for commercial development

(1) The new gross floor area of commercial development is the sum of the gross floor areas of the commercial buildings to which the development consent relates.

(2) For the purpose of subclause (1), the gross floor area of a commercial building to which the development consent relates is—

- (a) in the case of the erection of a new building—the gross floor area of the building, and
- (b) in the case of the alteration to, or enlargement or extension of, an existing building—the additional gross floor area that will result from the alteration, enlargement, or extension, and
- (c) in the case of a change of use of an existing building to a commercial building—the gross floor area of the building that will be changed to use as a commercial building."

Council has calculated the contribution payable using the NSW Planning Portal Infrastructure Contributions Estimator, based on the following:

- Existing gross floor area of 1087m² used as a *warehouse or distribution centre* (existing approved use through consent Nos. DA0024/2004 & DA0387/2005); and
- Proposed gross floor area of 1581m² used as a *specialised retail premises*.



Step 5 - Estimated Infrastructure Contributions

Proposed property address

Contributions amount is estimated based on the following address:

- 42 BALGOWLAH ROAD BALGOWLAH 2093

Below outlines the inputs that you have entered:

Proposed

Development	Total number of units	Unit of charge
Specialised Retail Premises	1581	SQM of GFA

Existing

Development	Total number of units	Unit of charge
Warehouse or Distribution Centre	1087	SQM of GFA

Housing and Productivity Contribution

Housing and Productivity contribution amount is estimated based on the following contributions plan/s:

- Greater Sydney - Base HPC

Base Housing and Productivity Contribution	\$32,660.50
Total Housing and Productivity Contribution :	\$32,660.50

Estimated total infrastructure contributions	\$32,660.50
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The estimation is based on the current indexed contributions rate as at 29-08-2024

As such, the contribution payable is **\$32,660.50**.

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 (Industry and Employment) 2021

Section 3.6 and 3.11 of Chapter 3 require Council to determine consistency with the objectives stipulated under Subsection 3.1 (1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 5.

The objectives of this chapter aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 5 of Chapter 3, the following assessment is provided:

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Yes - The proposed wall signage is compatible with existing commercial signage in the locality and will not create an undesirable precedent.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Yes - the proposed signage is acceptable with regard to the existing signage in the locality.	YES
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	No - the visual outcome of the proposed signage is acceptable, subject to the recommended conditions relating to illumination and signage content.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	No - The proposed signage does not compromise or obscure any views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	No - The proposed signage is not of a scale or design that would cause unreasonable impacts upon the existing views of the skyline and vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	No - The proposed signage would not significantly impact the viewing rights of other advertisers.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes - The proposed signage is suitably sized, located and designed for the context.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	No signage content is proposed. The proposed signage location is acceptable in the context of the building and streetscape.	YES

Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The existing elevation is not cluttered and does not require rationalisation.	YES
Does the proposal screen unsightliness?	There is no unsightliness to be screened.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No - The proposed signage does not protrude above the building or tree canopy.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes - The proposed signage is compatible with the scale and proportions of the site and building.	YES
Does the proposal respect important features of the site or building, or both?	Yes - As above.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Details of the signage content have not been provided as part of the application.	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No.	YES
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	No - Conditions are recommended to restrict illumination hours and intensity.	YES
Can the intensity of the illumination be adjusted, if necessary?	Illumination is subject to conditions of consent.	YES
Is the illumination subject to a curfew?	Illumination is subject to conditions of consent.	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	No - The proposed signage would not reduce the safety for any road, pedestrian or bicyclist.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No - The proposed signage would not obscure any sightlines for pedestrians.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of this chapter and its underlying objectives.

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 commercial/warehousing purposes for a significant period and is not known to be contaminated. 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 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	Proposed	% Variation	Complies
Height of Buildings:	11m	10.55m	N/A	Yes
Floor Space Ratio	1:1 1725m ²	0.92:1 1581m ²	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.12 Essential services	Yes

Detailed Assessment

Zone E3 Productivity Support

The proposed development is assessed against the underlying objectives of the E3 Productivity Support zone as follows:

- To provide a range of facilities and services, light industries, warehouses and offices.
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.
- To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.

- To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.
- To provide opportunities for new and emerging light industries.
- To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.
- To create a pedestrian environment that is safe, active, and interesting.
- To create employment environments of high visual quality that relate favourably in architectural and landscape treatment to neighbouring land uses and to the natural environment.
- To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of adjoining and nearby residential land uses.

Comment:

The proposed specialised retail land use is permissible within the E3 zone and will not compete with surrounding local and commercial centres, which prohibit such uses. The proposed use is anticipated within the E3 zone and will meet the needs of the community. The proposal will contribute positively to the pedestrian environment and improve the visual appearance of the existing development on the site. The proposed use is considered to be relatively low-impact in comparison to other uses that are permitted within the zone and will maintain reasonable amenity for residents of the R1 General Residential zone located to the south across Balgowlah Road.

Conclusion

The proposed development is found to be consistent with the objectives of the E3 zone as discussed above.

5.10 Heritage conservation

Council's Landscape section has included suitable conditions to ensure the protection and retention of the heritage-listed street trees. There are no other listed heritage items in the vicinity of the site.

6.1 Acid sulfate soils

The site is mapped as Class 4 and 5 Acid Sulfate Soils. No significant earthworks are proposed and the development is not expected to materially impact the water table.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 1725m ²	Requirement	Proposed	% Variation*	Complies
4.3.5 Setbacks	Street frontage: 4.5m	Balgowlah Road: 4.5m	N/A	Yes
		Quirk Road: 1m	77.8%	No
	Side & rear: Nil	North: Nil	N/A	Yes
		West: Nil	N/A	Yes
Schedule 3 Parking and Access	Retail: 1 / 50m ² (21.734 spaces) Warehouse: 1 / 100m ²	23 spaces	14.8%	No

	(4.943 spaces) Total: 26.7 (27) spaces			
	Loading bay: 1 / unit (2)	2	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.2 Streetscape Improvement in LEP Zone B6 Enterprise Corridor	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	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
3.6 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
4.3.2 FSR and Height	Yes	Yes
4.3.4 Access, Loading and Parking	Yes	Yes
4.3.5 Setbacks	No	Yes
4.3.6 Drainage	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.3 Signage	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

3.1.2 Streetscape Improvement in LEP Zone B6 Enterprise Corridor

Compliance with control

3.1.2.1 Streetscape

Development is to be of a high visual quality, particularly at corner locations.

Comment: The proposed works are of a high visual quality and will improve the appearance of the existing building when viewed from the public domain.

3.1.2.2 Car parking

Car parking in the LEP Zone B6 Enterprise Corridor is not to be located between the street frontage

and the building alignment.

Comment: The proposed car parking is located at the rear of the site, behind the building alignment.

3.1.2.3 Landscaping

Landscaped areas are to be maintained to the Council's satisfaction throughout the life of the development.

Comment: A condition is recommended to ensure that the proposed landscaping is maintained for the life of the development.

3.1.2.4 Security Fencing

Security fencing should be set back from any road frontage and integrated with landscaped areas.

Comment: Security fencing is limited to the northern extent of the Quirk Road frontage and will not be visually prominent.

3.1.2.5 Frontages to Condamine Street

Frontages to Condamine Street form important 'entrances' to Manly. A higher standard of finish to development is promoted along these frontages, in terms of building and landscaping.

Comment: N/A - The site does not front Condamine Street.

3.1.2.6 Design for Townscape

Development is to have regard to the principles in the Townscape Principles Map at Schedule 2 of this plan.

Comment: N/A - The Townscape Principles are not applicable to the subject site.

Conclusion

Based on the above assessment, the proposal is found to comply with the requirements of the control.

3.4.1 Sunlight Access and Overshadowing

The proposal will not cause material overshadowing of any surrounding residential property.

3.4.2 Privacy and Security

Compliance with control

3.4.2.1 Window Design and Orientation

- 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.

Comment:

The proposed south-facing windows are located a distance of approximately 30m from the dwellings on the southern side of Balgowlah Road. Based on this distance the proposal will not give rise to adverse privacy impacts to those properties.

3.4.2.3 Acoustical Privacy (Noise Nuisance)

- a) Consideration must be given to the protection of acoustical privacy in the design and management of development.
- b) Proposed development and activities likely to generate noise including certain outdoor living areas like communal areas in Boarding Houses, outdoor open space, driveways, plant equipment including pool pumps and the like should be located in a manner which considers the acoustical privacy of neighbours including neighbouring bedrooms and living areas.

Comment:

The proposed hours of operation are generally acceptable. Given the proximity of the site to residential dwellings, hours of operation on Saturdays shall be limited to 9:00am to 5:00pm.

The proposed vehicle entry and parking/loading areas are located at the northern end of the site, the furthest possible distance from the surrounding residential properties. Conditions are recommended to restrict the hours of operation of the premises and hours of deliveries and waste collection.

Based on the above, the proposal complies with the requirements of the control.

3.4.4 Other Nuisance (Odour, Fumes etc.)

The proposed land use is not expected to cause adverse impacts in relation to odour, fumes or other nuisance.

4.3.2 FSR and Height

The proposal does not seek to vary the building height or floor space ratio development standards applicable to the site.

4.3.5 Setbacks

Description of non-compliance

a) Any buildings, carparking and security fencing are to be setback at least 4.5m from both the street frontage and any frontage to Manly West Park.

Comment: The proposal provides a compliant 4.5m setback to the Balgowlah Road frontage. The existing setback of 1.1m to the Quirk Road frontage is maintained and **does not comply** with the control.

b) Buildings may be constructed to rear or side boundaries unless this may cause undue prejudice to adjacent properties.

Comment: The proposed western warehouse addition and northern car parking at the ground and first floors are constructed to the boundaries. The adjacent properties are used for commercial/industrial purposes and will not be adversely impacted by the proposed nil-setbacks.

c) Setback areas are to be landscaped with trees set in lawn or other ground cover and no parking is to be located in the area between the street frontage and the building alignment.

Comment: The landscaped area within the southern setback to Balgowlah Road is retained and enhanced with new planting. The existing concrete pathway within the eastern setback to Quirk Road is replaced with landscaping and new planting which will contribute to the appearance of the development. The proposed car parking is located behind the building alignment.

d) Riparian setbacks are to be provided along Burnt Bridge Creek. The riparian setbacks are to be landscaped with local native vegetation (trees, shrubs and groundcover).

Comment: N/A - The subject site does not adjoin Burnt Bridge Creek.

Merit consideration

The proposal complies with requirements (b), (c) and (d), but does not comply with requirement (a) in relation to the proposed setback to Quirk Road. The extent of the proposed non-compliant works is illustrated below.

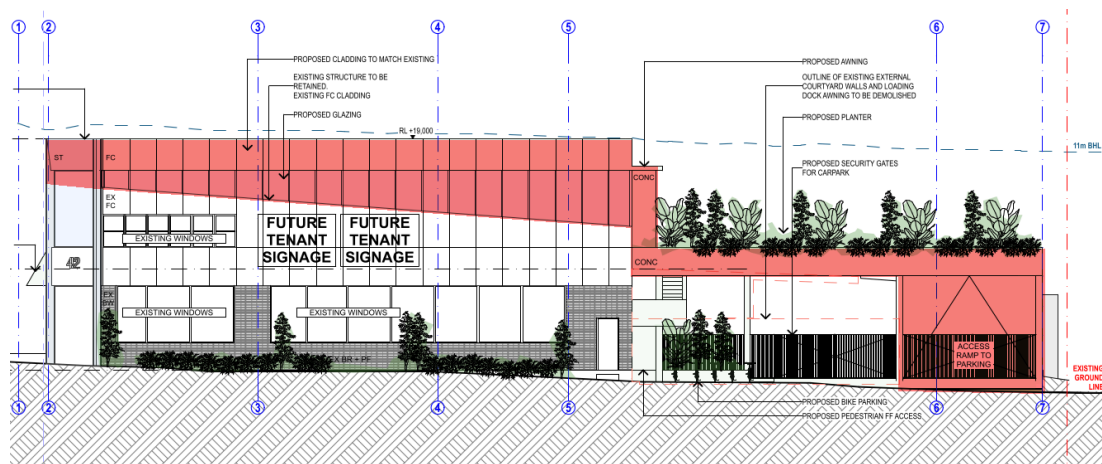


Figure 1. Additional building bulk at the eastern elevation shaded red.

With regard to the variation to the control, the development is considered against the underlying objective of the Control:

- *To minimise negative visual impact of development by limiting the size and scale of buildings and having regard to suitable landscaping.*

Comment:

The proposal is for alterations and additions to the existing building and the proposed setback breach results from the retention and enlargement of the existing eastern wall, along with the maintenance of this existing building alignment for the proposed car parking area to the north. The majority of the increased height of the eastern elevation comprises glazing, which assists to break up the bulk of the wall adds to the visual interest of the development. The car parking structure to the north is of minimal bulk and incorporates on-slab planting at the building alignment. As noted above, the proposal retains and enhances the landscaped areas and planting across both street frontages to minimise bulk and scale.

Noting that the proposal is for alterations and additions and is within the E3 zone, the proposed design sufficiently minimises the size and scale of the building and provides for appropriate landscaping in the site context.

Having regard to the above assessment, it is concluded that the proposed development is consistent

with the objective of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

4.4.2 Alterations and Additions

The amended proposal retains the majority of the internal and external building fabric, including almost all of the external walls. Demolition is limited to the existing roof and various internal structures. Given the proportion of structures proposed to be retained, the proposal is considered to constitute alterations and additions and further assessment against the matters set out in the demolition planning principle (Coorey v Municipality of Hunters Hill [2013] NSWLEC 1187) is not necessary.

Conditions are recommended to require certification that the existing structures that are proposed to be retained are structurally sound and are capable of supporting the proposed new works, and to limit demolition works to those indicated on the plans.

4.4.3 Signage

The proposal complies with the maximum limit of 2 signs per frontage and with the applicable requirements for flush wall signs. A detailed assessment against the signage provisions of SEPP (Industry and Employment) is completed in this report.

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 \$30,131 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$3,013,144.

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

The application seeks consent for alterations and additions to the existing building and use as two specialised retail premises.

The proposal, as amended, demonstrates an acceptable level of compliance with the applicable built form controls and adequately minimises impacts upon nearby residential properties and the public domain. The amended application addresses the majority of the recommendations made by the DSAP and represents a significantly improved design.

A total of 7 submissions were received in objection to the proposal in response to Council's notification, generally in relation to traffic/parking and amenity impacts. Conditions of consent are recommended to address concerns relating to signage and lighting illumination, hours of operation and visual impact. The amendments made to the application following lodgement also assist in resolving various concerns. The issues raised in the submissions are addressed in detail in this report and are not found to warrant refusal of the application in the public interest.

On balance, the assessment concludes with a recommendation that the DDP should **approve** the application, subject to the conditions listed in this report.

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2024/0199 for Use of the premises as Specialised Retail and Offices, alterations and additions and signage on land at Lot 2 DP 530316, 42 Balgowlah Road, BALGOWLAH, 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
DA03	C	Site Plan	Modify	20 June 2024
DA05	C	Ground Floor Demo Plan	Modify	20 June 2024
DA06	C	First Floor Demo Plan	Modify	20 June 2024
DA07	C	Roof Demo Plan	Modify	20 June 2024
DA10	D	Ground Floor Plan	Modify	13 August 2024
DA11	D	First Floor Plan	Modify	13 August 2024
DA12	C	Roof Plan	Modify	20 June 2024
DA20	C	West Elevation	Modify	20 June 2024
DA21	C	South Elevation	Modify	20 June 2024
DA22	C	North Elevation	Modify	20 June 2024
DA13	C	East Elevation	Modify	20 June 2024
DA30	C	Section AA	Modify	20 June 2024
DA31	C	Section BB	Modify	20 June 2024
DA32	C	Finished Schedule	Modify	20 June 2024
DA51	C	Waste Management Plan	Modify	20 June 2024
DA70	C	Landscape Plans	Modify	20 June 2024
DA71	C	GF Landscape Plans	Modify	20 June 2024
DA72	C	FF Landscape Plans	Modify	20 June 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BCA Report	1	STACC	25 June 2024
Waste Management Plan	-	-	-

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

In the event of any inconsistency between 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	14 March 2024

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website 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/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a **specialised retail premises**, in accordance with the Dictionary of the Manly Local Environmental Plan 2013, as follows:

specialised retail premises means a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity, that requires—

- (a) a large area for handling, display or storage, or
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire, but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale, hire or display of other goods referred to in this definition.

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) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of 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.
- (e) 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.
- (f) 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.
- (g) 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.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) 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.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) 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.

- (l) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (m) 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.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) 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 \$30,131.44 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 \$3,013,144.00.

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 \$10,000 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).

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

8. **Housing and productivity contribution - Development consents**

1. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition 2, is required to be made:

Contribution Type	Amount
Housing and Productivity Contribution	\$32,660.50
Total:	\$32,660.50

2. The amount payable at the time of payment is the amount shown in condition 1 as the total housing and productivity contribution adjusted by multiplying it by:

highest PPI number

consent PPI number

where—

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made.

consent PPI number is the PPI number last used to adjust HPC rates when consent was granted.

June quarter 2023 and PPI have the meanings given in clause 22 (4) of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

3. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:

Development	Time by which HPC must be paid
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata	Before the issue of the first strata certificate

subdivision and a change of use of an existing building	
Manufactured home estate for which no construction certificate is required	Manufactured home estate for which no construction certificate is required

4. The HPC must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).
5. If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:
 - a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
 - b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 2 at the time of payment.
6. Despite condition 1, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023 exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Reason: Statutory requirement.

9. **Construction, Excavation and Associated Works Security Bond(s)**

The applicant is to lodge a bond with Council for the following:

Drainage Works

As security against any damage or failure to complete the construction of stormwater drainage works required as part of this consent a bond of \$25,000.00.

Crossing / Kerb & Gutter / Footpath Works

As security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent a bond of \$20,000.00.

Details confirming payment of the bond(s) are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

10. **On-Site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by greenarrow, project number 224-2088, dated 26.07.2024. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

11. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to TfNSW standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

12. **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.

13. **Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the

CTMP is to include:

- Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
- Demonstrate that direct access from a public space/road is not viable for each stage of works.
- An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
- Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
- No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
- How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
- If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
- A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
- A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to

adjoining property owners prior to the implementation of any temporary traffic control measure.

- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

14. Amendments to the approved plans

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

- The two proposed signage zones at the southern elevation shall be reduced in size to provide a 500mm setback from the western end of the wall.

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.

15. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, shall be provided 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.

16. **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.

17. **Access and Facilities for Persons with Disabilities**

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 this regard the Accessibility Assessment Report prepared by Nest Consulting Group dated 21/12/2023, Rev 1, is to be taken into consideration as part of the Construction Certificate assessment. 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.

18. **Building Code of Australia Fire Safety Requirements**

The Building Code of Australia fire safety requirements for the building as detailed and

recommended in the BCA Report prepared by STACC Consulting, dated 25/6/2024, Rev 1, including any required Performance Reviews, 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.

19. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include Civil Engineering plans for the design of vehicle crossing and stormwater connection which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

1. Vehicle crossing design in accordance with standard profile A4 3330/1 N.
2. Engineering design for stormwater pit adjustment in proposed vehicle crossing. Provide Class D sealed pit cover.
3. Design of proposed stormwater connection from private property into Council stormwater pit. Plans need to include detailed design, including existing stormwater pipe levels and longitudinal section of pipe showing crossing services with levels.
4. Details of all other works on the road reserve, including footpath adjustment. The submission needs to address pedestrian access across the proposed vehicle crossing.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

20. **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.

21. **Pre-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets prepared by a suitably qualified person in accordance with Council's

Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at: <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2>

The pre-construction / demolition Dilapidation Report must be submitted to Council for approval and the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

22. **Pre-Commencement Dilapidation Report**

The applicant must prepare and submit a dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifier prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction.

23. **Retention of Structures**

Certification from a suitably qualified person shall be provided demonstrating that:

- i. The structures to be retained are structurally sound; and
- ii. Where the structures to be retained are relied upon for vertical/horizontal support, those structures are capable of supporting the proposed works.

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

Reason: To ensure the development is carried out in accordance with the approval.

24. **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.

25. **Building Finishes**

The proposed external finishes shall be predominantly dark or muted tones, generally in accordance with the approved finishes schedule. Yellow or other bright colours may be permitted for signage only.

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

Reason: To minimise the visual impacts of the development.

26. **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 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

27. **Tree Removal Within the Road Reserve**

This consent approves the removal of existing trees within the road reserve as listed below:

- a) immature Water Gum fronting the property along Quirk Road located near the current driveway,
- b) a qualified AQF level 5 Arborist shall identify this tree and tag or mark prior to removal.

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor, as engaged by the applicant. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services business unit prior to removal.

Reason: Public liability.

28. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

29. **Road Occupancy Licence**

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows.

Reason: Requirement of TMC for any works that impact on traffic flow.

30. **Demolition Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

Due to heavy traffic congestion throughout the area, truck movements will be restricted during

the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Include a Traffic Control Plan prepared by an TfNSW accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", RMS' Manual – "Traffic Control at Work Sites".

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

31. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Properties:

- 1 Quirk Road, Balgowlah
- 44 Balgowlah Road

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

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

DURING BUILDING WORK

32. Protection of Existing Street Trees

a) All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street trees (2 x Brushbox within Balgowlah Road and 1 x Water Gum within Quirk Road) fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS4970-2009 Protection of trees on development sites. As a minimum the tree protection fencing for street trees fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

b) All street trees within the road verge are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

c) Additionally; (i) 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; (ii) 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; (iii) 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; (iv) 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; (v) 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; (vi) should either or all of (iv) or (v) 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; and (vii) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees.

Reason: Street tree protection.

33. Tree and Vegetation Protection

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

- i) all trees and vegetation located on adjoining properties,
- ii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites,
- ii) the following arboricultural requirements shall be adhered to unless authorised by an Arborist with minimum AQF level 5 qualifications: existing ground levels shall be maintained within the tree protection zone of trees to be retained; removal of existing tree roots at or >25mm (Ø) diameter is not permitted; 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; and structures are to bridge tree roots at or >25mm (Ø) diameter,
- iii) the activities listed in section 4.2 of AS4970-2009 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,
- iv) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- v) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

- c) The arboricultural works listed in a) and b) are undertaken as complaint to AS4970-2009 Protection of trees on development sites.

Reason: Tree and vegetation protection.

34. 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.

35. Implementation of Demolition Traffic Management Plan

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction

Traffic Management Plan where it is deemed unsuitable during the course of the project.

36. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

37. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

38. **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.

39. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

40. **Demolition Works**

Demolition works shall be limited to those structures indicated to be demolished on the plans. All existing structures indicated to be retained on the plans shall be retained.

Reason: To ensure the development is carried out in accordance with the approval.

41. **Property Boundary Levels**

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To maintain the existing profile of the nature strip/road reserve.

42. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

43. **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

44. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

45. **Landscape Completion**

Landscape works are to be implemented in accordance with the approved Landscape Plans, and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) on slab landscape planters shall be constructed as per the approved Landscape Plans, inclusive of design certification from a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting),
- c) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan, unless otherwise imposed by conditions,
- d) mass planting shall be installed at minimum 1metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers/grasses of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed or planter prepared with a suitable free draining soil mix and minimum 75mm depth of mulch.

Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

46. Condition of Retained Street Trees

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing street trees required to be retained on the approved Plans, including the following information:

- a) identify works near existing Brushbox street trees within the road reserve verge of Balgowlah Road fronting the property and the immature Water Gum fronting the property along Quirk Road nearest to the corner of Balgowlah Road, and provide list of issued recommendations if any,
- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Street tree protection.

47. Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets)

The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council's acceptance of the Dilapidation Survey is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure.

48. Certification of Civil Works and Works as Executed Data in accordance with Road Act Approval

The Applicant shall submit a certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 138 and/or Construction Certificate plans. Works as Executed data certified by a registered surveyor in relation to boundaries and/or relevant easements, prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Assets' in an approved format shall be submitted to the Principal Certifier for approval prior to the issue of the Occupation Certificate.

Reason: To ensure compliance of works with Council's specification for engineering works.

49. **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.

50. **Allocated Parking Spaces (retail/commercial)**

Parking allocated to this development must be clearly signposted and linemarked as being for the exclusive use of this development. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability.

51. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

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

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

52. **Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

53. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**

The Applicant shall submit a suitably qualified Structural Engineer's certification that the completed footing works have been constructed in accordance with this consent, Northern Beaches Council's Water Management for Development Policy and the approved Construction Certificate plans. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure

54. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), and Civil Engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures 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 party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

55. **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 the Occupation Certificate.

Reason: Compliance with this consent.

56. **Post-Construction Dilapidation Report**

The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

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

57. **Deliveries and Servicing Management Plan**

A Deliveries and Servicing Management Plan shall be prepared by the applicant and submitted to and approved by the Principal Certifier prior to the issue of any Occupation Certificate.

The Plan will need to demonstrate how deliveries and servicing will be managed to ensure that:
a) there will be no deliveries/pick ups or servicing by trucks larger than 8.8m in length; and b)
there will be only one vehicle entering and exiting the site in any period and how safe servicing
arrangements including waste collection will be undertaken without interrupting general traffic.
Vehicle queuing on public road(s) is not permitted.

Reason: to ensure that delivery and servicing activity does not impact upon customer parking
or safety and that deliveries are managed appropriately with staff aware of the conditions of
use.

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

58. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover 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 the approved Landscape Plans and any conditions of consent.

Reason: To maintain local environmental amenity.

59. **Vehicle Parking**

The development shall maintain 23 car parking spaces, including one accessible space, for the life of the development in accordance with this consent. Parking spaces are to be accessible at all times during the approved hours of operation.

Reason: To ensure that the operation of the premises is consistent with the approved development.

60. **Delivery Vehicles**

Delivery and Service vehicles in excess of 8.8m in length are not permitted to access the site at any time.

Reason: to ensure safety and avoid conflict between trucks and customer vehicles.

61. **Hours of Illumination**

Illumination of signage and lighting, other than security lighting, at the subject premises shall cease outside of the approved hours of operation.

Signs must not flash, move or be constructed of neon materials.

Reason: To ensure residential premises are not affected by inappropriate or excessive illumination.

62. **Mechanical Plant**

Any mechanical plant equipment 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.

63. **Signage Illumination Intensity and Design**

The level of illumination and/or lighting intensity used to illuminate the signage is to be minimised and the design is to be such to ensure that excessive light spill or nuisance is not caused to any nearby premises.

Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties.

64. **Hours of Operation**

The hours of operation are to be restricted to:

Hours of trading:

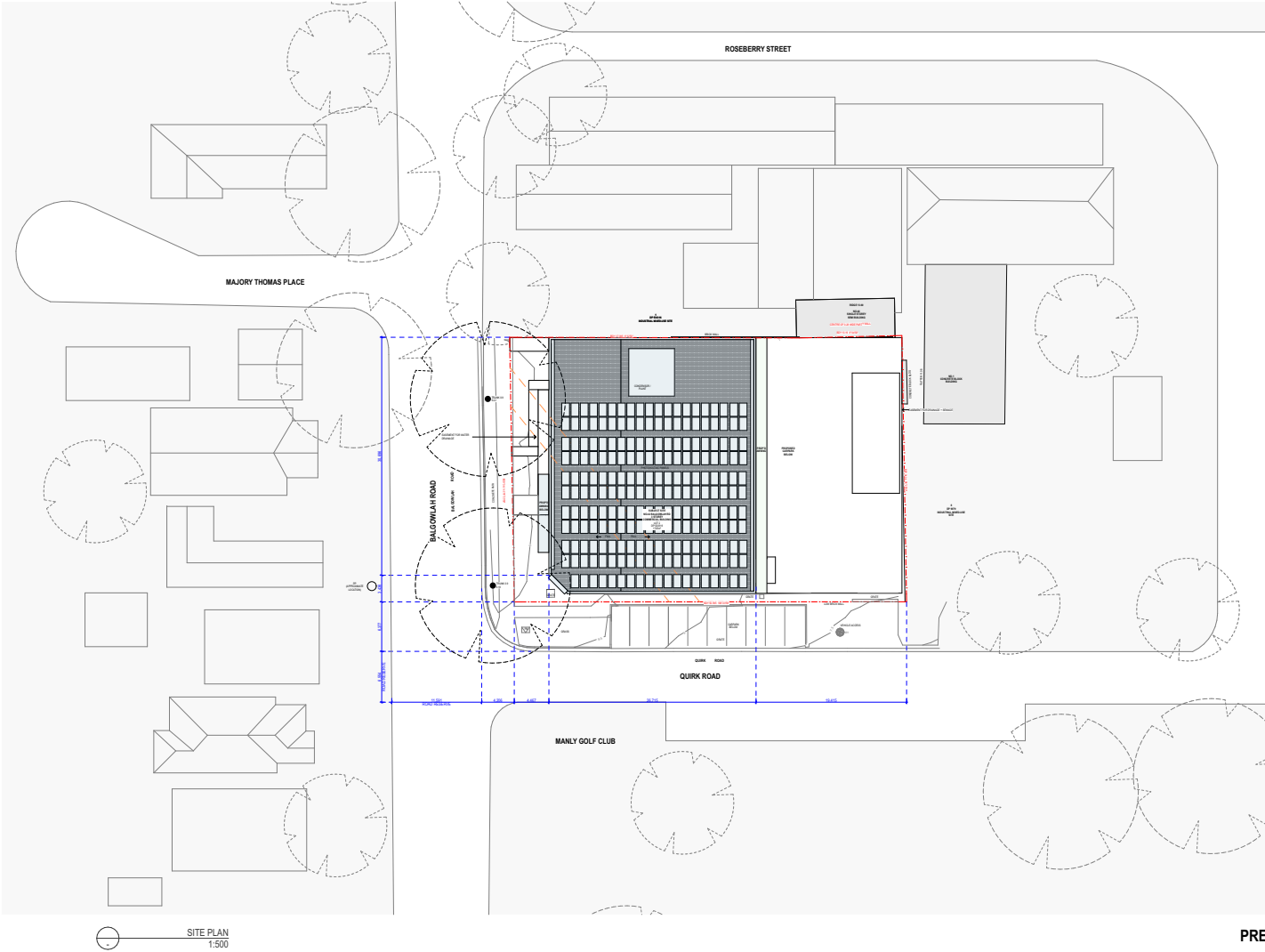
- Monday to Friday – 8:30am to 6:00pm
- Saturday, Sunday and Public Holidays – 9:00am to 5:00pm

Deliveries and waste collection:

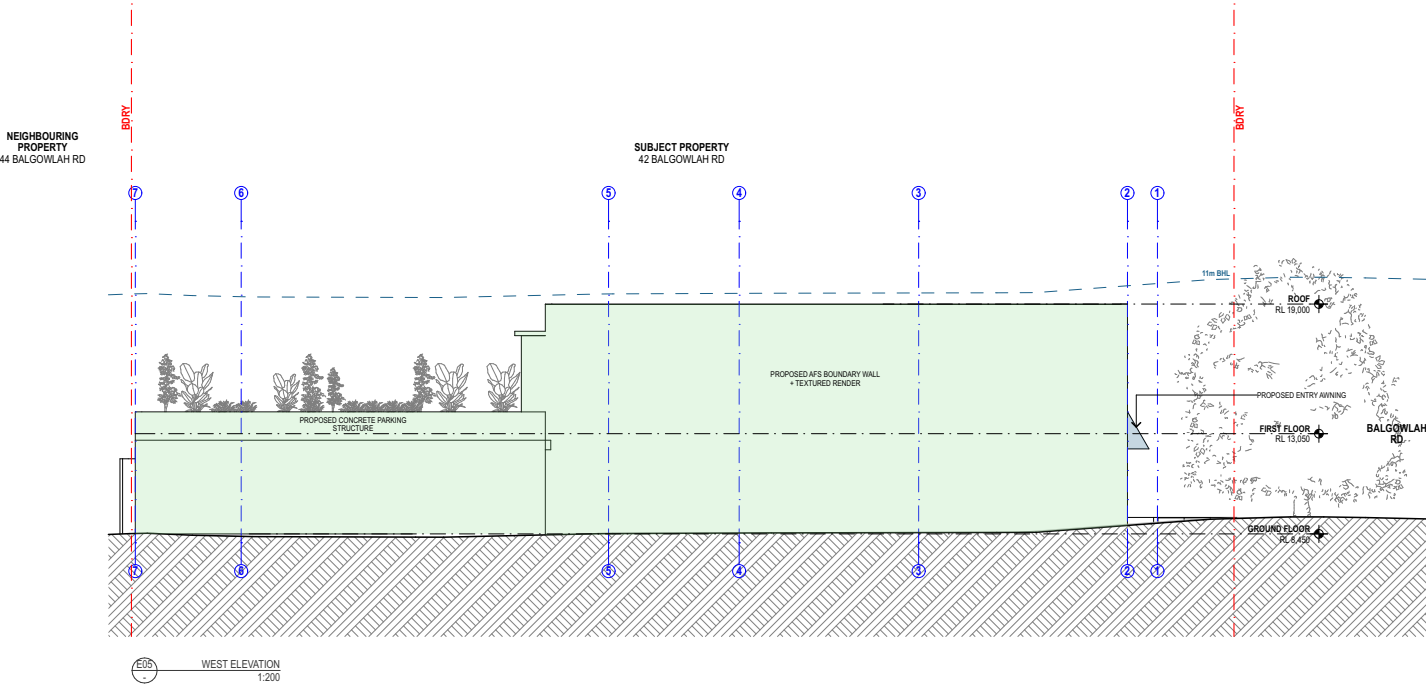
- Monday to Sunday and Public Holidays – 10am to 2:00pm

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 15 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.



	MODIFY ABN 20 165 224 446 30 Garner Street Paddington NSW 2021 P + 61 (0)2 9557 0711 E info@modify.com.au W www.modify.com.au	<table><tr><th>DATE</th><th>REVISION</th><th>REASON FOR ISSUE</th></tr><tr><td>30.08.2023</td><td>A</td><td>EXISTING DRAWINGS</td></tr><tr><td>01.12.2023</td><td>A</td><td>DEVELOPMENT APPLICATION</td></tr><tr><td>21.05.24</td><td>B</td><td>REVISED DA</td></tr><tr><td>20.06.24</td><td>C</td><td>DA FOR RESUBMISSION</td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr></table>	DATE	REVISION	REASON FOR ISSUE	30.08.2023	A	EXISTING DRAWINGS	01.12.2023	A	DEVELOPMENT APPLICATION	21.05.24	B	REVISED DA	20.06.24	C	DA FOR RESUBMISSION										PROJECT NAME BALGOWLAH CLIENT STEPHEN AND JEN HUMPHRY Date: Tuesday, 13 August 2024	SITE 42 BALGOWLAH ROAD BALGOWLAH NSW 2093 LOT 2, DP 530316 DRAWING TITLE: SITE PLAN	 PROJECT NO. M184 REV C DRAWING NO. DA 03 DRAWN BY: MB CHECKED BY: JU SCALE: @A3
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General Notes The Builder shall check all dimensions and levels on site prior to construction. Rights are hereby acknowledged as reserved to the architect. Drawings shall not be used for construction purposes until issued for construction. On-site construction shall be subject to survey. This drawing is to be used in conjunction with all relevant standards, specifications and consultant documentation. This drawing is intended to be used for information only and is not for any purpose without written consent of Modify Pty Ltd. NCEC architect number 4907228																													



PRELIMINARY - NOT FOR
CONSTRUCTION

	MODIFY ABN: 30 162 034 646 Address: 30 Gurnee Street, Paddington NSW 2021 P: +61 (0)2 9550 2711 E: info@modify.com.au www.modify.com.au General Notes The Builder shall check all dimensions and levels on site prior to construction. Buildings are shown, demolished or proposed to be demolished. Drawings shall not be used for construction purposes until issued for construction. On-site construction shall be subject to survey. This drawing is to be used in conjunction with all relevant standards, specifications and consultant documentation. This drawing is intended for use as a guide only and is not to be used for any purpose without the written consent of Modify Pty Ltd. NBN modified drawing image #00128	<table><tr><th>DATE</th><th>REVISION</th><th>REASON FOR ISSUE</th></tr><tr><td>30.08.2023</td><td>A</td><td>EXISTING DRAWINGS</td></tr><tr><td>01.12.2023</td><td>A</td><td>DEVELOPMENT APPLICATION</td></tr><tr><td>21.05.24</td><td>B</td><td>REVISED DA</td></tr><tr><td>20.06.24</td><td>C</td><td>DA FOR RESUBMISSION</td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td></tr></table>	DATE	REVISION	REASON FOR ISSUE	30.08.2023	A	EXISTING DRAWINGS	01.12.2023	A	DEVELOPMENT APPLICATION	21.05.24	B	REVISED DA	20.06.24	C	DA FOR RESUBMISSION										<table><tr><th colspan="2">LEGEND</th></tr><tr><td>--- DEMOLISH STRUCTURE</td><td>MASONRY SECTION</td></tr><tr><td>--- BOUNDARY</td><td>TIMBER SECTION</td></tr><tr><td>--- EXTENT OF APPROVED DA</td><td>GLASS SECTION</td></tr><tr><td>--- EXISTING SECTION</td><td>CONCRETE SECTION</td></tr><tr><td>--- EXISTING PLAN</td><td>STEEL/METAL SECTION</td></tr></table>	LEGEND		--- DEMOLISH STRUCTURE	MASONRY SECTION	--- BOUNDARY	TIMBER SECTION	--- EXTENT OF APPROVED DA	GLASS SECTION	--- EXISTING SECTION	CONCRETE SECTION	--- EXISTING PLAN	STEEL/METAL SECTION	PROJECT NAME BALGOWLAH CLIENT STEPHEN AND JEN HUMPHRY Date: Tuesday, 13 August 2024	SITE 42 BALGOWLAH ROAD, BALGOWLAH NSW 2093 LOT 2, DP 530316 DRAWING TITLE : WEST ELEVATION	PROJECT NO. M184 REV C DRAWING NO. DA 20
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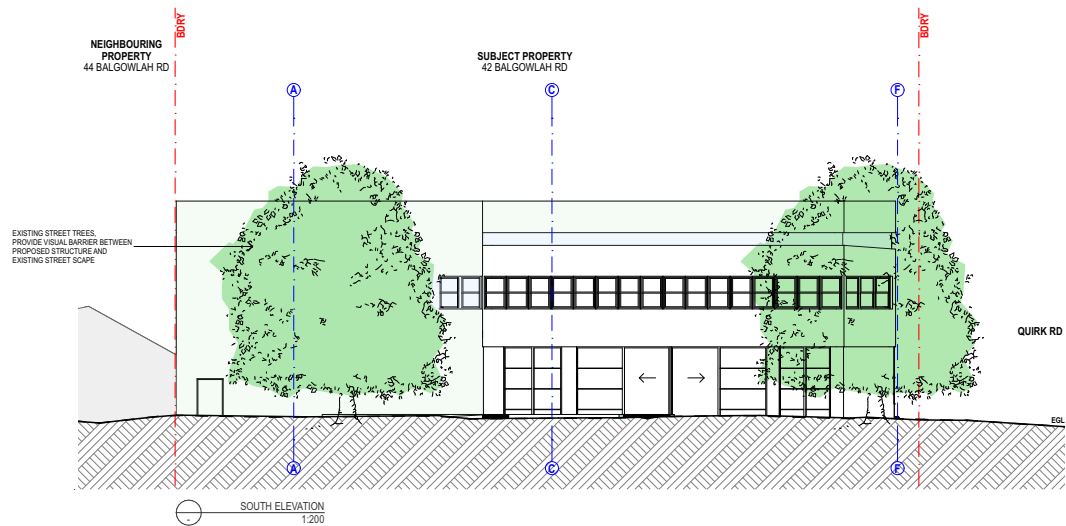
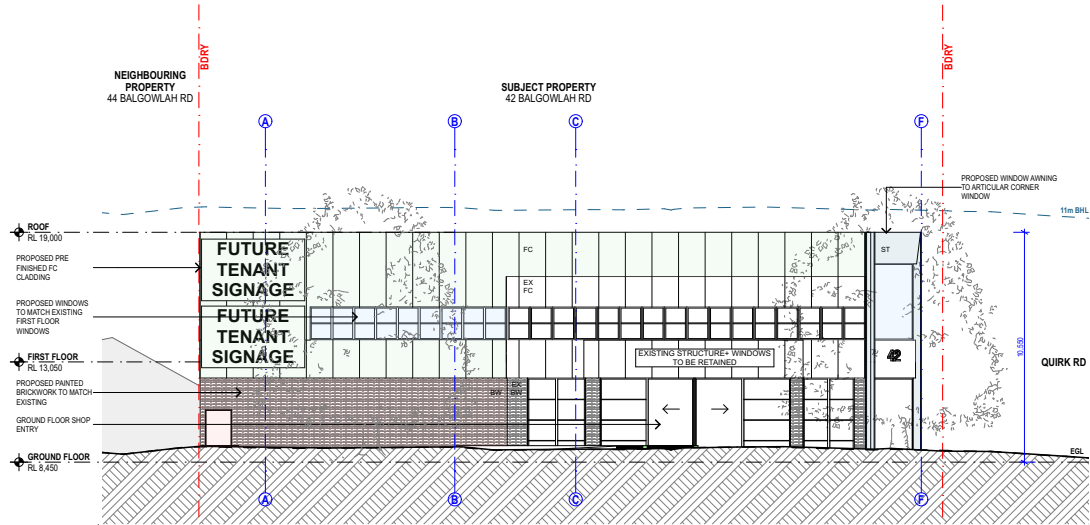
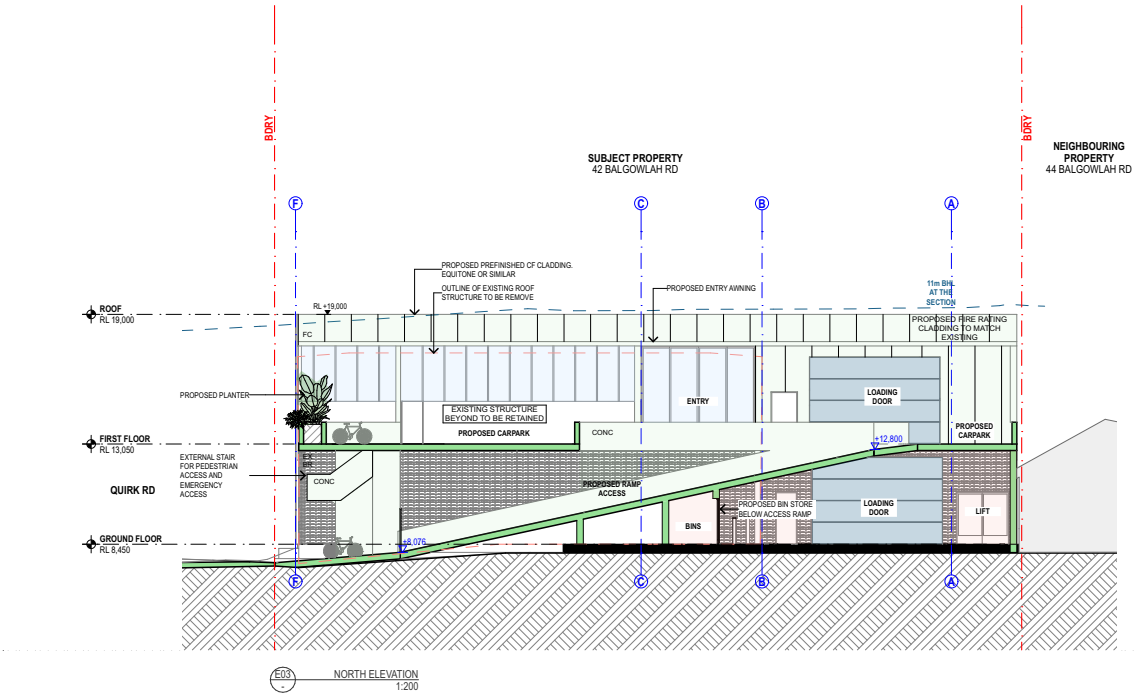


IMAGE OF STREET TREE ON BALGOWLAH RD

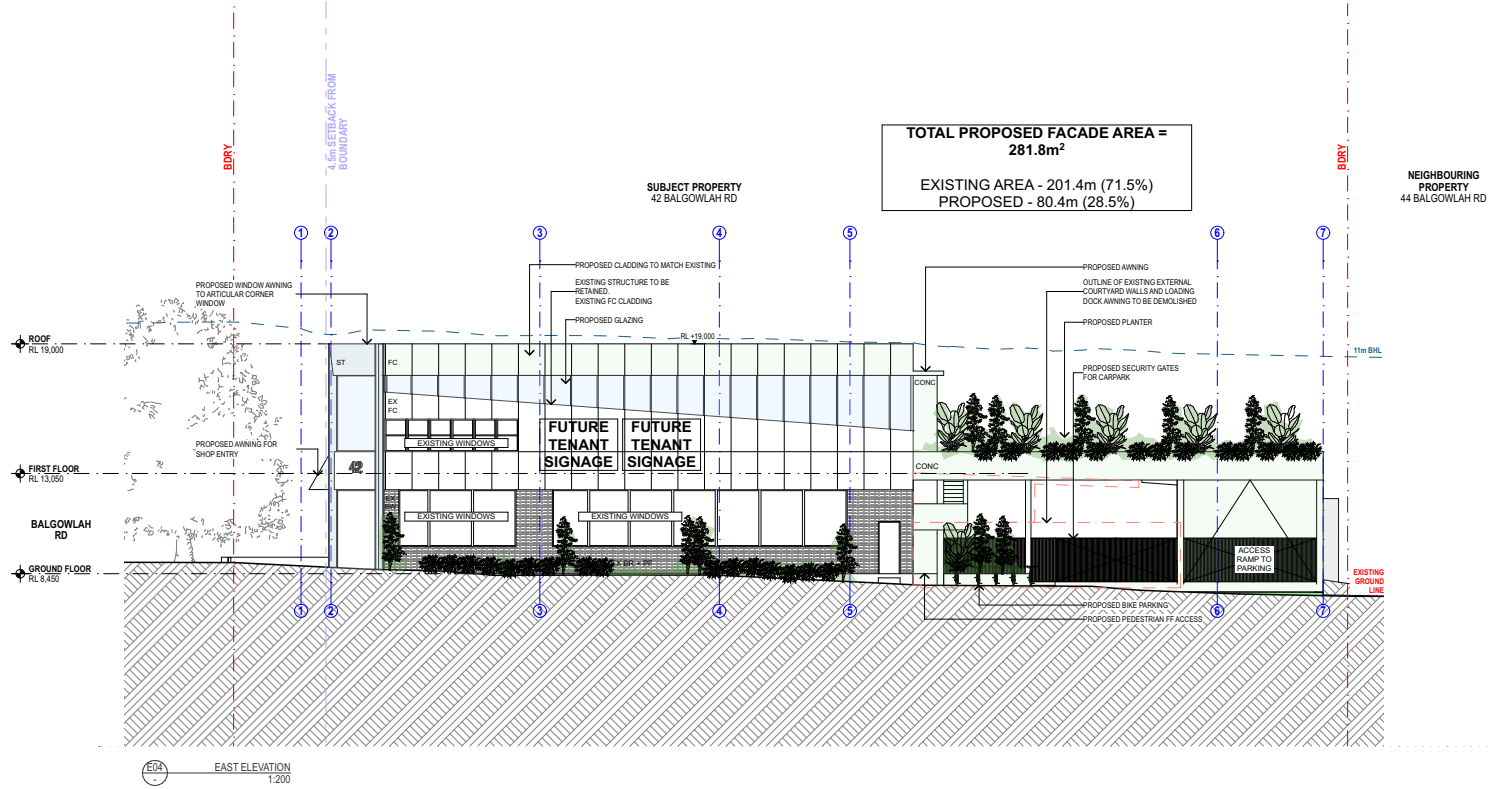
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	MODIFY 400/411 1st St #400 Sydney, NSW 1585 P: 02 9550 0000 E: info@modify.com.au www.modify.com.au General Notes The Builder shall check all dimensions and levels on site prior to construction. Rights are hereby acknowledged as reserved to the architect. Drawings shall not be used for construction purposes until issued for construction. Drawings shall not be used for construction purposes until issued for construction. This drawing is to be used in conjunction with all relevant standards, specifications and consultant documentation. This drawing is intended to be used for the purpose of a development application only and is not to be used for any other purpose without the written consent of Modify Pty Ltd. MODIFY is not responsible for any errors or omissions.	<table><tr><th>DATE</th><th>REVISION</th><th>REASON FOR ISSUE</th></tr><tr><td>30.08.2023</td><td>A</td><td>EXISTING DRAWINGS</td></tr><tr><td>01.12.2023</td><td>A</td><td>DEVELOPMENT APPLICATION</td></tr><tr><td>21.05.24</td><td>B</td><td>REVISED DA</td></tr><tr><td>20.06.24</td><td>C</td><td>DA FOR RESUBMISSION</td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr></table>	DATE	REVISION	REASON FOR ISSUE	30.08.2023	A	EXISTING DRAWINGS	01.12.2023	A	DEVELOPMENT APPLICATION	21.05.24	B	REVISED DA	20.06.24	C	DA FOR RESUBMISSION										LEGEND --- DEMOLISH STRUCTURE --- BOUNDARY --- EXTENT OF APPROVED DA --- EXISTING SECTION --- EXISTING PLAN --- MASONRY SECTION --- TIMBER SECTION --- GLASS SECTION --- CONCRETE SECTION --- STEEL/METAL SECTION	PROJECT NAME BALGOWLAH CLIENT STEPHEN AND JEN HUMPHRY Date: Tuesday, 13 August 2024	SITE 42 BALGOWLAH ROAD, BALGOWLAH NSW 2093 LOT 2, DP 530316 DRAWING TITLE: SOUTH ELEVATION	<table><tr><td>PROJECT NO.</td><td>M184</td></tr><tr><td>REV</td><td>C</td></tr><tr><td>DRAWN BY:</td><td>MB</td></tr><tr><td>CHECKED BY:</td><td>JU</td></tr><tr><td>SCALE:</td><td>1:200@A3</td></tr></table>	PROJECT NO.	M184	REV	C	DRAWN BY:	MB	CHECKED BY:	JU	SCALE:	1:200@A3
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ITEM 3.4	DA2024/0485 - 14 FOAM STREET FRESHWATER - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A GARAGE AND DRIVEWAY
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PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION

THAT Council as the consent authority **approves** Development Consent to DA2024/0485 for Alterations and additions to a dwelling house including a garage and driveway on land at Lot 71 DP 5302, 14 Foam Street FRESHWATER, subject to the conditions set out in the Assessment Report.

Reporting manager	Rodney Piggott
TRIM file ref	2024/626920
Attachments	1 Assessment Report 2 Site Plan and Elevations

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0485
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Responsible Officer:	Michael French
Land to be developed (Address):	Lot 71 DP 5302, 14 Foam Street FRESHWATER NSW 2096
Proposed Development:	Alterations and additions to a dwelling house including a garage and driveway
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
Applicant:	Andy's Home Design Pty Ltd

Application Lodged:	02/05/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	07/05/2024 to 21/05/2024
Advertised:	Not Advertised
Submissions Received:	7
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 354,540.97
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EXECUTIVE SUMMARY

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

The application is referred to the Development Determination Panel (DDP) due to the proposal receiving more than five (5) objections.

The proposed development was notified in accordance with the Northern Beaches Community Participation Plan (CPP) for fourteen (14) days. A total of seven (7) objections were received.

Concern raised in the objections predominantly relate to the amenity impacts resulting from the proposal. Issues with stormwater and access to sunlight were recurrent themes in the submissions.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that, on balance the proposal is an acceptable development for the subject site for the reasons outlined in this report.

This report concludes with a recommendation that the DDP **approve** the development application for the recommended reasons.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for the following:

- Demolition of the shed, driveway, paving and portions of the existing dwelling.
- Landscaping works including the removal of a Frangipani tree in the front yard.
- Addition of a new driveway and a garage.
- Extension of the ground floor deck and internal alterations and additions.
- Addition of a first-floor situated toward the front of the dwelling, comprising of a master bedroom with an ensuite and WIR, and a bedroom with an adjoining ensuite.

Amended architectural plans were submitted in response to a Request for Further Information letter. The application was not renotified, in line with the Northern Beaches Community Participation Plan (CPP), as it was determined that the amendments would result in reduced environmental impacts.

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

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

SITE DESCRIPTION

Property Description:	Lot 71 DP 5302 , 14 Foam Street FRESHWATER NSW 2096
Detailed Site Description:	The subject site consists of one (1) allotment located on the western side of Foam Street. The site is regular in shape with a frontage of 10.6m along Foam Street and a depth of 40.2m. The site has a surveyed area of 404.4m². The site is located within the R2 Low Density Residential zone pursuant to the Warringah Local Environmental Plan 2011 and accommodates a single storey dwelling. The site has a mild slope toward the western rear of the site. The site has a mix of vegetation throughout. There are no details of any threatened species on site. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by a mix of dwellings within an R2 Low Density Residential zone.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this

site.

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

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	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 2021 (EP&A Regulation 2021)	Part 4, Division 2 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 of consent. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended Architectural Plans that addresses concerns raised in the submissions related to overshadowing, and an increased Landscaped Open Space calculation. <u>Clause 61</u> of the EP&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. <u>Clause 69</u> of the EP&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. <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 of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social	(i) Environmental Impact 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.

Section 4.15 Matters for Consideration	Comments
and economic impacts in the locality	(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact 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 07/05/2024 to 21/05/2024 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 7 submission/s from:

Name:	Address:
Cade Peter Jenkins	12 Foam Street FRESHWATER NSW 2096
Mr Neville Francis Thompson	40 Anzac Avenue COLLAROY NSW 2097
Mr Brett Douglas Jenkins	27 Normandy Road ALLAMBIE HEIGHTS NSW 2100
Ms Yan Chang Li	17 Foam Street FRESHWATER NSW 2096
james kirby	12 Wyadra Avenue FRESHWATER NSW 2096
Mrs Amy Lauren Murphy	2 / 18 Moore Road FRESHWATER NSW 2096
Susan Jean Jenkins	12 Foam Street FRESHWATER NSW 2096

The following issues were raised in the submissions:

- Clause B5 Side Boundary Setbacks
- Clause D1 Landscaped Open Space and Bushland Setting
- Clause D6 Access to Sunlight
- Statement of Environmental Effects (SEE)
- Stormwater Management
- Visual appearance

The above issues are addressed as follows:

- **Clause B5 Side Boundary Setbacks**

The submissions raised concerns regarding the setback of the first-floor addition from the side boundary lines.

Comment:

The first-floor addition is setback a compliant 1.4m from the northern side boundary line and 1.3m from the southern side boundary line. Furthermore, the proposed design is consistent with the objectives of the control, ensuring an appropriate spatial relationship between buildings and preserving the amenity of adjoining properties. The proposal is supported in this regard.

- **Clause D1 Landscaped Open Space and Bushland Setting**

The submissions raised concerns regarding the non-compliance with the above clause.

Comment:

Assessment against the objectives of *Clause D1 Landscaped Open Space and Bushland Setting* is detailed elsewhere within this report

- **Clause D6 Access to Sunlight**

The submissions raised concern about the proposed overshadowing, particularly on the adjoining property at 12 Foam Street, Freshwater. The adequacy of the Statement of Environmental Effects in addressing this issue was also questioned, along with the impact of the proposed roof form.

Comment:

Clause D6 Access to Sunlight requires the following:

1. *Development should avoid unreasonable overshadowing any public open space.*
2. *At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.*

The provided certified shadow diagrams demonstrate that the proposal complies with these requirements. However, in response to public concern, a Request for Further Information was issued to the applicant on June 26, 2024, to review overshadowing impacts and explore potential design adjustments. The applicant responded with amended plans, reducing the lower roof and upper roof height by 300mm and making corresponding adjustments to window heights. These changes mitigate the overshadowing impacts and maintain compliance with the requirements of *Clause D6 Access to Sunlight*. Therefore, the proposal is considered

supportable in this regard.

- **Statement of Environmental Effects (SEE)**

The submissions raised concerns that the depiction of the dwelling in the Statement of Environmental Effects is inaccurate.

Comment:

The image of the dwelling in the Statement of Environmental Effects does not influence the outcome of this application, as the official plans under consideration are those in the Architectural Drawings. The proposed design adheres to these plans, and no amended SEE was required or requested. The assessment is based solely on the architectural plans, which accurately reflect the proposed development.

- **Stormwater Management**

The submissions raised several concerns regarding the comments made in the Statement of Environmental Effects, specifically about the stormwater management system. The statement asserts that the existing system can accommodate additional stormwater from the proposed works and that the new construction does not significantly increase the site's impervious surface. However, the submissions argue that this is misleading due to the increased roof size and hard surfaces. Further concerns were raised about the lack of investigation into the current stormwater system and its discharge points. The submissions suggest that, as Council is responsible for stormwater management, a deferred commencement condition should be imposed to keep this aspect under Council's control, rather than allowing a private certifier to assess and sign off on the stormwater management plan. Additionally, the submissions request that an Engineered Hydraulic Stormwater Plan be submitted to address potential issues. Concerns were also expressed about roof and stormwater discharge, with the suggestion that an absorption pit should have been installed to manage runoff. The presence of small sinkholes after heavy rain is noted, with the belief that stormwater from the subject site, located on higher ground, is contributing to these issues. The submission questions the adequacy of the current stormwater system in handling the additional load.

Comment:

The concerns raised regarding the capability of the stormwater system to handle the proposed alterations and additions have been assessed by Council's Development Engineer and addressed through specific conditions of consent. These conditions are designed to ensure that the stormwater management system is both effective and compliant with relevant standards, and reads as follows:

Stormwater Disposal from Low Level Property

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy in particular Section 5.5 Stormwater Drainage from Low Level Properties. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with Northern Beaches Council's policy by an appropriately qualified Civil Engineer are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising

from the development.

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.

The comments in the Statement of Environmental Effects regarding stormwater management are not pertinent to the Council's Development Engineers' assessment. The conditions imposed provide the required framework to ensure that stormwater concerns are adequately addressed both during and after construction. Specifically, the conditions regarding assessment at the Construction Certificate and Occupation Certificate stages ensures that the stormwater management system is appropriate and to the required standard. In addition, the applicant's requirement to submit detailed engineering plans and to obtain necessary certifications ensures that the stormwater system will meet all required standards. The concerns raised are considered to be mitigated by the above conditions, which prioritise effective stormwater management.

- Visual appearance**

The submissions raised concerns that the proposed design is inconsistent with the established character of the area and negatively impacts the streetscape.

Comment:

The proposed design has been assessed and is considered to adequately integrate with the surrounding properties, and adequately align with both the current and anticipated future character of the area. The design respects the visual context, and no controls have been breached that would render the proposal unsupportable from an aesthetic standpoint.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The application seeks consent for: Alterations and additions to a dwelling house including a garage and driveway. The plans indicate removal of one small Frangipani tree (exempt). All other trees are to be retained. No significant landscape features are indicated to be impacted by the proposed works. No objections are raised with regard to landscape issues subject to conditions.
NECC (Development Engineering)	The proposed development is in Region 2. Vehicle crossing construction is not proposed. The site is not subject to geotechnical

Internal Referral Body	Comments
	hazard. Development engineering raises no objections to the proposed development, subject to conditions. Engineering Comments 01.08.24 Amended stormwater management conditions provided.

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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No.A1742509_02 dated 25 July 2024).

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.

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.

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	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Original: 7.9m Amended: 7.8m	N/A	Yes

Compliance Assessment

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

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	5.8m	N/A	Yes
B3 Side Boundary Envelope	5m (north)	within envelope	N/A	Yes
	5m (south)	within envelope	N/A	Yes

B5 Side Boundary Setbacks	0.9m (north)	1.4m (north)	N/A	Yes
	0.9m (south)	1.3m (south)	N/A	Yes
B7 Front Boundary Setbacks	6.5m	6.5m (garage)	N/A	Yes
B9 Rear Boundary Setbacks	6m	5.6m (deck stairs) (proposed)(original) 8.4m (deck stairs) (proposed)(amended)	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	32% (126.02m ²) (existing) 26% (104.71m ²) (proposed)(original) 30% (123.23m²) (proposed)(amended)	25%	No

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	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

Clause D1 Landscaped Open Space and Bushland Setting requires that the total soft landscaped area shall total 40% of the site area.

The proposed works provide for a Landscape Open Space calculation of 30% (123.23m²), a variation of 25%.

It should be noted that this is a minor reduction on the existing 32% (126.02m²) but an increase on the original proposal of 26% (104.71m²).

Additionally, a condition of consent has been included to ensure that the Landscape Open Space can be calculated at 30%, in accordance with the definition detailed within the Warringah Local Environmental Plan 2011. This condition reads as follows:

Amendments to the approved plans

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

- *The gravel and stepping stone path within the front setback area is to be deleted from the plans.*

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

Reason: To ensure the provision of adequate Landscaped Area as defined by the Warringah Local Environmental Plan 2011.

In this instance a minor increase in the variation to *Clause D1 Landscape Open Space and Bushland Setting* is considered to be supportable as the outcomes of the control have been met as outlined below.

Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*

Comment:

The development will maintain adequate space for planting to maintain and enhance the streetscape.

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

Comment:

The proposal is considered to adequately conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

The proposal maintains landscaped open space within the front and rear yards, with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.

- *To enhance privacy between buildings.*

Comment:

The proposal is not considered to unreasonably adversely effect privacy to or from the subject site.

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

Comment:

The development will maintain the adequate landscaped area to accommodate for the recreational needs of the occupants.

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

Comment:

Service functions will not be impacted.

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

Comment:

Council's Development Engineer has reviewed the application in regard to stormwater and has supported the application as proposed. The infiltration of water is not anticipated to be unreasonably adversely affected.

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

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

A monetary contribution of \$3,545 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$354,541.

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 alterations and additions to a dwelling house including a garage and driveway has been referred to the Development Determination Panel (DDP) due to the proposal resulting in greater than five (5) objections.

It is considered that the concerns raised in the objections have been adequately addressed via an amended proposal.

The critical assessment issue includes a variation to *Clause D1 Landscaped Open Space (LOS) and Bushland Setting*, and concerns raised in the submissions. This proposed variation will result in acceptable impacts on the environment and amenity of adjoining sites, ultimately leading to the development's ability to meet the objectives of the above clause.

Overall, the development will result in reasonable impacts to adjoining and nearby properties, and 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 Development Consent to DA2024/0485 for Alterations and additions to a dwelling house including a garage and driveway on land at Lot 71 DP 5302, 14 Foam Street, FRESHWATER, 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
DA102	DA - RFI	Site Plan, Analysis & Roof Plan	Andy's Home Design	25 July 2024
DA105	DA - RFI	Excavation & Fill Plan	Andy's Home Design	25 July 2024
DA201	DA - RFI	Exist/Demo Ground Floor	Andy's Home Design	25 July 2024
DA202	DA - RFI	Exist/Demo Roof	Andy's Home Design	25 July 2024

DA301	DA - RFI	Ground Floor	Andy's Home Design	25 July 2024
DA302	DA - RFI	First Floor	Andy's Home Design	25 July 2024
DA303	DA - RFI	Roof Plan	Andy's Home Design	25 July 2024
DA401	DA - RFI	Sections 1	Andy's Home Design	25 July 2024
DA402	DA - RFI	Sections 2	Andy's Home Design	25 July 2024
DA403	DA - RFI	Driveway Details	Andy's Home Design	25 July 2024
DA501	DA - RFI	North Elevations	Andy's Home Design	25 July 2024
DA502	DA - RFI	East Elevations	Andy's Home Design	25 July 2024
DA503	DA - RFI	South Elevations	Andy's Home Design	25 July 2024
DA504	DA - RFI	West Elevations	Andy's Home Design	25 July 2024
DA607	DA - RFI	Material Selection - Front	Andy's Home Design	25 July 2024
DA608	DA - RFI	Material Selection - Rear	Andy's Home Design	25 July 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Waste Management Plan	-	Andy Seller	8 April 2024
BASIX Certificate	A1742509_02	ANDY'S HOME DESIGN PTY LTD	25 July 2024

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

In the event of any inconsistency between 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	undated

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website 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. 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.

4. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

 - 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).
- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of 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.
- (e) 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.
- (f) 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.
- (g) 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.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
 - (i) 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.
 - (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
 - (k) 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.
 - (l) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
 - (m) 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.
 - (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
 - (o) 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

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$3,545.41 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 \$354,540.97.

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.

6. 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).

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. Stormwater Disposal from Low Level Property

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy in particular Section 5.5 Stormwater Drainage from Low Level Properties. Details demonstrating that the existing approved system can accommodate the additional flows without an increase in discharge from the site for all events up to the 1% AEP event or compliance with Northern Beaches Council's policy by an appropriately qualified Civil Engineer are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate. Should the existing on-site stormwater disposal system be inadequate, a suitable on-site detention system and level spreader or absorption system shall be provided.

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

8. Amendments to the approved plans

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

- The gravel and stepping stone path within the front setback area is to be deleted from the plans.

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

Reason: To ensure the provision of adequate Landscaped Area as defined by the Warringah Local Environmental Plan 2011.

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. **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.

11. **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 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.

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.

DURING BUILDING WORK

13. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected, including:
 - i) all trees within the site not indicated for removal 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 AS4970-2009 Protection of trees on development sites,
 - 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 AS4970-2009 Protection of trees on development sites,
 - ix) the activities listed in section 4.2 of AS4970-2009 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 AS4373-2007 Pruning of amenity trees,
 - xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

- c) The arboricultural works listed in a) and b) are undertaken and complaint to AS4970-2009 Protection of trees on development sites.

Reason: Tree and vegetation protection.

14. **Condition of Trees**

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 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.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

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.

15. **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.

16. **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.

17. 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

18. Required Tree Planting

Trees shall be planted in accordance with the following:

- a) 1 x locally native tree(s) shall be planted within the front yard of the property to achieve at least 5 metres height at maturity, and in accordance with the following:
 - i) tree planting shall be a minimum pre-ordered planting size of 25 litres; may be selected from Northern Beaches Council's Native Plant Species Guide-Curl Curl Ward - <https://www.northernbeaches.nsw.gov.au/environment/native-plants/native-planting-guide/curl-curl-ward>; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; ; and located either within garden bed or within a prepared bed within lawn,
 - ii) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,
- 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.

19. 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.

20. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), and Civil Engineers' certification for any new on-site detention system and level spreader/ absorption trench required as part of this consent.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures 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 party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

21. **Waste Management Confirmation**

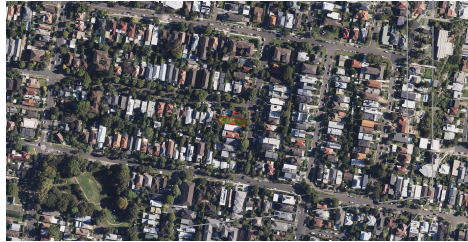
Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with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

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

Development Application - Project Foam - Alterations & Additions				
14 Foam Street, Freshwater 2096, NSW				
Northern Beaches Council				
Site Area = 404.4m ² Lot 71 - DP 5302				
Planning Controls	Applied/Required	Existing	Proposed	Compliance
Min. Lot Size	450m ²	404.4m ²	Remains as is	Yes
Height of buildings	8.5m			
Land Zone	R2 - Low density residential	R2	Remains as is	Yes
Floor space ratio	N/A			
Heritage	N/A			
Acid sulfate soils	N/A			
Flood Risk	N/A			
Landslip Risk	Area A - Slope < 5			
Coastline Hazard	N/A			
Bushfire Prone Land (Non EPI)	N/A			
WBCP				
Landscape Open Space	Min. 40% of site area (161.76m ²)	126.02m ² (32%)	123.23m ² (30%)	No - Merit
Private Open Space	Min. 50m ²	94.85m ²	94.85m ²	Yes
Setbacks:				
Front:	6.5m	12.075m	6.5m	Yes
Side:	0.9m	N= 1.23m	N= 1.29m	Yes
Side:	0.9m	S= 1.23m	S= 1.29m	Yes
Rear:	6m	9.428m	9.428m	Yes

NOTE

- The Builder shall check all dimensions and levels on site prior to construction. Notify any errors, discrepancies or omissions to the building designer. Refer to written dimensions only. Do not scale drawings. Drawings shall not be used for construction purposes until issued for construction. This drawing reflects a design by Andy's Home Design and is to be used only for work when authorised in writing by Andy's Home Design.
- All boundaries and contours are subject to survey drawing DA101. All levels to Australian Height Data. It is the contractors responsibility to confirm all measurements on site and locations of any services prior to work on site.
- All documents here within are subject to Australian Copyright Laws.



Six Maps Location Plan

Site Plan, Analysis & Roof Plan
1:200

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LEGEND			
Proposed Works	Demolition	Existing/ Remains as is	
Existing	Masonry	Concrete	Roof Above
Demolished	Timber	Concrete Block	Structure Above/ Below



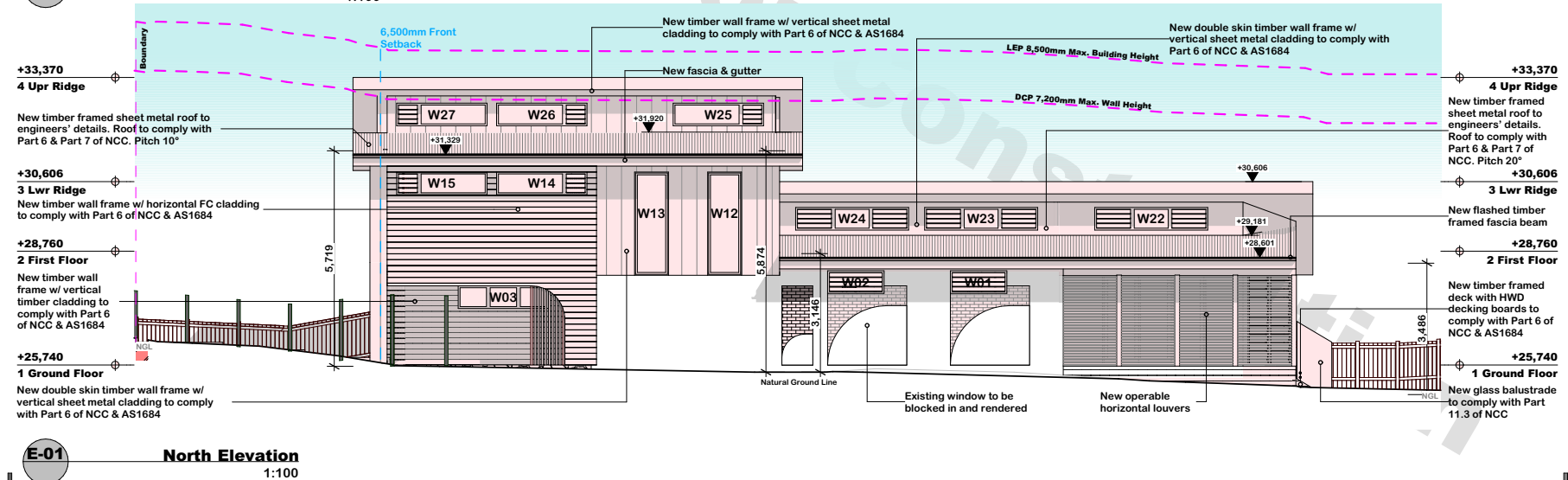
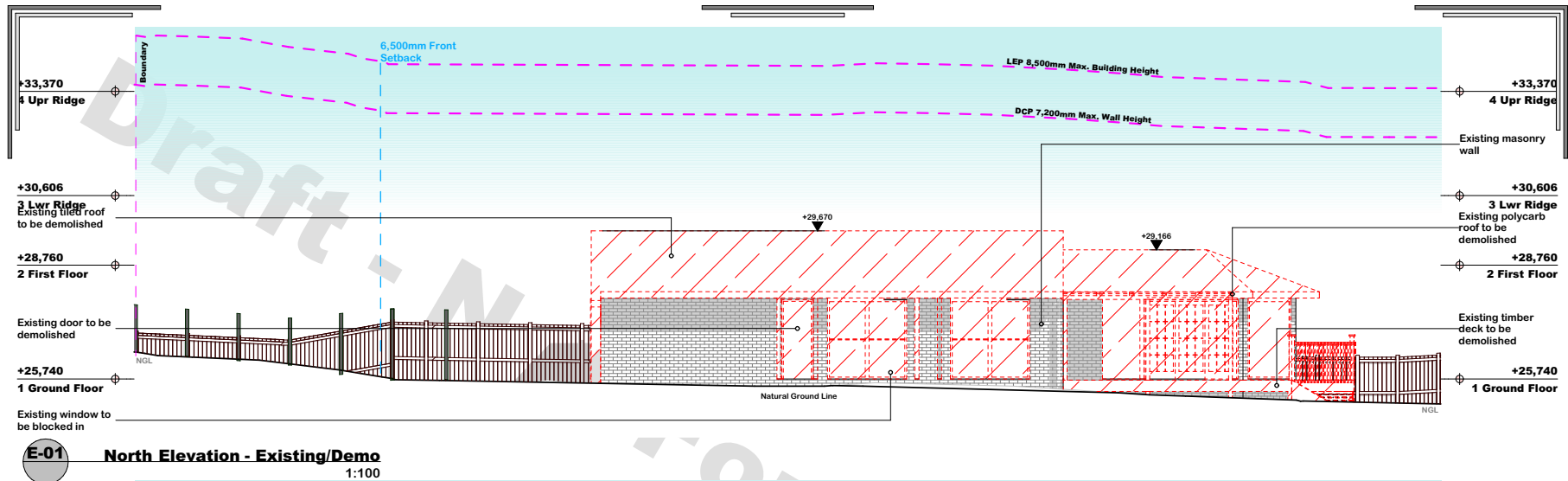
Andy's Home Design PTY LTD
Director: Andy Seller
ABN: 32 624 682 024
BDAA ACC#: 6849
Phone: 0430-592-043
Email: info@andyshome.design

DRAWING TITLE:
SITE PLANS
Site Plan, Analysis & Roof Plan
LOT 71 D.P. 5302
14 FOAM STREET FRESHWATER NSW 2096

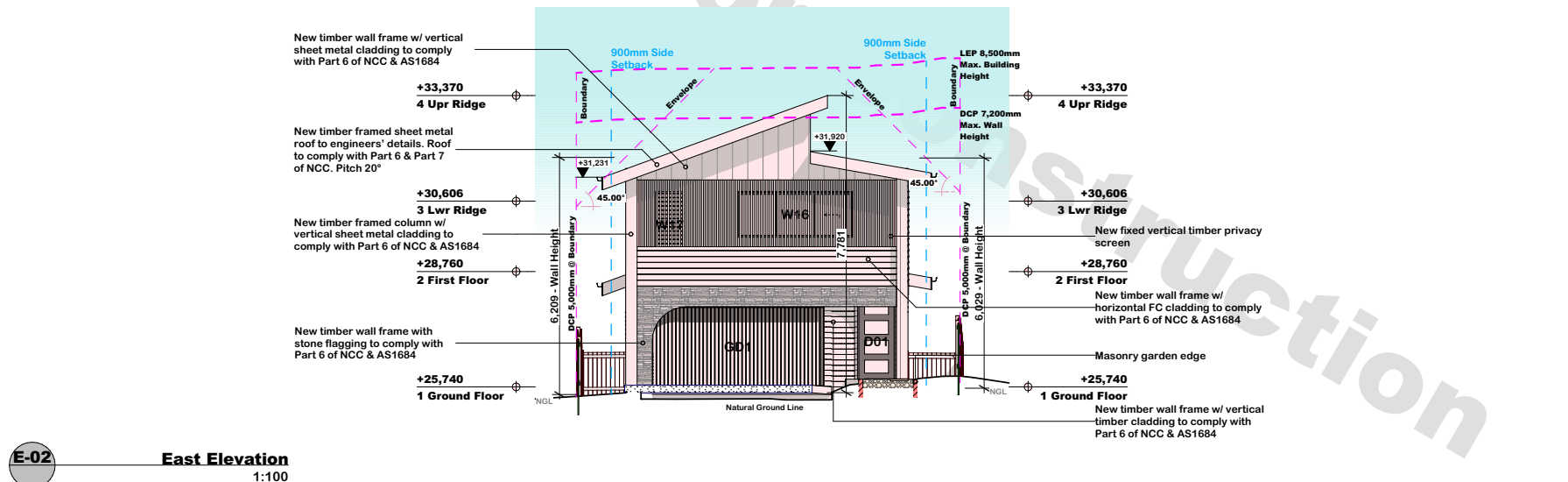
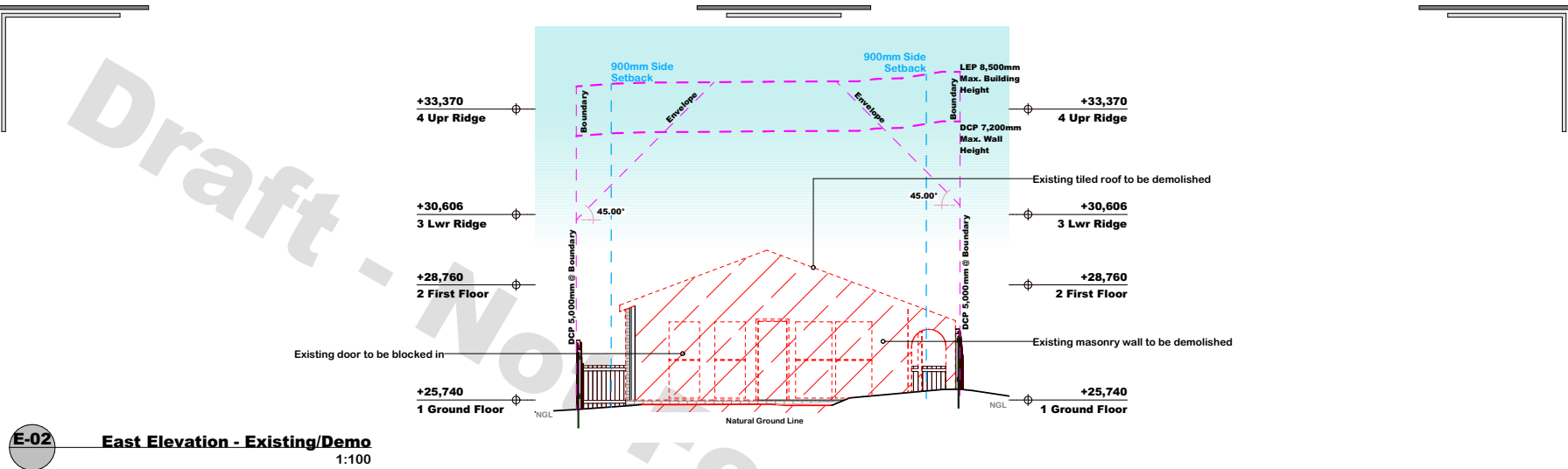
Drawn Checked	Andy Seller
Publish Date:	25/07/2024
Project Status	Design Development
Client	PETER GREEN
Project NO.	14AHD0224
Revision NO.	DA - RFL
Drawing Scale:	1:100, 1:1
Sheet Size:	A3



PROJECT NAME:
Project Foam
DRAWING NO.
DA102
STRICTLY FOR:
Development Application



LEGEND Existing: Masonry, Concrete, Timber Demolition: (Red dashed line) Existing/ Remains as is: (Grey line) Roof Above: (Blue line) Structure Above/ Below: (Green line)		PROJECT NORTH 	Andy's Home Design PTY LTD Director: Andy Seller ABN: 32 624 682 024 BDAA ACC#: 6849 Phone: 0430-592-043 Email: info@andyshome.design	DRAWING TITLE: ELEVATIONS North Elevations LOT 71 D.P. 5592 SITE: 14 FOAM STREET FRESHWATER NSW 2096	<table border="1"> <tr> <td>Drawn Checked</td> <td>Andy Seller </td> </tr> <tr> <td>Publish Date</td> <td>25/07/2024</td> </tr> <tr> <td>Project Status</td> <td>Design Development</td> </tr> <tr> <td>Client</td> <td>PETER GREEN</td> </tr> <tr> <td>Project NO.</td> <td>1AAHD0224</td> </tr> <tr> <td>Revision NO.</td> <td>DA - RFI</td> </tr> <tr> <td>Drawing Scale</td> <td>1:100</td> </tr> <tr> <td>Sheet Size</td> <td>A3</td> </tr> </table>	Drawn Checked	Andy Seller	Publish Date	25/07/2024	Project Status	Design Development	Client	PETER GREEN	Project NO.	1AAHD0224	Revision NO.	DA - RFI	Drawing Scale	1:100	Sheet Size	A3	 ACCREDITED BUILDING DESIGNER	 DESIGN • DRAFTING • PLANNING	PROJECT NAME: Project Foam DRAWING NO. DA501 STRICTLY FOR: Development Application
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Drawing Scale	1:100																							
Sheet Size	A3																							



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LEGEND			
Existing	Masonry	Concrete	Roof Above
Demolished	Timber	Concrete Block	Structure Above/Below



Andy's Home Design PTY LTD
Director: Andy Seller
ABN: 32 624 682 024
BDAA ACC#: 6849
Phone: 0430-592-043
Email: info@andyshome.design

DRAWING TITLE:

ELEVATIONS East Elevations

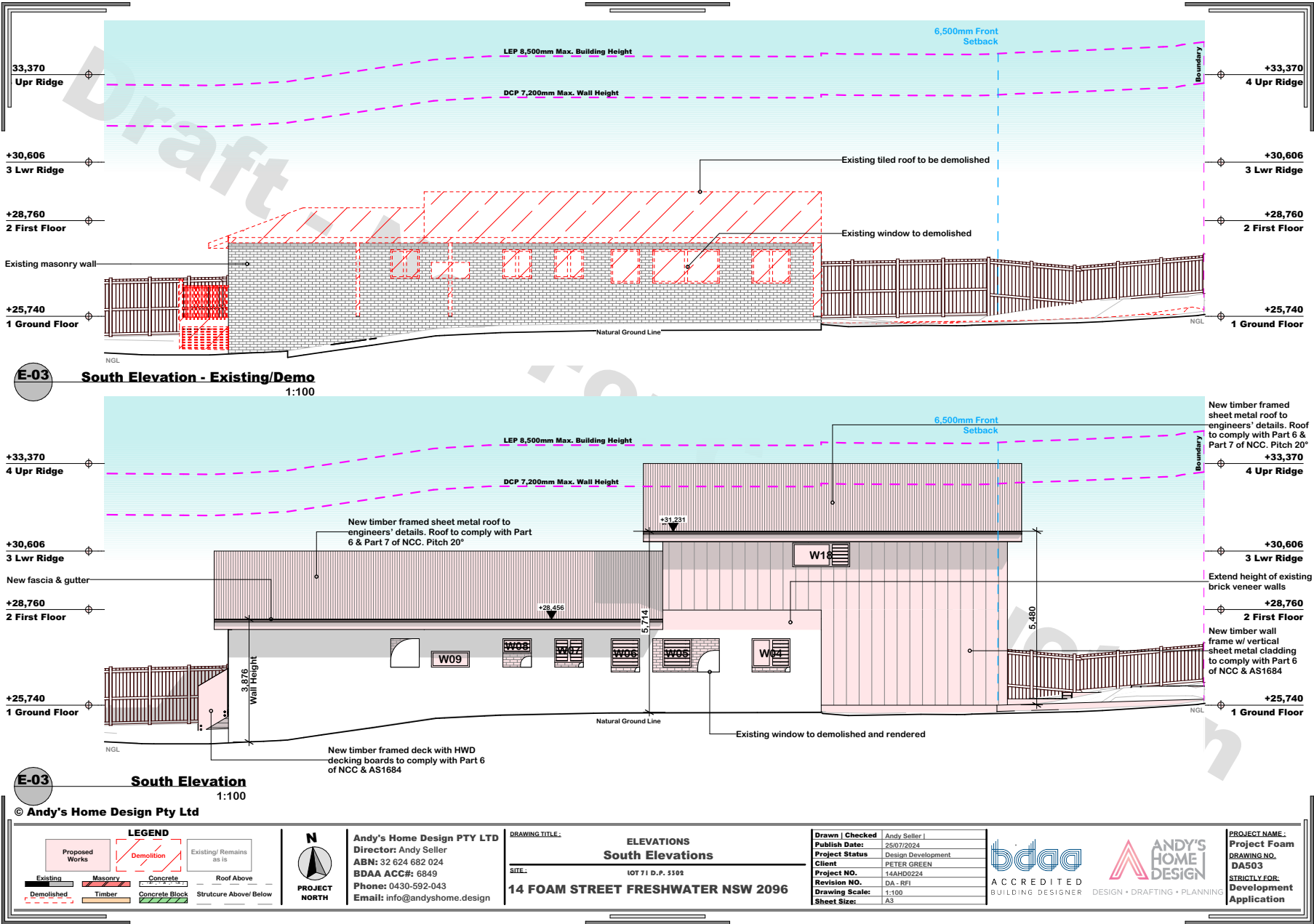
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14 FOAM STREET FRESHWATER NSW 2096

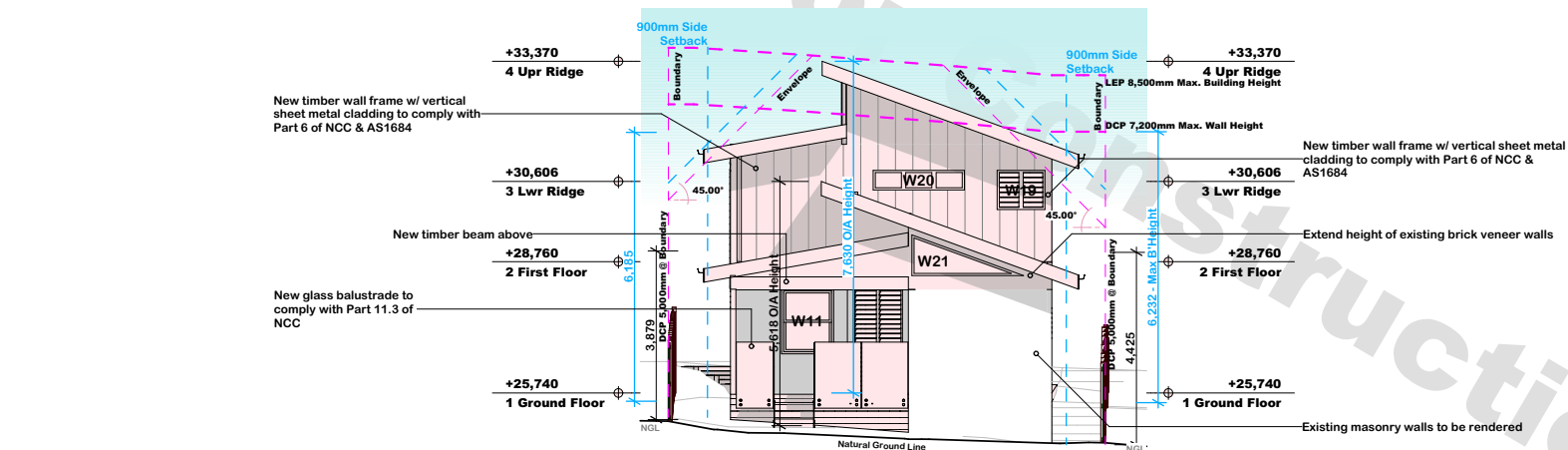
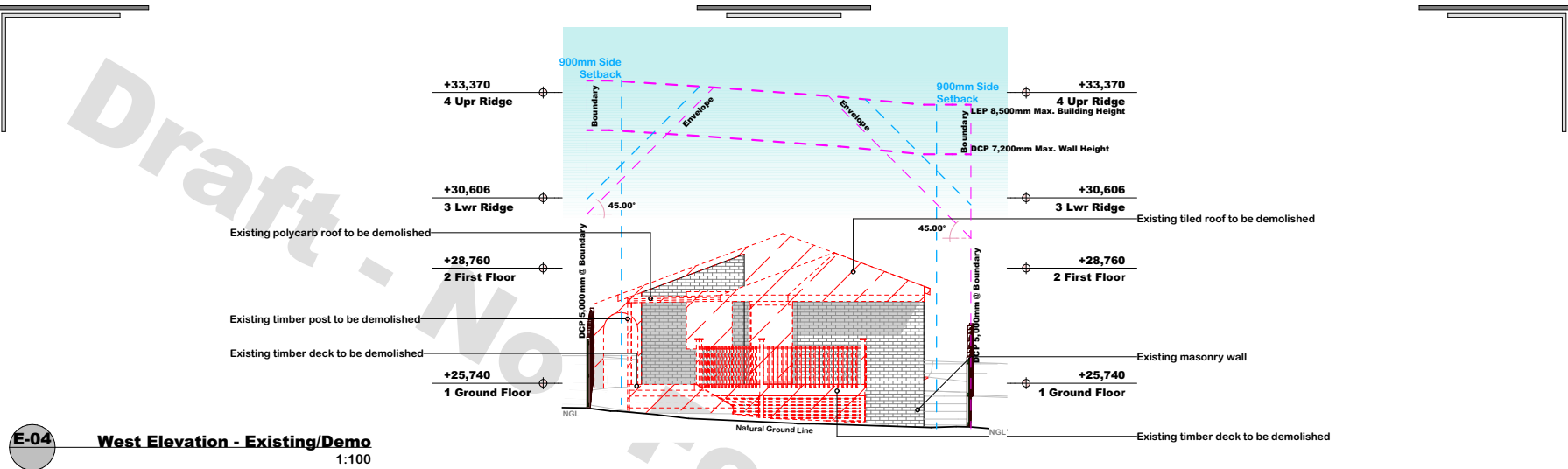
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Sheet Size:	A3

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ACCREDITED
BUILDING DESIGNER

ANDY'S HOME DESIGN
DESIGN • DRAFTING • PLANNING

PROJECT NAME:
Project Foam
DRAWING NO.
DA502
STRICTLY FOR:
Development Application





E-04 West Elevation
1:100
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NOTES:

- Dimensions and envelope planes displayed in **BLUE** have been taken from the Western wall plane of the first floor
- Max wall and building height has been taken from the Western wall plane of the ground floor

LEGEND			
Existing	Masonry	Concrete	Roof Above
Demolished	Timber	Concrete Block	Structure Above/Below



Andy's Home Design PTY LTD
Director: Andy Seller
ABN: 32 624 682 024
BDAA ACC#: 6849
Phone: 0430-592-043
Email: info@andyshome.design

DRAWING TITLE:

ELEVATIONS West Elevations

SITE:

14 FOAM STREET FRESHWATER NSW 2096

LOT 71 D.P. 5592

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PROJECT NAME:
Project Foam
DRAWING NO.
DA504
STRICTLY FOR:
Development
Application