

AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

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

THURSDAY 1 FEBRUARY 2018



Ashleigh Sherry
Manager Business System and Administration

**Agenda for a Meeting of the Development Determination Panel
to be held on Thursday 1 February 2018
in the Walamai Room, Northern Beaches Council, Dee Why**

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| 1.0 | APOLOGIES & DECLARATIONS OF PECUNIARY INTEREST | |
| 2.0 | MINUTES OF PREVIOUS MEETING | |
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| 3.2 | N0539/07/S96/1 - 64 Herbert Avenue, Newport - Section 96 (2) Modification of Consent N0539/07 relating to 64 Herbert Avenue, Newport (Lot 152 DP 13457) with respect to the relocation of the approved carport to the south..... | 39 |
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2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 20 DECEMBER 2017

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RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 20 December 2017 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1

**N0356/17 - 10 MOUNTVIEW PLACE, BILGOLA PLATEAU -
CONSTRUCTION OF A NEW DWELLING INCLUDING THE
RETENTION OF A SUBSTANTIAL PORTION OF THE EXISTING
DWELLING**

REPORTING MANAGER **Matthew Edmonds**

TRIM FILE REF **2018/070240**

ATTACHMENTS

1 [↓ Assessment Report](#)

2 [↓ Site and Elevation Plans](#)

PURPOSE

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

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application N0356/17 for construction of a new dwelling including the retention of a substantial portion of the existing dwelling at 10 Mountview Place, Bilgola Plateau subject to the conditions outlined in this report.

SUBJECT: N0356/17 - 10 MOUNTVIEW PLACE, BILGOLA PLATEAU NSW 2107 Construction of a new dwelling including the retention of a substantial portion of the existing dwelling

Determination Level:

Development Determination Panel

SUMMARY OF RECOMMENDATION:

CONSENT WITH CONDITIONS

REPORT PREPARED BY:

Angela Manahan

APPLICATION SUBMITTED ON:

10 August 2017

APPLICATION SUBMITTED BY:

PATRICIA BOULTON
PENGUIN DESIGNS
10 MOUNTVIEW PLACE
BILGOLA PLATEAU NSW 2107

OWNER(S):

KENNETH HARRIE BARNWELL
PATRICIA ANNE BOULTON

NO. OF SUBMISSIONS:

Three (3)

COST OF WORKS:

\$295,000

1.0 SITE DETAILS

The site is known as 10 Mountview Place, Bilgola Plateau and has a legal description of Lot 42 in Deposited Plan 236798. The site is irregular in shape, being a trapezium in shape, and has a total area of 695.6m². Vehicular and pedestrian access is gained via the slightly curved frontage of Mountview Place, approximately 16.3m wide. The site is located on the southern side of Mountview Place. From Mountview Place the site falls slightly towards the dwelling where the slope becomes steeper and falls considerably towards the rear boundary. The site experiences a fall of 10.41m from the upper northern front boundary of the site, down towards the southern rear boundary of the site, with an average slope of approximately 36%. The site is currently occupied by a single dwelling with attached garage. The property is surrounded by residential properties to the north, south, east and west.

2.0 PROPOSAL IN DETAIL

The applicant seeks consent for the following works:

- Substantial alterations and additions to the existing dwelling to create a new dwelling, comprising:
 - Basement Level
Existing Cellar, existing Office, new Store Room and Shower Room with WC to the east;

- Ground Floor Level
Open-plan Kitchen and Dining area, Laundry, Lounge Room, Foyer, Powder Room, Bedroom with Walk-in Robe and En-suite, partially enclosed Alfresco area and verandah to the south, and double Garage;
- First Floor Level
Three (3) Bedrooms, one with Walk-in Robe and En-suite, Sun Room, Bathroom, Living Room and verandah to the south;
- Upgrade of existing driveway.

3.0 STATUTORY AND POLICY CONSIDERATIONS

The following relevant state, regional and local policies and instruments apply:

- Environmental Planning and Assessment Act, 1979 (the Act)
- Environmental Planning and Assessment Regulation 2000 (the Regulation)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
 - Acid Sulphate Soils Map - Class 5
 - Biodiversity Map
 - Geotechnical Hazard Map
 - Height of Buildings Map - 8.5m
 - Lot Size Map - 700m²
- Pittwater 21 Development Control Plan (P21 DCP)
 - Bilgola Locality
 - Geotechnical Risk Management Policy for Pittwater.

P21 DCP identifies the land as being the following:

- Landslip Prone;
- Flora and Fauna Conservation Area - Category 2.

Variation to development standards:

The application of Clause 4.6 is required, see Section 8.0. for more details.

The site is zoned E4 - Environmental Living under Pittwater Local Environmental Plan 2014. Pursuant to the land use table in Part 2 of this instrument, the proposed development being a new dwelling is permissible with consent.

4.0 BACKGROUND

04 May 2016

Development Application N0564/15 for alterations and additions to the existing dwelling was withdrawn in relation to concerns raised by Council regarding the following:

- Description of the development (the proposal more closely resembled a new dwelling);
- Height
- Side and Rear setbacks;
- Building Envelope;
- Landscaped Area;
- View Sharing;

- Solar Access;
- Visual Privacy; and
- Stormwater Management.

05 May 2017

Development Application N0447/16 which sought consent for a new dwelling was refused by Council for the following reasons:

1. *The proposal is unable to satisfy the technical requirements and objectives of PLEP Clause 4.3 Height of buildings.*
2. *The proposal is unable to satisfy the technical requirements and objectives of multiple built form controls including P21 DCP D3.9 Building Envelope and D3.11 Landscaped Area – Environmentally Sensitive Land*
3. *The proposal is unable to satisfy the technical requirements and objectives of multiple residential amenity controls of P21 DCP including C1.3 View Sharing and C1.4 Solar Access.*

10 August 2017

Development Application N0356/17 was lodged with Council. The application was notified to the adjoining property owners in accordance with Council's policy. The application was referred internally to Council's Development Engineer and Natural Environment Officer for comments and/or recommendation. A site visit was conducted on 28/09/2017.

19 October 2017

Height poles were erected on site and certification provided by a registered surveyor.

29 November 2017

Additional shadows diagrams were provided at the request of Council to demonstrate the hourly overshadowing (including existing and proposed) to the adjoining properties.

5.0 NOTIFICATION

The application was notified to seven (7) adjoining property owners for a period of fourteen (14) days from 21 August through to 04 September 2017 in accordance with Council's Notification Policy. During this time, submissions were received from and on behalf of three (3) properties at 68 Cheryl Crescent, 70 Cheryl Crescent and 1A Mountview Place.

These submissions raised concerns with regard to the following:

- 68 Cheryl Crescent
Bulk and scale;
Overshadowing;
Visual Privacy
Stormwater Management.
- 70 Cheryl Crescent
Visual privacy;
Overshadowing;
Visual impact;
Stormwater management;
Site coverage.

- 1A Mountview Place
Description of the development in that a substantial portion of the building shall not be retained;
Building height;
Building Envelope;
Landscaped Area;
View Loss.

Site visits were undertaken to the three (3) properties, being 68 and 70 Cheryl Crescent, and 1A Mountview Place.

6.0 ISSUES

- 4.3 Height of buildings
- 4.6 Exceptions to development standards
- 7.2 Earthworks
- 7.7 Geotechnical hazards
- 7.10 Essential services
- A4.3 Bilgola Locality
- B3.1 Landslip Hazard
- B5.8 Stormwater Management - Water Quality - Low Density Residential
- B5.10 Stormwater Discharge into Public Drainage System
- B6.1 Access driveways and Works on the Public Road Reserve
- C1.3 View Sharing
- C1.4 Solar Access
- C1.5 Visual Privacy
- C1.9 Adaptable Housing and Accessibility
- D3.9 Building envelope
- D3.11 Landscaped Area - Environmentally Sensitive Land
- D3.13 Fences - Flora and Fauna Conservation Areas
- D3.14 Construction, Retaining walls, terracing and undercroft areas

7.0 COMPLIANCE TABLE

| Control | Standard | Proposal | T | O | N |
|--|----------|--------------------------------|---|---|---|
| Pittwater Local Environmental Plan 2014 | | | | | |
| 1.9A Suspension of covenants, agreements and instruments | | | Y | Y | Y |
| Zone E4 Environmental Living | | | Y | Y | Y |
| 4.3 Height of buildings | | See discussion in Section 8.0. | N | Y | N |
| 4.6 Exceptions to development | | See discussion in Section 8.0. | Y | Y | N |

| Control | Standard | Proposal | T | O | N |
|---|----------|--------------------------------|---|---|---|
| standards | | | | | |
| 5.9 Preservation of trees or vegetation | | | Y | Y | Y |
| 5.9AA Trees or vegetation not prescribed by development control plan | | | Y | Y | Y |
| 5.10 Heritage conservation | | | Y | Y | Y |
| 7.1 Acid sulfate soils | | | Y | Y | Y |
| 7.2 Earthworks | | See discussion in Section 8.0. | Y | Y | Y |
| 7.6 Biodiversity protection | | | Y | Y | Y |
| 7.7 Geotechnical hazards | | See discussion in Section 8.0. | Y | Y | N |
| 7.10 Essential services | | See discussion in Section 8.0. | Y | Y | N |
| Pittwater 21 Development Control Plan 2014 | | | | | |
| A1.7 Considerations before consent is granted | | | Y | Y | Y |
| A4.3 Bilgola Locality | | See discussion in Section 8.0. | N | Y | N |
| B1.3 Heritage Conservation - General | | | Y | Y | Y |
| B1.4 Aboriginal Heritage Significance | | | Y | Y | Y |
| B3.1 Landslip Hazard | | See discussion in Section 8.0. | Y | Y | N |
| B3.6 Contaminated Land and Potentially Contaminated Land | | | Y | Y | Y |
| B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor | | | Y | Y | Y |
| B5.4 Stormwater Harvesting | | | - | - | Y |
| B5.7 Stormwater Management - On-Site Stormwater Detention | | | Y | Y | Y |
| B5.8 Stormwater Management - Water Quality - Low Density Residential | | See discussion in Section 8.0. | - | - | N |
| B5.10 Stormwater Discharge into Public Drainage System | | See discussion in Section 8.0. | Y | Y | N |
| B5.12 Stormwater Drainage Systems and Natural Watercourses | | | - | - | Y |
| B5.13 Development on Waterfront Land | | | - | - | Y |
| B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System) | | | - | - | Y |
| B6.1 Access driveways and Works on the Public Road Reserve | | See discussion in Section 8.0. | Y | Y | N |
| B6.2 Internal Driveways | | | Y | Y | Y |
| B6.3 Off-Street Vehicle Parking Requirements | | | Y | Y | Y |

| Control | Standard | Proposal | T | O | N |
|---|----------|---|---|---|---|
| B8.1 Construction and Demolition - Excavation and Landfill | | | Y | Y | Y |
| B8.2 Construction and Demolition - Erosion and Sediment Management | | | Y | Y | Y |
| B8.3 Construction and Demolition - Waste Minimisation | | | - | - | Y |
| B8.4 Construction and Demolition - Site Fencing and Security | | | Y | Y | Y |
| B8.5 Construction and Demolition - Works in the Public Domain | | | Y | Y | Y |
| B8.6 Construction and Demolition - Traffic Management Plan | | | - | - | Y |
| C1.1 Landscaping | | | Y | Y | Y |
| C1.2 Safety and Security | | | Y | Y | Y |
| C1.3 View Sharing | | See discussion in Section 8.0. | N | N | N |
| C1.4 Solar Access | | See discussion in Section 8.0. | N | N | N |
| C1.5 Visual Privacy | | See discussion in Section 8.0. | N | N | N |
| C1.6 Acoustic Privacy | | | Y | Y | Y |
| C1.7 Private Open Space | | | Y | Y | Y |
| C1.9 Adaptable Housing and Accessibility | | See clause C1.3 for comment. | Y | Y | Y |
| C1.12 Waste and Recycling Facilities | | | Y | Y | Y |
| C1.13 Pollution Control | | | Y | Y | Y |
| C1.14 Separately Accessible Structures | | | - | - | - |
| C1.23 Eaves | | | Y | Y | Y |
| C1.24 Public Road Reserve - Landscaping and Infrastructure | | | Y | Y | Y |
| D3.1 Character as viewed from a public place | | | Y | Y | Y |
| D3.3 Building colours and materials | | | Y | Y | Y |
| D3.6 Front building line | | 6.5m | Y | Y | Y |
| D3.7 Side and rear building line | | Side Building Line – 2.5m and 1m Rear Building Line – 6.5m | Y | N | N |
| D3.9 Building envelope | | See discussion in Section 8.0. | N | Y | N |
| D3.11 Landscaped Area - Environmentally Sensitive Land | | See discussion in Section 8.0. | N | Y | N |
| D3.13 Fences - Flora and Fauna Conservation Areas | | See discussion in Section 8.0. | - | - | N |
| D3.14 Construction, Retaining walls, terracing and undercroft areas | | See discussion in Section 8.0. | N | Y | Y |

| Control | Standard | Proposal | T | O | N |
|---|----------|--|---|---|---|
| D3.15 Scenic Protection Category One Areas | | | Y | Y | Y |
| State Environmental Planning Policies and other | | | | | |
| SEPP (Building Sustainability Index: BASIX) 2004 | | BASIX Certificate: A287299, dated 17 July 2017. | Y | Y | Y |
| EPA Act 1979 No 203 section 147 Disclosure of political donations and gifts | | | Y | Y | Y |

8.0 DISCUSSION OF ISSUES

• 4.3 Height of buildings; and 4.6 Exceptions to development standards

The maximum height of the proposed development shall be 9.87 metres above the existing ground level. Clause 4.3 - Height of Buildings specifies a maximum building height of 8.5m for the subject site and the proposed development is numerically non-compliant with the development standard. Subsection (2D) of Clause 4.3 permits Council to consider a maximum building height of 10m above the existing ground level if the proposed development can meet the specified criteria in relation to the slope of the site and provided the objectives of Clause 4.3 can be achieved and the non-compliance is minor. The extent of the non-compliance is not considered to be minor, with the entire rear portion of the upper level roof breaching the 8.5m height limit. As such a Clause 4.6 exception to vary the development standard is required. See assessment of Clause 4.6 in relation to the contravention of the maximum height below.

Consideration of Variation to development standard:

The applicant seeks to vary a development standard which requires the application of Clause 4.6 – Exceptions to development standards. Clause 4.6 (3) states:

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

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

The applicant has submitted a written statement to support why compliance with the development standard is unreasonable and unnecessary and justification for the request to vary the standard. Clause 4.6 (4) states:

Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Director-General has been obtained.*

Council's assessment of the Clause 4.6 variation request is as follows:

Development Standard to be Varied

Pittwater Local Environmental Plan 2014 Clause 4.3 – Height of Buildings states:

"The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map."

The maximum building height for the subject site is 8.5 metres. The applicant seeks consent for construction of a new dwelling including the retention of the lower basement level and a portion of the floor slab of the ground floor level. The proposed maximum height of the development is 9.87 metres above the existing ground level. As such quantitatively, the applicant seeks to vary the development standard by approximately 16.1%.

Objectives of the Development Standard

The objectives of Clause 4.3 – Height of Buildings are as follows:

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (c) to minimise any overshadowing of neighbouring properties,*
- (d) to allow for the reasonable sharing of views,*
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

Is compliance with the development standard unreasonable or unnecessary in the circumstances of this case

The submitted Clause 4.6 request seeks to establish that requiring compliance with the development standard is in this instance unreasonable or unnecessary because the proposal is consistent with the height of the existing development on site, is a scale consistent with the surrounding development and shall maintain the amenity of the adjoining properties with regards to solar access. Furthermore the Applicant argues that the proposal is constrained by the existing development and topography of the site. The variation request seeks to establish that the proposed development meets the objectives of the E4 zone, development standard 4.3 – Height of Buildings and clause 4.6 – Exceptions to development standards.

The objectives of Clause 4.3 – Height of Buildings in PLEP 2014 are addressed as follows:

- As discussed under clause A4.3 of P21 DCP, the proposed development is considered to be consistent with the desired character of the locality. The height of the existing dwelling exceeds the prescribed maximum height and the proposed development shall be sited 100mm lower than the existing dwelling. The proposal has been designed in consideration of the existing dwelling and partial retention of the building. The proposal provides good articulation on the northern and southern facades to break up the built form and the landscaping on site shall be enhanced where possible. Subject to the recommendations within the report, the proposed development is considered to be within a landscaped setting and compatible with surrounding developments.

- The character of the area varies between one, two and three storey dwellings. The adjoining property to the west is three (3) storeys and the property to the east is two (2) storeys, however the proposed development is consistent with the height of the adjoining properties and as such will not be out of character with the adjoining developments. Furthermore, the proposal shall not result in any increase to the existing building height. Subject to the recommendations within the report, the built form of the development shall be minimised. In view of the above, the proposed development is not considered to be incompatible with the height and scale of the surrounding development.
- As discussed in C1.3 and C1.4, the development as proposed shall result in an adverse and unreasonable impact upon the adjoining properties with regards to overshadowing and view sharing. Several recommendations have been made with regards to increasing the eastern setback in order to minimise the impacts the proposed development has on the adjoining properties. Subject to the recommendations, the proposed development is not considered to result in any unreasonable impacts upon adjoining properties with regards to solar access or view loss.
- The proposed development aims to minimise the impact upon the natural topography of the site and the existing landform by utilising the existing lower level of the dwelling. As such the proposed development does not require any further substantial excavation of the site, with only the garage floor level requiring minimal excavation. The height and alignment of the first floor level has been largely maintained in order to minimise the apparent visual impact and height of the proposal as viewed from the adjoining properties downslope of the site. The extension of the ground floor level towards the south-east shall result in an elevated structure, located significantly higher than the existing natural ground level, which shall exacerbate the apparent visual bulk of the development. Recommendations are made for the rear deck to be open, for the lower level storage room to be deleted, and for the eastern wall to be further setback which shall minimise the bulk and scale of the development, ensuring it better responds to the steep topography of the site.
- The subject site is not located within a heritage conservation area or within the immediate vicinity of any heritage items and it is considered that the proposed development shall not adversely impact heritage significance in the Bilgola locality. The proposed development is located largely within the existing building footprint, with landscaping on site to be enhanced. It is considered that the proposed development will not cause any adverse impacts on the natural environment, heritage conservation areas or heritage items.

Subject to the recommendations within the report, the proposed development is considered to be consistent with the objectives of the E4 zone under clause 2.1 of PLEP 2014 which aims to provide low-impact residential development, integrated with the landform and landscape.

It has been demonstrated above that whilst the proposal does not comply with the development standard, it succeeds in achieving the objectives of the control. However, in consideration of *Four2Five Pty Limited v Ashfield Council* [2015] NSWLEC and subsequent judgements, it is also necessary to demonstrate that there are particular circumstances to the site which justify contravening the development standard.

The non-compliance is a result of the location of the existing development and topography of the site, which falls considerably towards the rear. Strict compliance with the maximum height would require substantial demolition of the first floor level. While the development standard is not said to be abandoned or destroyed by Council's actions in departing from the standard, it must be acknowledged that the existing development does not comply with the maximum height. The proposed development shall be lower than the existing dwelling and shall maintain the alignment of the existing first floor level southern wall. As such the proposal shall not extend any further or result in any additional breach of the building height. It is the circumstances of the siting of the existing dwelling and topography that result in a variation to the maximum building height. In consideration of the site circumstances, including the height of the existing dwelling, strict compliance with the development standard is considered unnecessary and unreasonable in this particular instance.

Is there sufficient environmental planning grounds to justify contravening the development standard

The following reasons are considered to be sufficient environmental planning grounds to vary the height of building development standard:

- The non-compliance is a result of the proposed upper level and is limited to the rear of the development, where the site falls steeply. The overall height of the building shall be consistent with the existing development on site;
- The variation satisfies the objectives of Clause 4.3 – Height of Buildings and the objectives of the E4 zone under Clause 2.1 of PLEP 2014;
- Subject to the recommendations within the report, the variation will not result in any adverse impacts upon the surrounding built and natural environment;
- Subject to the recommendations within the report, the variation will not result in any unreasonable impacts upon the adjoining properties with regards to visual impact, solar access, visual privacy and view loss.

Is the proposed development in the public interest

The proposed development is considered to be in the public interest if it is consistent with the objectives of the development standard and the objectives of the E4 zone. As discussed above, the assessment has found that the proposed development is consistent with objectives of both clause 4.3 – Height of Buildings and the E4 zoning.

Is contravention of the development standard justified

Clause 4.6 (1) outlines the objectives of the Clause:

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

The above assessment provides justification for the variation of Clause 4.3 – Height of Buildings by demonstrating that in this instance compliance with the development standard is unreasonable or unnecessary and there are sufficient environmental planning grounds to warrant variation of the development standard. It is considered that strict compliance of the development standard in this instance would be inconsistent with the objectives of Clause 4.6 as it would not allow for the flexible application of development standards where it is demonstrated that the development standard is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify contravening the development standard.

In this regard, it is considered that the variation request is justified and well founded.

Conclusion

As discussed above, the non-compliance is in response to the siting of the existing dwelling and natural ground levels of the site. Council is satisfied that the exception to the development standard is justified and is of the opinion that granting of consent to the development application is consistent with the aims of Clause 4.6 as it allows for an appropriate degree of flexibility to development standards. Furthermore, the assessment has found that strict application of the development standard would be unreasonable and unnecessary given that the development will readily achieve the local planning objectives for the site.

Geotechnical Hazard

- **7.2 Earthworks**
- **7.7 Geotechnical hazards**
- **B3.1 Landslip Hazard**

Concerns were raised by the adjoining properties to the rear regarding the stability of the site and potential risk of landslide as a result of the proposed development. The application was supported by a Geotechnical Risk Management Assessment report which concluded that the proposed development and site can achieve the Acceptable Risk Management criteria outlined in the Geotechnical Risk Management Policy for Pittwater 2009. The submission requests conditions of consent, should the application be approved, with regards to the landslip hazard of the site as follows:

- All stormwater be directed to Mountview Place;
- Dilapidation reports be prepared for 68 and 70 Cheryl Crescent;
- Erosion and sedimentation management measures be implemented and maintained during the works.

The above conditions are considered reasonable, and should the application be approved shall be imposed. It is also recommended that the Geotechnical Engineer sign off on any stormwater management system. Furthermore, Council's Development Engineer has imposed several conditions of consent to ensure certification is provided at each stage of the development by the Geotechnical Engineer.

Stormwater Management

- **7.10 Essential services**
- **B5.8 Stormwater Management - Water Quality - Low Density Residential**
- **B5.10 Stormwater Discharge into Public Drainage System**

Submission have been received which raised concerns regarding the stormwater management of the development and existing run-off from the site. The application was referred to Council's Development Engineer who recommended the imposition of several conditions of consent in regards to stormwater management. The Engineer also advised that stormwater should be disposed to the kerb of Mountview Place. A condition of consent is recommended for stormwater management details to be provided prior to the issue of a Construction Certificate, which includes drainage plans in accordance with the stormwater requirements of P21 DCP, the BCA and Australian Standards. A condition of consent is also to be applied for certification prior to the issue of an Occupation Certificate that the stormwater drainage system has been completed in accordance with the approved design and relevant Australian Standards.

The submissions note that there is an existing issue on the subject site in which there is stormwater run-off from the subject site to the neighbouring properties to the rear, located downslope, and it is recommended that this be taken into consideration in the design of any stormwater management system. Additionally, all stormwater run-off should be disposed to the street. The proposed development and stormwater management should ensure that no nuisance is caused to the adjoining properties with regards to stormwater run-off. It is considered that subject to the implementation of the recommended conditions, the proposal shall not result in any unreasonable impact upon the adjoining properties with regards to stormwater management.

- **A4.3 Bilgola Locality**

A submission was received which raised concerns regarding the proposed development being inconsistent with the desired character of the Bilgola Locality as the dwelling shall be three (3) storeys and is not integrated with the landform. The existing dwelling is three (3) storeys. The applicant seeks consent to retain the lower basement level, extend the ground floor level and rebuild the first floor level. The application has been described as a new dwelling due to the significant amount of demolition involved and changes to the visual appearance of the development. The subject site is located within the Plateau Area of the Bilgola locality which does not contain any specific attributes or requirements, unlike the Beach and Foreshore areas which are identified as being environmentally and visually significant. While the proposed development is three (3) storeys, it shall appear as two (2) storeys as viewed from the street. The proposal is consistent with the height and scale of the adjoining properties to the east and west, noting that the property to the west is also three (3) storeys. The proposed development does not involve any further excavation of the site, apart from that associated with lowering the garage an additional 520mm. It is recommended that additional canopy trees and screen planting are provided on the subject site to enhance landscaping on site and further assist in blending the development into the natural environment. Subject to the recommendations within the report, the proposed development is considered to be within a landscaped setting consistent with the desired character of the Bilgola locality and the proposal shall be compatible with the surrounding developments.

- **B6.1 Access driveways and Works on the Public Road Reserve**

Concern was raised by the adjoining property that the proposed increase to the width of the access driveway shall detrimentally impact upon the existing on-street parking and the ability to place garbage bins safely within the street on collection days. The proposed access driveway is to be 3.5m wide. Clause B6.1 requires that the maximum width of an access driveway where the distance from the building line to the boundary is greater than 6.5m is 3m at the boundary and 3.5m at the kerb. The Applicant has verbally advised that the width of the existing access driveway can be retained, being 3m, with no increase to the width. Council's Development Engineer has recommended conditions of consent for the access driveway to be constructed in accordance with Council's driveway profiles and specifications. It is recommended that the condition also specifies that the access driveway is to be a width of 3m.

- **C1.3 View Sharing**

A submission has been received from the adjoining property to the north at 1A Mountview Place which raised concerns regarding view loss as a result of the proposed development.

The control aims to achieve a reasonable sharing of views amongst dwellings and ensure that views and vistas from the public domain are protected. The proposed development shall result in view loss from the street. Views are currently gained through the eastern side setback of the existing dwelling and vegetation along the boundary, from Mountview Place. The subject view is a distant water view, incorporating the ocean and land/water interface. The view from the public domain is similar to that obtained by the property at 1A Mountview Place, however given that the dwelling at No. 1A is elevated, there is more land visible from the neighbouring dwelling. The view is enjoyed from the street, being Mountview Place, and is available from the northern and southern sides of the street. However, the subject view is contained to the area within the immediate vicinity of the subject site. The existing view is partially obstructed by vegetation along the eastern boundary and the Applicant verbally advised that the vegetation could be removed or cut back in order to open up the view and lessen the impact upon the neighbouring property. The removal of the vegetation shall open up the view corridor from the street, however the proposed development shall compromise the existing views. Further consideration of whether the proposed development is reasonable with regards to view loss is addressed below in detail, in response to the submission from No. 1A Mountview Place.

The assessment of the view loss is made in relation to clause C1.3 and the planning principal developed by the Land and Environment Court identified within *Tenacity Consulting v Warringah [2004] NSWLEC 140*. Height poles have been erected by the applicant to demonstrate the built form of the development at the ground floor level, which is the portion of the development which shall impact most upon the existing views of 1A Mountview Place.

Step 1: Views to be affected

The dwelling at 1A Mountview Place currently enjoys views to the east and west of the existing dwelling at the subject site, through the side setback areas. The eastern view is an uninterrupted water view of the Tasman Sea, incorporating the land/water interface and including Bungan Headland and Mona Vale Headland. The submission identifies that the view is an active view as there is watercraft visible on the ocean. The western view is of the coastline to the far south, including the land/water interface of North Head, and Collaroy Beach. The view is partially obstructed by the existing vegetation on the subject site, being a small tree, and the existing vegetation at 1A Mountview Place.

Step 2: Location from which the views are obtained

The views are obtained across the front boundaries of 1A and 10 Mountview Place. The planning principal notes that view across side boundaries are more difficult to protect than view from front and rear boundaries, and that sitting views are more difficult to protect than standing views. The eastern view is obtained from the living area and adjoining balcony, a bedroom, the front garden and entry porch. The view is enjoyed from both a seated and standing position. The western view is obtained from the living area and the entry porch, and is also enjoyed from a seated and standing position.

Although the view is obtained over the front boundary of both sites, it is recognised that the subject view is highly vulnerable, in that any extension of the existing development would likely impact upon the views. Furthermore, the views are susceptible and vulnerable to future planting of vegetation, which could obstruct the existing view corridors.

Step 3: Extent of the impact

A site visit to the property at 1A Mountview Place revealed that the proposed development shall impact upon both the eastern and western view corridors.

The eastern view corridor shall be completely lost as a result of the proposed development. The existing view from the living area and erected height poles can be seen in Figure 1 below:



Figure 1 – View Loss from 1A Mountview Place (eastern side)

The view in Figure 1 is obtained from the Living area through to the balcony at the rear, and from the front porch. The Applicant verbally advised that the existing vegetation along the eastern boundary could be removed to compensate for the loss of view as a result of the extension. The removal of the vegetation would open up the water views, however it is noted that the view is partially obscured by the existing vegetation within the front yard of 1A Mountview Place, which is there to provide a degree of privacy to the dwelling. In view of the significant loss of eastern view, it is considered that the view loss from the living area, balcony, front porch and front yard would be severe.

The proposed development will impact upon a minor portion of the view corridor to the west, however will also open up the view by relocating the western first floor level external wall by 500mm to the east. The view loss on the western side would be considered minor to negligible. The extent of view loss on the western side can be seen in Figure 2 below.



Figure 2 – View loss to western side (highlighted in red)

Step 4: Reasonableness of the proposal

The objector argues that view sharing is not achieved as the proposal results in several non-compliances with Council's built form controls and that a more skilful design would reduce the impact.

The view loss impact is a result of the proposed extension to the east, as the existing dwelling is located a minimum of 5.4m from the eastern boundary, whereas the proposed development is located a minimum of 2.5m from the eastern boundary. The portion of the proposed development that results in the view loss is the northern part of the eastern side of the dwelling. It is noted that this portion of the building fully complies with Council's requirements relating to side setbacks, building envelope and height, however the 2.5m setback is a minimum requirement under clause D3.7. Notwithstanding the above, it is also acknowledged that the overall proposal results in substantial non-compliances with regards to the minimum landscaped area, height and building envelope.

The planning principal states that where an impact arises as a result of non-compliance, even a moderate impact may be considered unreasonable. With regards to a development that complies with the planning controls, the planning principal raises the question of 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.

The submission notes that no attempt has been made to step the dwelling down the slope, with the main extension to the ground floor level where the development shall have most impact upon neighbour views. It was put to the Applicant why the additional floor space was not provided at the lower level where the development would have least impact upon not only view loss but solar access and visual impact. The Applicant advised that the additions were primarily at ground level to facilitate accessibility of the dwelling and provide for living, bathroom and bedroom facilities on one level. Clause C1.9 Adaptable Housing and Accessibility requires Council to ensure that housing needs are met through adaptable housing. Although single dwellings are not required to be accessible under clause C1.9, consideration can still be given to the intent and outcomes of the clause, which in this instance it has been advised that the subject dwelling has a need to provide a degree of accessibility.

The main impact upon the neighbouring view shall be from the Laundry, Walk-in Pantry and Kitchen area of the proposed development. The development proposes a large floor area and includes generous sized rooms, including several living areas and multiple bathroom facilities on the ground and first floor levels. It is noted that the proposal results in a non-compliance with the minimum landscaped area and strict compliance with the minimum requirement would result in a reduction to the building footprint at ground level, which could lessen the extent of view loss, dependent upon the design. The eastern side of the proposed dwelling is a large open-plan area, and there is a large entrance foyer area provided. In order to lessen the view loss impact upon the neighbour, the Walk-in Pantry and Laundry would need to be relocated or deleted. The Walk-in Pantry is considered a luxury and is not a necessity. The proposed kitchen area is approximately double the size of the existing kitchen, with the same number of bedrooms proposed as currently exists. As such it is considered that the development could easily be amended to relocate the eastern wall and provide a larger setback, without unreasonably impacting upon the amenity of the proposed development. The internal layout of the open-plan area, including the laundry, would have to be reconfigured to accommodate an increased setback, however this is not considered to be unreasonable, as there is scope of reducing the foyer area and there is the ability to still provide reasonable sized areas/rooms. In this instance it is considered that there is a more skilful design that would afford the applicant a reasonable amenity level and the same development potential (consistent with Council's planning controls), while reducing the impact upon the views of neighbours. As such it is recommended that the eastern external wall of the ground floor level be relocated a minimum of 1.5m to the west.

Conclusion

While it is recognised that the recommended amendments (of the eastern wall being relocated) will reduce the extent of view loss from the neighbouring property, the view of the headland (which is located to the western side of the view) is still likely to be lost. Notwithstanding the above, the view will still retain the water view, including the land/water interface. Any further increase to the eastern setback would impact upon the amenity of the proposed dwelling and therefore it is also recommended that the existing vegetation along the eastern boundary be removed/cut back in order to open up the water view towards the east to compensate for the view lost to the west. The relocation of the eastern wall shall also increase the landscaped area on site and minimise the extent of non-compliance with the building envelope at the south-eastern portion of the development. Subject to the above recommendations, it is considered that view sharing is achieved and the proposal is consistent with the outcomes of clause C1.3. The recommendations will also ensure that a view corridor shall be maintained from the public domain to the water, including the land/water interface. Should the application be approved, a condition of consent shall be imposed for the architectural drawings to be amended prior to the issue of a Construction Certificate.

Concern was also raised regarding future planting of vegetation and trees within the eastern view corridor. Should the application be approved, a condition of consent is recommended to ensure no trees or vegetation is planted within the eastern setback area and that the view corridor from 1A Mountview Place and from the street is retained for the life of the development.

- **C1.4 Solar Access**

Submissions were received from the adjoining properties to the rear at 68 and 70 Cheryl Crescent which raised concerns regarding overshadowing as a result of the proposed development. Due to the orientation and topography of the site and adjoining properties, which are located to the south of the subject site, downslope and substantially lower than the proposed development, the proposed development shall impact upon the solar access currently received by the adjoining properties. Due to the orientation of the sites and the existing developments along Mountview Place, solar access to the adjoining properties to the south is limited and it appears that they currently do not receive a minimum of 3hrs of solar access to the principal living areas and outdoor recreation space in accordance with the control. As such the impact upon the solar access of the adjoining properties must be considered on merit.

Clause C1.4 refers to the planning principal established by the Land and Environment Court (*The Benevolent Society vs Waverley Council* [2010] NSWLEC 1082) when assessing the potential impact upon neighbouring properties. The planning principal states that for low density sites, there is a reasonable expectation that a dwelling and some open space will retain its existing sunlight. Furthermore, overshadowing as a result of poor design is not acceptable (even if it is technically compliant with the numerical requirements). Consideration should be given to a more sensitive design that achieves the same amenity while reducing the impact upon neighbours. The principal also notes that overshadowing by vegetation should generally be ignored.

The additional overshadowing impact is primarily a result of the ground floor level extension to the east and west, noting that the first floor level shall retain the existing setbacks and will be reduced in height by approximately 100mm. The proposed development does not comply with the minimum landscaped area and it is noted that strict compliance with the minimum requirement would require a reduction to the building footprint which would likely result in a lesser overshadowing impact. The adjoining properties gain winter sun through the side setbacks of the development. The additional overshadowing is worse to the east, resulting in significant overshadowing to the dwellings and outdoor areas of No. 68 and No. 70 Cheryl Crescent. The eastern side of the development, specifically the southern rear portion, does not comply with the prescribed building envelope, resulting in a substantial breach (it is noted that the existing development does comply). Combined with the view loss impact, it is considered appropriate to increase the side setback to the eastern boundary, which would reduce the overshadowing impact upon the adjoining properties. Relocating the eastern external wall would still allow for a reasonable level of amenity for the proposed development but would significantly reduce the overshadowing impact upon the adjoining properties, with particular regards to maintaining a reasonable level of solar access to the solar panels on the roof of the garage of No. 68. The "Alfresco" area to the south of the dwelling is an enclosed deck area for outdoor recreation. This area shall be fully enclosed on all elevations, proposing bi-fold doors on the southern and western façade, and a solid wall on the eastern façade. It is considered that if this area were an open structure, being a roofed deck (which would still allow for the area to be utilised for outdoor recreation), the solar access impact could be reduced further, by allowing

sunlight through this area. This would also reduce the non-compliance with the building envelope control. The development proposes a generous floor area, with several living areas throughout the dwelling, and several deck areas and as such this amendment is not unreasonable.

It is acknowledged that the western extension shall have a detrimental impact upon the solar access, particularly to the dwelling and adjoining outdoor area at No. 70 Cheryl Crescent. However, this portion of the development is largely compliant with the prescribed building envelope. The western side is restricted by the proposed garage and an increase to the western setback would require substantial internal reconfiguration on the western side of the dwelling, unlike the open-plan nature and generous sized rooms on the eastern side of the dwelling. As such relocating the western wall is considered to impact upon the overall amenity of the proposed development.

In consideration of the planning principal, it is considered that there is a more sensitive design that would reduce the impact but afford the occupants of the proposed development a reasonable level of amenity, and it is recommended that the ground floor level eastern wall be relocated 1.5m to the west, and the "Alfresco" area be an open deck with a balustrade.

The extent of overshadowing from the lower level storage room is unknown, however given the height and proximity to the rear boundary is likely to result in some additional overshadowing to the adjoining properties. It is noted that the sub-floor area is currently utilised for storage and provides an ample storage area, as such the necessity for the additional storage room is questioned. Relocation of the eastern wall in alignment with the ground floor level would not permit an area large enough for the storage room, and therefore it is recommended that the lower level storage room be deleted. The shower room is considered to be acceptable and in view of it being setback further than the storage room and is unlikely to result in any unreasonable impacts upon the adjoining properties with regards to overshadowing. Should the application be approved, conditions of consent will be imposed to implement the above amendments.

- **C1.5 Visual Privacy**

Submissions were received from the adjoining properties to the rear at 68 and 70 Cheryl Crescent which raised concerns regarding visual privacy and potential overlooking.

No 68 Cheryl Crescent is located to the south-south-east of the subject site, with a right of carriageway located between the subject site and the property. The main private open space and main outdoor living area of No. 68 is located to the north of the site. Given that the subject site is located significantly higher than No. 68, the main recreation area is in direct view from the existing decks of the subject dwelling. The submission also raised concerns regarding overlooking into the highlight windows of the living area. A site visit revealed that the existing dwelling is unable to directly see into the Living area of No. 68, with only the windows and upper portion of the room visible.

No 70 Cheryl Crescent is located to the south-south-west of the subject site, with a right of carriageway located between the subject site and the property. The adjoining property has an outdoor area to the north of the dwelling. Although this area is north-facing, the outdoor space is limited in size and as such it is not considered that this area would be utilised for extended periods of time or for main outdoor recreation. However, it is noted that there are existing glass doors and windows on the northern elevation that may be overlooked.

The Applicant has aimed to minimise the overlooking impact by maintaining the alignment of the existing decks on all three levels as follows:

- The existing first floor level has two (2) decks on the southern elevation to the east and west. The applicant proposes one (1) deck in the centre to replace the two (2) existing. The first floor deck shall extend beyond the existing deck, however the balustrade is proposed to be setback from the deck edge in alignment with the existing balustrade.
- The proposal ground level "Alfresco" deck shall extend beyond the existing deck, however the bi-fold doors shall be in alignment with the existing deck.
- The lower level deck shall maintain the alignment and size of the existing deck.

A site visit to the subject site revealed that the existing decks can current overlook the adjoining properties to the south. It is considered that there shall be no additional impact from the first floor and lower floor level decks, however the ground floor level deck area shall substantially increase and shall extend the full length of the dwelling, and as such the proposed ground floor decks will exacerbate the existing overlooking impact, with particular regards to the main recreation area of No. 68.

Due to the nature of the site, and elevated dwelling, there is no opportunity to implement screen planting on the subject site to prevent overlooking. Furthermore, the requirement for installation of a privacy screen on the southern deck is considered unreasonable as it would result in significant view loss from the deck. Given the difference in level between the subject site and rear properties, adding a privacy screen would also create an adverse visual impact on the bulk and scale of the development as viewed from the adjoining properties.

As discussed in clause C1.4, it is recommended that the "Alfresco" area be open in style and not enclosed. As such it is recommended that the balustrade of the ground floor deck maintain the alignment of the existing balustrade (being the alignment of the proposed bi-fold doors). Furthermore, it is also recommended that balustrades on all southern decks are opaque glazing or solid, which shall prevent downward looking to the adjoining properties yet maintain the views over the balustrade, from both seated and standing positions. Subject to the above recommendations and in view of the existing situation, it is considered that the proposed development will not result in any unreasonable impacts upon the adjoining properties with regards to visual privacy. Should the application be approved, conditions of consent shall be imposed to implement the above recommendations.

- **D3.7 Side and rear building line**

While the proposal is technically compliant with the minimum side setbacks, proposing 2.5m to the east and 1m to the west, the proposed development is found to be inconsistent with the following outcomes of clause D3.7:

- *Equitable preservation of views and vistas to and/or from public/private places;*
- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping;*
- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties;*
- *The bulk and scale of the built form is minimised.*

Clause D3.7 stipulates a minimum side setback, and as such the 2.5m and 1m numerical requirements are subject to the development also achieving consistency with the intent of the control, being that identified in the outcomes of the clause. In this instance, as discussed in clause C1.3 and C1.4, it is considered appropriate for a greater side setback to be applied to the subject site in order to achieve view sharing and ensure a reasonable level of solar access to adjoining properties.

- **D3.9 Building envelope**

The proposed development results in a significant breach of the building envelope on the eastern elevation, limited to the eastern external wall, roof and balustrade of the “Alfresco” area, and results in a minor breach of the building envelope on the first and ground floor level of the western elevation. The outcomes of clause D3.9 aims to ensure that the bulk and scale of development is minimised, for equitable preservation of views and vistas, and to ensure that a reasonable level of privacy, amenity and solar access is maintained to residential properties. The development as proposed fails to achieve the above outcomes of clause D3.9. As detailed in clause C1.3 and C1.4, it is recommended that the setback of the eastern external wall of the ground floor level be increased by 1.5m and the “Alfresco” area external wall be deleted to be open with a balustrade. Subject to the recommendations, the non-compliance with the building envelope on the eastern elevation would be substantially reduced, resulting in a minor breach for the deck roof, and is supported on merit.

- **D3.11 Landscaped Area - Environmentally Sensitive Land**

Existing Landscaped Area – 67.6% or 471.7m²
Proposed Landscaped Area – 53.75% or 375m²

The landscape area control requires that the minimum landscaped area shall be 60%. The proposed development is significantly under the minimum 60% and is technically non-compliant with clause D3.11.

The outcomes of clause D3.11 aim to ensure that the bulk and scale of built form is minimised and that a reasonable level of amenity and solar access is provided and maintained. As discussed in clause C1.4, the development as proposed shall have a detrimental impact upon the solar access of the adjoining properties to the rear, which is already limited due to the orientation and topography of the sites. Furthermore, the proposal is considered to be visually domineering as viewed from the adjoining properties to the south, with little opportunity for substantially canopy plantings to screen the development. As such the development as proposed is inconsistent with the outcomes of clause D3.11. Subject to the recommendations within the report, the eastern external wall shall be relocated, which shall increase the landscaped area on site. Furthermore, the recommendation for the “Alfresco” area to be open in style rather than enclosed shall minimise the bulk and scale by adding articulation to the southern façade and allowing more light to penetrate through the site from the north. While the landscaped area shall still result in non-compliance with the technical requirement, increasing to approximately 57% or 397.7m², the proposal is considered to be consistent with the outcomes of the control and is supported subject to the recommendations within the report.

- **D3.13 Fences - Flora and Fauna Conservation Areas**

Concern was raised by the neighbouring property to the north regarding changes to the existing front fence and potential view loss impacts. The subject application does not propose any amendments to the existing fence however, it is noted that any increase to the fence height would obstruct the views currently obtained from the neighbouring property. Should the application be approved a condition of consent is recommended to state that no fencing or any amendments to the existing fencing is approved under this application.

- **D3.14 Construction, Retaining walls, terracing and undercroft areas**

Clause D3.14 requires that undercroft areas be limited to a maximum height of 3.5m. Due to the topography at the rear of the site, where the site falls considerably, the proposed development shall have an undercroft area of up to 4.5m. Clause D3.14 also requires that adequate landscaping is provided to screen undercroft areas. No landscape plan has been submitted with the application. It is noted that there are some small trees and low level planting within the rear of the site, however the existing planting is not considered sufficient in screening the undercroft area. As such, should the application be approved, a condition of consent is recommended for additional planting to be provided in the rear of the site to screen the undercroft area and soften the visual impact of the development. Subject to the additional plantings, the minor non-compliance with clause D3.14 is considered acceptable.

9.0 CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan, Pittwater 21 Development Control Plan and other relevant policies as listed at item 3.0.

Subject to the recommended amendments, the proposal is considered to be consistent with the relevant statutory controls and policy objectives. It should be noted that, in view of the variations proposed, the proposed development is considered to be at its maximum built form in accordance with Council's planning controls, however subject to the recommendations the proposed dwelling is not considered to result in any unreasonable impacts upon adjoining properties and is not inconsistent with the desired future character of the Bilgola Locality. Accordingly, the application is recommended for approval.

RECOMMENDATION OF DEVELOPMENT OFFICER/PLANNER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application N0356/17 for construction of a new dwelling including the retention of a substantial portion of the existing dwelling at 10 Mountview Place, Bilgola Plateau subject to the following draft conditions of consent:

Conditions of Approval

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

A. Prescribed Conditions:

1. The development is to be carried out in accordance with the information and reports provided by the applicant in support of the application, including the Statement of Environmental Effects and in accordance with the following documentation (as amended by any relevant conditions of consent and deferred commencement conditions);

Architectural drawings (all prepared by Penguin Designs):

- Drawing No. 1510.1327.01 (Site Plan), Issue A, dated 18 July 2017;
- Drawing No. 1510.1327.03 (Plans), Issue A, dated 18 July 2017;
- Drawing No. 1510.1327.04 (Plans), Issue A, dated 18 July 2017;
- Drawing No. 1510.1327.05 (Plans), Issue A, dated 18 July 2017;
- Drawing No. 1510.1327.06 (Elevations), Issue A, dated 18 July 2017;
- Drawing No. 1510.1327.07 (Elevations), Issue A, dated 18 July 2017;
- Drawing No. 1510.1327.08 (Elevations), Issue A, dated 18 July 2017;
- Drawing No. 1510.1327.09 (Elevations), Issue A, dated 18 July 2017;
- Drawing No. 1510.1327.14 (Section), Issue A, dated 18 July 2017.

Documentation:

- Arboricultural Impact Assessment Report, Version 02, prepared by Paul Shearer Consulting, dated 27 September 2016;
 - Geotechnical Risk Management Assessment Report, Ref: MO 28906, prepared by Jack Hodgson Consultants Pty Ltd, dated 27 July 2017;
 - BASIX Certificate A287299, dated 17 July 2017.
2. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
 3. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
 4. A sign must be erected in a prominent position onsite only showing:
 - a) the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b) the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - c) that unauthorised entry to the work site is prohibited.

The sign must 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.

5. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - a) in the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor, and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
 - b) in the case of work to be done by an owner-builder:
 - i. The name of the owner-builder, and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
 - c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under a or b above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
6. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
7. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.

B. Matters to be incorporated into the development and maintained over the life of the development:

1. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.
2. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.
3. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by Jack Hodgson Consultants Pty Limited dated 27 July 2017 are to be incorporated into the construction plans.
4. Weeds listed in Greater Sydney Regional Strategic Weed Management Plan 2017 - 2022 must be removed and managed continuously.

Details demonstrating compliance are to be submitted to the Certifying Authority.
5. No environmental weeds are to be planted on the site. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for environmental weed lists.

6. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland or foreshore, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.
7. Any vegetation planted onsite outside approved landscape zones is to be consistent with:
 - a) Species listed in the Ecological Sustainability Plan or Bushland Management Plan (if applicable)
 - b) Species listed from the Endangered Ecological Community
 - c) Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Council website http://www.pittwater.nsw.gov.au/environment/species_lists
8. No building materials or other materials are to be placed on Bushland vegetation. Sediment is not to leave the site or enter areas of Bushland vegetation, and the appropriate sediment fencing is to be installed.
9. As part of an integrated on-site stormwater management system, stormwater from all roofed areas and the proposed driveway is to be discharged by direct connection into the kerb fronting the site via a gravity system.
10. In accordance with Pittwater 21 DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
11. Relocation of trees numbered T2 and T3 as per Paul Shearer Consulting Report dated 27th September 2016 Version 2 is to be carried out by a qualified contractor with proven experience in this area and a maintenance strategy for a 12 month re-establishment period is to be developed, implemented and incorporated into the detailed landscape working drawings. This strategy is to address maintenance issues such as irrigation, soil testing, weeding, plant staking, fertilising, pest and disease control, remedial pruning and the like.

Further, provision is to be made for the contractor to visit the site on a 3 monthly basis from the date of the relocation. After the inspection, the contractor is to issue a report to the project manager certifying that the palms are healthy and performing to expectation.

A copy of this report is to be forwarded to the Principal Certifying Authority.
12. No water pollution shall result from the operation of any plant or equipment or activity carried out.
13. Noise from the operation of any plant or equipment at the premises shall comply with the noise provisions of the Protection of the Environment Operations Act, 1997.
14. No odour nuisance to the public or any adjoining premises, shall be created by the operation of any plant or equipment or any procedure carried out at the premises.
15. No emissions causing air pollution shall be created by the operation of any plant equipment or any procedure carried out at the premise.

16. The operation of any plant or equipment or any procedure carried out at the premises shall not cause land pollution.
17. The reflectivity index (expressed as a percentage of the reflected light falling upon any surface) of all external glazing is to have a maximum reflectivity index of 25%. Written confirmation of the reflectivity index of material is to be submitted with the Construction Certificate.

(Note: the reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement. This is to ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development).
18. New electrical connections are to be carried out using underground cabling.
19. Materials and colour schemes are to be in accordance with the sample scheme approved by Council.
20. The view corridor through the eastern side setback is to be maintained at all times. No vegetation is to be planted within the view corridor and vegetation shall not obstruct the view.
21. No fencing or any amendments to the existing fencing on site is approved under this development consent.
22. All balustrades on the southern elevation are to be solid or translucent glazing in order to minimise overlooking to the adjoining properties to the south.

C. Matters to be satisfied prior to the issue of the Construction Certificate:

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
2. Prior to the issue of a Construction Certificate, the architectural drawings are to be updated to incorporate the following amendments:
 - The eastern external wall of the Ground Floor level is to be relocated a minimum 1.5m to the west. The internal layout of the open-plan Kitchen/Dining area (including Laundry and Walk-in Pantry) and Foyer is to be reconfigured to accommodate the above amendment;
 - The eastern wall and bi-fold doors (located on the southern and western elevation) of the ground floor level 'Alfresco' area are to be deleted and replaced with a balustrade. The 'Alfresco' area is to be an open roofed balcony/verandah. The eastern alignment of the 'Alfresco' area is to be consistent with the eastern external wall, being reduced by 1.5m. The southern balustrade is to be in the location of the bi-fold doors, being a minimum of 600mm from the southern balcony edge;
 - The 'Store' room on the Basement level is to be deleted;
 - All balustrades on the southern elevation are to be solid or translucent glazing in order to minimise overlooking to the properties to the south.

3. Prior to the issue of a Construction Certificate, an updated Landscape Plan is to be provided which includes the following:

- The existing eastern boundary screen planting and vegetation is to be cut back to a maximum of 1m from the eastern boundary in order to increase the water view visible through the eastern side setback;
- Relocation of trees as required by the Arborist report, dated September 2016.
- No canopy trees or vegetation is permitted which shall obstruct the view corridor obtained through the eastern side setback. The proposed canopy tree within the front yard is to be relocated to the west in order to maintain the view corridor;
- Shrubs are to be planted to the south of the dwelling in order to screen the undercroft area. The plants should reach a minimum maturity height of 2.5m. Landscaping within the rear of the site is to be enhanced where possible.

The landscape plan is to detail species of trees, plants and vegetation. Species selection is to incorporate locally native species. The landscaping is to be retained over the life of the development and replaced if they should die or be destroyed or removed.

4. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:

- a) after excavation for, and prior to the placement of, any footings, and
- b) prior to pouring any in-situ reinforced concrete building element, and
- c) prior to covering of the framework for any floor, wall, roof or other building element, and
- d) prior to covering waterproofing in any wet areas, and
- e) prior to covering any stormwater drainage connections, and
- f) after building work has been completed and prior to any occupation certificate being issued in relation to the building.

To allow a Principal Certifying Authority to carry out critical stage inspections, at least 48 hours notice must be given before building work is commenced and prior to further work being undertaken.

5. Construction works approved by this consent must not commence until:

- a) Construction Certificate has been issued by a Principal Certifying Authority
- b) a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
- c) at least 2 days notice, in writing has been given to Council of the intention to commence work.

6. In accordance with section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.

7. Structural Engineering details relating to the development are to be submitted to the Accredited Certifier or Council prior to release of the Construction Certificate. Each plan/sheet is to be signed by a qualified practising Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field.

8. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate or complying development plans and specifications are fulfilled.

9. Drainage plans including specifications and details showing the site stormwater management are to be submitted to the Accredited Certifier with the Construction Certificate application. Such details are to be accompanied by a certificate from (as appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater management system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage. The details shall include disposal of site stormwater (if the site is in a known slip area the stormwater disposal system must be supported by a Geotechnical Engineer and any recommendations within the Geotechnical Report complied with).

There is existing adverse stormwater run-off onto the adjoining sites to the rear of the subject site which should be taken into consideration in the design of the stormwater management. The management plan/system should ensure there is no nuisance caused to adjoining properties (including onto the right of carriageway located over the subject site and adjoining sites) with regards to stormwater run-off. As part of the integrated on-site stormwater management system, stormwater from all roofed areas and the proposed driveway is to be discharged by direct connection into the kerb fronting the site via a gravity system.

Note: Where Council is the Principal Certifying Authority 3 sets of plans/specifications are to be submitted.

10. An application for driveway levels and formwork inspections shall be made with Council subject to the payment of the fee applicable which includes all Council inspections relating to the crossing construction.
Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
11. Applicants will be required to obtain prior to the issue of a Construction Certificate, a Section 139 Consent for Works on a Public Road Reserve issued by the Council under the provisions of Section 138 of the *Roads Act 1993* for the design and construction of any works located on the road reserve including Access Driveways.
12. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
13. The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties (including 68 and 70 Cheryl Crescent) 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.

D. Matters to be satisfied prior to the commencement of works and maintained during the works:

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside

these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

Note: This condition does not apply in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the States building laws.

2. Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-2001 The Demolition of Structures.

Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

- a) Protection of site workers and the general public.
- b) Erection of hoardings where appropriate.
- c) Asbestos handling and disposal where applicable.
- d) Any disused service connections shall be capped off.

Council is to be given 48 hours written notice of the destination/s of any excavation or demolition material. The disposal of refuse is to be to an approved waste disposal depot.

3. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
4. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.
5. A layback 3 metres wide (excluding the wings) is to be constructed in accordance with Northern Beaches Council Drawing No A4-2276/B and specifications.
6. The provision of one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/2 Normal High and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

7. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
8. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
9. No works are to be carried out in Council's Road Reserve without the written approval of the Council.
Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity,etc:), and landscaping works within Council's Road Reserve.

10. No skip bins or materials are to be stored on Council's Road Reserve.

11. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by Paul Shearer Consulting, version 2 dated 27th September 2016 are required to be complied with before and throughout the development period, **specifically the relocation on site of T2 and T3 *Livistona australis* Cabbage Tree Palm** to the front (northern boundary). All general tree protection measures are to be followed particularly with regard to the following:
- Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
 - Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
 - All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
 - Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
 - Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.

12. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas.

Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.

E. Matters to be satisfied prior to the issue of Occupation Certificate:

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

- An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.

2. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.
3. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.
4. Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
5. The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.

A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards must be provided.

6. The applicant must obtain written confirmation from Council that all works in the road reserve have been completed in accordance with the conditions of the Driveway Levels Approval.
7. The applicant must prepare and submit a post-construction dilapidation report. The report must clearly detail the final condition of all property, infrastructure, natural and man-made features that were originally recorded in the pre-commencement dilapidation report. 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.
8. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
9. Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved Arborist Report by Paul Shearer Consulting, Version 2, dated 27th September 2017 are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate.
10. Street numbers are to be affixed so that they are clearly displayed and visible from a public place.

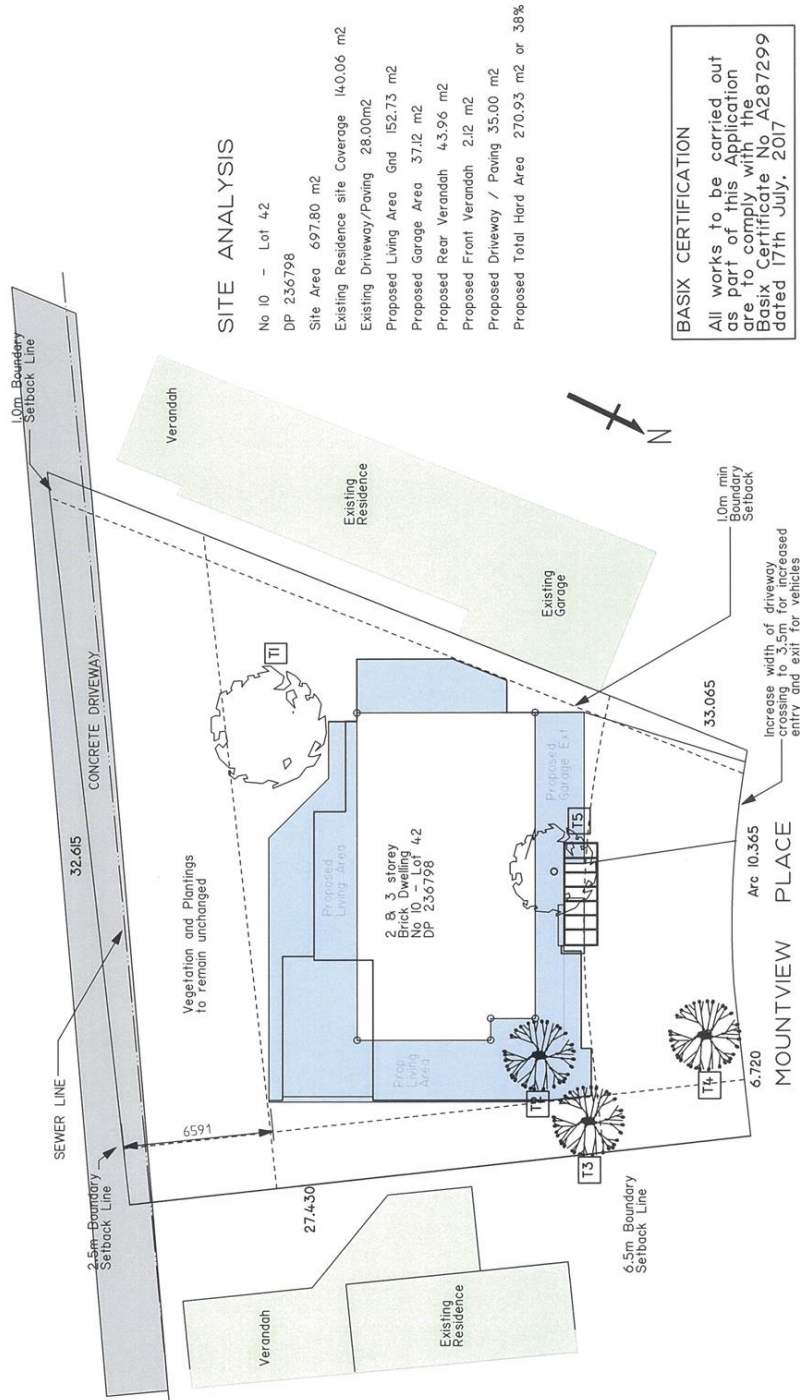
G. Advice:

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. Dial before you dig: Prior to excavation the applicant is advised to contact Australia's National Referral Service for Information on Underground Pipes and Cables telephone 1100 or www.1100.com.au

3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. To ascertain the date upon which a consent operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
5. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 6 months of the determination.
6. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.
7. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.

Report prepared by

Angela Manahan
PRINCIPAL PLANNER

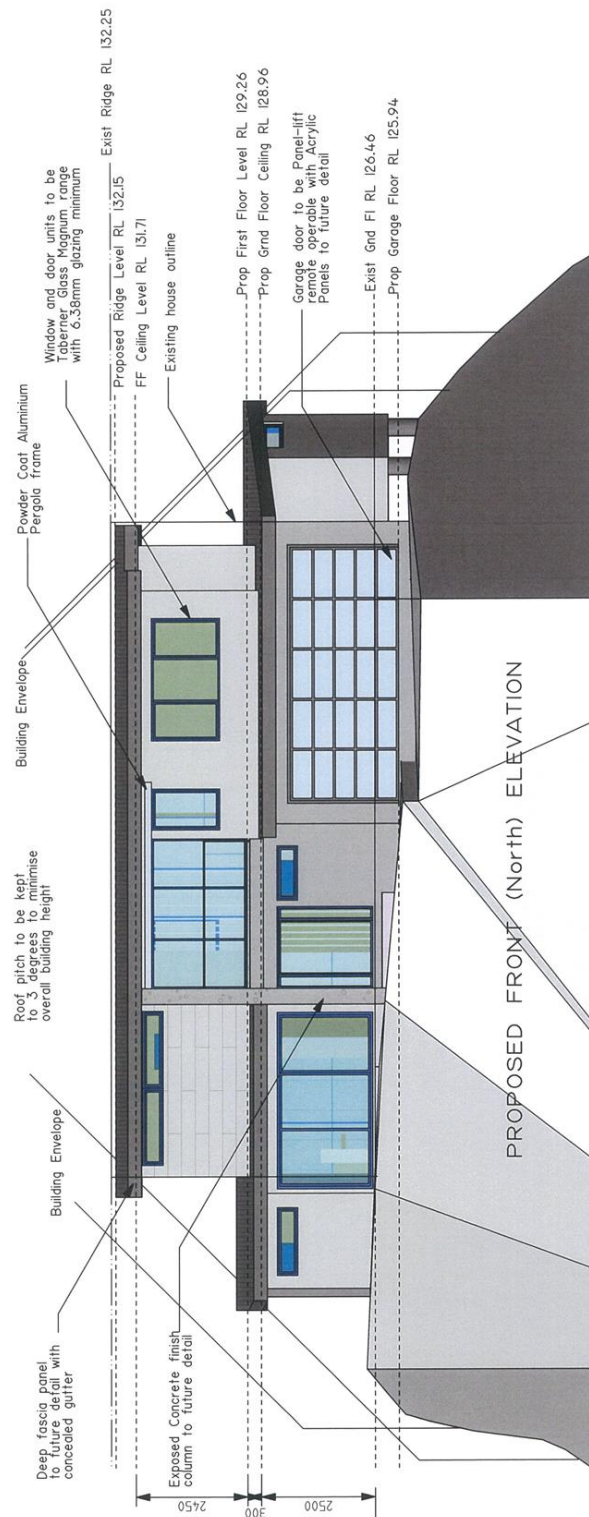


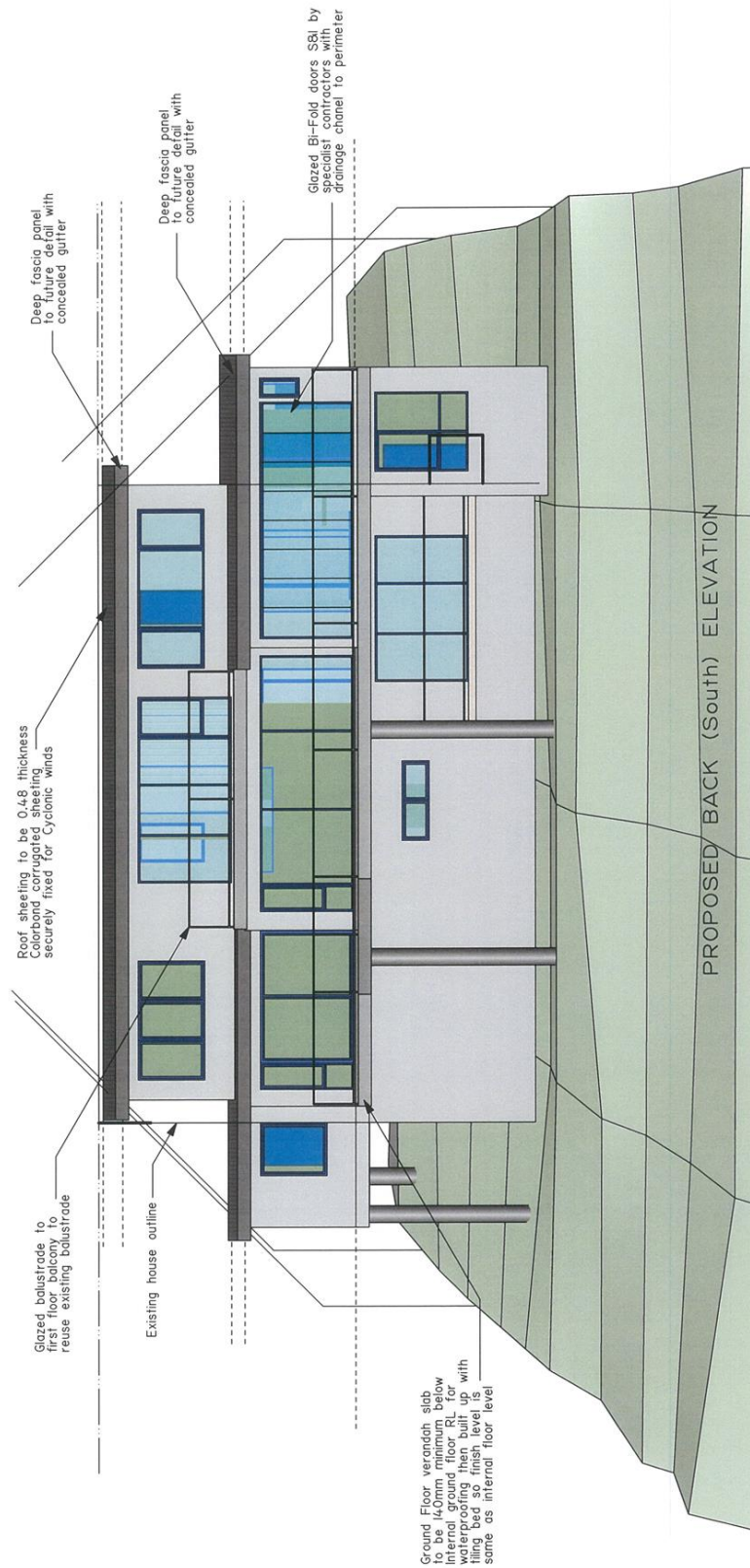
SITE ANALYSIS

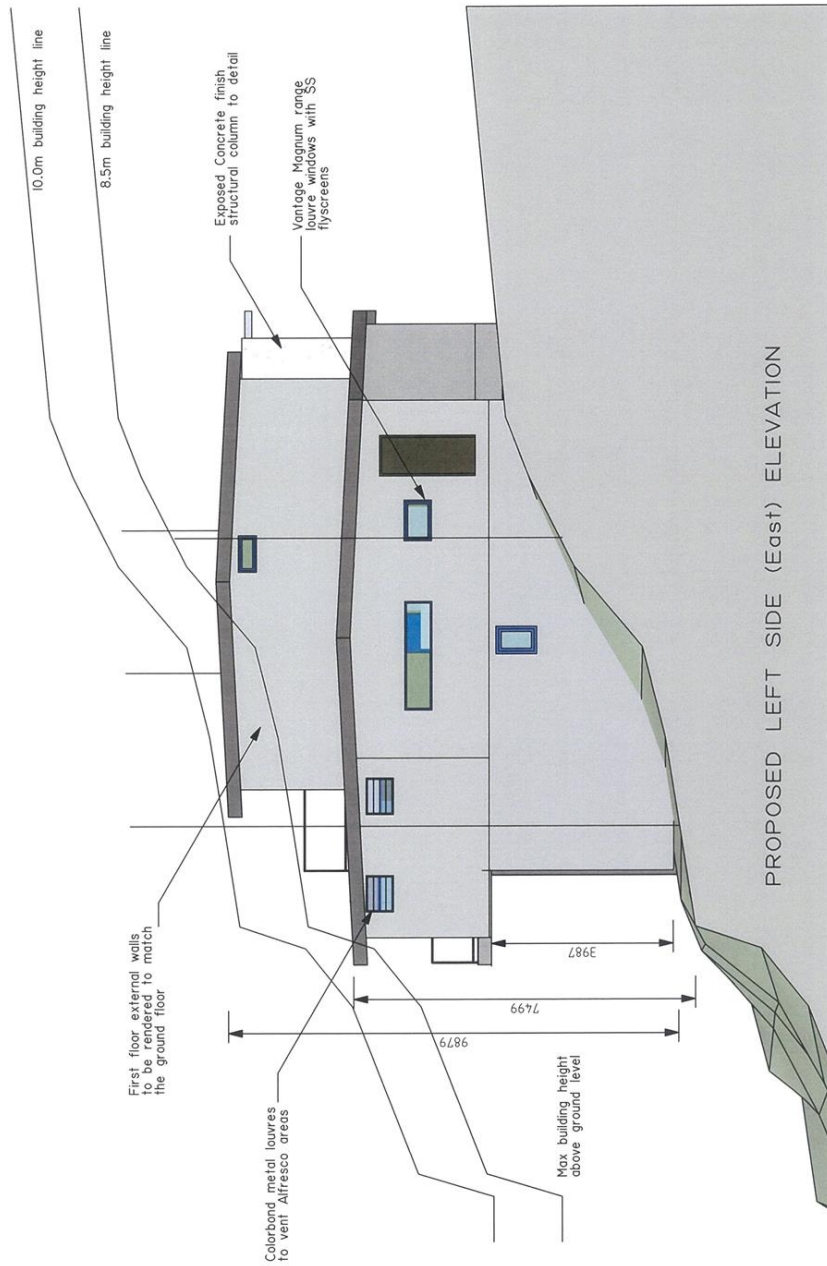
No 10 - Lot 42
DP 236798
Site Area 697.80 m²
Existing Residence site Coverage 140.06 m²
Existing Driveway/Paving 28.00m²
Proposed Living Area Gnd 152.73 m²
Proposed Garage Area 37.12 m²
Proposed Rear Verandah 4.396 m²
Proposed Front Verandah 2.12 m²
Proposed Driveway / Paving 35.00 m²
Proposed Total Hard Area 270.93 m² or 38%

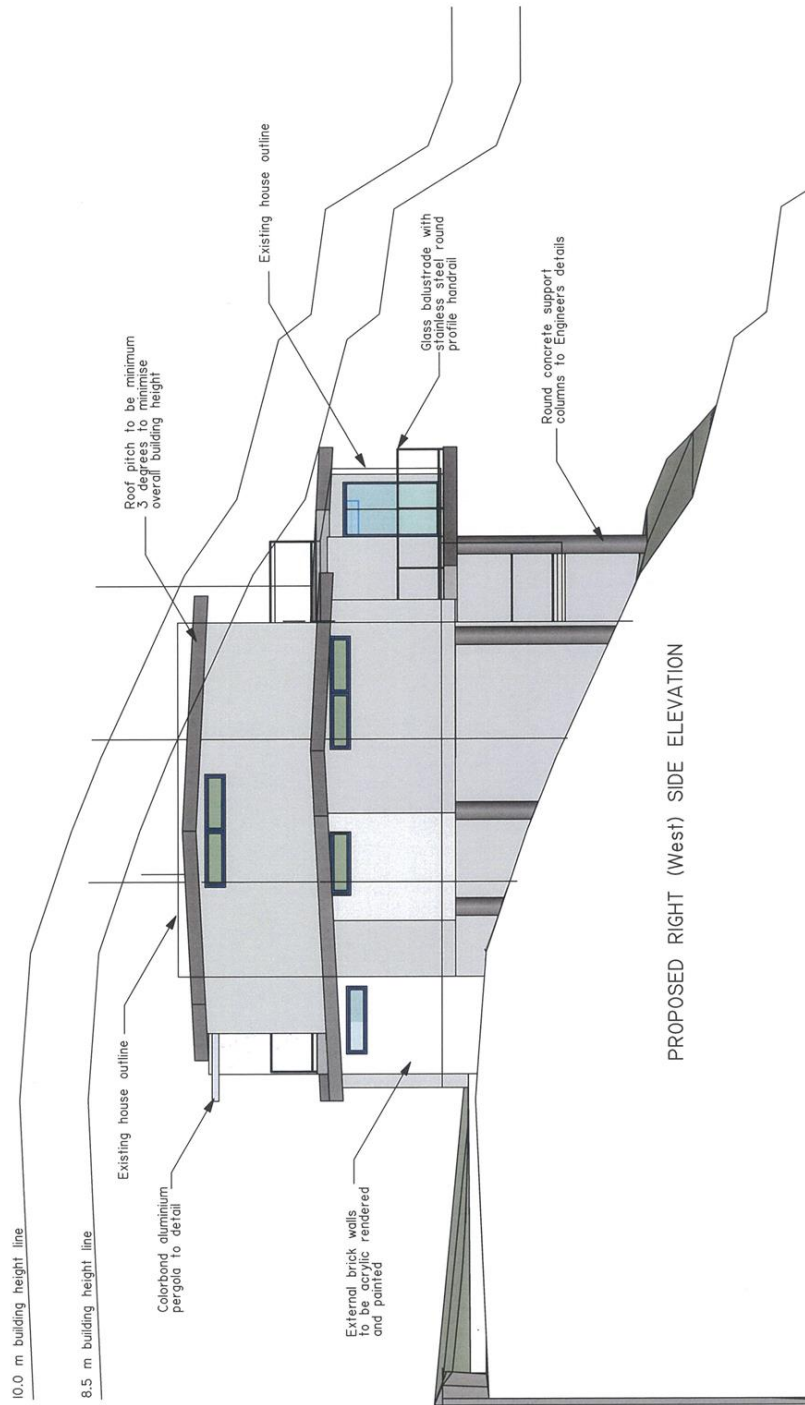
BASIX CERTIFICATION

All works to be carried out as part of this Application are to comply with the Basix Certificate No. A287299 dated 17th July, 2017









ITEM 3.2

N0539/07/S96/1 - 64 HERBERT AVENUE, NEWPORT - SECTION 96 (2) MODIFICATION OF CONSENT N0539/07 RELATING TO 64 HERBERT AVENUE, NEWPORT (LOT 152 DP 13457) WITH RESPECT TO THE RELOCATION OF THE APPROVED CARPORT TO THE SOUTH

REPORTING MANAGER Matthew Edmonds

TRIM FILE REF 2018/070259

ATTACHMENTS

- 1 [↓](#) Assessment Report
- 2 [↓](#) Site and Elevation Plans

PURPOSE

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

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

That pursuant to section 96(2) of the Environmental Planning and Assessment Act 1979, Council modify development consent N0539/07 for additions to an existing dwelling, including modifications for the relocation of an approved double carport at 64 Herbert Avenue, Newport subject to the conditions outlined in the report:

SUBJECT: N0539/07/S96/1 – Section 96 (2) Modification of Consent N0539/07 relating to 64 HERBERT AVENUE, NEWPORT (Lot 152 DP 13457) with respect to the relocation of the approved carport to the south

Determination Level: Development Determination Panel **Date:** 17 January 2018

SUMMARY OF RECOMMENDATION

APPROVAL

| | |
|----------------------------------|--|
| REPORT PREPARED BY: | Hugh Halliwell |
| APPLICATION SUBMITTED ON: | 12 October 2017 |
| APPLICATION SUBMITTED BY: | MR & MRS DRYSDALE C/- VAUGHAN MILLIGAN DEVELOPMENT CONSULTING P/L PO BOX 49 NEWPORT BEACH NSW 2106 |
| OWNER(S): | DRYSDALE, OWEN ANDREW (OwnResOcc) DRYSDALE, SYLVIA (OwnResOcc) |



SITE DETAILS

The subject site is identified as lot 152 of Deposited Plan (DP) 13457 and is commonly known as 64 Herbert Avenue Newport. The site is regular in shape, has a total area of 584.0m² and the following boundary dimensions: north 24m, south 15.225m, east 37.845m and west 38.785m. The site slopes steeply and uniformly from front to rear (south to north) with the front (south) being approximately 9.0m higher than that of the rear (north). The lot is currently developed by a two storey brick dwelling with tiled roof with associated timber deck located on the northern facade of the building. Significant vegetation is apparent on site primarily at the front of the dwelling or lot and includes species such as Illawarra Flame Tree, Grey Iron Bark, Jacaranda, Norfolk Island Hibiscus, and Canary Island Date Palm. Development on adjoining properties consists of two storey single occupancy residential dwellings. The existing lot has no off-street car-parking provision and is accessed via a stepped walkway from Herbert Avenue.

STATUTORY AND POLICY CONSIDERATIONS

- Environmental Planning and Assessment Act 1979 (as amended);
- Environmental Planning and Assessment Regulation 2000 (as amended);
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
- Pittwater 21 Development Control Plan
 - Geotechnical Hazard H1
 - Bushfire prone property
 - Scenic Protection Category 1
 - Land within Area 1 of the Landscaped Area Map
 - Flora and Fauna Category 1 & 2 Area

BACKGROUND

14 September 2007

An application was lodged with Council for additions to the existing dwelling, which included:

- The construction of an elevated car stand platform;
- Additions to extend the rear deck of the existing first floor level, together with internal alterations; and
- An internal connection to the ground floor level and the addition of a bedroom and associated deck area.

16 May 2008

The application was determined by delegated authority - Development Unit.

31 October 2008

A construction certificate was submitted with respect to the approved works as part of consent N0539/07.

6 November 2008

A commencement certificate was received.

2 February 2016

A subdivision certificate was issued by Council for a boundary adjustment of lots to include a portion of the Council road reserve.

12 October 2017

A Section 96 Modification Application was lodged with Council, in respect to modifying the approved

PROPOSAL IN DETAIL

The applicant seeks consent to modify consent N0135/16 pursuant to S96(2) in the following way:

- Relocating the approved carport to the south;
- Raising of the carport slab 286mm;
- Raising of the ridge height of the carport by 150mm; and
- Widening of the carport.

NOTIFICATION

The S96 Modification Application was notified in accordance with Council's notification policy from 24 November to 8 December 2017.

ISSUES

- 4.3 Height of buildings
- D10.7 Front building line (excluding Newport Commercial Centre)
- D10.11 Building envelope (excluding Newport Commercial Centre)

COMPLIANCE TABLE

T - Can the proposal satisfy the technical requirements of the control?

O - Can the proposal achieve the control outcomes?

N - Is the control free from objection?

| Control | Standard | Proposal | T | O | N |
|---|----------|-----------------------|---|---|---|
| Pittwater Local Environmental Plan 2014 | | | | | |
| Zone E4 Environmental Living | | | Y | Y | Y |
| 4.3 Height of buildings | | See discussion below. | N | Y | Y |
| 7.1 Acid sulfate soils | | | Y | Y | Y |
| 7.6 Biodiversity protection | | | Y | Y | Y |
| 7.10 Essential services | | | Y | Y | Y |
| Pittwater 21 Development Control Plan 2014 | | | | | |
| A1.7 Considerations before consent is granted | | | Y | Y | Y |
| A4.10 Newport Locality | | | Y | Y | Y |

| Control | Standard | Proposal | T | O | N |
|---|----------|-----------------------|---|---|---|
| B1.4 Aboriginal Heritage Significance | | | Y | Y | Y |
| B3.2 Bushfire Hazard | | | Y | Y | Y |
| B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community | | | Y | Y | Y |
| C1.1 Landscaping | | | Y | Y | Y |
| C1.2 Safety and Security | | | Y | Y | Y |
| C1.3 View Sharing | | | Y | Y | Y |
| C1.4 Solar Access | | | Y | Y | Y |
| C1.5 Visual Privacy | | | Y | Y | Y |
| C1.23 Eaves | | | Y | Y | Y |
| D10.1 Character as viewed from a public place | | | Y | Y | Y |
| D10.4 Building colours and materials | | | Y | Y | Y |
| D10.7 Front building line (excluding Newport Commercial Centre) | | See discussion below. | N | Y | Y |
| D10.8 Side and rear building line (excluding Newport Commercial Centre) | | | Y | Y | Y |
| D10.11 Building envelope (excluding Newport Commercial Centre) | | See discussion below. | N | Y | Y |
| D10.13 Landscaped Area - Environmentally Sensitive Land | | | Y | Y | Y |
| D10.16 Construction, Retaining walls, terracing and undercroft areas | | | Y | Y | Y |
| D10.18 Scenic Protection Category One Areas | | | Y | Y | Y |
| State Environmental Planning Policies and other | | | | | |
| EPA Act 1979 No 203 section 147 Disclosure of political donations and gifts | | | Y | Y | Y |

DISCUSSION OF ISSUES

4.3 Height of buildings

The proposal is non-compliant with the above mentioned clause as it exceeds the 8.5m height restriction (proposed height – 8.8m). Notwithstanding this, the modified building height has been reduced due the carport moving south and up slope towards Herbert Avenue. It is noted that the original approval required the carport structure to be lowered in height 500mm, thus achieving a maximum height of 10m. The modified height, now 8.8m, is a notable reduction (1.2m), therefore a more favourable outcome.

The modified carport satisfies the objectives stipulated by clause 4.3 of PLEP 2014, particularly with regards to reducing the visual impact of the development, as well as responding sensitively to the natural topography. By moving the carport closer to Herbert Avenue, the height is significantly reduced, thereby reducing the impact of the approved undercroft, which is now noticeably lower. As mentioned above, the carport will remain consistent with the height and scale of similar carports within the front setback along Herbert Avenue. Views and solar access will remain unaffected by the modified location. Overall, the carport remains largely the same in appearance as viewed from Herbert Avenue, with the main point of difference being the reduced height.

D10.7 Front building line

The modified proposal is non-compliant with the front building line control of the Pittwater 21 DCP as it does not maintain a 6.5m setback. Although non-compliant, due to the steep topography on the site and surrounding properties along the northern side of Herbert Avenue, many similar car parking structures display reduced or nil setbacks to the street frontage. Furthermore, clause D10.6 may permit a variation to the front setback requirement where car parking is to be provided on steeply sloping sites, reduced or nil setbacks for car parking structures and spaces may be considered.

In this case, the proposal satisfies the outcomes stipulated under clause D10.7. The modified carport will maintain equitable preservation of views north from Herbert Avenue. It should be noted that the development (N0539/07) was also approved with a nil setback. The streetscape will remain unaffected, particularly compared to what was approved. No native vegetation will be adversely impacted by the modified location. Overall, the bulk and scale will present similarly to what was approved under consent N0539/07, with the main change being the reduced building height and undercroft area.

The modified proposal continues to seek consent for a nil setback due to the closure of a portion of the road reserve and subsequent purchasing of the area of land by the property owners. While the modified carport remains similar to what was approved with the exception of a marginal increase in slab height and ridge height and widening of the structure, the overall building height is reduced due to the structure moving further south and up the slope of the land. The carport will not dominate the streetscape and remain an open style structure the will complement the existing character of Herbert Avenue and other similar structures along the street. In all, the proposal is satisfactory and achieves the outcomes of the clause, therefore can be supported on merit.

D10.11 Building envelope

Due to the slope of the site, particularly the slope on which the building footprint is located, there is a breach to the prescribed building envelope. Notwithstanding the non-compliance, a variation is supported on merit. However, clause D10.11 does state the following:

Where the building footprint has a slope is situated on a slope over 16.7 degrees (i.e.; 30%), variation to this control will be considered on a merits basis.

The building footprint has been calculated to have a slope of 55%, thereby meeting the minimum 30%. The carport is consistent with the approved structure under N0539/07 with minor difference in dimensions (slightly wider). The carport will not have any impact upon the amenity of neighbours or the existing streetscape. A variation is supported on the basis that the outcomes stipulated by clause D10.11 have been met.

INTERNAL REFERRAL COMMENTS

Council's Senior Development Engineer has provided the following comments and/or recommendations:

The proposed relocation of the carport has been assessed and is satisfactory. No objection to approval, subject to amendment to the list of approved plans amended with the application and no additional or modified conditions of consent recommended.

Joseph Di Cristo – 4 December 2017

Council's Natural Environment Officer has provided the following comments and/or recommendations:

Council's Natural Environment - Biodiversity section raises no objection to the proposal, subject to conditions.

Nicole McVicar – 6 December 2017

ASSESSMENT – CONSIDERATION OF SECTION 96 OF THE EP&A ACT 1979

The modification application has been lodged and considered in accordance with Section 96(2) of the *Environmental Planning & Assessment Act 1979*.

Section 96(2) of the *Environmental Planning & Assessment Act 1979* is considered as follows;

Are the proposed modifications considered to result in substantially the same development as that which was originally approved?

The development has been assessed as being substantially the same development under Section 96(2). The proposed modification is consistent with the original approval for additions to an existing dwelling. The modifications will not dramatically alter the external appearance of the approved development, but rather reduce the overall height and undercroft area, and therefore bulk and scale of the carport. Generally though, the approved built form will remain the same as approved with the levels being amended.

Overall, the proposed modification will not have any bearing or impact on adjoining properties or public property and will remain materially and essentially the same development, therefore the resultant development is considered to be substantially the same development as originally approved.

Has the proposed modification application been notified in accordance with the regulations and P21 DCP?

Adjoining property owners were notified from 23 October to 6 November 2017 in accordance with Council's Notification policy. It is considered that the modified application has been adequately notified.

Have all submissions made within the notification period been considered as part of the assessment?

Over the course of the notification period, zero (0) submissions were received in response to the proposed development.

The proposal is considered to fall under the provisions of Section 96(2) of the EP&A Act 1979.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan, Pittwater 21 Development Control Plan and other relevant policies as listed at item 3.0.

The resultant modification is consistent with the outcomes of Council's policy. Furthermore, the resultant development will be consistent with the objectives of the relevant requirements and the desired future character of the Newport Locality. The modification is not dissimilar to the approved development, which approved the nil setback for the carport, nor is it inconsistent with the relevant controls of PLEP 2014 and P21 DCP. Accordingly, the application is recommended for approval.

RECOMMENDATION OF PLANNER

That pursuant to section 96(2) of the Environmental Planning and Assessment Act 1979, Council modify development consent N0539/07 for additions to an existing dwelling, including modifications for the relocation of an approved double carport at 64 Herbert Avenue, Newport in the following manner:

Documentation:

- **Architectural plans, A101 through to A106, prepared by Blue Sky Building Designs, all dated 21/08/2017;**
- **Bushfire Risk Assessment, Ref: 1180, prepared by Planning For Bushfire Protection, dated 31/08/2017;**
- **Arborist Report, 64 Herbert Avenue, prepared by Landscape Matrix, dated 27/09/2017.**

Additional conditions:

B22. At the commencement of building works and in perpetuity the entire property shall be managed in accordance with requirements of the Bushfire Assessment Report, prepared by Planning for Bushfire Protection, dated 31/08/2017.

B23. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

B24. No environmental weeds are to be planted on the site. Refer to Council website www.pittwater.nsw.gov.au/environment/noxious_weeds for environmental weed lists.

C11. Details in the Construction Certificate are to reflect the recommendations/requirements of the Bushfire Risk Assessment Report prepared by Planning for Bushfire Protection, dated 31/08/2017.

D20. All recommendations as outlined in the supplied arborist report by Landscape Matrix Pty Ltd, dated 17 July 2017 are required to be complied with before and throughout the development period.

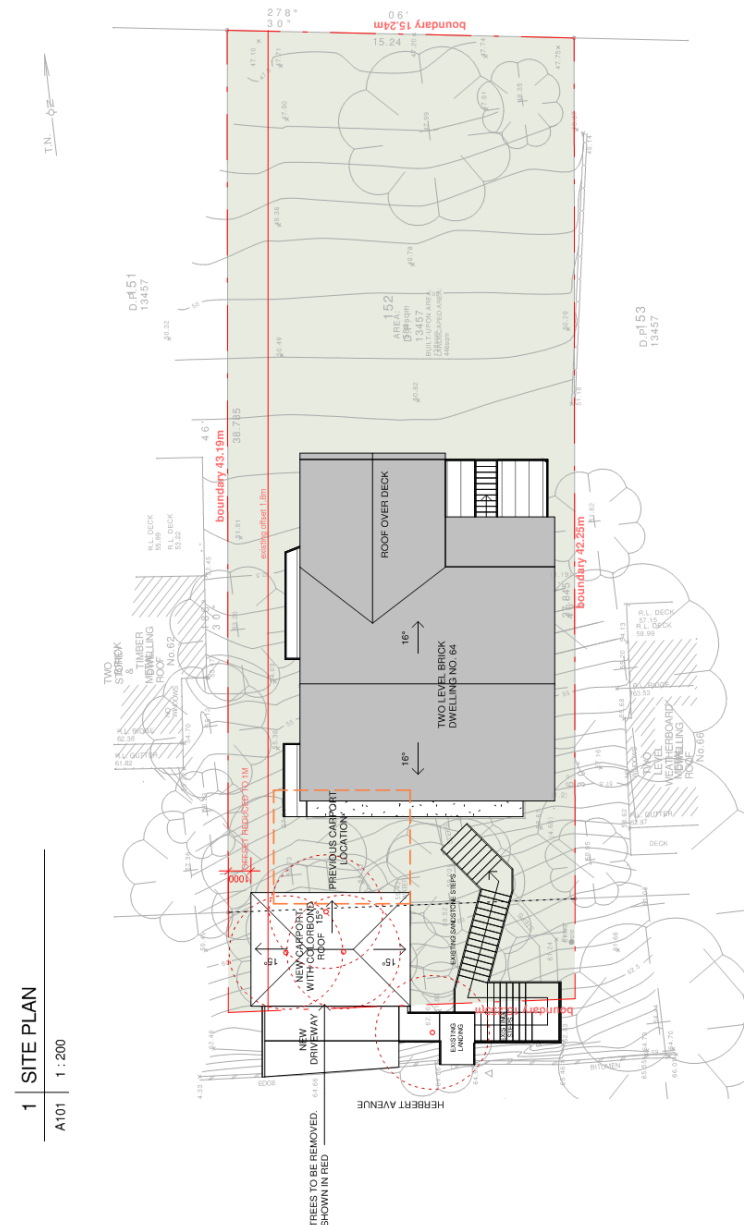
E9. Prior to the issue of an Occupation Certificate, an Accredited Certifier is to provide certification that the development has complied with the recommendations identified in the Bushfire Risk Assessment Report, prepared by Planning for Bushfire Protection, dated 31/08/2017.

Report prepared by

Hugh Halliwell
PLANNER

1 | SITE PLAN

| | |
|------|---------|
| A101 | 1 : 200 |
|------|---------|



3 | SITE AREA DIAGRAMS

| | |
|------|---------|
| A101 | 1 : 500 |
|------|---------|

| CALCULATION TABLE | | E4 - ENVIRONMENTAL LIVING |
|----------------------|------------------------------|---|
| ZONE | | Buishing Prone Land - Certified June 2013 Geotechnical Hazard Mapping 2007 - GHD |
| HAZARDS | | |
| SITE AREA | | 651.12 m ² |
| MAX. BUILDING HEIGHT | | Hmax = 8.5 m |
| BUILDING ENVELOPE | 4m - SIDE BOUNDARY ENVELOPES | |
| | EXISTING | DEMOLISHED |
| TOTAL FLOOR AREA | 324.82 m ² | 324.82 m ² |
| SITE COVERAGE | 173.12 m ² / 27% | 209.46 m ² / 32% |
| HARD SURFACE | 7.66 m ² | 7.66 m ² |
| SOFT LANDSCAPING | 470.32 m ² / 72% | 434 m ² / 67% |
| FLOOR SPACE RATIO | 0.50 : 1 | 0.50 : 1 |

ALL BUILDING WORKS MUST BE CARRIED OUT IN ACCORDANCE WITH THE REQUIREMENTS OF THE BUILDING CODE OF AUSTRALIA (BCA) AND AUSTRALIAN STANDARDS

NOTES:

1. Demolition works to be carried out in accordance with the requirements of AS2601-2001 The Demolition of Structures. Also in compliance with work cover authority of NSW requirements, including but not limited to:
 - Protection of site workers and the general public
 - Asbestos handling and disposal where applicable
2. Terminate protection to be in accordance with AS 3600.1
3. All construction to comply with current BCA codes and Australian Standards.
4. Stormwater system to be connected to existing.
5. All timber framing shall comply with AS1684
6. These documents must be read in conjunction with all the sub-consultants reports and drawings to ensure that the total construction set and are not to be taken as exclusively, being the building construction documents.
7. Eaves within 900mm of allotment boundaries are to be constructed of non-combustible materials. Eaves must be within 450mm of allotment boundaries as required by part 3.7.1 of BCA
8. Sediment & Erosion control plan to be installed and maintained during the life of the project

Do not scale from plans. All dimensions and levels shown on plan are subject to confirmation on site.

DESIGNED BY: WILL ROTHWELL

| ISSUE | DATE | DESCRIPTION | DRWN | CHKD |
|-------|------------|---------------|------|------|
| - | 18.07.2017 | PRELIMINARY 1 | MS | MW |
| - | 21.08.2017 | DA ISSUE | JB | MW |
| | | | | |
| | | | | |

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PROJECT TITLE: CARPORT RELOCATION

PROJECT NO.: 2017.054

AT: 64 Herbert Avenue, Newport 2106

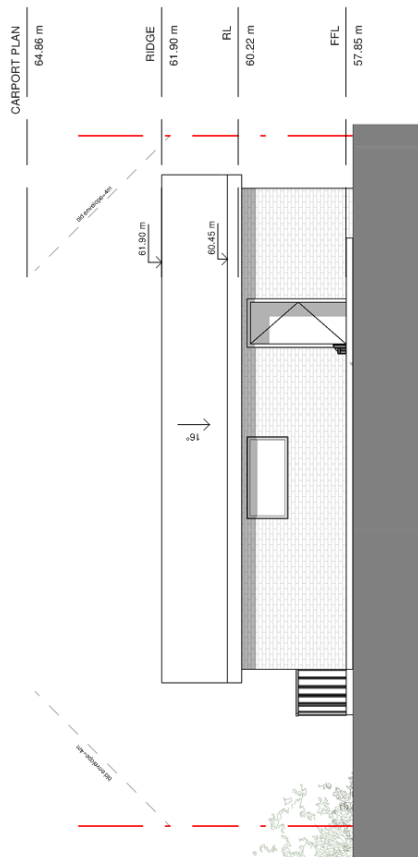
| | |
|-------------|-------------------|
| AT: | 64 Herbert Avenue |
| FOR: | Michael Drysdale |

SHEET TITLE: SITE PLAN

SHEET NO: A101

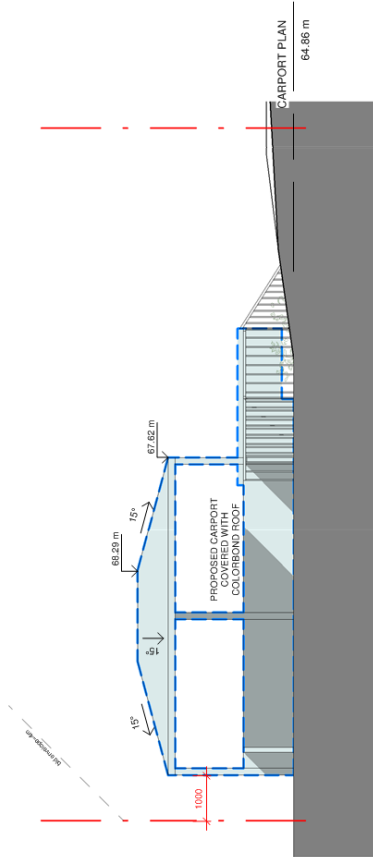
SCALE A3: As indicated





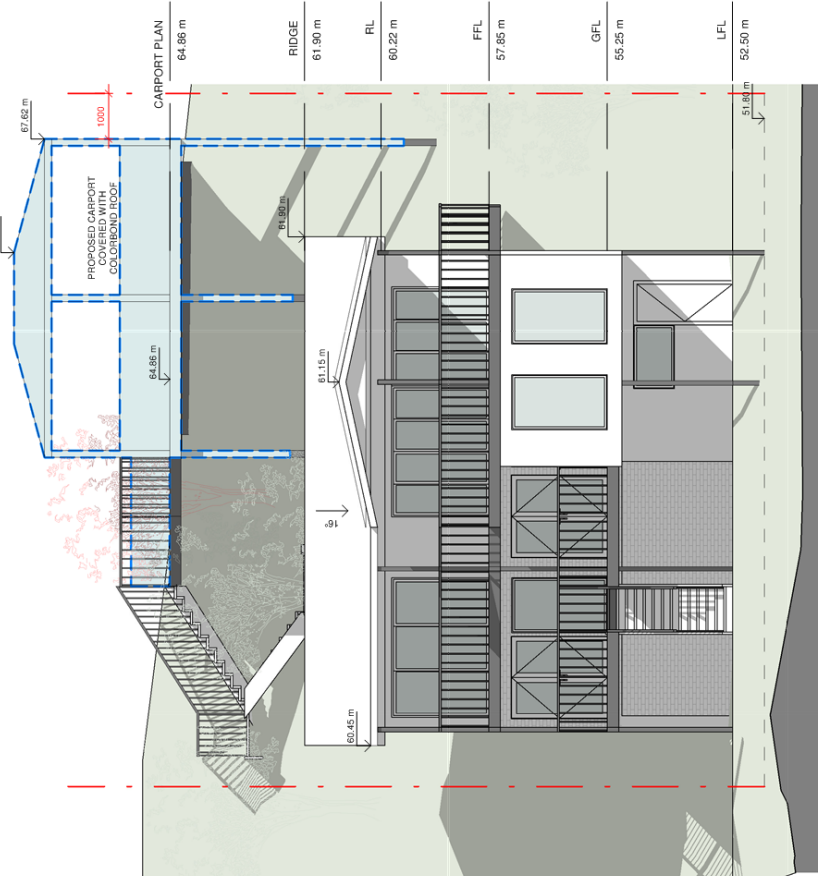
2 SOUTH ELEVATION

A103 1:100



3 SOUTH ELEVATION CARPORT

A103 1:100



1 NORTH ELEVATION

A103 1:100

DESIGNED BY: WILL ROTHWELL

Do not scale from plans. All dimensions and levels shown on plan are subject to confirmation on site.

| ISSUE | DATE | DESCRIPTION | DRWN | CHKD |
|-------|------------|---------------|------|------|
| 1 | 15.07.2017 | PRELIMINARY 1 | MS | NW |
| 2 | 21.08.2017 | DA ISSUE | JB | NW |

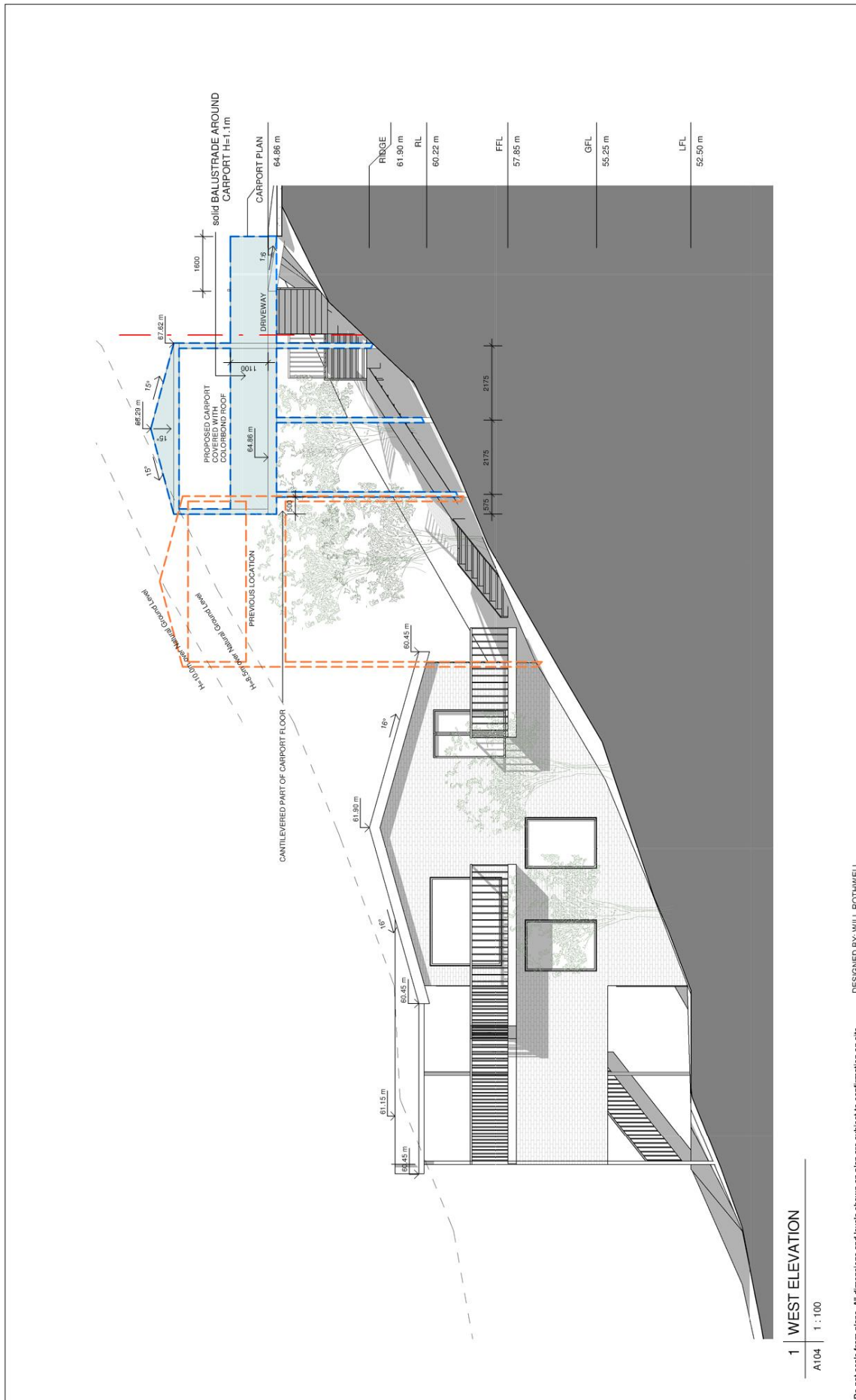
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PO BOX 307
Newport 2106
Mobile: 0414 310 171
E: info@bsbd.com.au

PROJECT TITLE: CARPORT RELOCATION
PROJECT NO.: 2017.054
AT: 64 Herbert Avenue, Newport 2106
FOR: Michael Drysdale

SHEET TITLE: ELEVATIONS
SHEET NO: A103
SCALE AS: 1:100



SHEET TITLE: ELEVATIONS

SHEET NO: A104
SCALE AS: 1:100

PROJECT TITLE: CARPORT RELOCATION

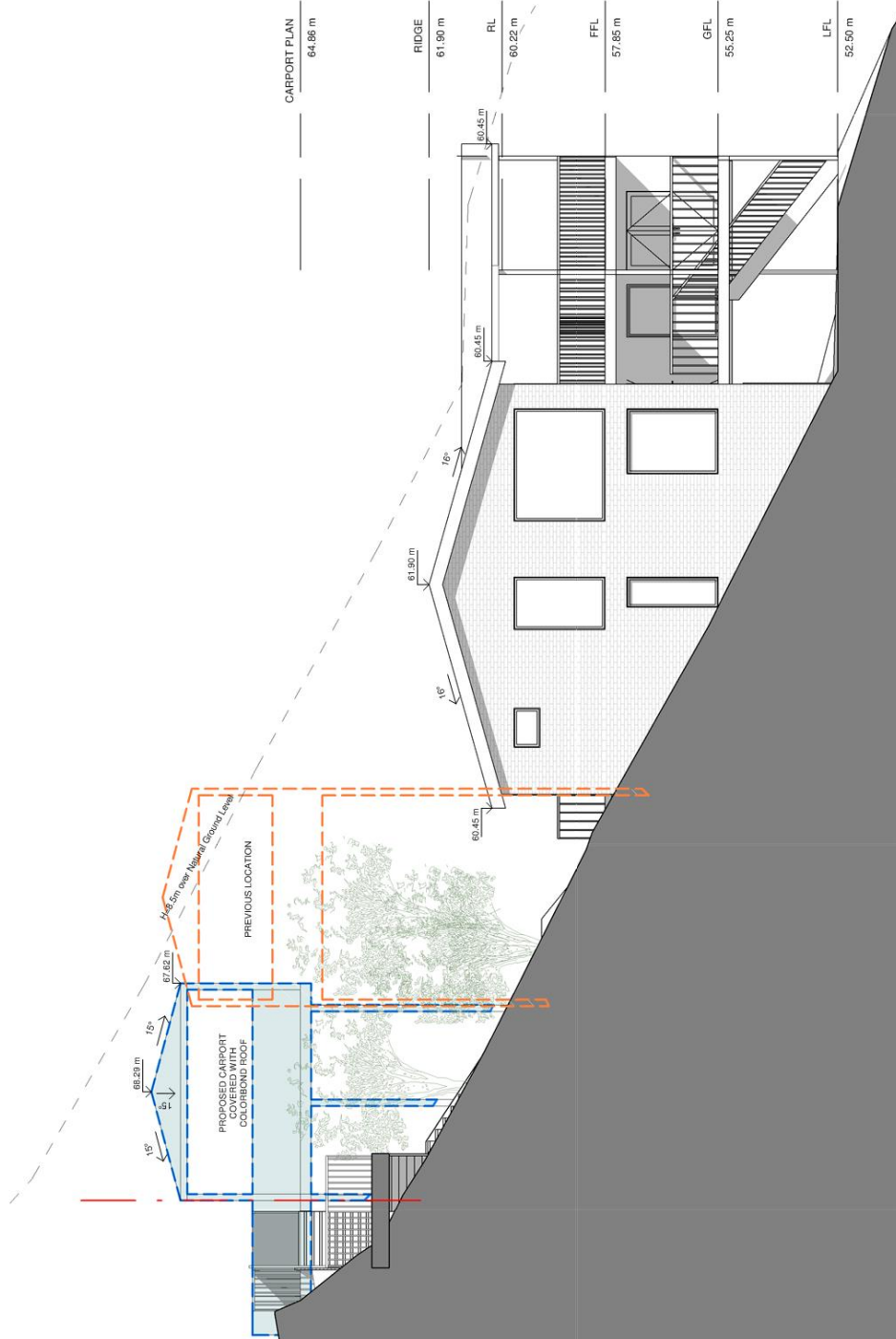
PROJECT NO.: 2017.054

AT: 64 Herbert Avenue, Newport 2106
FOR: Michael Drysdale

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| ISSUE | DATE | DESCRIPTION | DRWN | CHKD |
|-------|------------|---------------|------|------|
| 1 | 15.07.2017 | PRELIMINARY 1 | MS | NW |
| 2 | 21.08.2017 | DA ISSUE | JB | NW |

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1 EAST ELEVATION
A105 1:100

Do not scale from plans. All dimensions and levels shown on plan are subject to confirmation on site.

DESIGNED BY: WILL ROTHWELL

| ISSUE | DATE | DESCRIPTION | DRWN | CHKD |
|-------|------------|---------------|------|------|
| - | 15.07.2017 | PRELIMINARY 1 | MS | MW |
| - | 21.08.2017 | DA ISSUE | JB | MW |
| | | | | |
| | | | | |

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PO BOX 307
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PROJECT TITLE: CARPORT RELOCATION
PROJECT NO.: 2017.054
AT: 64 Herbert Avenue, Newport 2106
FOR: Michael Drysdale

SHEET TITLE: ELEVATIONS
SHEET NO: A105
SCALE AS: 1:100

| | |
|--------------------------|--|
| ITEM 3.3 | DA2017/0818 - 20 KOOLOORA AVENUE, FRESHWATER - DEMOLITION AND CONSTRUCTION OF A DWELLING HOUSE, INCLUDING A SWIMMING POOL |
| REPORTING MANAGER | Anna Williams |
| TRIM FILE REF | 2018/070271 |
| ATTACHMENTS | 1 ↓ Assessment Report 2 ↓ Site and Elevation Plans |

PURPOSE

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

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2017/0818 for Demolition and construction of a dwelling house, including a swimming pool on land at Lot 14 DP 7022, 20 Kooloora Avenue, FRESHWATER, subject to the conditions outlined in this report:



REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 01 February 2018

20 Kooloora Avenue Freshwater - Demolition and construction of a dwelling house, including a swimming pool

DEVELOPMENT APPLICATION ASSESSMENT REPORT

| | |
|------------------------------------|--|
| Application Number: | DA2017/0818 |
| Responsible Officer: | Renee Ezzy |
| Land to be developed (Address): | Lot 14 DP 7022, 20 Kooloora Avenue FRESHWATER NSW 2096 |
| Proposed Development: | Demolition and construction of a dwelling house, including a swimming pool |
| Zoning: | Warringah LEP2011 - Land zoned R2 Low Density Residential |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Thomas Ruane Baxter Brianna Baxter |
| Applicant: | Lennon Project Management Pty Ltd |
| Application lodged: | 18/08/2017 |
| Integrated Development: | No |
| Concurrence Required: | No |
| State Reporting Category: | Residential - Single new detached dwelling |
| Notified: | 28/11/2017 to 14/12/2017 |
| Advertised: | Not Advertised, in accordance with A.7 of WDCP |
| Submissions Received: | 3 |
| Recommendation: | Approval |
| Estimated Cost of Works: | \$ 1,508,643.00 |



ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into 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 - B1 Wall Heights

Warringah Development Control Plan - B3 Side Boundary Envelope

Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

SITE DESCRIPTION

| | |
|-----------------------------------|--|
| Property Description: | Lot 14 DP 7022 , 20 Kooloora Avenue FRESHWATER NSW 2096 |
| Detailed Site Description: | <p>The subject site consists of one (1) allotment located on the northern-eastern side of Kooloora Avenue, Freshwater.</p> <p>The site is regular in shape with a frontage of 12.8m along Kooloora Avenue and a depth of 57m. The site has a surveyed area of 729.7m².</p> <p>The site is located within the R2 low density residential zone and accommodates a two storey dwelling house and separate brick garage.</p> <p>The site contains a cross fall from the rear of site to the street of approximately 3.43m.</p> <p>The site contains a number of trees in varying condition. In total there are eight (8) trees proposed to be removed from the site..</p> <p>Detailed Description of Adjoining/Surrounding</p> |

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Development

Adjoining and surrounding development is characterised by a range of one (1) and two (2) storey dwelling houses with some medium density residential flat buildings further to the south.

Map:



SITE HISTORY

Development Application No. DA2017/0818 was lodged with Council on 18 August 2017. This application is the subject of this assessment. A search of Council's records has revealed that there are no other recent or relevant applications for this site.

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

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for demolition of the existing dwelling and garage and construction of a new dwelling containing the following:

Basement - RL4.80

Games Room

Cellar

Light well along south-east side of bathroom and games room.

RL5.40

Garage (10.9mx 9.3m)

Gym with light well along south-east side

Bathroom

Store room

Lift

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Bin store

Ground Floor (RL8.10)

Entry
Study
Guest Bedroom
Dining room
Living room (courtyard linking with dining room)
Bathroom
Kitchen with Butlers Pantry and Laundry
Covered Alfresco area
Swimming pool

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 79C 'Matters for Consideration' | Comments |
|--|---|
| Section 79C (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on "Environmental Planning Instruments" in this report. |
| Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument | None applicable. |
| Section 79C (1) (a)(iii) – Provisions of any development control plan | Warringah Development Control Plan applies to this proposal. |
| Section 79C (1) (a)(iia) – Provisions of any planning agreement | None applicable. |
| Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> |



| Section 79C 'Matters for Consideration' | Comments |
|---|--|
| | <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |
| Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) 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.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(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.</p> |
| Section 79C (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on "Public Exhibition" in this report. |
| Section 79C (1) (e) – the public interest | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

| Name: | Address: |
|---------------------|--|
| Mr John Hanley Dunn | 3 Roselands Avenue FRENCHS FOREST NSW 2086 |

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| Name: | Address: |
|--------------------------------|--|
| Mr Hamish Belton Alexander Lee | 18 Koolooro Avenue FRESHWATER NSW 2096 |
| Leslie John Dunn | 22 Koolooro Avenue FRESHWATER NSW 2096 |

During the first period of notification for this application two submissions were received from neighbouring properties. Following amendments to the plans, one (1) further submission was received. Their concerns are addressed as follows:

Built Form

Control was raised in the submission that the proposed development was outside of the side boundary envelope (1) , inconsistent with the front boundary setbacks (2) of other dwellings in the street and has an excessive floor space ratio (3). Concerns relating to overshadowing were also raised (4).

Comment

1. The proposed development does encroach the side boundary envelope on the south-eastern elevation by a maximum of 1200mm. A detailed assessment on the objectives of the B5 Side Boundary Envelope control can be found elsewhere in this report.

In summary, the side boundary envelope encroachments are supported.

2. Part B7 Front Boundary Setbacks of the Warringah Development Control Plan 2011 (WDCP 2011) requires that the dwelling has a 6.5m setback from the front boundary. The proposed development achieves a satisfactory front boundary setback and this matter therefore does not warrant the refusal of the application.

There is no requirement front the front boundary setback to be 'generally in alignment' with surrounding properties.

3. The Warringah Local Environmental Plan 2011 (WLEP 2011) and WDCP 2011 does not have a floor space ratio control and therefore, this matter does not warrant the refusal of the application.

4. Shadow diagrams provided for the proposed development indicate that there is no shadow impact at 9am and that 3 hours of sunlight access is maintained for rear of the dwelling and their private open space up until 1pm. For the remainder of the day, overshadowing from the proposed development includes:

10am - minor overshadowing (approximately 20%) of the front setback of No. 22 Koolooro Avenue
11am - approximately 25% overshadowing within the front setback of No. 22 and the north-west side facade in shadow.

12pm - approximately 40% overshadowing of the front setback of No. 22 and overshadowing of the north-west facade.

1pm - 3pm - The front of the site at No. 22 is in shadow with the rear of the dwelling affected by shadows cast by the dwelling itself.

On balance, the shadows cast by the proposed development do not impact on the property at No. 18 Koolooro Avenue and does not unreasonably impact on sunlight access to the property at No. 22 Koolooro Avenue. The proposal is considered acceptable in terms of overshadowing.

Excavation and Stormwater

Issues were raised in the submissions with excavation on the boundary. Assumptions regarding the presence of sandstone below the surface. Deep construction will require underpinning of 22 Koolooro

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Avenue. (5) Underpinning may affect a stormwater drain easement which runs on this side of 22 Kooloora Avenue. There is an old creek bed at the front of 20 Kooloora Avenue and deep foundations will disturb this creek bed and stir up acid sulphate soils. (6)

5. The development originally proposed excavation right up to the side boundaries of the site. Amended plans received have reduced the extent of excavation and now provide a 1.0m side boundary setback on both sides.

A condition has been included in the recommendation of this report which requires that a dilapidation report of adjoining properties be prepared prior to the commencement of these works to ensure that, in the unlikely event that damage does occur to surrounding properties, that there is documentation of the properties prior to works.

6. Council's Development Engineer has reviewed the proposed development in terms of Council's stormwater drainage infrastructure, and on-site stormwater detention system. The hydraulic designs provided by the applicant have been approved by Council's Development Engineer as acceptable and no further concerns are raised in relation to anecdotal references to an old creek bed.

Accordingly, this matter has been reasonably resolved via amended plans and conditions.

Privacy

Request for screening to be used where appropriate, in particular windows and balconies overlooking neighbouring properties. (6)

6. The proposed development includes one (1) balcony which adjoining Bedroom 3 and the bathroom which directly faces an adjoining neighbour on the south-east facade. This balcony provides a full length louvre along its length offset from the building providing adequate screening of this space. This louvre treatment has been applied to both north-east facing balconies adjoining Bedroom 1. There are no further concerns in relation to privacy. This issue does not warrant further amendment of the proposed development.

MEDIATION

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

REFERRALS

| Internal Referral Body | Comments |
|------------------------|--|
| Development Engineers | <p>Development Engineers have reviewed the proposal and advise the proposal cannot be supported due to the following reasons.</p> <p><u>Council's stormwater drainage infrastructure</u></p> <p>1. Council's records indicate that the subject property is burdened by a Council stormwater pipeline. As outlined in the Development Application Checklist, the applicant is required to demonstrate compliance with Council's Policy PAS-PL 130 Building Over or Adjacent to Constructed Drainage Systems and Easements. This consists of accurately locating, confirming dimensions and plotting Council's stormwater pipelines and associated infrastructure to scale on the DA plans which show the proposed works. This should be carried out by a service locating contractor and registered surveyor. (The applicant will need to provide evidence of</p> |

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| Internal Referral Body | Comments |
|------------------------|---|
| | <p>methodology used for locating). A plan outlining the indicative locations of Council's stormwater infrastructure is available from Warringah Council's website – Planning and Development – Applications (e services) – Planning - Planning maps – stormwater maps or follow the link below: http://www.warringah.nsw.gov.au/ePlanning/pages/xs.plan/PlanningMapsEsri.aspx?cid=&a=&l=-1)</p> <ul style="list-style-type: none"> • All structures are to be located clear of any Warringah Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with the above-mentioned policy. Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance with Council's policy are to be submitted. • Should the applicant be proposing to relocate, upgrade or remove this infrastructure, details should be provided. <p>For further clarifications on the above matters, please contact Council's Stormwater Assets Engineer on 9942 2376.</p> <p><u>Onsite stormwater detention system</u></p> <p>2.The invert of the proposed OSD tank (RL4.37m) is below the ground surface level at point of connection to Council's stormwater drainage pipeline (approximately RL.6.30m). In this regard the OSD system is operating under outlet control as a drowned orifice. This does not comply with the requirements of Council's OSD Technical Specification and therefore is not acceptable to Council.</p> <p><u>Vehicle access</u></p> <p>3.Insufficient details are submitted to demonstrate the undersides of vehicles will not scape the proposed vehicle crossing and driveway in order to access the proposed off-street parking facility. No engineering longitudinal sections on both edges of the vehicle crossing and driveway are submitted to Development Engineers for assessment. The engineering longitudinal sections should incorporate one of Council's standard driveway profiles that matches the existing ground surface levels along the southern property boundary alignment. Engineering longitudinal sections are to be drawn commencing at the kerb and gutter alignment and terminating the basement garage alignment.</p> <p>Not supported for approval due to lack of information to address:</p> <ul style="list-style-type: none"> • Stormwater drainage for the development in accordance with clause C4 Stormwater of the DCP • Council's Stormwater pipeline clearance for the development in accordance with clause C6 Building over or adjacent to Constructed Council Drainage Easements • Vehicle access for the development in accordance with clause C2 Traffic, Access and Safety <p><u>Further assessment dated 28/11/2017</u></p> |

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| Internal Referral Body | Comments |
|------------------------|---|
| | <p>Development Engineers have reviewed the amended stormwater drainage plan by Robert Moore and Associates, drawing no. 170023 SW, version D, dated 9/11/17. Development Engineers cannot support the proposal due to the following deficiencies with the stormwater drainage design.</p> <p>1.The proposed grated drain directly in front of the proposed garage (finished surface level RL 5.40m) is to connect directly to the OSD tank below the garage. In the event of a blockage to the OSD system or backflow from Council's box culvert being full, water will surcharge out of this drain and flood the garage and the habitable rooms located in the basement and result in damage to vehicle, materials kept in the garage. This is not acceptable to Council. The applicant should consider using a pump-out system to collect stormwater runoff from the driveway area only and conveying the stormwater to a boundary pit which then drains by gravity to Kooloora Avenue to minimize the risk of the basement getting flooded in the event of a failure of the OSD system.</p> <p>2.The invert of the proposed OSD tank (RL4.87m) is below the ground surface level at point of connection to Council's stormwater drainage pipeline (approximately RL.6.30m). In this regard the OSD system is operating under outlet control as a drowned orifice. This does not comply with the requirements of Council's OSD Technical Specification and therefore is not acceptable to Council. It is recommended the OSD to be re-designed to incorporate above-ground proprietary rainwater tanks that will allow stormwater to discharge by gravity to the kerb and gutter system. Any overflow from the OSD tank can also be directed safely to the kerb and gutter system.</p> <p>Not supported for approval due to lack of information to address:</p> <ul style="list-style-type: none"> • Stormwater drainage for the development in accordance with clause C4 Stormwater of the DCP <p><u>Note:</u> The applicant has submitted further information demonstrating compliance with clause C6 Building over or adjacent to Constructed Council Drainage Easements and clause C2 Traffic, Access and Safety. Driveway long section was reviewed and is considered satisfactory where Council' standard normal - high driveway profile is adopted within the public roadway.</p> <p><u>Further assessment dated 19/12/2017</u></p> <p>Development Engineers have reviewed the additional information submitted to Council and now raise no objections to the proposal subject to conditions.</p> |
| Heritage Advisor | <p>HERITAGE COMMENTS</p> <p>Discussion of reason for referral</p> <p>This application has been referred as the site adjoins a listed heritage item, being Item 169 Street Trees, Kooloora Avenue, Freshwater, which is listed in</p> |

| Internal Referral Body | Comments | | | | | | | | | | | | | | | | | | |
|--|--|--|----|-----------------------|------------------------------|----|--|-----------------------------|----|--|---------------------------------------|----|--|---|----|--|-------|----|--|
| | Schedule 5 of Warringah Local Environmental Plan 2011. | | | | | | | | | | | | | | | | | | |
| | Details of heritage items affected | | | | | | | | | | | | | | | | | | |
| | Details of this heritage item, as contained in the Inventory Sheet are: <i>Item 169 - Street Trees - Koolooro Avenue, Freshwater</i> <u>Statement of Significance</u> Socially significant as plantings by the local school. Although some are in poor health they are a prominent visual element in the Freshwater Beach area & are representative of seaside plantings & associated with recreation/holiday themes. <u>Physical Description</u> Norfolk Island Pines (22) along both sides of Koolooro Avenue, with an average height of 15 - 20 metres. Those in the western section of the street are in poorer condition, however most are not very healthy. Some have been removed. Planting is not regular. | | | | | | | | | | | | | | | | | | |
| | Other relevant heritage listings | | | | | | | | | | | | | | | | | | |
| | <table><tr><td>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td><td>No</td><td>Comment if applicable</td></tr><tr><td>Australian Heritage Register</td><td>No</td><td></td></tr><tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr><tr><td>National Trust of Aust (NSW) Register</td><td>No</td><td></td></tr><tr><td>RAIA Register of 20th Century Buildings of Significance</td><td>No</td><td></td></tr><tr><td>Other</td><td>No</td><td></td></tr></table> | Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 | No | Comment if applicable | Australian Heritage Register | No | | NSW State Heritage Register | No | | National Trust of Aust (NSW) Register | No | | RAIA Register of 20th Century Buildings of Significance | No | | Other | No | |
| Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 | No | Comment if applicable | | | | | | | | | | | | | | | | | |
| Australian Heritage Register | No | | | | | | | | | | | | | | | | | | |
| NSW State Heritage Register | No | | | | | | | | | | | | | | | | | | |
| National Trust of Aust (NSW) Register | No | | | | | | | | | | | | | | | | | | |
| RAIA Register of 20th Century Buildings of Significance | No | | | | | | | | | | | | | | | | | | |
| Other | No | | | | | | | | | | | | | | | | | | |
| | Consideration of Application | | | | | | | | | | | | | | | | | | |
| | <p>This application is for construction of a new dwelling house and swimming pool on the site at 20 Koolooro Avenue, Freshwater. The heritage item in the vicinity are the street trees in Koolooro Avenue - specifically the Norfolk Island Pine trees.</p> <p>There are no Norfolk Island Pine trees outside this property, nor in the vicinity of this property.</p> <p>Therefore, there are no objections to this application on heritage grounds and no conditions required.</p> <p>Consider against the provisions of CL5.10 of WLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been</p> | | | | | | | | | | | | | | | | | | |



| Internal Referral Body | Comments |
|------------------------|---|
| | <p>provided? N/A Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? N/A</p> |
| | <p>Further Comments</p> <p>COMPLETED BY: Janine Formica, Heritage Planner DATE: 30 November 2017</p> |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 846615S dated 18 August 2017). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0001808476 dated 18 August 2017).

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

| Commitment | Required Target | Proposed |
|--------------|-----------------|----------|
| Water | 40 | 42 |

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| | | |
|------------------------|------|------|
| Thermal Comfort | Pass | Pass |
| Energy | 50 | 52 |

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environmental Plan 2011

| | |
|--|---------------|
| Is the development permissible? | Zone R2 : 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 | Complies |
|----------------------|--------------------|-----------------|-----------------|
| Height of Buildings: | 8.5m | 8.1m | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|---------------------------------|-------------------------------------|
| 2.7 Demolition requires consent | Yes |
| 4.3 Height of buildings | Yes |

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| Clause | Compliance with Requirements |
|---------------------------------|------------------------------|
| 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 | 7.44m (front rumpus room) | 3.3% | No |
| B3 Side Boundary Envelope | North-West - 5.0m | 0.24m to 0.81m | N/A | No |
| | South-East - 5.0m | 1. encroachment 0.21m in height down to nil for a length of 4.2m | N/A | No |
| | | 2. encroachment at 1.34m to 0.48m in height and for a length of 12.42m 3. encroachment at 0.5m to 0.3m in height and for a length of 6.6m | N/A | No |
| B5 Side Boundary Setbacks | North-West - 0.9m | 1.0m | - | Yes |
| | South-East - 0.9m | 1.0m | - | Yes |
| B7 Front Boundary Setbacks | 6.5m | 6.5m - 9.3m | - | Yes |
| B9 Rear Boundary Setbacks | 6.0m | Pool - 9.5m | - | Yes |
| | | Dwelling - 18.2m | - | Yes |
| D1 Landscaped Open Space (LOS) and Bushland Setting | 40% (291.8m ²) | 37.6% (275m ²) | 5.8% (16.5m ²) | No |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|-------------------------------|------------------------------|-----------------------------|
| A.5 Objectives | Yes | Yes |
| B1 Wall Heights | No | Yes |
| B3 Side Boundary Envelope | No | Yes |
| B5 Side Boundary Setbacks | 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 |
| C5 Erosion and Sedimentation | Yes | Yes |



| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| C6 Building over or adjacent to Constructed Council Drainage Easements | 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 |
| D16 Swimming Pools and Spa Pools | Yes | Yes |
| D20 Safety and Security | Yes | Yes |
| D21 Provision and Location of Utility Services | Yes | Yes |
| E6 Retaining unique environmental features | Yes | Yes |
| E10 Landslip Risk | Yes | Yes |

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The proposed development results in a minor non-compliance with the wall height requirement of 7.2m. The extent of non-compliance is at the front of the proposed dwelling with the extent of non-compliance up to 0.24m

Merit consideration:

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

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

Comment:

The small non-compliance with the wall height requirements are not considered to adversely affect the visual impact of the overall development from adjoining properties or the street. The



development is below the maximum building height and is considered acceptable.

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

Comment:

The proposed development is considered beneath the existing tree canopy level as the street contains a number of large Norfolk Pine trees and other species which are significantly higher.

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

Comment:

There are no views which have been identified as affected by the proposed development.

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

Comment:

The proposed development is not considered to result in any unnecessary adverse impacts on

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

Comment:

While the proposed development includes excavation of the site for the basement garage, games room and gym areas, the slope of the site is gentle at approximately 6%. The built form of the proposed dwelling includes some stepping of the roof line and is considered an acceptable form for the site.

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

Comment:

The roof design is a predominately flat roof with low pitch falls to the roofing materials. The proposed roof is compatible with the architecture of the building and more contemporary building forms emerging in the vicinity.

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

B3 Side Boundary Envelope

Description of non-compliance

The proposed development results in non-compliances with the side boundary envelope control on the south-east and north-west elevations.



Figure 1 - North-west elevation

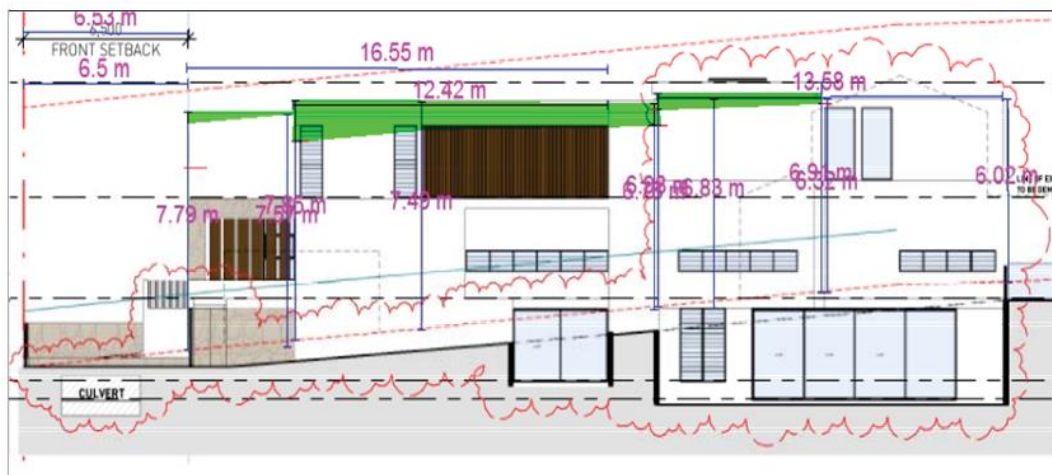


Figure 2 - South-east elevation

Merit consideration

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

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

Comment:

The proposed development complies with the overall height requirement of 8.5m and contains articulated building facades and roof sections. The proposed works are not considered to result in unacceptable building bulk and is not considered visually dominant.

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

Comment:

The design of the development includes varying setbacks along both sides of the dwelling. The separation proposed is considered suitable in the context of the site and surrounding development. The proposal does not result in any unacceptable adverse solar or privacy impacts.

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

Comment:

While the development includes an extensive basement area, the visible structure has been subtly stepped down the site. Overall the site has a cross fall from the back of the site to the street of approximately 3.4m or 5.8%. The proposed development is acceptable in terms of how it responds to the site.

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

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The proposed development results in a minor non-compliance with the required calculable area of landscaped open space. The site is technically required to provide 292m² of landscaped open space, however provides approximately 275m² (38%).

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 proposed landscape planting plan includes retaining the existing Banksia along the south-western boundary and planting four (4) additional trees within the front setback area, two (2) Frangipani with a height range of between 3m -6m and two (2) Screw Pine trees with a height of 3m - 14m. These trees are accompanied by a range of low height species including Swamp Liliy. The combined planting impact is considered to enhance the streetscape

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

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The proposed planting plan includes a number of indigenous species and retains an established Banksia and Melaleuca as part of the design. The site is considered to provide adequate vegetation to meet this requirement.

- *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 proposed planting is considered adequately commensurate with the proposed built form.

- *To enhance privacy between buildings.*

Comment:

The planting plan includes screen planting around the rear boundaries of the site and along the north-western boundary. The design offers an additional privacy buffer beyond the physical architecture of the building which is considered to adequately maintain privacy between dwellings.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The site includes a swimming pool and retains a generous garden with turfed area and is considered to provide appropriate opportunities for outdoor recreation activities.

- *To provide space for service functions, including clothes drying.*

Comment:

The site provides adequate space for the required service functions.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

The development includes on-site stormwater detention which has been assessed by Council's Development Engineer as acceptable.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their



habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

| Warringah Section 94 Development Contributions Plan | | |
|--|------------------|------------------|
| Contribution based on a total development cost of \$ 1,508,643 | | |
| Contributions | Levy Rate | Payable |
| Total Section 94A Levy | 0.95% | \$ 14,332 |
| Section 94A Planning and Administration | 0.05% | \$ 754 |
| Total | 1% | \$ 15,086 |

CONCLUSION

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

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

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

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

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



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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2017/0818 for Demolition and construction of a dwelling house, including a swimming pool on land at Lot 14 DP 7022, 20 Kooloora Avenue, FRESHWATER, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|---|------------|------------------------|
| Drawing No. | Dated | Prepared By |
| DA004 Rev B - Site Plan | 11/11/2017 | Giles Tribe Architects |
| DA006 Rev B - Excavation Plan | 11/11/2017 | Giles Tribe Architects |
| DA008 Rev B - Basement Plan | 11/11/2017 | Giles Tribe Architects |
| DA009 Rev B - Ground Floor Plan | 11/11/2017 | Giles Tribe Architects |
| DA010 Rev B - Level 1 Plan | 11/11/2017 | Giles Tribe Architects |
| DA011 Rev B - Roof Plan | 11/11/2017 | Giles Tribe Architects |
| DA012 Rev B - South-West Elevation | 11/11/2017 | Giles Tribe Architects |
| DA013 Rev B - North-East Elevation | 11/11/2017 | Giles Tribe Architects |
| DA014 Rev B - South-East Elevation | 11/11/2017 | Giles Tribe Architects |
| DA015 Rev B - North-West Elevation | 11/11/2017 | Giles Tribe Architects |
| DA017 Rev B - Section | 11/11/2017 | Giles Tribe Architects |
| DA018 Rev B - Section | 11/11/2017 | Giles Tribe Architects |
| DA019 Rev B - Section | 11/11/2017 | Giles Tribe Architects |
| DA020 Rev B - Section | 11/11/2017 | Giles Tribe Architects |
| DA021 Rev B - Section | 11/11/2017 | Giles Tribe Architects |
| DA022 Rev B - Section | 11/11/2017 | Giles Tribe Architects |

Reports / Documentation – All recommendations and requirements contained within:

| Report No. / Page No. / Section No. | Dated | Prepared |
|---|---------------|----------------------------|
| Preliminary Geotechnical Investigation DA2017/0818 | 1 August 2017 | Compactio Page 20 of 33 |



| | | |
|----------------------------------|----------------|----------|
| Arboricultural Impact Assessment | 17 August 2017 | Advanced |
|----------------------------------|----------------|----------|

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

c) The development is to be undertaken generally in accordance with the following:

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

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

2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

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

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the



development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

3. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative



change. The applicable fee at the time of payment of the Long Service Levy will apply.

- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) 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.
- (k) 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 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in 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. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches Council Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

| Northern Beaches Council Section 94 Development Contributions Plan | | |
|--|-----------|--------------|
| Contribution based on a total development cost of \$ 1,508,643.00 | | |
| Contributions | Levy Rate | Payable |
| Total Section 94A Levy | 0.95% | \$ 14,332.11 |
| Section 94A Planning and Administration | 0.05% | \$ 754.32 |
| Total | 1% | \$ 15,086.43 |

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with Northern Beaches Council's Development Contributions Plan.

5. 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 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

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demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority 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.warringah.nsw.gov.au/your-council/forms).

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

6. **Works Bonds**

(a) Construction, Excavation and Associated Works Bond (Drainage)

A Bond of \$15,000.00 as security against any damage to Council's stormwater drainage infrastructure located within the development site.

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

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

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

Reason: To ensure adequate protection of Councils infrastructure. (DACENZ01)

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

7. **On-site Stormwater Detention Compliance Certification**

Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Warringah Council's "On-site Stormwater Detention Technical Specification" and the concept drawing by Robert Moore and Associates, drawing number 170023 SW, revision E dated 1 December 2017.

Drainage plans must be amended to address/include the following:

1. High level overflow pipe must be provided in the OSD tank - overflow from the OSD tank must drain by piped by gravity to the kerb and gutter in Kooloora Avenue in the event of a blockage to the OSD system. Stormwater pipeline between the OSD tank and kerb and gutter must be designed for the 1 in 100 year ARI storm event.
2. Minimum Site Storage Discharge for the OSD system must be 14.6 cubic metres.
3. Total discharge (sum of restricted and bypass flows) from the property must not exceed the Permissible Site Discharge of 29 litres per second for the 1 in 100 year ARI storm event.

The details are to be prepared by a suitably qualified and Civil Engineer, who has membership to Engineers Australia and is accredited with National Engineers Register.

Details demonstrating compliance are to be submitted to the Certifying Authority 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. (DACENC03)

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8. **Pump-Out System Design for Stormwater Disposal**

The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with Council's Stormwater Drainage Policy. Engineering details demonstrating compliance with this requirement and certified by an appropriately qualified and practising hydraulic engineer.

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

Reason: To ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site. (DACENC04)

9. **Vehicle Crossings Application Formwork Inspection**

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

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

Reason: To facilitate suitable vehicular access to private property. (DACENC12)

10. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: Safety. (DACENC19)

11. **Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification. <https://www.warringah.nsw.gov.au/sites/default/files/documents/policies-register/environment/water-management-policy/2016-011845-water-management-policy-current.pdf>. Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted).

Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.



Reason: Protection of Council's Infrastructure (DACENC21)

12. Off Street Parking Facility and internal driveway

The off-street parking facility gradients, levels, internal dimensions are to comply with AS/NZS 2890.1:2004 Parking facilities Part 1: Off-street car parking. Surface levels, gradients, change in gradients, etc of the proposed garage and driveway are to comply with section 2.6 of AS/NZS 2890.1 to ensure vehicles will not scrape their undersides when accessing the proposed garage.

A suitably experienced and qualified civil engineer is to certify that the proposed car parking facility complies with all requirements of this condition.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure suitable vehicular access to private property. (DACENCPCC3)

13. Pre-Construction Dilapidation Survey

A pre-construction / demolition 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, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at <https://www.warringah.nsw.gov.au/sites/default/files/documents/general-information/stormwater-and-development/2014-119050-guidelines-preparing-dilapidation-survey-council-stormwater-assets-april-2014.pdf>

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure (DACNEC20)

14. Compliance with Standards

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

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

15. Sewer / Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.



- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water.
(DACPLC12)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. Vehicle Crossings

The provision of one vehicle crossing three metres wide in accordance with Warringah Council Drawing No A4-3330/2 Normal High and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

17. Layback Construction

A layback three metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

Reason: To ensure suitable vehicular access to private property. (DACENE08)

18. Maintenance of Road Reserve

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

Reason: Public Safety. (DACENE09)

19. 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 Certifying Authority.

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

20. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

21. Authorisation of Legal Documentation Required for On-site Stormwater Detention

The original completed request forms (Department of Lands standard forms 13PC and/or 13A201/1/0518)

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13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

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

Reason: To create encumbrances on the land. (DACENF01)

22. **Registration of Encumbrances for On-site Stormwater Detention**

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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF02)

23. **Reinstatement of Kerb**

All redundant laybacks and vehicular crossings shall be reinstated 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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces. (DACENF03)

24. **Restriction as to User for On-site Stormwater Detention**

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

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

Reason: To ensure modification to the on-site stormwater detention structure is not carried without Council's approval. (DACENF04)

25. **On-Site Stormwater Detention Compliance Certification**

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

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

Reason: To ensure stormwater disposal is constructed to Council's satisfaction.



(DACENF10)

26. Certification of Structures Located Adjacent to Council Pipeline or Council Easement

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification.
<https://www.warringah.nsw.gov.au/sites/default/files/documents/policies-register/environment/water-management-policy/2016-011845-water-management-policy-current.pdf>

A statement of compliance is to be prepared by a suitably qualified Civil Engineer and submitted to the Certifying Authority for approval prior to the issue of the Occupation Certificate.

Reason: Protection of Council's Infrastructure (DACENF11)

27. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities

A Positive Covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the property title to ensure the on-going maintenance of the stormwater pump-out facilities on the property being developed.

Warringah Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Warringah Council's delegate shall sign these documents prior to the submission to the Land & Property Information Department.

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

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard. (DACENF11)

28. Creation of Positive Covenant and Restriction as a User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Warringah Council for authorisation.

A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "Department of Lands".

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF14)

29. Post-Construction Dilapidation Survey

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://www.warringah.nsw.gov.au/sites/default/files/documents/general-information/stormwater-and-development/2014-119050-guidelines-preparing-dilapidation-survey-council-stormwater-assets-april-2014.pdf>

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The post construction dilapidation report must be submitted to the Council for review and the Certifying Authority prior to the issue of the Occupation Certificate. Any damaged to Council's stormwater infrastructure is to be rectified in accordance with Council's technical specifications prior to the release of the security bond.

Reason: Protection of Council's Infrastructure (DACNEF11)

30. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management. (DACPLF01)

31. Waste Management Confirmation

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority 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.

32. Swimming Pool Requirements

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.



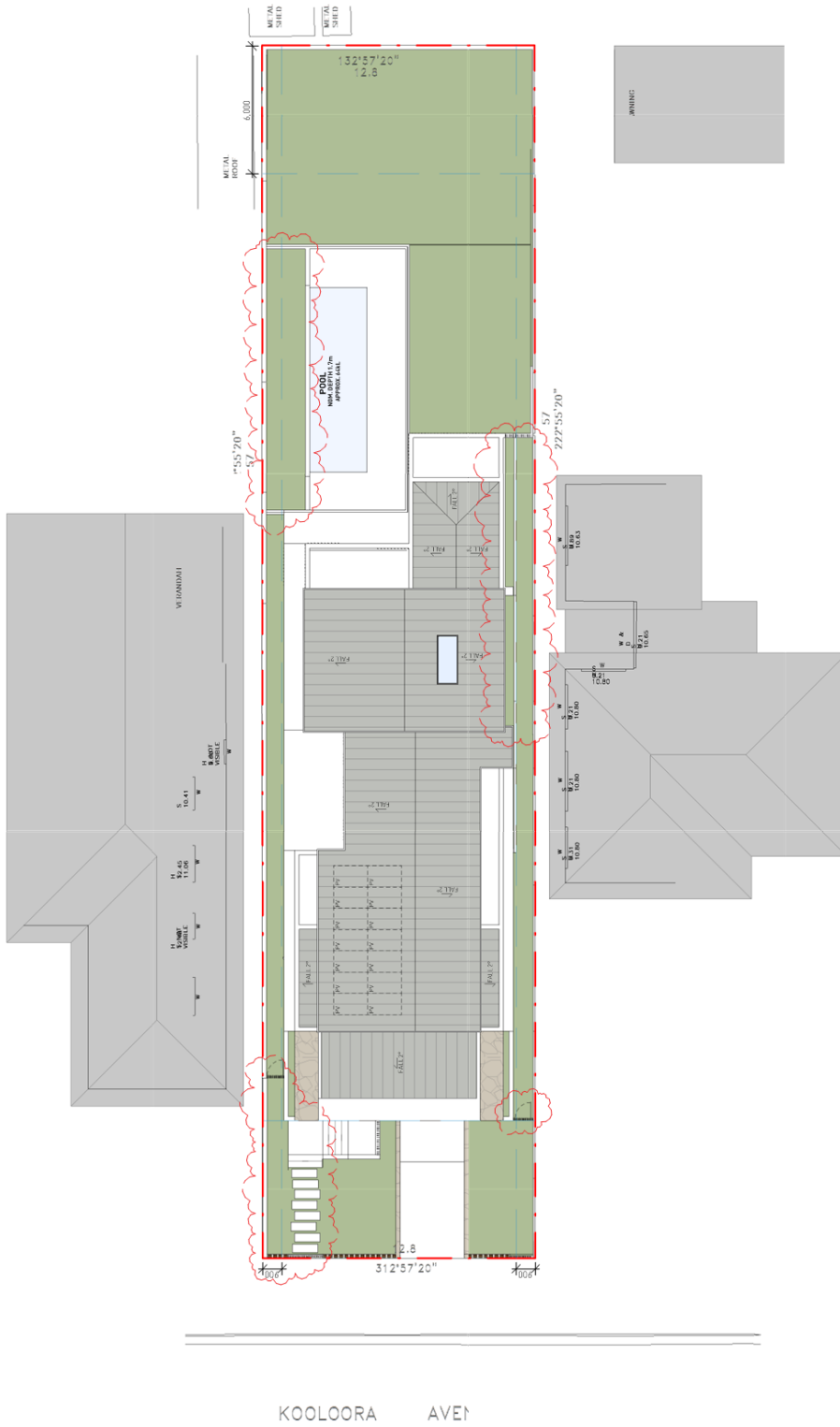
(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)



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Level 8 763 Clarence Street SYDNEY 2000 P 61 2 9244 9005 F 61 2 9244 9908
PO Box 0291 Queen Victoria Building 1230 E giles@tribe.com.au
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Nominated Architects: Mark G Broadley (B23) Stuart D Hill (A558) Michael Aaron Vega (B0061)
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ARCHITECTS & URBAN PLANNERS

Project:
TOM & BREE'S HOUSE
Lot 14 Section 5 DP7022
20 KOOLOORA AVENUE
FRESHWATER

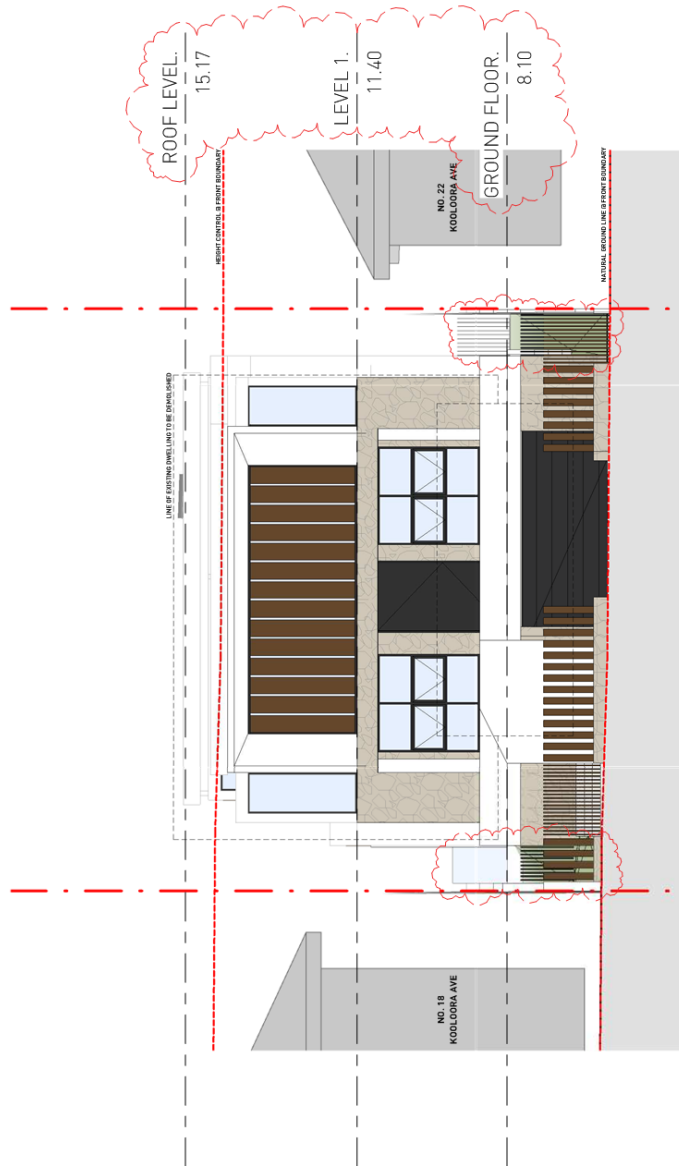


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FOR APPROVAL
17072
Scale: 1:200
Date: AUG 2017
Job Ref: 18A3
Drawing No: 18A3
Rev: 18A3
Drawn: 18A3

Drawing:
SITE PLAN
Drawing No: DA004
Rev: B

| No. | Date | Description |
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| B | 11/11/2017 | AMENDED DA |
| A | 18/08/2017 | ISSUED FOR DA |

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| B | 11/11/2017 | AMENDED DA |
| A | 18/08/2017 | ISSUED FOR DA |

Amendments

Status: **FOR APPROVAL**

Job Ref: 17072
Scale: 1:100
Date: 02/02/2017
Drawn: HQ

Drawing: **SOUTH-WEST ELEVATION**
Drawing No: **DA012**

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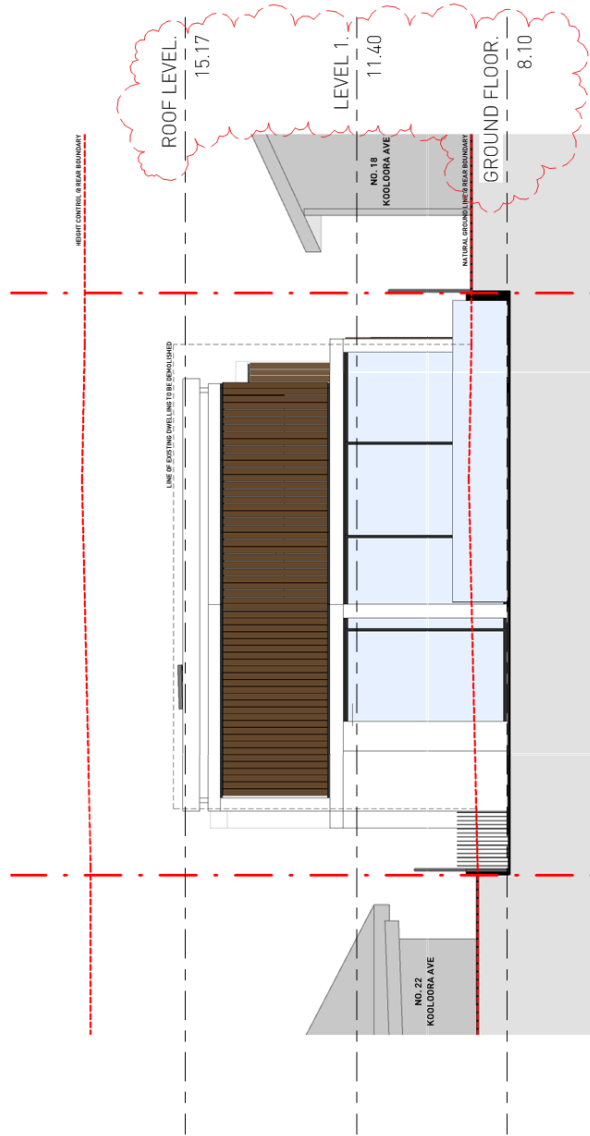
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Project: **TOM & BREE'S HOUSE**
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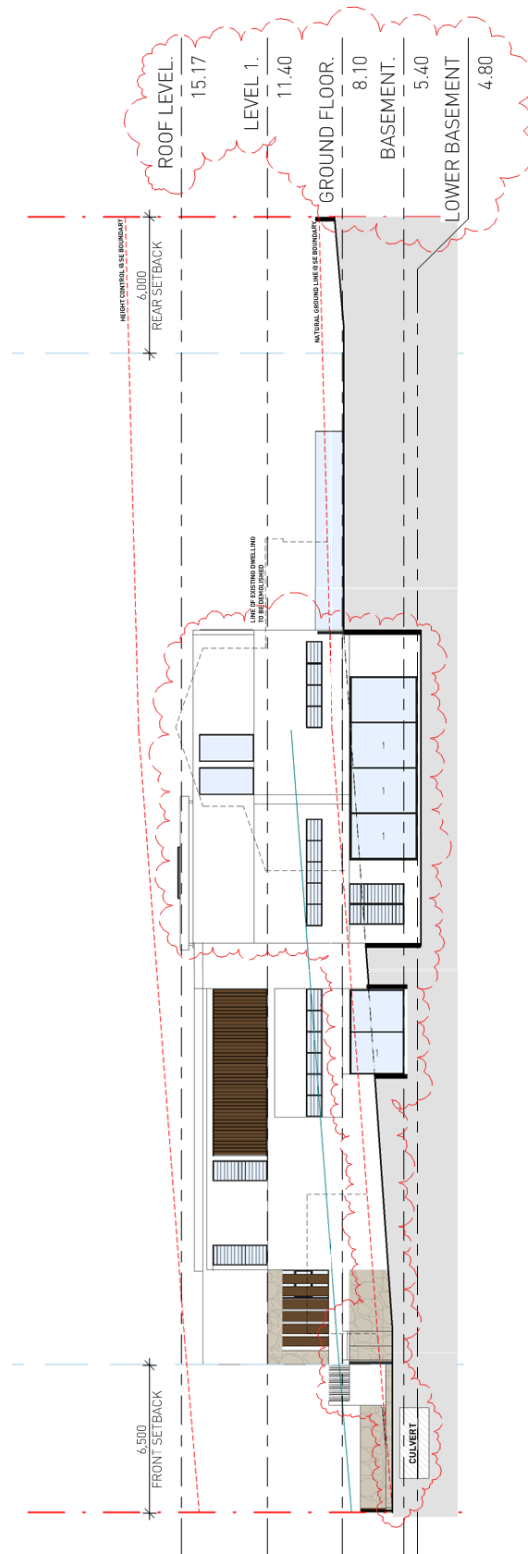
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| No. | Date | For Approval | Rev |
| B | 11/11/2017 | AMENDED DA | |
| A | 18/08/2017 | ISSUED FOR DA | |
| | | 17072 | DA013 |

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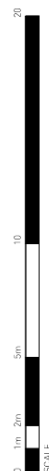
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FRESHWATER

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Status
Job Ref: 17072
Scale: 1:200
Date: 30/03/2017
Drawn: N/D

SOUTH-EAST ELEVATION
Drawing:
Drawing No: DA014
Rev: B

| Amendments | |
|------------|--------------------------|
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| A | 18/08/2017 ISSUED FOR DA |

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Nominated Architects

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| B | 11/11/2017 | AMENDED DA | |
| A | 18/08/2017 | ISSUED FOR DA | |
| No. | Date | | Description |

Status: **FOR APPROVAL**

Project:
TOM & BREE'S HOUSE
Lot 14 Section 5 DP7022
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NORTH-WEST ELEVATION



Level 8 263 Clarence Street SYDNEY 2000
PO Box Q291, Queen Victoria Building 1230
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Nominees Architects: Mark G Broadley 19823 Stuart D Hill 144551 Michael Azeva 18004

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Project:
TOM & BREE'S HOUSE
Lot 14 Section 5 DP7022
20 KOOLOORA AVENUE
FRESHWATER



Status: **17072**

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| Amendments | | | |

Status:

10702

Sub. Ref.

3D ELEVATION STREET

Drawn:

Drawn No. **DA028**

Rev. **A**

Scale:

Date: 08/14/17

Drawn: Author

10702

Drawing: 33D ELEVATION STREET

Drawing No: DA028

Rev: A