AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL

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

WEDNESDAY 17 JUNE 2026

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

Peter Robinson
Executive Manager Development Assessment

Quorum

A quorum is three Panel members

Conflict of Interest

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

Agenda for the Northern Beaches Local Planning Panel to be held on Wednesday 17 June 2026

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A statutory Direction by the Minister of Planning and Public Spaces states the panel is only required to hold a public meeting where the development application has attracted 10 or more unique submissions by way of objection. These applications do not satisfy that criterion.

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ACKNOWLEDGEMENT OF COUNTRY

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

1.0 APOLOGIES & DECLARATIONS OF INTEREST

Nil

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF THE NORTHERN BEACHES LOCAL PLANNING PANEL MEETING HELD ON 3 JUNE 2026

RECOMMENDATION

The Panel notes that the minutes of the Northern Beaches Local Planning Panel Meeting held on 3 June 2026 were adopted by the Chairperson and have been posted on Council's website.

4.0 PUBLIC MEETING ITEMS

ITEM 4.1 DA2025/1332 - 11 CLAVERING ROAD SEAFORTH - CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL

PURPOSE

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

This application has been referred to the Northern Beaches Local Planning Panel as it is a development involving the demolition of a heritage item and is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 pursuant to clause 4.6 of MLEP 2013 as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

B. The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA20258/1332 for construction of a dwelling house including swimming pool at Lot 4 DP 1090937, 11 Clavering Road SEAFORTH subject to the conditions set out in the Assessment Report.

Reporting manager	**Daniel Milliken**
TRIM file ref	2026/328454
Attachments	⇩1 Assessment Report ⇩2 Appendix 1 ⇩3 Site Plans & Elevations ⇩4 Clause 4.6

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/1332

Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot 4 DP 1090937, 11 Clavering Road SEAFORTH NSW 2092
Proposed Development:	Construction of a dwelling house including swimming pool
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Md Living Pty Ltd

Application Lodged:	22/09/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	07/10/2025 to 21/10/2025
Advertised:	Not Advertised
Submissions Received:	12
Clause 4.6 Variation:	4.3 Height of buildings: 21.88%
Recommendation:	Approval

Estimated Cost of Works:	$ 2,755,995.00

EXECUTIVE SUMMARY

This development application seeks consent for Construction of a dwelling house including swimming pool at no. 11 Clavering Road, Seaforth.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the receipt of 12 submissions and the proposal involves the partial demolition of a dry stone wall along the frontage in Clavering Road which is listed as a heritage item (Item no. I269). The proposal involves the removal of the top course of stones from the wall to allow driveway access into the site.

The development site forms part of a group of seven vacant lots recently sold by the NSW Government to facilitate housing supply. A development application (DA2025/1222) for no. 13 Clavering Road, which adjoins the subject site to the south is currently under assessment. The site has a dual frontage to

Clavering Road and Gurney Crescent and slopes steeply downward from the eastern boundary at Clavering Road to the western boundary at Gurney Crescent.

The site currently has no vehicular access. Due to the steep topography, the most suitable access point is from Clavering Road. The proposed driveway will require removal of the top course of the existing dry stone wall to achieve appropriate driveway levels.

The application has been reviewed by Council's Heritage Officer and is supported subject to conditions.

Concerns raised in the objections predominantly relate to view loss, non-compliance with building height, front and side setbacks, loss of bushland, impact on the amenity of the surrounding area, impact on a known heritage item and non-compliance with clause 5.6.2 Gurney Crescent and Clavering Road.

Critical assessment issues included building and wall height, front and side setbacks and view loss.

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

PROPOSED DEVELOPMENT IN DETAIL

The application seeks approval for the construction of a new dwelling, garage, driveway, swimming pool and associated landscaping. The works include the following:

Second Floor (Street Level):
- New driveway, entry stair, double garage and vehicle maneuvering platform,
- Entry foyer, terrace, lift and stair access.

First Floor:
- Master bedroom with ensuite, robe and balcony,
- Bed 2 with ensuite, beds 3 and 4 with balconies and a bathroom.

Ground Floor:
- Open plan kitchen, living and dining, rumpus, bathroom, laundry, study and central courtyard,
- Rear balcony with BBQ.

Alfresco / Lower Ground Floor:
- Alfresco terrace, kids play area and bathroom,
- Storage, services areas and drying room,
- Swimming pool, terraces and decking,
- Landscaping works including new planting, lawn areas and retaining wall.

Application History
Following a preliminary assessment of the application and site inspection of the subject site and adjoining properties Council wrote to the applicant on 17 December 2025 outlining concerns that would not allow for Council to support the application in its current form. The concerns related to the heritage listed dry stone wall, revised survey, Geotechnical report non-compliance with building and wall height, setback to boundaries, TOS and landscaping. Concerns were also raised by Environmental Health (Solid Fuel/Oil Heater) regarding an ground floor fireplace, landscaping, Heritage and Development Engineering. The applicant lodged amended plans on 31 March 2026 to address the concerns raised.

The proposed amendments will have a reduced environmental impact on the adjoining properties

and public open space than the original proposal. Therefore, re-notification was not required in accordance with Northern Beaches Community Participation Plan. However, those who submitted submissions to Council were notified of the amended plans and documentation and provided with an opportunity to review the plans and provide additional comments.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - Zone R2 Low Density Residential
Manly Local Environmental Plan 2013 - 4.3 Height of buildings
Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
Manly Local Environmental Plan 2013 - 5.10 Heritage conservation
Manly Local Environmental Plan 2013 - 6.2 Earthworks
Manly Development Control Plan - 3.4.3 Maintenance of Views
Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features
Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)
Manly Development Control Plan - 5.6.2 Gurney Crescent and Clavering Road, Seaforth

SITE DESCRIPTION

Property Description:	Lot 4 DP 1090937 , 11 Clavering Road SEAFORTH NSW 2092

Detailed Site Description:	The subject site has two street frontages and consists of one allotment located on the western side of Clavering Road, and eastern side of Gurney Crescent, SEAFORTH. The site is irregular in shape with a frontage of 18.13m along Clavering Road and a depth of 41.17m along the northern side boundary and 45.87m along the southern boundary. The site has a surveyed area of 763.4m². The site is located within the R2 Low Density Residential zone and is a vacant lot. The site does not have vehicular access. The site slopes steeply down from east to west with a total fall of approximately 19m . The site contains disturbed native bushland. There are several high value trees. Rocks escarpment that traverse the site in a north-south direction. There are no known threatened species on the site. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by vacant allotments to the north and south. To the east and west of the site is residential dwellings of varying architectural styles. There are various public bushland reserves nearby. Middle Harbour foreshore is approximately 75m west of the site.

Map:



SITE HISTORY

The site is one of seven allotments located along Clavering Road which were recently sold by the NSW State Government to provide additional land for housing needs. The land is undeveloped and has no vehicular access.

The land was originally acquired by the State Government for the proposed Warringah Transport Corridor (WTC), an expressway linking the Sydney Harbour Bridge to Seaforth, as identified in the 1946 Main Roads Development Plan and later incorporated into the 1956 Cumberland Planning Scheme. In 1974, the Sydney Area Transportation Study recommended an eight-lane freeway along this route; however, the proposal was abandoned in 1977 due to overestimated traffic forecasts and funding limitations. Land acquired for the corridor was subsequently rezoned based on planning and local considerations, though some councils advocated for its retention for future transport use, prompting a Commission of Inquiry in the early 1980s, which reported in 1983.

In 1997, the State Government approved the sale of surplus land, and in 1998 a collaborative process with Manly Council and the local community commenced to explore redevelopment opportunities. A planning study was undertaken to guide future land use, balancing residential development, community needs, and government asset value, with its findings publicly exhibited in late 1998 and presented to the community in February 1999.

The land along the Clavering Road was zoned residential and later R2 Low Density Residential. A Development Analysis of E & F Precincts in Abandoned Warringah Transport Corridor (Surplus RTA Lands) Study prepared by ERM, was released in the October 2000. The ERM study presented findings on how the land should be development to protect the environmental and visual character of the area. One of the findings being strict application of controls may result in poor building siting, including removal of significant trees or building on steep or sensitive area. A more site specific assessment was recommended.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to heritage listed dry stone wall, this included a survey, revised Geotechnical Report and heritage impact statement. Additional information was also requested from Natural Environment - biodiversity, Landscaping, Development Engineers and amended plans the building height, wall height, side setback, parking design, TOS and landscaping. Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the significant likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

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

A Bush Fire Report was submitted with the application (prepared by HARRIS ENVIRONMENTAL CONSULTING, dated 29/08/2025). The report stated that the proposal does not comply with Planning for Bush Fire Protection.

The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report , along with the conditions from the NSW RFS have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 07/10/2025 to 21/10/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 12 submission/s from:

Name:	Address:
Jonathan Kimberley Lane	31 Gurney Crescent SEAFORTH NSW 2092
Ms Meredith Ellen Symons	97 Gurney Crescent SEAFORTH NSW 2092
Mr Geoffrey Cheriton Bowyer	3 Gurney Crescent SEAFORTH NSW 2092
Mrs Ruanne Carola Brell	15 Gurney Crescent SEAFORTH NSW 2092
Mr Benedict Martin McKeown	2 Clavering Road SEAFORTH NSW 2092
Ms Julia Gay Taplin	6 Gurney Crescent SEAFORTH NSW 2092
Ms Mo Fox	55 Gurney Crescent SEAFORTH NSW 2092
Mr Jasper Westmaas	4 Clavering Road SEAFORTH NSW 2092
Mr Colin Douglas Cronin	39 Gurney Crescent SEAFORTH NSW 2092
Mr John Steven Ball	95 Gurney Crescent SEAFORTH NSW 2092
Mrs Janet Ann Hassell	43 Gurney Crescent SEAFORTH NSW 2092
Peter Alexander Coventry	41 Gurney Crescent SEAFORTH NSW 2092

A development application (DA2025/1222) for No. 13 Clavering Road, adjoining the site to the south, is currently under assessment. Several of the submissions received for this application were also raised with DA2025/1222 and concerns raised in this application are consistent with those identified in DA2025/1222. Accordingly, some of the responses below align with those provided in the assessment report for DA2025/1222.

The following issues were raised in the submissions:

- View loss from private and public space and loss of outlook
- Building height and wall height
- Front setback
- Amenity Impacts (Overshadowing, Solar Access and noise)
- Heritage wall
- Overall impact of developing even vacant lots
- Inadequate Documentation and Analysis
- FSR calculation
- Stormwater management and slope stability
- Construction Management and impacts
- Impact on flora and fauna
- Streetscape
- Clause 5.6.2 Gurney Crescent and Clavering Road

The above issues are addressed as follows:

- **View loss from private and public space and loss of outlook**
  Four submissions were received raising view loss from private and public spaces as a concern with the proposal.
  Comment:
  View loss has been addressed in detail under part 3.4.3 Maintenance of Views of this report. In summary, it was found that the development achieves a satisfactory outcome after having been assessed in detail against the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140. The extent of qualitative impact upon view sharing is considered to be "negligible" to "minor" and the design provides appropriate view sharing opportunities.

  View loss from public spaces has been addressed against the Land and Environment Court Case of Rose Bay Marina Pty Limited Vs Woollahra Municipal Council and anor (213) NSWLEC 1046. When reviewed against the planning principles the view is considered reasonable within its context.

- **Building and wall height**
  The submissions raised concerns with the building and wall height non-compliance calling it excessive due to the location of the non-compliance.
  Comment:
  The building and wall height non-compliance are addressed in Sections 4.3 (Height of Buildings) and 4.6 (Exceptions to Development Standards) of this report.

  In summary, the site constraints including the steep topography, natural features, buildable area as defined by clause 5.2.6 of the MDCP and access to the site to accommodate onsite carparking dictates the dwelling's siting and the finished floor level of the second (street) level, which accommodates the garage, driveway access, bin storage, foyer and terrace. The non-compliance is limited to a small portion of the roof over the second-floor foyer, stairs that provides circulation to the lower levels, and bin storage. There is also an encroachment from the roof over the western edge of the master bedroom and balcony, lower down the site.

  The non-compliance with the building height does not result in unreasonable amenity impacts on surrounding properties and is considered acceptable given the site constraints. When viewed from

the street, the site presents as a single storey dwelling.

- **Front setback**
  The submissions raised concerns that the proposal did not comply with the front setback requirement of the MDCP with a nil setback to front boundary. A submission also stated nos. 3 and 5 Clavering Road as examples of dwellings that complied with the front setback requirements in the vicinity of the site.
  Comment:
  The non-compliance with the front boundary setback is addressed in Section 4.1.4 (Setbacks – front, side and rear, and building separation) of this report. In summary, the siting of the dwelling is constrained by several factors, including the steeply sloping topography, existing natural features (notably rock outcrops and established vegetation),buildable area and the presence of the heritage-listed dry stone wall. The site is currently vacant and densely vegetated; accordingly, any development will appear more visually prominent in its current context. However, the site benefits from a substantial nature strip of approximately 9.5m, which will remain largely landscaped and provide a buffer to the street. From Clavering Road, the development presents as a single-storey form and is not considered to be visually dominant.

  The site is zoned R2 Low Density Residential, and the proposed siting is consistent with the prevailing pattern of development in the locality, where garages and car parking are generally located within the front setback along Gurney Crescent and Clavering Road. The buildable area for the site under part 5.6.2 Gurney Crescent and Clavering Road is shown to run along the eastern front boundary, the north and south side boundaries up to the rock out crop that runs through the middle of the site.

  There are two developed properties on the same side of Clavering Road (Nos. 3 and 5). No. 3 has no vehicular access, relying on pedestrian access only, while No. 5 includes a single garage located within the Council road reserve. Although these dwellings are set further back from Clavering Road, they predate the current planning framework, potentially do not have the same natural environment constraints that the site has and were not subject to the same controls at the time of construction i.e buildable area.

  Requiring the development to comply with the 6m front boundary setback would significant impact on the development potential for the site. Furthermore, pushing the garage further from the front boundary would result in a even greater height breach and a more visually dominant structure.



***Image:** East elevation when viewed from the street.*

Given the constrained nature of Clavering Road, the site's distance from public transport, and the steep gradient required to access such services, the provision of on-site parking is reasonable and expected. Additionally, the site benefit from a large nature strip, which provide a buffer between

development and the street.

- **Amenity Impacts (Overshadowing, Solar Access and Noise)**
  The submissions raised concerns that the proposal would unreasonably overshadow the adjoining properties. The submission objections to the reliance on undeveloped neighbouring land as justify for accepting adverse overshadowing impacts. A submission also raised noise as a concern with the proposal.
  Comment:
  The site is surrounded by vacant lots that are similarly steep and oriented east–west, making them more susceptible to overshadowing than north-facing sites. The MDCP requires development to not result in unreasonable overshadowing of principal private open space and living room windows.

  The adjoining site at no. 13 Clavering Road is vacant and undeveloped, however, a development application DA2025/1222 is currently under assessment for that property. The Shadow diagrams for the the proposed development have been reviewed against the proposed development at no. 13 Clavering Road and show that the proposed development will not unreasonable overshadowing the potential private open space or living room windows of that site.

  The proposed development is considered to satisfy the overshadowing requirements of the MDCP.

  The proposal is for a residential development and is unlikely to generate noise above standard residential use.

- **Heritage wall**
  The submissions raised concerns that development will impact on the heritage "dry stone wall".
  Comment:
  The vacant lots along Clavering Road do not have vehicular access. Access from Gurney Crescent is not feasible due to the significant level difference between the western boundary of the site and the road. Accordingly, the only practical access point is from Clavering Road. The site is zoned R2 Low Density Residential, where a dwelling with on-site parking is considered appropriate and expected.

  A heritage-listed dry stone wall is located along the site's eastern boundary, adjacent to Clavering Road. This wall was previously incorrectly mapped on Council's heritage maps as being on the eastern side of the road. The applicant was advised of this discrepancy and required to submit amended plans to minimise impacts to the wall, along with a Heritage Impact Statement, Construction Management Plan, revised Geotechnical Report, and a survey confirming the wall's location.

  Revised plans and a construction methodology were subsequently provided, demonstrating that driveway access can be achieved while limiting impacts to the heritage item. This includes restricting removal to the upper courses of the wall and implementing measures document and protect the remaining structure. Council's Heritage Officer has reviewed the submitted documentation and raises no objection to the proposal, subject to conditions.

- **Overall impact of developing even vacant lots**
  The submissions raised concerns that development of the seven vacant lots along Clavering Road would unreasonably impact on the amenity of the adjoining properties and surrounding area. A submission requested Council look at the overall impact of the simultaneous development and require compliance with the relevant planning legislation.
  Comment:

The surrounding dwellings have benefited from the subject sites remaining vacant for an extended period. However, these lots are zoned R2 Low Density Residential and are intended to accommodate single dwelling houses. Each development application is assessed on its individual merits based on the MLEP and MDCP.

Site constraints, including steep topography, buildable area, significant vegetation, rock outcrops, and access limitations, will influence the design of future dwellings. As a result, some departures from built form controls under the MLEP and MDCP may occur; any such variations are assessed against the relevant objectives of the applicable controls.

Potential impacts on the surrounding area, including traffic, parking, and the natural environment, were considered at the time the land was zoned for residential purposes. The development of the lots are not expected to unreasonably impact on the amenity of the surrounding properties.

- **Inadequate Documentation and Analysis**
  The submissions raised concerns that the development and non-compliances were insufficiently addressed or justified in the SEE. Some figures and illustrations in the SEE are described as misleading or incomplete.
  Comment:
  The Statement of Environmental Effects (SEE) addresses the relevant planning controls, policies, and environmental considerations, and outlines the likely environmental and social impacts of the proposal. While a SEE cannot fully assess impacts on neighbouring properties without access to those sites, Council undertakes an independent assessment to address this limitation. The submitted SEE is considered to meet the lodgement requirements.

  Council has conducted its own assessment of the proposal, including a review of the plans, SEE, and supporting reports, as well as site inspections and a view loss analysis. This has provided sufficient information to assess potential impacts on adjoining properties.

- **FSR calculation**
  The submissions raised concerns that there is a possible non-compliance with FSR calculations, with areas that should be included on the pool level such as powder room and kids play area excluded.
  Comment:
  The MLEP stipulates non-habitable rooms in basements are not to be included in FSR calculation. A powder room is not considered a habitable room and the play area is a open space and also can not be included in the calculation. The proposed FSR complies with the MLEP.

- **Stormwater management and slope stability**
  The submissions raised concerns with the stormwater management of the site and slope stability as a result of the excavation. The objector requested a independent geotechnical engineer review the proposal.
  Comment:
  The Geotechnical Report submitted with the application, outlines the potential hazards associated with the proposed works. The report also provides recommendations on how these hazards can be minimised and the work undertaken. The proposed development is not unique for the area and recommendations within the Geotechnical Report are standard. The proposed works are not considered to be hazardous as long as the works are undertaken in accordance with the recommendations of Geotechncial Report. The report and recommendations will be included as a condition of consent. The amended Geotechnical Report meets Councils requirements and a pair review is not considered necessary.

The stormwater drainage plans have been designed by a qualified Engineer and reviewed by Councils Development Engineer. The proposed measures are considered sufficient to mitigate stormwater run off from the site subject to conditions.

- **Construction Management and impacts**

The submissions requested that construction management practices such as site fencing, sediment and erosion measures and a construction management plan be implemented. The submissions raised concerns that excavation of the site would impact on the adjoining properties through noise, dust etc. The submission also requested an explanation of how the sediment and erosion measures will be managed during the construction of the dwelling. Concern was also raised with the impact the proposal will have on Clavering Road including damage to the road, increased traffic and parking of construction vehicles.

Comment:

The proposal is for residential construction and is not expected to generate noise or pollution beyond typical residential building activity. Standard conditions of consent will apply, including construction management and waste management requirements, as well as compliance with the Building Code of Australia and relevant Australian Standards. Provided these requirements are adhered to, impacts such as dust, debris and noise are expected to be minimal. While some dust generation is unavoidable, any unreasonable impacts on adjoining properties can be reported to Council or the Principal Certifier for investigation.

Erosion and sediment control measures will be implemented as a standard condition of consent. An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified professional in accordance with:

- *Managing Urban Stormwater: Soils and Construction (Blue Book), Volume 1, 4th Edition (2004)*
- *Guidelines for Erosion and Sediment Control on Building Sites* (Department of Planning, Housing and Infrastructure)

Given the site's slope, a site-specific ESCP is required. All measures must be regularly maintained and remain in place until the site is stabilised.

Due to limited access along the road, traffic management measures will be required during construction to ensure safe vehicle movement and continuous access to adjoining properties. All works must be carried out in accordance with an approved Construction Traffic Management Plan (CTMP), with controls implemented by appropriately accredited personnel. Public roads and footpaths must be maintained in a safe condition at all times.

On-site provision must be made for construction worker parking. No more than two vehicles are permitted on-site at any one time within the approved work zone, with additional vehicles accommodated off-site. All vehicles must comply with the *Road Rules 2014 (NSW)*. Any illegal parking may be subject to enforcement action by Council Rangers.

A dilapidation report must be prepared and submitted to Council, relevant authorities, and adjoining property owners. This report is to document the existing condition of nearby public and private infrastructure, ensuring that any damage resulting from the works can be identified and appropriately addressed.

- **Impact on flora and fauna**
  The submissions raised concern the proposal was located very close to bushland and had a wide verity of fauna will impacted by the loss of habitat.
  Comment:
  The proposed development meets the objectives and requirements of this MLEP and MDCP by being carefully designed to minimise impacts on biodiversity. While some vegetation clearing is required for the development and Asset Protection Zone (APZ), significant trees and rock outcrops will be retained, and overall impacts on biodiversity are expected to be minimal.

  The application includes an Arborist Report, Flora and Fauna Assessment, and Landscape Plan. The development is largely confined to the designated buildable area in accordance with Clause 5.6.2 of the MDCP, helping protect the site's natural features. The proposal has been reviewed by Council's Landscape and Bushland/Biodiversity Officers, who have raised no concerns subject to conditions.

- **Streetscape**
  The submissions raised concern that the proposal had excessive bulk and scale and was inconsistent with the streetscape.
  Comment:
  The proposed development comprises a single dwelling and is consistent with contemporary development in the surrounding area, including Gurney Crescent and Clavering Road. While the proposal includes some variations from the built form controls of the MLEP and MDCP, these have been appropriately addressed in this report and are considered acceptable in light of the site constraints and the limited impact on adjoining properties.

- **Clause 5.6.2 Gurney Crescent and Clavering Road**
  The submissions raised concern that the proposed development was inconsistent with requirements of clause 5.6.2 Gurney Crescent and Clavering Road.
  Comment:
  Clause 5.6.2 Gurney Crescent and Clavering Road have been addressed under part 5.6.2 of this report. In summary, the proposed development has been reviewed against the requirements of the clause and the findings of To implement the findings of the study entitled Development Analysis of E & F Precincts in Abandoned Warringah Transport Corridor (Surplus RTA Lands) Study prepared by ERM, 2000 on behalf of the RTA. It has been determined that the proposal is consistent with the objectives of the clause ERM study and can be supported, subject to conditions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	***Supported, subject to conditions*** Council's Landscape Referral section have considered the application against the Manly Local Environment Plan (MLEP), and the following Manly DCP 2013 controls (but not limited to): • 3.3.1 Landscaping Design • 3.3.2 Preservation of Trees or Bushland Vegetation • 4.1.5 Open Space and Landscaping • 5.6 Rignold Street, Gurney Crescent and Clavering Road, Seaforth <u>Additional Information Comment 07/04/2026:</u> The amended reports and plans are noted. Tree removals can be expected on an undeveloped property. Furthermore, the Inner Protection Area (IPA) bushfire requirements limit tree canopy to 15% for this property. The Arboricultural Impact Assessment (AIA) identified 2 exempt trees (trees 4 and 6) for removal which may be managed or removed at the discretion of the applicant without consent. The AIA also identified 9 prescribed trees which require removal to facilitate the proposed works. The Arborist has determined the trees to be retained will meet the IPA tree canopy requirement. Tree 1 will suffer a major encroachment of 35% and as such the elevated driveway and entry steps shall be designed in collaboration with an Arborist. A Project Arborist shall be engaged to supervise all works in the tree protection zone of trees to be retained, and any tree pruning requirements. The landscape proposal is generally supported and all proposed planting shall be installed in accordance with the requirements outlined in the conditions of consent. The proposed *Jacaranda mimosifolia* in the road reserve shall be substituted with a native species. The original comments have been addressed in the amended plans. <u>Original Comment:</u> *Concern is raised with the location of the sandstone retaining wall in the rear setback which is in proximity to existing tree 12 (which is to be removed). No concerns are raised with the removal of tree 12; however, the proposed location of the sandstone retaining wall is shown to the west of tree 12 which will impact the rock outcropping. From the western base of tree 12 the rock outcropping begins to fall away to the west. In order to protect the natural aesthetic quality of this rock outcropping the proposed retaining wall shall be moved to the east so that the face of the wall is at minimum 1 metre east of the centre of the trunk of tree 12. This offset shall be continued for at least 3 metres to the south of tree 12. This will help to satisfy the requirements of the MDCP part 5.6.2. The lower terraces design shall be updated accordingly to accommodate this change.* *Furthermore, the landscape plans show the top of the sandstone retaining wall level as RL42.915 and the adjacent lawn terrace level at*

Internal Referral Body	Comments
	RL41.915. The top of the retaining wall level shall match the adjacent ground levels (RL41.915) to reduce the wall height by 1 metre. *Otherwise, Landscape referral is generally supportive of the proposal subject to future conditions.*

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	***Supported, subject to conditions*** Council's Biodiversity Referrals team have assessed the Development Application for compliance against the following applicable controls and provisions: - Manly LEP 2013 6.5 Terrestrial biodiversity **Updated Comments:** As this is an undeveloped block, tree removal is expected. Tree replacement conditions were recommended in the original Biodiversity Referral (Nov 2025) to appropriately offset the on site loss of native canopy and habitat. Updated Landscape Plans (Lone Pine Landscapes, Mar 2026) have been submitted, including a planting schedule comprising approximately 64% locally native species. However, the previous requirement for the schedule to contain a minimum of 60% locally native trees has not been satisfied by the amended plans. As indicated in the Landscape Referral (April 2026), the proposed replacement trees will not adequately offset the impact of this development. Additional conditions will therefore be applied to ensure the replacement planting adequately offsets the biodiversity impacts associated with the removal of 10 prescribed trees and is consistent with the remnant vegetation in the area. These conditions will require the provision of at least 8 locally native canopy trees with a minimum mature height of 8.5 meters, along with specified species selections. Additionally, according to the legend on the updated landscape plans, remnant bushland in the Western portion of the site will become mulched garden bed. This is inconsistent with the notes on this plan and the submitted FFA. Bushland areas that are not directly impacted by the proposed development will need to be retained and managed to support the restoration of native vegetation on the site. This will be conditioned. **Original Comments (11/11/2025)** The environmental concerns raised in community submissions are noted. The Flora and Fauna Assessment Report (FFA) (Narla Environmental, Sep 2025) found that the proposed development will not have a significant impact on any potentially occurring threatened entities. The report also includes a number of recommendations designed to avoid and minimise impacts on biodiversity values associated with the proposed development. These are: • Project Location, Design and Planning: the development has been designed and located to have minimal impact to biodiversity values such as native vegetation and significant environmental features. Any rock outcrops within the site that are impacted by the proposed development are to be salvaged and reused in landscape design. • Assigning a Project Ecologist: a suitably qualified ecologist must be commissioned to undertake extensive pre-clearance

Internal Referral Body	Comments
	surveys (for threatened species and priority weeds) and supervise the clearing of any habitat (including trees, shrubs, and bushrock). • Hollow Replacement: 1 small hollow and 1 hollowed arboreal mud nest are required to be removed as a result of the proposed development. These must be replaced at a 1:1 ratio with nest boxes of the equivalent size, elsewhere on site prior to any vegetation removal. • Storage and Stockpiling (Soil and Materials): keep storage and stockpile areas away from retained vegetation, and avoid bringing in external soil to prevent introducing weeds or pathogens that could harm biodiversity. • Priority weed removal: 2 priority weed species for the greater Sydney region were identified within the site (*Asparagus aethiopicus* (Ground Asparagus) & *Lantana camara* (Lantana)). These must be removed in accordance with the Biosecurity Act 2015. Biodiversity will defer to other referral bodies in regards to the other recommendations included in the FFA. The Arboricultural Impact Assessment (AIA) (Stride Landscape Design, Sep 2025) assessed the impact of this proposed development on 17 trees within the property and surrounding area. Of these 17 trees: 6 are proposed for retention (T1, T2, T10A, T13, T14, T15) and 11 are proposed for removal. Of the trees proposed for removal, 1 is exempt by species (T6) and 10 are prescribed and will require council permission for removal (high retention value: T5, T8, T9; medium: T3, T4, T10, T12, T16; low: T7, T11). This is approved, provided that the Landscape Plan is updated to include a minimum of 60% locally native trees. Locally native species must be representative of the plant community type (PCT) on site, or seeded from native species on site. According to the FFA, the vegetation community on site best conforms to PCT 3592: Sydney Coastal Enriched Sandstone Forest. All planting must be consistent with the APZ conditions set out by RFS (Oct 2025), and it should be noted that smooth barked, locally native species will be more fire resistant than exotic species that are not adapted to the local Australian fire regime. Similarly, the planting schedule included in the Landscape Plans (Lone Pine Landscapes, Sep 2025) includes approximately 42% locally native species. Considering the scale of the impacts of this development on the biodiversity values of this site, it is recommended that this be updated to a minimum of 60% locally native species (by proportion of number of plants), to be in accordance with MLEP 6.5. Locally native species must again be representative of Sydney Coastal Enriched Sandstone Forest or seeded from native species on site. There are no objections from a biodiversity perspective, subject to conditions.

Internal Referral Body	Comments
NECC (Development Engineering)	**Supported, subject to conditions** The proposal is for the construction of a new dwelling. The submitted stormwater plans are acceptable subject to conditions. Referral completed and conditions recommended.

<table>
<tr><th>Internal Referral Body</th><th>Comments</th></tr>
<tr><td>Strategic and Place Planning (Heritage Officer)</td><td>
<table>
<tr><td colspan="3">Supported, subject to conditions</td></tr>
<tr><td colspan="3">HERITAGE COMMENTS</td></tr>
<tr><td colspan="3">Discussion of reason for referral</td></tr>
<tr><td colspan="3">The proposal has been referred to Heritage as the subject site adjoins a heritage item

Item I269 - Dry Stone Wall</td></tr>
<tr><td colspan="3">Details of heritage items affected</td></tr>
<tr><td colspan="3">Statement of Significance
Dry stone wall</td></tr>
<tr><td colspan="3">Other relevant heritage listings</td></tr>
<tr><td>SEPP (Biodiversity and Conservation) 2021</td><td>No</td><td></td></tr>
<tr><td>Australian Heritage Register</td><td>No</td><td></td></tr>
<tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr>
<tr><td>National Trust of Aust (NSW) Register</td><td>No</td><td></td></tr>
<tr><td>RAIA Register of 20th Century Buildings of Significance</td><td>No</td><td></td></tr>
<tr><td>Other</td><td>N/A</td><td></td></tr>
<tr><td colspan="3">Consideration of Application</td></tr>
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Internal Referral Body	Comments
	Revised Comments - 4 June 2026 Following discussions with the applicants around access to the site and the difficulties revised plans and a construction methodology have been submitted. These have demonstrated how driveway access to the site can be achieved through the limiting the removal of only the top courses of the heritage listed sandstone wall as well as other measures to ensure the protection of the remaining heritage courses. Following the review of these plans and documents Heritage can support the proposal subject to conditions. Heritage will also require two addition condition for During Works <u>Unexpected Finds – Non Indigenous Archaeology</u> As required by the Heritage Act 1977, in the event that historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and Heritage NSW must be notified of the discovery. In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including any the statutory requirements under the Heritage Act 1977. Note: The Heritage Act 1977 impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site. Reason: Statutory requirements for the protection of archaeology <u>Implementation Of Construction Methodology</u> Demolition and construction works are to be done in accordance with the Construction Methodology report. This report is also to be revised and updated to align with the advice of the appointed Heritage Architect and approved Temporary Protection Plan. Reason: Ensure works are in accordance with approved methodology and heritage advice The proposal seeks consent for a new dwelling with a driveway and crossover. The dry stone wall is on the western side of Clavering Road, holding up the current sealed road. The proposal impacts upon this wall and has not made any consideration of this wall or its significance. The proposal will have an unacceptable impact upon the wall. **Revised Comments - 09 April 2026** Following a review of the amended drawings and additional reports, including Midco Construction's "Driveway Construction Methodology" and the HIS prepared by GBA Heritage, the impact of

Internal Referral Body	Comments
	the proposal upon the heritage listed dry stone wall remains unchanged. To minimised this impact, the width of the driveway crossover must be reduced from 7.5m to 3m. Alternatively, the possibility of a shared driveway crossover with the neighbouring property at 13 Clavering Road should be investigated to prevent repeated impacts on the heritage item. Therefore Heritage require amendments to the proposal. Consider against the provisions of CL5.10 of MLEP. Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes
Traffic Engineer	***Supported, subject to conditions*** **Updated Referral response - Updated plans.** The plans provided to address the initial concerns raised related to the driveway have been provided and no additional concerns have been raised and as such the conditions previously provided are still valid and need to be added to any future consent. **Initial Referral Response** The Transport Network Team has reviewed the proposal and note the 30% grade in the long section of the access driveway. This is normally unacceptable without a demonstration that there is no other available design solution to meet the 25% grade requirement, under the AS2890.1, staff understand the design intent to minimise the impact of the proposed dwelling on the vista from the street and as such the deviation from the standard is accepted. It is also noted that the turning path analysis shown the vehicle entering the driveway from the opposite kerb alignment. It appear that the requirement to enter and exit the subject site in a forward direction can be achieved. Construction issues will be addressed by conditions to minimise impact to the adjoining properties.

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

External Referral Body	Comments
Rural Fire Service - Local Branch - EP&A Act, s4.14	The proposal was referred to Rural Fire Service who provided a response stating that the proposal is acceptable subject to compliance with conditions. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	Reference is made to the proposed development at the above location and to Aboriginal cultural heritage considerations. An Aboriginal Heritage Assessment report was completed by Talking Walls History in 2025. The AHO has reviewed the report and agrees with the recommendations made for 11 and 13 Clavering Road, Seaforth: No further archaeological assessment is required for 11 and 13 Clavering Road Seaforth. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. **Unexpected Finds / Stop Work Clause** It should be noted that under the National Parks and Wildlife Act 1974, all Aboriginal objects are protected, whether recorded or not. If any suspected Aboriginal objects, cultural materials, or human remains are uncovered during works: 1. All work must cease immediately in the vicinity of the find. 2. The area must be made safe and protected from further disturbance. 3. The Aboriginal Heritage Office must be contacted as soon as practicable for advice. 4. If the material is confirmed as Aboriginal, Heritage NSW and the relevant Aboriginal Land Council must be notified in accordance with section 89A of the Act, and works must not recommence until appropriate authorisation is provided. If human remains are uncovered during construction or earthworks: 1. All works must cease immediately in the vicinity of the find. 2. The area must be secured and protected from further disturbance. 3. NSW Police must be contacted immediately, in accordance with statutory requirements. 4. Works must not recommence unless authorised by NSW Police and relevant authorities.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs),

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

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

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

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1811619S dated 04 September 2025).

Where relevant, the embodied emissions have been quantified in the above BASIX Certificate.

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

SEPP (Transport and Infrastructure) 2021

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

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

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	10.36m	21.88%	No
Floor Space Ratio	FSR: 0.4:1 (305.36m^2)	FSR: 0.4:1 (304.7m^2)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

Zone R2 Low Density Residential

The underlying objectives of the R2 Low Density Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*
  Comment:
  The site is currently vacant and the proposed dwelling will provide housing within a low density residential environment.

  It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
  Comment:
  Not applicable. The proposal is for the construction of a single dwelling on a vacant lot

It is considered that the development satisfies this objective.

4.3 Height of buildings

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	10.36m
Percentage variation to requirement:	21.88%

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

a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,
Comment:
The variation in building height arises from site access constraints, being a sloping site, natural environment features and the buildable area. The site currently lacks vehicular access and features a significant level difference between Clavering Road and the site boundary. In addition, a heritage-listed wall is located within the road reserve in front of the site.

The surrounding area is predominantly characterised by similar dwellings of between two and four storeys, which are heavily influenced by the sloping terrain within the locality.
The proposal is compatible with the prevailing character of development in the vicinity.

The proposed building height and roof form respond appropriately to the site's topography, the scale of surrounding development, and the character of the streetscape. The roof form is consistent with nearby dwellings, and the building design incorporates articulation through recessed and varied wall planes, fenestration, balconies, and eaves to reduce the visual bulk.

b) to control the bulk and scale of buildings,
Comment:
The proposed dwelling house is acceptable with respect to the proposed variation to the Height of buildings development standard and all built form controls under the MDCP, including setbacks and wall heights. Additionally, the proposed development includes acceptable total open space and landscaped area. The development also complies with the FSR of the MLEP. This demonstrates the dwelling is of a bulk and scale anticipated for the subject site by the controls, and that the footprint of the dwelling is not excessive.

c) to minimise disruption to the following—
(i) views to nearby residential development from public spaces (including the harbour and foreshores),
(ii) views from nearby residential development to public spaces (including the harbour and foreshores),
(iii) views between public spaces (including the harbour and foreshores),

Comment:
The proposed development is designed and sited so as not to result in any unreasonable view loss to or from public or private land.

d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,
Comment:
The proposed development is acceptable with respect to the requirements of Clauses 3.4.1 Sunlight Access and Overshadowing and 3.4.2 Privacy and Security of the MDCP..

e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses,
Comment:
The development is not within a recreation or environmental protection zone.

4.6 Exceptions to development standards

The application seeks consent to vary a development standard as follows:

Development standard: Clause 4.3 height of buildings
Requirement: 8.5m
Proposed: 10.36m
Percentage of variation: 21.88%

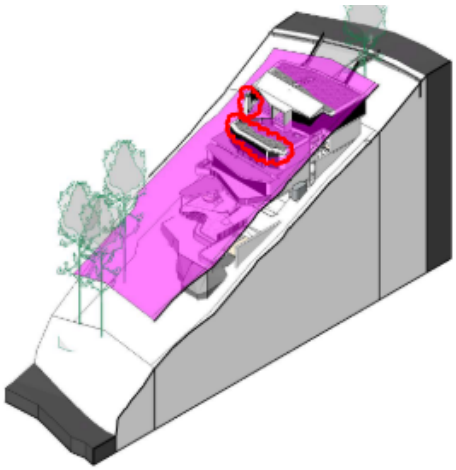


Image: *Height compliance blanket showing areas of the development that are above the 8.5m height requirement.*

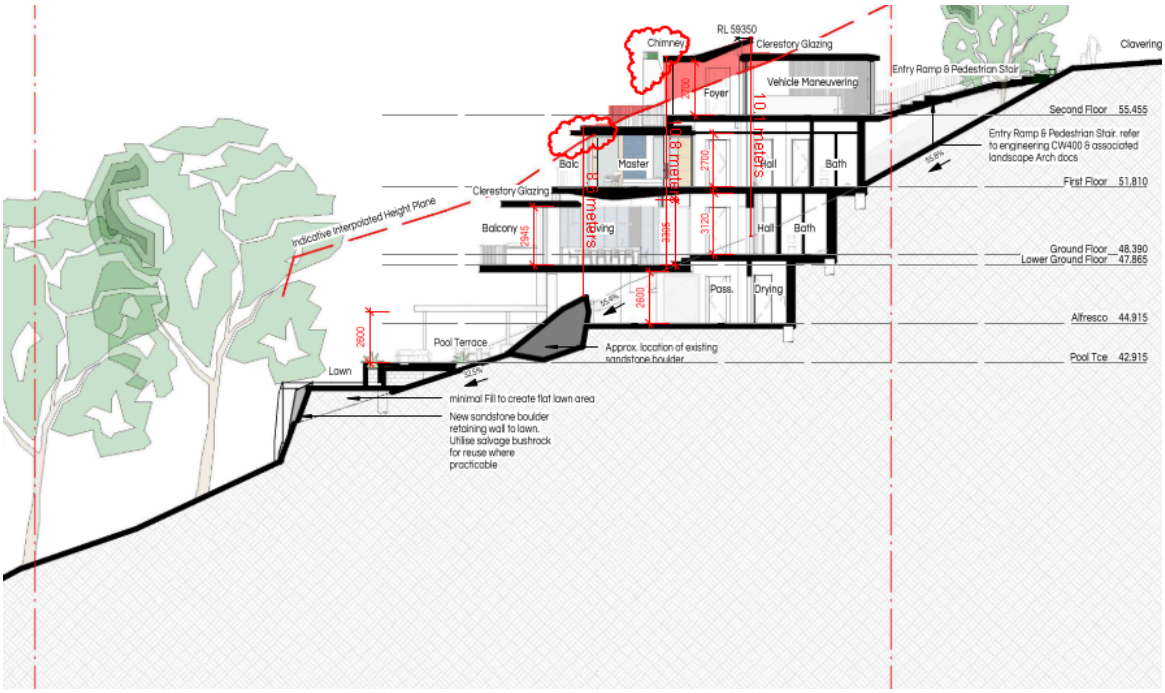


Image: *Long section showing the building height non-compliance highlighted in red.*

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the MLEP 2013 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

(1) The objectives of this clause are as follows:
(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
Comment:
The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:
(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
Comment:
Clause 4.3 Height of buildings is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:
(3) Development consent must not be granted to development that contravenes a development standard

unless the consent authority is satisfied the applicant has demonstrated tha
(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
Comment:
Council is satisfied that the Applicant has demonstrated that compliance with Clause 4.3 Height of buildings is unreasonable or unnecessary in the circumstances of this application for the following reasons:

- The area is mainly developed with 2–4 storey buildings influenced by the sloping terrain.
- Surrounding properties have similar height and scale, making the proposal consistent with the local character.
- The development will not cause unreasonable impacts on neighbours (views, privacy, or overshadowing).
- The design is considered visually acceptable and not offensive or out of place.
- Building façade modulation reduces visual impact from public viewpoints.
- The proposal maintains a compatible height and scale and follows the site's slope to distribute bulk effectively.
- Landscaping will soften and reduce the perceived bulk and scale of the development.
- View corridors toward the waterway for uphill properties will be retained.
- Public views will not be adversely affected.
- Shadow impacts have been assessed and are considered reasonable, with neighbouring properties expected to be similarly designed for solar access.
- The design respects existing vegetation, topography, and surrounding development.
- Some vegetation removal is required, but significant vegetation will be protected and additional landscaping provided.
- Despite variation in building height due to the slope, the proposal aligns with the height and scale of newer local developments.

(b) there are sufficient environmental planning grounds to justify contravening the development standard.
Comment:
In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the Applicant's written request has adequately demonstrated that that there are sufficient environmental planning grounds to justify contravening the development standard:

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

The Clause 4.6 Request argues, in part:

'There are four environmental planning grounds which are sufficient to justify contravening the development standard, including:
1. The absence or avoidance of impacts resulting from the proposal to the surrounding properties and streetscape.
2.The proposal is compatible with the existing bulk and scale of the built form in the context of the site.
3. The modest increase in the departure from the development standard and absence of consequential

impacts.
4. The proposal is also considered to be consistent with the applicable objects of the Environmental Planning and Assessment Act 1979 contained at Section 1.3

Each individual environmental planning ground is considered to be sufficient in itself and is discussed in further detail below:

1. ***The absence or avoidance of impacts resulting from the proposal to the surrounding properties and streetscape.***
   The proposed variation to the height of buildings control, will not give rise to any adverse amenity impacts to neighbouring properties.
   In particular, the proposed new roof area at the garage level which exceeds the height control is setback from the public frontage of the site to Clavering Road and will not be prominently visible within the streetscape, restricting any detrimental visual impact to the public areas surrounding the site.

   The proposed development, even with the variation to the height of buildings control you will not appear out of character or introduce a new element that is not already present in the surrounding streetscape.

   It is considered that there is an absence of any significant material impacts on the amenity or the environmental values of the locality as a result of the height variation. Specifically, the extent of variation with the height of buildings standard is entirely appropriate, particular given the topographical constraints presented by the steeply sloping nature of the site and:
   ➢ The breach to the height of buildings control will not result in adverse overshadowing to the future development immediately to the south at No 13 Clavering Road which it is anticipated will be designed to achieve the solar access controls within the MDCP.

   The breach of the height of buildings control does not give rise to any adverse visual or acoustic privacy impacts on neighbouring properties.

   ➢As indicated in the various design montages included in the architectural submission, the substantial corridors along each side boundary and the articulated nature of the built form will allow for views to be retained over the dwelling from properties further uphill to the east and along the side boundary setbacks for public viewing from Clavering Road.

2. ***The proposal is compatible with the existing bulk and scale of the built form in the context of the site.***
   The proposed building height manages the challenges of the sloping topography and the need to provide for functional and safe driveway access to the street together with equitable pedestrian access to the dwelling from the adjacent roadway area.

   When viewed from the public areas in Clavering Road, the development presents as less than one storey, as shown in Figure 2 below (East Elevation), due to the entry level being located well below the road level. This allows opportunity for pedestrians to look over the roofscape.

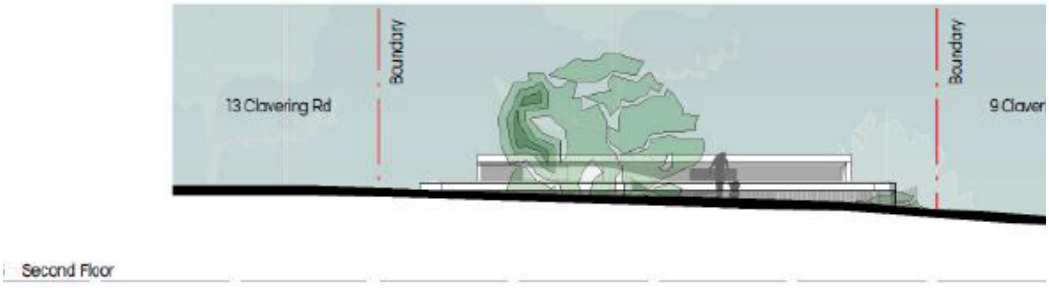


Figure 2: East elevation presentation of the new dwelling, indicating modest height when viewed from Clavering Road

When viewed from the west and the Middle Harbour waterway, the building steps with the land slope and through the skilful use of articulated wall lines and compatible materials and finishes to complement the bushland nature of the surrounding site, the external appearance of the dwelling will not be perceived as "excessively bulky" or excessive in comparison to the scale of other nearby dwellings in the immediate vicinity foreshore area.

Notwithstanding the departure from the height of buildings control, the highly articulated and modulated nature of the design successfully distributes the floor space as perceived above ground level when viewed from the neighbouring properties and from the street and results in a building form which is contextually appropriate in the locality.

3. ***The modest departure from the development standard and absence of consequential impacts.***
Consistent with the findings in Eather v Randwick City Council [2021] NSW LEC 1075 and Petrovic v Randwick City Council [2021] NSW LEC 1242, the modest breach of the height standard which results directly from the challenges presented by the sloping nature of the site and the necessity to provide for a functional and accessible dwelling from the public area and the absence of impacts consequential of the departure constitute environmental planning grounds, as it promotes the good design and amenity of the development in accordance with the objects of the EP&A Act.

4. ***The proposal is also considered to be consistent with the applicable objects of the Environmental Planning and Assessment Act 1979 contained at Section 1.3 as follows:***
•The proposal is considered to facilitate ecologically sustainable development as detailed by the proposal's compliance with BASIX to achieve objective (b).
• Consistent with objective (c) the proposal is considered to provide for the orderly and economic use and development of land via the construction of a functional and appropriate dwelling to provide for modern habitable requirements in a highly sought after location.
• The proposed development will maintain the general bulk and scale of the existing surrounding development and maintains architectural consistency with the prevailing development pattern which promotes the orderly & economic use of the land (c).
• Similarly, the proposed development will provide for improved amenity within a built form which is compatible with the s surrounding streetscape pattern of Clavering Road and the nearby development in Gurney Crescent which also promotes the orderly and economic use of the land (c).
• The proposal provides for a high quality architecturally designed building which in conjunction with the proposed materials and finishes and landscaping will make a positive contribution to the streetscape character of the locality. The proposal will otherwise not result in any unreasonable overshadowing, loss of privacy or loss of views to the adjoining or nearby properties and will result

in a built form which is compatible with the existing and desired character of the surrounding area. The proposal is therefore considered to satisfy this objective (g)
• The proposal has been designed and will be constructed so as to comply with all applicable standards relating to the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants and compliance with the National Construction Code. The proposal has also been designed so as to incorporate a range of high quality, robust and maintenance free building materials which respond to the site's exposed coastal location (objective (h)
• The proposed development provides for appropriate amenity for the occupants of the subject site and respects surrounding properties by locating the development where it will not unreasonably obstruct views across the site and will maintain the views from the site (g).

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development, particularly the provision of a building that manages the challenges presented by the sloping topography and provides for an appropriate dwelling that maintains views over and past the building from the public and private domain. These are not simply benefits of the development as a whole, but are benefits emanating from the breach of the height of buildings control.

It is noted that in Initial Action, the Court clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:
87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in

[141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.'

It is agreed that The proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, thereby satisfying objects 1.3(c) and (g) of the EPA Act.

Public Interest:
Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion:
Council is satisfied as to the matters set out in Clause 4.6 of the MLEP 2013.

It is considered on balance, that having regard to the particular circumstances of the breach of the building height development due to the existing site constraints and topography, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

5.10 Heritage conservation

Local heritage item, I269 – dry stone wall, Clavering Road

The heritage item (Item No. I269) is a dry stone wall located along the eastern boundary of the site, fronting Clavering Road. The site currently has no vehicular access. Given the steep topography, access from Clavering Road is the most suitable option. The proposed driveway will require removal of the top course of the dry stone wall to achieve appropriate levels to access the site.

The sandstone wall, constructed circa 1922 on the western side of Clavering Road, is of local heritage significance for its historical, aesthetic, technical, rarity and representative values. It demonstrates the early development of roads and infrastructure in Seaforth in the early twentieth century.

The wall was identified as a potential heritage item in 2003 and subsequently listed under Schedule 5 of the Manly Local Environmental Plan (MLEP). However, Heritage Map Sheet HER_001 incorrectly identifies the wall as being on the eastern side of Clavering Road within the road reserve.

Council officers have confirmed, through site inspection and review of earlier heritage studies (including a 2018 study prepared by former Manly Council), that the mapped location in the MLEP is incorrect. The heritage item is clearly located on the western side of Clavering Road. A planning proposal has therefore been prepared to correct this mapping inconsistency.

The applicants were advised of this discrepancy prior to the amendment to the MLEP being finalised. Following discussions regarding site access constraints, the applicants submitted revised plans and a construction methodology. These demonstrate that driveway access can be achieved while limiting impacts to the heritage item by removing only the upper courses of the wall and implementing measures to protect the remaining structure.

Based on this information, Council’s Heritage Officer raises no objection to the proposal, subject to appropriate conditions.

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

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

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

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development
Comment:
The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land
Comment:

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

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

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

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties
Comment:
The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material
Comment:
The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics
Comment:
The subject site does not contain any known relics.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area
Comment:
The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
Comment:
Conditions are included in the recommendation of this report that will minimise the impacts of the development.

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

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 763.4m²	**Requirement**	**Proposed**	**% Variation***	**Complies**
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwellings	1	N/A	Yes
	Dwelling Size: 102m²	304.7m²	N/A	Yes

4.1.2.1 Wall Height	N: 8m (based on gradient 1:4+)	max. 9.9m	23.75%	No
	S: 8m (based on gradient 1:4+)	max. 9.2 m	15%	No
4.1.2.2 Number of Storeys	2	4	100%	No
4.1.2.3 Roof Height	Parapet Height: 0.6m	0.4m	N/A	Yes
	Pitch: maximum 35 degrees	17 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Nil	100%	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	**Second floor** S: 1.8 - 3.1m N: 1.7 - 2.8 - 3.3m	S: **1.4** - 3.1m N: **1.3** - 2.7 - 3.6m	22.3% 23.6%	No
	First floor S: 1.9 - 2.7m N: 2 - 2.9m	S: **1.5** - 3m N: **1.3** - 3.7m	22.3% 35%	No
	Ground floor S: 1.8 - 2m N: 1.6 - 2m	S: 3m N: **1.5m**	6.3%	No
	Windows: 3m	N: 2.8m	6.7%	No
4.1.4.4 Rear Setbacks	8m	Dwelling - 29.7m Alfresco - 16.9m	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% (458.04m^2) of site area	71.7% (547m^2)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 40% (328.2m^2)of open space	73% (399.6m^2)	N/A	Yes
4.1.5.3 Private Open Space	18m2 per dwelling	18m^2	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	5.7m	N/A	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	3.7m	N/A	No
	1m curtilage/1.5m water side/rear setback	S: 2.9m/3m/14.9m N: 11.3m/11.5m/14.9m	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.3.3 Footpath Tree Planting	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	Yes
4.4.5 Earthworks (Excavation and Filling)	No	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.6.2 Gurney Crescent and Clavering Road, Seaforth	No	Yes

Detailed Assessment

3.4.3 Maintenance of Views

See Appendix 1 for full View Loss Assessment.

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

Description of non-compliance

Clause 4.1.2.1 of the MDCP stipulates that the maximum wall height permitted on both the northern and southern elevation is 8m. The application proposes a maximum wall height of 9.9m on the northern elevation and 9.2m on the southern elevation.

Buildings on the site are not to exceed 2 storeys. The application proposes 4 stories which does not mee the requirement of clause 4.1.2.2 Number of Storeys.

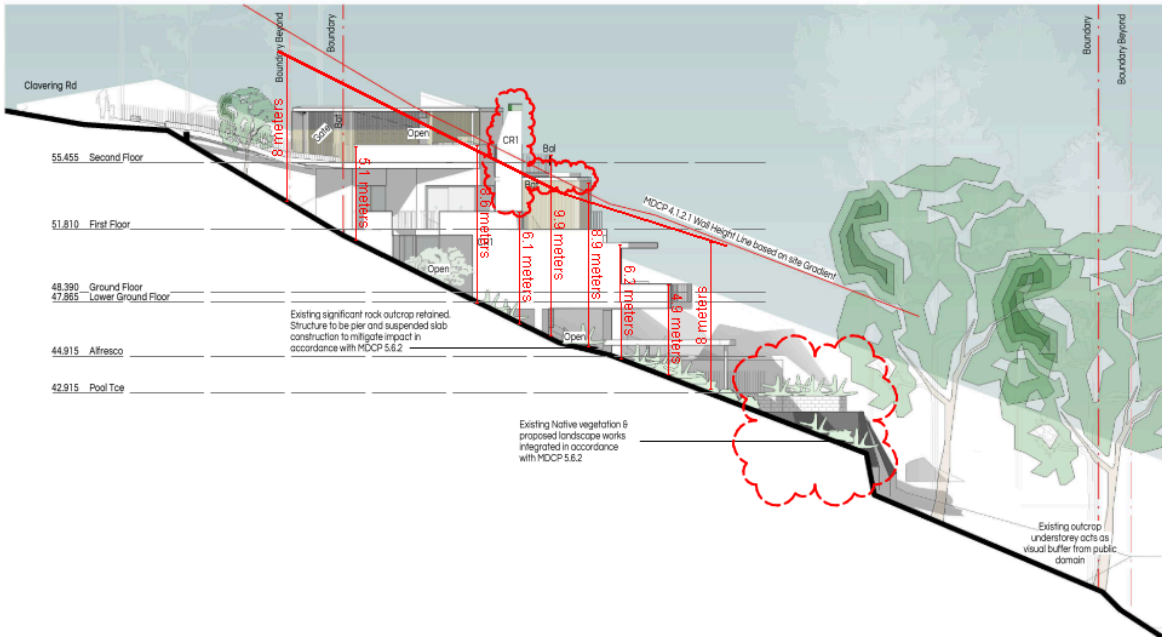


Image: *North elevation - wall height requirement line shown in red.*

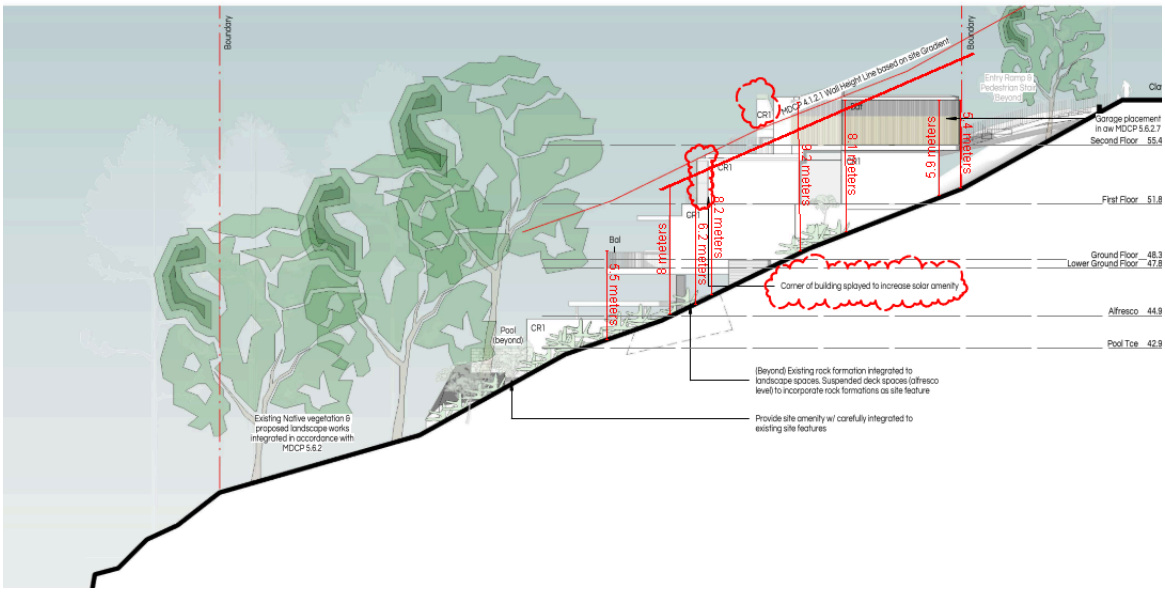


Image: *South elevation - wall height requirement line shown in red.*

Merit consideration

There are no underlying objectives of this control under which to consider the merits of this variation. This control instead relies on the objectives for the Height of Buildings at clause 4.3 in the MLEP. The proposal has been assessed against these objectives under clause 4.6, above in this report. In summary, the variation is deemed to be reasonable and supported in this circumstance.

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

Description of non-compliance

4.1.4.1 Street Front setbacks

The clause requires a minimum 6 m front setback where neighbouring properties have variable street-facing building lines and no clear prevailing building line is established in the immediate vicinity. Clause 5.6.2 Gurney Crescent and Clavering Road of the MDCP requires structures to be located within a buildable area to protect the natural features of the site. The buildable area is from the front eastern boundary, along the north and south side boundaries to the rock outcrop that runs through the middle of the site. The site and surrounding properties are vacant blocks. The application proposes a minimum front setback of nil to the garage and 7m to the dwelling.

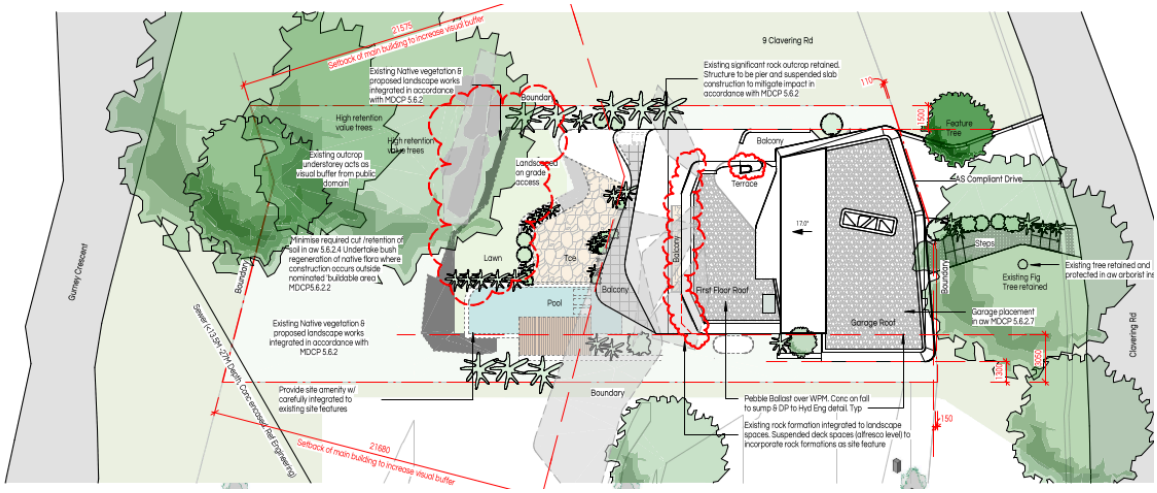


Image: *Site layout*

4.1.4.2 Side setbacks and secondary street frontages

Clause 4.1.4.2 Side setbacks and secondary street frontages stipulates that the setbacks between any part of a building and the side boundary must not be less than one third of the height of the building. The proposal has varying hall heights along the southern and northern elevation which varies the side setback requirement. The proposal has the floowing sid setback requirements :

Second floor:

South - required - 1.8 - 3.1m - proposed - 1.4 - 3.1m - 22.3% variation

North - required - 1.7 - 2.8 - 3.3m - proposed - 1.3 - 2.7 - 3.6m - 23.6% variation

First floor:

South - required - 1.9 - 2.7m - proposed - 1.5 - 3m - 22.3% variation
North - required - 2 - 2.9m - proposed - 1.3 - 3.7m - 35% variation

Ground floor:
South - required - 1.8 - 2m - proposed - 3m
North - required - 1.6 - 2m - proposed - 1.5m - 6.7% variation

The proposal has several non-compliances with the side setback requirement.

Under the above mentioned clause, the requirements for all new windows that face the side boundary are to be setback at least 3m. The proposal has one window on the southern elevation that does not meet this requirement with a setback of 2.8m.

Comment:
The objectives of the control are:

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.
Comment:
The site and adjoining properties are currently vacant, with no development on adjacent land or on sites on the western side of Clavering Road. As such, there is no established or “prevailing building line” applicable to the proposal.

The location of the dwelling has been determined by site-specific constraints, a buildable area as stipulated by clause 5.6.2 Gurney Crecesnt and Clavering Road of the MDCP, in the steep topography and the significant level change between the site and the Clavering Road pavement. Additionally, a substantial verge of approximately 9.5m separates the site from the road.

When viewed from the street, the garage level will present as a single-storey element. The wide verge will retain landscaping and provide effective visual screening of the development from Clavering Road.

Objective 2) To ensure and enhance local amenity by:

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

Comment:
Despite the numerical non-compliance with required side setbacks for the proposed works and associated windows, adequate privacy is maintained. The side elevation windows serve bedrooms, which are considered low-activity spaces, and are positioned to avoid direct views into neighbouring dwellings or private open spaces by being angled away from the side boundary. As such, privacy between properties is preserved.

The proposal will not result in unreasonable overshadowing or adversely affect significant view lines from

surrounding private or public land.

Objective 3) To promote flexibility in the siting of buildings.
Comment:
Flexibility is justified in this instance, due to the required buildable area stipulated under clause 5.6.2 of the MDCP. Relocating the garage and entry further into the site would result in a significant height exceedance. Additionally, the variations relating to front setback, windows, and side setbacks will not cause unreasonable amenity impacts to adjoining properties and enable the delivery of a modernised dwelling.

The ERM Study, which provides recommendations for development on the vacant land along Clavering Road, stipulates that strict adherence to standard development controls could result in poor siting outcomes, such as unnecessary tree removal or construction on steep or sensitive land. By utilising the defined buildable area and appropriately responding to site constraints, the design avoids key natural features while achieving a built form that integrates with the landscape and aligns with contemporary development in similar conditions.

Objective 4) To enhance and maintain natural features by:

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

Comment:
The site is currently undeveloped, and some vegetation clearing within the buildable area is anticipated. Any removed trees must be replaced with native canopy species.

Tree removal is typical for undeveloped sites. Bushfire Inner Protection Area (IPA) requirements limit canopy cover on this property to 15%. The Arboricultural Impact Assessment (AIA) identifies two exempt trees (Trees 4 and 6) that may be removed without consent at the applicant's discretion, and nine prescribed trees that require removal to enable the proposed works. All retained trees will comply with IPA canopy limits.

Tree 1 will be significantly affected (35% encroachment). Accordingly, the elevated driveway and entry steps must be designed in consultation with an arborist. A project arborist will supervise all works within tree protection zones and any necessary pruning. The landscape plan, reviewed by Council's landscape officer, primarily incorporates native local species.

The proposal retains key natural features, including the central rock escarpment, with works directed away from it. Rock outcrops within the buildable area will be protected, and the dwelling will use pier and suspended slab construction to minimise impacts.

Adequate landscaped open space is provided for planting, including deep soil zones. Native vegetation within the rear setback will be retained, along with several high-value trees.

Objective 5) To assist in appropriate bush fire asset protection zones.
Comment:
Despite this non-compliance, the site remains suitable in terms of its bushfire-prone classification, as demonstrated in the supporting bushfire report.

The development is consistent with the objectives of the control and is acceptable on merit.

4.1.9 Swimming Pools, Spas and Water Features

Description of non-compliance
The development requires that swimming pools and spas must be built on or in the ground and not elevated more than 1m above natural ground level. The proposed swimming pool is 3.7m above natural ground level.

Comment:
The objectives of the control are:
Objective 1) To be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties.
Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the established character of the locality.
Objective 3) To integrate landscaping.
Objective 4) To become an emergency water resource in bush fire prone areas.

The elevated pool is designed to follow the site's topography and respond to natural features, such as the rock outcrop, while minimising impacts on canopy trees and vegetation.

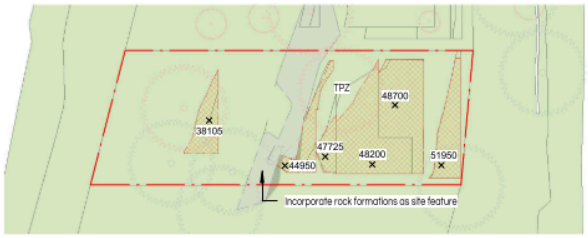
Located within the rear yard, the pool will not be visible from the public domain and will not affect the streetscape. Landscaping between the pool and the rear boundary provides screening, softens the built form, and helps reduce visual and acoustic impacts on neighbouring properties.

The pool is well set back from both side boundaries and will not result in unreasonable privacy or noise impacts on adjoining dwellings.

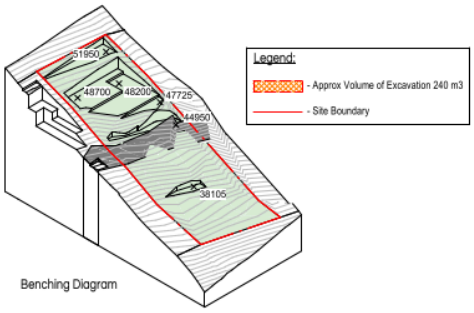
The development is consistent with the objectives of the control and is acceptable on merit .

4.4.5 Earthworks (Excavation and Filling)

Description of non-compliance
The proposal involves several areas of excavation across the site to accommodate the proposed dwelling. The excavation has a maximum depth of 3.7m, which exceeds the 1m requirement.



1 Site Excavation Diagram
1:500



Benching Diagram

Image: Site excavation diagram.

Merit consideration

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

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

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

Comment:

The application has been accompanied by a Geotechnical Report (prepared by Morrow Geotechnics Pty Ltd, dated 20 March 2026) which stipulates that the proposed development will achieve an acceptable level of risk to neighbouring properties, subject to compliance with certain recommendations during construction and remediation works. It is noted that the earthworks proposed are not likely to create any adverse environmental impacts. Suitable conditions are included with this consent requiring installation and maintenance of sediment and erosion control, and compliance with the mentioned report.

Having regard to the above assessment, it is concluded that the objectives of the control have been achieved. Therefore, the application is supported on merit in this particular circumstance.

5.6.2 Gurney Crescent and Clavering Road, Seaforth

Description of non-compliance

Clause 5.6.2.1 Buildable Area requires dwellings and associated structures, including swimming pools to be generally located within the buildable area as shown on Figure 55. Exceptions are only considered when the objectives of the control are meet.

The proposed swimming pool is located outside of the buildable area.

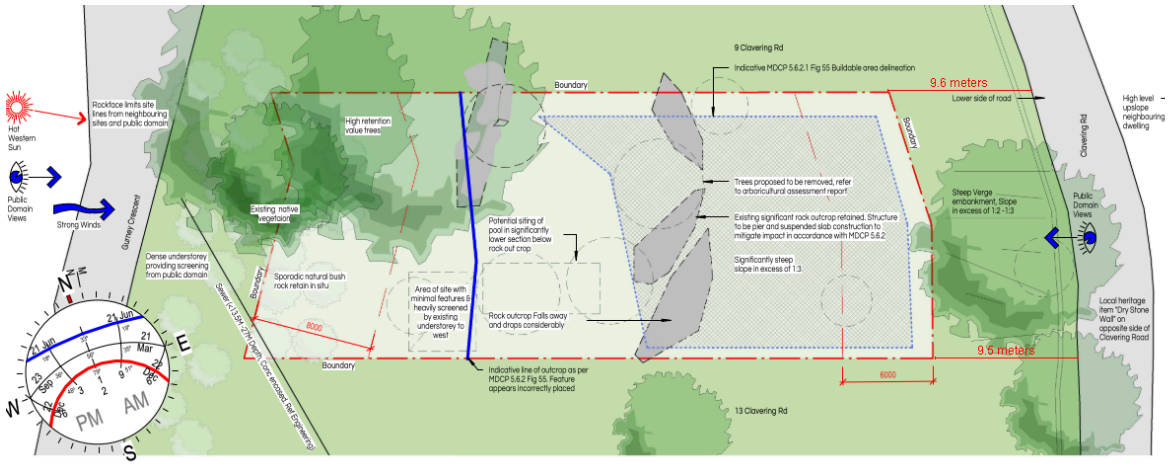


Image: Buildable area cross hatched.

Merit consideration
With regard to the consideration for a variation, the development is considered against the underlying objective of the control as follow:

- *Objective 1) To identify areas on each site where development is preferred in order to provide both site specific and cumulative ecological, visual and water quality benefits;*
- *Objective 2) To identify the characteristics of the subject land that require protection and to develop standards that encourage that protection;*
- *Objective 3) To protect the amenity of the subject land and its locality for existing and future residents;*
- *Objective 4) To encourage residential design that responds to each site and its surrounds;*
- *Objective 5) To encourage preservation of the ecological values of each site and its surrounds;*
- *Objective 6) To provide for and encourage ecologically sustainable building and site design;*
- *Objective 7) To encourage maintenance of the visual character of the locality; and*
- *Objective 8) To implement the findings of the study entitled Development Analysis of E & F Precincts in Abandoned Warringah Transport Corridor (Surplus RTA Lands) Study prepared by ERM, 2000 on behalf of the RTA ('ERM Study').*

Comment:
The buildable area is located at the eastern portion of the site, where vegetation has been more disturbed, allowing the retention of higher-value bushland and significant trees at the western end. The placement of the swimming pool outside the designated buildable area does not impact key natural features, including the rock outcrop or high value trees.

The proposal satisfies the objectives of the relevant clause by minimising impacts on biodiversity and retaining ecological value. While some vegetation clearing is required, significant trees will be preserved, and overall biodiversity impacts are expected to be minimal. No threatened fauna species were identified during the May 2025 site assessment, and the proposed works are unlikely to adversely affect any local populations or contribute to species decline.

The development is generally consistent with the findings of the ERM Study, with most works contained within the nominated buildable area. Any works outside this area have been carefully designed to retain significant site features, including trees and rock outcrops.

The proposal exceeds minimum requirements for TOS and landscaped area. Stormwater management plans have been prepared by a qualified professional and reviewed by Council's Development Engineers.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of $27,560 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $2,755,995.

CONCLUSION

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

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

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

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

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

Council is satisfied that the Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify variation of the development standard contained within Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- There are sufficient environmental planning grounds to justify the variation.

PLANNING CONCLUSION

This proposal, for Construction of a dwelling house including swimming pool at no. 11 Clavering Road has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to demolition to a known heritage item.

The issues identified in the objections have been addressed in the report and, where considered necessary,

are further addressed through conditions of consent.

The critical assessment issues building height, front and side setback, wall height, impact on bushland, streetscape and view loss are considered acceptable.

Overall, the development is a high quality design that performs well against the relevant controls, will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment and maintains the integrity of the heritage item whilst providing for modern living. The proposal has therefore been recommended for approval.

REASON FOR DETERMINATION

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

RECOMMENDATION

That Northern Beaches Council, as the consent authority, vary the development standard contained within Clause 4.3 Height of Buildings, pursuant to Clause 4.6 of the Manly Local Environmental Plan 2013 because the Applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2025/1332 for Construction of a dwelling house including swimming pool on land at Lot 4 DP 1090937, 11 Clavering Road, SEAFORTH, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

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

Approved Plans				
Plan Number	**Revision Number**	**Plan Title**	**Drawn By**	**Date of Plan**
D011	6	Site Analysis - Constraints & Oppourtunities	Buck and Simple	09/03/2026
D017	7	Site Layout & Site Analysis - Proposed	Buck and Simple	09/03/2026
D101	7	Floor Plan - Second Floor (Street Level)	Buck and Simple	09/03/2026
D102	7	Floor Plan - First Floor	Buck and Simple	09/03/2026
D103	7	Floor Plan - Ground Floor	Buck and Simple	09/03/2026
D104	7	Floor Plan - Alfresco Floor	Buck and Simple	09/03/2026
D301	7	Section AA	Buck and Simple	09/03/2026
D302	7	Section BB & Pool	Buck and Simple	09/03/2026
D401	7	North Elevation	Buck and Simple	09/03/2026
D402	7	East Elevation	Buck and Simple	09/03/2026
D403	7	South Elevation	Buck and Simple	09/03/2026
D404	7	West Elevation	Buck and Simple	09/03/2026

D902	7	Perspective & Materials	Buck and Simple	09/03/2026
V250546 - CW400	B	Driveway Plan	Vanguard Consulting Engineers	05/09/2025
V250546 - CW410	B	Driveway Long Sections	Vanguard Consulting Engineers	05/09/2025
S100	0	Site Plan	Vanguard Consulting Engineers	21/08/2025
S101	0	Driveway Slab Plan	Vanguard Consulting Engineers	21/08/2025
S102	0	Section	Vanguard Consulting Engineers	21/08/2025

Approved Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**
D060 - Erosion, Sediment, Stormwater Control & Waste Management Plan	6	Buck and Simple	09/03/2026
Flora and Fauna Assessment Report	Final v1.0	Narla Environmental	September 2025
ARBORICULTURAL IMPACT ASSESSMENT REPORT	Version 2.0	Stride Landscape Design	05/09/25
BASIX Certificate	Certificate number: 1811619S	House Energy Certified	04/11/2025
V250546 - SW100 - Stormwater Drainage Second Floor V250546 - SW101 - Stormwater Drainage First Floor V250546 - SW102 - Stormwater Drainage Ground Floor V250546 - SW103 - Stormwater Drainage Alfresco Floor V250546 - SW200 - Drainage Details	B	Vanguard Consulting Engineers	05/09/2025
BUSHFIRE HAZARD ASSESSMENT FOR PROPOSED DWELLING AT 11 CLAVERING ROAD, SEAFORTH	REF: 7486BF	Harris Environmental Consulting	29/08/2025
Aboriginal Heritage Assessment Report 11 & 13 Clavering Rd Seaforth NSW	-	Talking Walls	04/11/2025
Geotechnical Investigation & Slope Risk Assessment	Reference: P3516_01 Rev1	Morrow Geotechnical Investigation & Slope Risk Assessment	20/03/2026

LPL_2984 - Plant Schedule & Imagery LPL_2984 - Landscape Plan Street Level (Second Floor) LPL_2984 - Landscape Plan Ground Floor LPL_2984 - Landscape Plan Terrace and Yard	03	Lone Pine Landscapes	20/03/2026
Driveway Construction Methodology	Version B	MIDCO Construction	24/03/2026

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

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

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

2. **Compliance with Other Department, Authority or Service Requirements**
The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	N/A
NSW Rural Fire Service	Referral - RFS - 11 Clavering Road Seaforth	15 October 2025

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

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

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

(iii) stating that unauthorised entry to the work site is prohibited.

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

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

(i) in the case of work for which a principal contractor is required to be appointed:

A. the name and licence number of the principal contractor, and

B. the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

A. the name of the owner-builder, and

B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

(i) protect and support the adjoining premises from possible damage from the excavation, and

(ii) where necessary, underpin the adjoining premises to prevent any such damage.

(iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

(iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. **General Requirements**

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

Demolition and excavation works are restricted to:
- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.

(c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.

(d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(g) Prior to the release of the Construction Certificate, payment of the following is required:

i) Long Service Levy - Payment should be made to Service NSW (online or in person) or directly to the Long Service Corporation. Payment is not required where the value of the works is less than $250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.

iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.

(h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

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

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

(l) Prior to the commencement of any development onsite for:

i) Building/s that are to be erected

ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

iii) Building/s that are to be demolished

iv) For any work/s that is to be carried out

v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.

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

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

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

(i) Swimming Pools Act 1992

(ii) Swimming Pools Amendment Act 2009

(iii) Swimming Pools Regulation 2018

(iv) Australian Standard AS1926 Swimming Pool Safety

(v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools

(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

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

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

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of $27,559.95 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of $2,755,995.00.

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

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

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

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

6. **Security Bond**

A bond (determined from cost of works) of $10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

inspection).

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. **Driveway Design Near Trees to be Retained**

a) Driveway structural layout plans shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture, and a qualified Engineer, complying with AS 4970-2025 Protection of trees on development sites. If deemed necessary by the Arborist non-destructive tree root investigations can be completed to locate critical tree roots, complying with clause 3.3.2(m) of AS 4970-2025 Protection of trees on development sites, near existing tree(s) 1 and 2.

b) The Arborist shall review, comment, recommend design revision as required and approve the driveway layout, to ensure the location and construction methodology of the driveway will be manageable in terms of tree protection measures.

c) The Arborist shall submit certification to the Certifier that the location and construction methodology of the driveway are accepted.

d) The agreed driveway structural layout plans shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate.

Reason: Tree protection.

8. **Compliance with Ecologist's Recommendations – Pre-construction**

All impact mitigation measures specified in the approved Flora and Fauna Assessment Report are to be implemented at the appropriate stage of development.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

9. **No Clearing of Vegetation**

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

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

Reason: To protect native vegetation.

10. **Installation of Nest Boxes**
A minimum of 2 nest boxes, equivalent to the size of the arboreal hollows being removed, are to be installed in retained trees on the site prior to any vegetation clearing.

Nest boxes must be attached in accordance with industry best practice (e.g. expandable tree sensitive methods).

Written certification of compliance is to be prepared by the Project Ecologist and submitted to the Certifier prior to issue of the Construction Certificate.

Reason: To maintain wildlife habitat.

11. **Amendment of Landscape Plans**
The submitted Landscape Plan is to be amended in accordance with the following:

- At least 8 locally native canopy trees are to be planted on the site to replace protected trees approved for removal. Trees are to have a minimum mature height of 8.5m and be Comprised of the following species:
  4x Angophora costata (Sydney Red Gum)
  2x Allocasuarina littoralis (Black She-oak)
  1x Eucalyptus piperita (Sydney Peppermint)
  1x Corymbia gummifera (Red Bloodwood)
- Bushland areas that are not directly impacted by the proposed development must be retained and landscaping is to occur outside of these areas.

The Landscape Plan is to be amended by a qualified landscape architect and provided to the Certifier prior to issue of the Construction Certificate.

Reason: To maintain and replace habitat on the site.

12. **On-Site Stormwater Detention Details**
The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Vanguard Consulting Engineers, drawing number V250546-SW000, V250546 - SW001, V250546-SW100, V250546-SW101, V250546-SW102, V250546-SW103, V250546-SW200, dated 5/9/2025. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

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

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

13. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**
The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

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

Reason: Compliance with this consent.

15. **Simple Photographic Heritage Recording**
A simple photographic record of the site is to be made of all existing heritage retaining walls and their setting. This record must be submitted to and approved by Council's Heritage Advisor prior to the issue of the Construction Certificate and commencement of any demolition works or works on site.

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

Reason: To provide a simple photographic recording of the site prior to the commencement of any works.

16. **Vehicular Swept Paths**
Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Details demonstrating compliance with this condition must be submitted to the Principal Certifier prior to the issue of the construction Certificate.

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

17. **Construction Traffic Management Plan**
A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to Council via an application for a Permit to Implement Traffic Control. The application form can be accessed via https://www.northernbeaches.nsw.gov.au/council/forms. Approval of the permit application by the Northern Beaches Council Traffic Team is required prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.

- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- A requirement for Pre-Construction and Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The post report must:
    - Compare the post-construction report with the pre-construction report,
    - Clearly identify any recent damage or change to the road/driveway/right of way and whether or not it is likely to be the result of the development works,
    - Should any damage have occurred, identify remediation actions taken.
    - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. Only two vehicles can be parked adjacent to the subject site, wholly within the approved work zone with other vehicles to use an approve satellite parking area.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Seven (7) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.

- Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practicing Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

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

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

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

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

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

18. **On-Street Work Zone**
The applicant shall lodge an application for a work zone for the frontage of the site to Council for consideration and approval. Application forms for work zones are available on Council's website. Applications shall be lodged at least 4 weeks prior to work commencing.

An application must be lodged with Council for consideration and approval for a work zone for the frontage of the site.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.

19. **Pedestrian sight distance at property boundary**
A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas.

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

Reason: To maintain pedestrian safety.

20. **Submission Roads Act Application for Civil Works in the Public Road**
The Applicant is to submit an application (using form number 4025 available on Council website) for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be

submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.
The application is to include Civil Engineering plans for the design of elevated vehicle crossing and associated works, which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

1. A vehicular crossing 4.8 meters wide at the edge of street bitumen/ trafficable road 8.0 meters wide at the boundary to be constructed in accordance with concept plans by Vanguard Engineering Consultants, drawing number V2250546-CW400, V250546-CW410, dated 5/9/2025 and council specifications.
2. Engineering Long sections along both edges and centerline of the proposed driveway shall be provided. Grades are not to exceed 1:4 in accordance with AS2890.1.
3. Structural details for any proposed supporting structures for the elevated driveway.
4. Safety barriers and sight distances are to be in accordance with AS/NZS 2890.1:2004.
5. The suspended driveway be designed such that there is no load imposed on the existing batter/ retaining wall supporting the road.
6. The application is to include a geotechnical report that is prepared by an appropriately qualified Geotechnical Engineer to assess the impact of the proposed suspended driveway and entry stairs on the existing batter and retaining wall supporting the road reserve.
7. Structural Engineer's certification of the design of all retaining walls, piers, access stairs, elevated driveway and safety barriers.
8. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided.
9. Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces.
10. Plans to show a pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 at the vehicular access to the property.
11. All stormwater grated drains to be placed within property boundary.

On completion of above listed works a positive covenant will be required to be registered on Title in respect to ongoing maintenance responsibilities of the structures approved in the Public Road for the following:
1. Elevated driveway
2. Pedestrian access stairs in the road reserve.
3. Supporting structures for the elevated driveway and stairs in the road reserve.
The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

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

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

The approval will be issued contingent upon a positive covenant registered on Title in respect to ongoing maintenance responsibilities of the structures approved in the Public Road for the following structures:

1. Elevated driveway
2. Pedestrian access stairs in the road reserve.
3. Supporting structures for the elevated driveway and stairs in the road reserve.

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

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

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

21. **Heritage Architect**
A suitably qualified and experienced heritage architect must be appointed for this project. Details of the appointment of this heritage architect are to be submitted to Council's Heritage Officer for approval, prior to the issue of a Construction Certificate.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

Reason: To ensure that all matters relating to significant fabric and spaces are guided by heritage conservation best practice.

22. **Temporary Protection Plan**
A Temporary Protection Plan including a statement of significance with documentary and physical evidence on the existing situation and original fabric of the heritage items and requirements and measures to retain necessary to retain the significance of the item must be prepared by a suitably qualified heritage architect to ensure all retained original fabric of the heritage retaining wall is protected during works and to guide the protection of the surrounding heritage fabric during construction works.

The Temporary Protection Plan is to be submitted to Council's Heritage Officer for approval prior to the issuing of the Construction Certificate

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority

Reason: To ensure the protection and retention of significant heritage fabric and the significance of the heritage item.

23. **Updated Road Verge Landscape Plan**
An updated road verge landscape plan is to be provided to Council's Heritage Officer for approval demonstrating how landscaping works other than the driveway and crossover have been designed to minimise impact to and removal of the heritage listing retaining wall.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority

Reason: Protection of heritage items, their fabric and significance

24. **Waste Management Plan**
A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

25. **Engagement of Project Ecologist**
A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with the Flora and Fauna Assessment Report (FFA) (Narla Environmental, Sep 2025).

The Project Ecologist must have one of the following memberships / accreditation:

- Practising member of the NSW Ecological Consultants Association (https://www.ecansw.org.au/find-a-consultant/) OR
- Biodiversity Assessment Method Accredited Assessor under the relevant legislation (https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor)

Evidence of engagement of the Project Ecologist is to be provided to the Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

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

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

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

27. **External Finishes to Roof**
The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

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

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

29. **Project Arborist**
a) A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

b) The Project Arborist shall be in attendance and supervise all works as nominated in the approved Arboricultural Impact Assessment, and in particular:
i) tree protection measures and works under sections 7 Tree Protection Specifications and 9.2 Tree Protection Plan,
ii) any pruning works.

c) All tree protection measures specified must:
i) be in place before work commences on the site, and
ii) be maintained in good condition during the construction period, and
iii) remain in place for the duration of the construction works.

d) The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS 4970-2025 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

30. **Tree Removal Within the Property**
a) This consent approves the removal of existing trees on the subject site as identified in the approved Arboricultural Impact Assessment.

b) A qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

31. **Tree Removal Within the Road Reserve**
a) This consent approves the removal of existing trees within the road reserve as listed below:
i) tree 3 - *Corymbia gummifera*.

b) A qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

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

Reason: Public liability.

32. **Sediment and Erosion Controls**
For developments that include more than 2500sqm of disturbance:

A Soil and Water Management plan (SWMP), in accordance with section 2.3 of the Blue Book, must be prepared and certified by a suitably qualified professional.

For sites larger than 250sqm and less than 2500sqm of disturbance:

An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified person in accordance with the following considerations and documents:

- Sites that have slopes exceeding 20% (measured in any direction across the site), and/or where works are within the high-water mark or adjacent to a waterway or watercourses are considered environmentally sensitive areas. These sites require a site-specific ESCP which must be prepared and certified by a suitably qualified professional,
- The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate – Volume 1, 4th Edition (2004)' (the Blue Book), and
- The 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure).

The ESCP must include the following as a minimum:

- Site Boundaries and contours,
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application),
- Location of site access, proposed roads and other impervious areas (e.g. parking area and site facilities),
- Existing and proposed drainage patterns with stormwater discharge points,
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected,

- North point and scale,
- Type of erosion control measures to divert and slow run-off around and within the site.

Environmentally sensitive areas (i.e. Sites that have slopes exceeding 20% and/or where works are within the high-water mark or adjacent to a waterway or watercourses) must also consider:

- Identify and mark any environmentally sensitive areas on and immediately next to the site and how you will protect these, including any appropriate buffer zones (for example, marking them out as 'no-go' areas),
- Details on vegetation you will clear, as well as areas of vegetation you will keep (mark no go areas),
- Detail on soil information and location(s) of problem soil types, especially dispersive soils and potential or actual acid sulfate soils,
- Location of any natural waterways that could receive run-off and how these will be protected these from run-off.

For sites smaller than 250sqm or where the disturbance is less than 50sqm:

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- Diverting uncontaminated run-off around cleared or disturbed areas, and
- Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- Preventing the tracking of sediment by vehicles onto roads, and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- Identifying any environmentally sensitive areas on and immediately next to the site, and demonstrating how these will be protected (for example, by designation as no-go areas).

Details demonstrating compliance with the relevant requirements above are to be submitted to the Certifier, and the measures implemented, prior to the commencement of works.

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

33. **Heritage Induction**
Prior to the commencement of any works, all contractors, trades persons and the like shall be given a site induction. This induction must be delivered by the appointed Heritage Architect and shall ensure that all contractors, trade persons and the like are made aware that:

· There is a heritage item in the road reserve
· There is a Temporary Protection Plan and Construction Methodology for the site to retain and protect heritage significance fabric and heritage significance
· There are statutory obligations under the National Parks and Wildlife Act 1974 and Heritage Act 1977 for all works to cease and Council and Heritage NSW to be notified of any unexpected built archaeological or Aboriginal archaeological finds during works.

Reason: To ensure all persons undertaking works on the site are aware of the heritage items and obligations

DURING BUILDING WORK

34. **Protection of Landscape Features and Sites of Significance**

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

b) Bush rock shall be salvaged from the subject site and stockpiled during works, and be reused in the landscape design in a manner that mimics its original position and context, the intent being that the rocks continue to provide valuable habitat.

c) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

35. **Protection of Existing Street Trees**

a) All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree(s) fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS 4970-2025 Protection of trees on development sites. As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

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

Reason: Street tree protection.

36. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:
i) all trees within the site not approved for removal,
ii) all trees and vegetation located on adjoining properties,
iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:
i) tree protection shall be in accordance with AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
iv) no excavated material, building material storage, site facilities, nor landscape materials are

to be placed within the canopy dripline of trees and other vegetation required to be retained,
v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2025 Protection of trees on development sites,
ix) the activities listed in section 4.2 of AS 4970-2025 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS 4373-2007 Pruning of amenity trees,
xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) The Principal Certifier must ensure that:
i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as complaint to AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

37. **Compliance with Ecologist's Recommendations – During Construction**
All impact mitigation measures specified in the approved Flora and Fauna Assessment Report are to be implemented at the appropriate stage of development.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

38. **Pre-clearance Survey - Certified by Project Ecologist**
Any habitat for for native wildlife (including tree hollows) approved for removal is to be inspected for native wildlife by the Project Ecologist prior to its removal. If native wildlife is found within habitat to be removed, the animal is to be safely relocated by the Project Ecologist to a suitable location.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be prepared by the Project Ecologist and provided to the Principal Certifier prior to any Occupation Certificate.

Reason: To protect native wildlife.

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

Reason: To protect native wildlife.

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

Reason: To protect wildlife habitat.

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

Reason: Public safety.

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

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

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

Reason: To ensure public safety.

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

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

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

45. **Maintenance of Sediment and Erosion Controls**
Erosion and sediment controls must be adequately maintained and monitored at all times,

particularly surrounding periods of rain, and shall remain in proper operation until all development activities have been completed and the site is in a state where no substance other than rainwater can enter the stormwater system and waterways.

All sediment control measures must be maintained at, or above, their design capacity.

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log book or inspection test plan (ITP) must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

Details demonstrating compliance must be provided to the Certifier during demolition and building works.

Reason: Protection of the receiving environment and to ensure no substance other than rainwater enters the stormwater system and waterways.

46. **Implementation of Temporary Protection Plan**
The approved Temporary Protection Plan is to be adhered to during demolition and construction works. The appointed Heritage Architect will be responsible for ensuring that the Temporary Protection Plan is to adhered to.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority

Reason: To ensure the protection and retention of significant heritage fabric and the significance of the heritage item.

47. **Heritage Architect during works**
The nominated heritage architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording, demolition and excavation. The heritage consultant is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project. The heritage architect are also to ensure that the policies outlined in the Temporary Protection Plan and driveway Construction Methodology are adhered to.

Details demonstrating compliance with this condition must be provided to the Principal Certifying Authority.

Reason: To ensure that all matters relating to significant fabric and spaces are guided by heritage conservation best practice.

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

49. **Aboriginal Heritage**
If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning, Housing and Infrastructure.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning, Housing and Infrastructure.

Reason: Aboriginal Heritage Protection.

50. **Unexpected Finds – Non Indigenous Archaeology**
As required by the Heritage Act 1977, in the event that historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and Heritage NSW must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including any the statutory requirements under the Heritage Act 1977.

Note: The Heritage Act 1977 impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

Reason: Statutory requirements for the protection of archaeology

51. **Implementation Of Construction Methodology**
Demolition and construction works are to be done in accordance with the Construction Methodology report. This report is also to be revised and updated to align with the advice of the appointed Heritage Architect and approved Temporary Protection Plan.

Reason: Ensure works are in accordance with approved methodology and heritage advice

The proposal seeks consent for a new dwelling with a driveway and crossover. The dry stone wall is on the western side of Clavering Road, holding up the current sealed road. The proposal impacts upon this wall and has not made any consideration of this wall or its significance. The proposal will have an unacceptable impact upon the wall.

52. **Staff and Contractor Parking**
The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. Not more that 2 vehicles are to attend the subject site at anytime and be fully contained in the approved work zone with additional vehicles to be parked at a suitable satellite site (potentially on the corner of Dalwood and Macmillan Street)

Reason: To ensure minimum impact of construction activity on local parking amenity.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

53. **Street Tree Planting**
a) Street tree planting shall be installed in accordance with the following:
i) substitute the *Jacaranda mimosifolia* with a locally native species selected from Northern

Beaches Council's Native Planting Guide - Manly Ward, and to achieve at least 6 metres height at maturity.

b) All street trees shall be a minimum pre-ordered planting size of 75 litres, and shall meet the requirements of AS2303 – Tree Stock for Landscape Use. All street trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, including a four post and top and mid rail timber tree guard, and watered until established, and shall be generally located at least 2.0 metres from driveways, and shall generally be centralised within the road verge.

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

Reason: to maintain environmental and streetscape amenity.

54. **Landscape Completion**

a) Landscape works are to be implemented in accordance with the approved Landscape Plan(s), and inclusive of the following conditions:
i) landscape works are to be contained within the legal property boundaries,
ii) planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
iii) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of AS2303 – Tree Stock for Landscape Use; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3 metres from buildings and other trees or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
iv) mass planting shall be installed in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
v) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,
vi) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone,
vii) where the property is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019.

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

Reason: Environmental amenity.

55. **Condition of Retained Vegetation**

a) Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:
i) compliance to any Arborist recommendations for tree protection generally and during

excavation works,
ii) extent of damage sustained by vegetation as a result of the construction works,
iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

56. **Compliance with Ecologist's Recommendations – Post Construction**
All impact mitigation measures specified in the approved Flora and Fauna Assessment Report are to be implemented at the appropriate stage of development.

Written and photographic evidence of compliance is to be prepared by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

57. **Protection of Habitat Features – Certified by Ecologist**
All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Written details demonstrating compliance are to be certified by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

58. **Native Landscaping**
Any new landscaping is to incorporate a minimum 60% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the relevant section of the Native Planting Guide available on Council's website. Landscaping is to occur outside of retained bushland areas.

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

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

59. **Replacement of Canopy Trees**
At least 8 locally native canopy trees are to be planted on the site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with the Native Planting Guide available on Council's website.

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

60. **No Weeds Imported On To The Site**
No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

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

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

61. **Priority Weed Removal and Management**
All Priority weeds (as specified by NSW WeedWise and/or Northern Beaches Local Weed Management Plan) within the development footprint are to be removed using an appropriate control method. This includes the species identified on site *Asparagus aethiopicus* (Ground Asparagus) and *Lantana camara* (Lantana).

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

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

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

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

63. **Waste Disposal Verification Statement**
On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within 14 days of completion of the demolition work.

Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

64. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**
The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on

a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link: https://files-preprod-d9.northernbeaches.nsw.gov.au/nbc-prod-files/media/files/2023-12/guide-for-submitting-legal-documents.pdf?1756256223

The form for the application can be found on Council's website using the following link: https://applications.northernbeaches.nsw.gov.au/T1PRProd/WebApps/eProperty/P1/eSubmit/T
r=WC.WEBGUEST&f=%24P1.ESB.TERMS.VIW&ReturnUrl=%2fT1PRProd%2fWebApps%2fe

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered

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

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

Reason: Compliance with this consent.

66. **Geotechnical Certification Prior to Occupation Certificate**
The Applicant is to submit certification that the construction has been carried out in accordance with the recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

67. **Positive Covenant for the Maintenance of Structures in the Public Road**

The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the completed request forms (NSW Land Registry standard forms 13PC) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved S138 plan by a Registered Surveyor), and Civil Engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and other responsibilities of the structures in the Public Road as identified in Condition ***Submission Roads Act Application for Civil Works in the Public Road*** of this consent. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services.

A copy of the certificate of title demonstrating the creation of the positive covenant for the ongoing maintenance and other responsibilities of the structures is to be submitted.

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

Reason: To ensure adequate provision is made for the structures in the road reserve be maintained to an appropriate standard.

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

68. **Landscape Maintenance**

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

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

c) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan(s) and any conditions of consent.

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

Reason: To maintain local environmental amenity.

69. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

70. **Control of Domestic Dogs/Cats**

Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife and habitat.

71. **Landscaping adjoining vehicular access**
The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1,140mm

Reason: To maintain unobstructed sight distance for motorists.

72. **Swimming Pool/Spa Motor Noise**
The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

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

73. **No Approval for Removal of More than the top Course of Heritage Retaining Wall**
No approval is granted for the removal of more than the top course of the heritage sandstone wall for the construction of the driveway and cross over

Reason: Protection of heritage items, their fabric and significance

APPENDIX 1 – VIEW LOSS ASSESSMENT

Manly Development Control Plan 2013

Clause 3.4.3 Maintenance of Views

Description of non-compliance

One submission was received from no. 6 Clavering Road stating view loss from the site as a concern with the development. The objector was contacted several times to organise a view loss assessment from no. 6 Clavering Road, but no response was received. However, a view loss assessment was undertaken using real estate photos, aerial images and floor plans to determine the extant, of any view loss from no. 6 Clavering Road.

Two submission were received from nos. 3 and 15 Gurney Crescent stating view loss from properties adjoining the site as a concern with the development. To the east of the site are nos. 2, 4 and 6 Clavering Road. A full view loss assessment was undertaken from no. 2 as part of the assessment of DA2025/1222 and the assessment of the application will be used as part of this assessment. A view loss assessment from no. 4 was undertaken through aerial photos and available plans. View loss from nos. 3 and 15 was not raised and the development site is not visible from no. 3 Gurney Crescent.

View loss from public spaces has also been raised as a concern with the development and is addressed below.



Image: *Property where view loss as a result of the development was raised, highlighted in red. Properties where view loss from neighbouring was mentioned as a concern, highlighted in blue. Location of properties where submissions raised view loss as a concern but the views are*

unaffected by the development highlighted in yellow.



Image: *Location where photos for view loss from public spaces were taken from.*

Comment:
The objectives of the control are:

Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.
Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).
Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

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

Principle 1

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

No. 2 Clavering Road
Views affected by the development are heavily vegetated and obstructed water views of Middle Harbour to the north-west.

No. 4 Clavering Road

Possible views affected by the development are likely to be heavily vegetated and obstructed water views of Middle Harbour to the west.

No. 6 Clavering Road
The proposed development may affect the bushland outlook from no. 6. Loss of water views is considered unlikely due to the elevation difference between the sites location of the dwellings and angle in which views are obtained.

Principle 2

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

No. 2 Clavering Road
Views affected by the development are obtained from the west facing Ground floor Terrace located off the Living/Dining Room in a sitting and standing position.



Photo 1: *View from west facing ground floor terrace looking to the south-west of no. 2 Clavering Road in a standing position.*



Photo 2: *View from west facing ground floor terrace looking to the west from no. 2 Clavering Road in a standing position.*



Photo 3*: View from west facing ground floor terrace looking to the north-west of no. 2 Clavering Road in a standing position over the top of no. 11 Clavering Road.*



Photo 4: *View from the Dining Room in a standing position.*



Photo 5*: View from the ground floor Living Room in a standing position.*



***Photo 6**: View from the lower ground floor Rumpus in a standing position looking to the west over the top of the development site.*

No. 4 Clavering Road
Views affected by the development are likely to be the same as no.2 with views obtained from the west facing balcony in a sitting and standing position. The views are obtained over the front and boundary of no. 11 Clavering Road.

No. 6 Clavering Road
The outlook affected by the development would be obtained from the west facing balcony located off the family room and living Room in a sitting and standing position over the front boundaries of the sites.



***Image:** View from first floor family room in a standing position looking west. Realeestate.com.au image.*



Image: *View from first floor west facing balcony looking south-west. Realestate.com.au image.*

Principle 3

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

No. 2 Clavering Road
No. 2 Clavering Road will lose obstructed glimpses of water from the west facing ground floor terrace in a sitting and standing position. The ground floor west facing terrace will retain partially obstructed water views of middle harbour over the top of the development site in a sitting and standing position.

The remainder of the sites views will be unaffected by the development including water views of Middle Harbour to the north-west including the interface between land and water and obstructed water views will be retained from the Kitchen, Dining area in a sitting and standing position. Obstructed water views will be retained from Living area in a sitting and standing position. Obstructed water views will also be retained from the lower ground floor bedrooms and Rumpus in a sitting and standing position.

Due to the extent of the view loss and what views will be retained view loss is considered minor.

No. 4 Clavering Road
View loss is expected to be the similar to no. 2 Clavering Road. The property may lose obstructed glimpses of water from the west facing balcony in a sitting and standing position. The balcony will retain partially obstructed water views of middle harbour over the top of the development site in a sitting and standing position. Views to the north-west of the site including unobstructed water views and views of Explosives Reserve and Garigal National Park interface between land and water will be retained.

Due to the extent of the view loss and what views will be retained view loss is considered minor.

No. 6 Clavering Road
The west facing balcony may lose some views of bushland from a sitting and standing position. The remainder of the sites views will be unaffected by the development including water views of Middle Harbour to the south-west and west including the interface between land and water. The site will also retain views of the Sydney CDB to the south.

Due to the extent of the views potentially lost and what views will be retained, view loss is considered negligible.

Principle 4

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.
Comment:
Due to the height and location of the dwelling at nos. 2, 4 and 6 Clavering Road, the areas of the development that do not comply with the built form controls do not contribute to the loss of any significant views, instead, glimpses of water that are heavily obstructed by vegetation. The proposal complies with all other planning controls and the encroachment into the height of buildings, wall height, front and side setback is consistent with other development in the surrounding area due to the slope of the land. In this regard, the proposal is considered to be reasonable in its context and will allow for a reasonable sharing of views.

Public Domain Views

In determining the extent of the potential view loss from the public domain, the planning principles outline within the Land and Environment Court Case of Rose Bay Marina Pty Limited Vs Woollahra Municipal Council and anor (213) NSWLEC 1046 are applied to the proposal.

1. Nature and Scope of Views
The first step is to identify the nature and scope of the existing views from the public domain, including, but not limited to:
- Any existing obstructions of the view;
- Composition of the view (e.g. is it static or dynamic and, if dynamic, the nature and frequency of changes to the view);
- Are existing obstructions permanent or temporary;
- The cartilages of important elements within the view.
Comment:
The existing views obtained from the public domain, in this case being Clavering Road, consists of filtered views to west and north-west of Middle Harbour and Castle Cove. Existing obstructions to the views include vegetation. The vegetation obstructions are large, well established located on the Council Road Reserve and spread across multiple properties. The adjoining sites have recently been sold and many of the trees and vegetation the on these sites are likely to be removed and dwellings constructed. The change to the available outlook from the road will be permanent, assuming the application is approved and the proposal is maintained for the life of the development.

2. Locations of View Interruptions
The second step is to identify the locations in the public domain from which the potentially

interrupted view is enjoyed.
Comment:
The affected view is available from the road and road reserve of Clavering Road.



***Photo 7**: View from the southern end of Clavering Road looking towards the site.*



***Photo 8:** View from the Clavering Road looking south-west over the top of the development site.*



Photo 9: *View from the road in front of the development site looking south-west.*



Photo 10: *View from a car in front of the development site looking west.*



Photo 11: *View from a car in front of the development site looking west.*

3. Extent of Obstructions
The third step is to identify the extent of the obstruction at each relevant location. The impact on appreciation of a public domain view should not be subject to any eye height constraint. A public domain view is one that is for the enjoyment from many positions by all people.
Comment:
The location where views are obtained are limited to the roadway. Views are currently obtained from a seated position in a car travelling along Clavering Road from a standing position on the street. The proposed development will result in the loss of some of the obstruct water views.

4. Intensity of public landuse
The fourth step is to identify the intensity of public use of those locations where that enjoyment will be obscured, in whole or in part, by the proposed private development.
Comment:
Clavering Road does not contain any formal footpath and is not classified as a major road, Clavering Road is also not a through road and is not wide enough for two vehicles to pass in opposite directions, thus traffic frequency is not considered to be significant. It is unknown how frequently the road used for walking. A submitter noted that they walked along Clavering Road frequently, however, the road is a dead end and does not link to other walking tracks. Foot traffic is likely to be minimal.

5. Documentation of the View
The final step to identified is whether there is any document that identifies the importance of the view to be assessed, such as international, national, state or local heritage recognition, or where the relevant planning controls promote or specifically requires the retention or protection of public domain views.
Comment:
Clavering Road does not have any international, national, state or local heritage recognition.

The MDCP requires development to minimise disruption to views from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from public places (including roads and footpaths). While the proposed development will result in the loss of water views of Middle Harbour, the height of the roof will allow for views over the top of the development. Views will also be maintained along the northern and southern boundary of the

site.

Loss of views from the public domain is considered to be minimal as the majority of significant water views including the interface between land and water will be retained over the proposed dwelling

The development is consistent with the objectives of the control and is acceptable on merit.


Rock face & dense understorey screens public domain

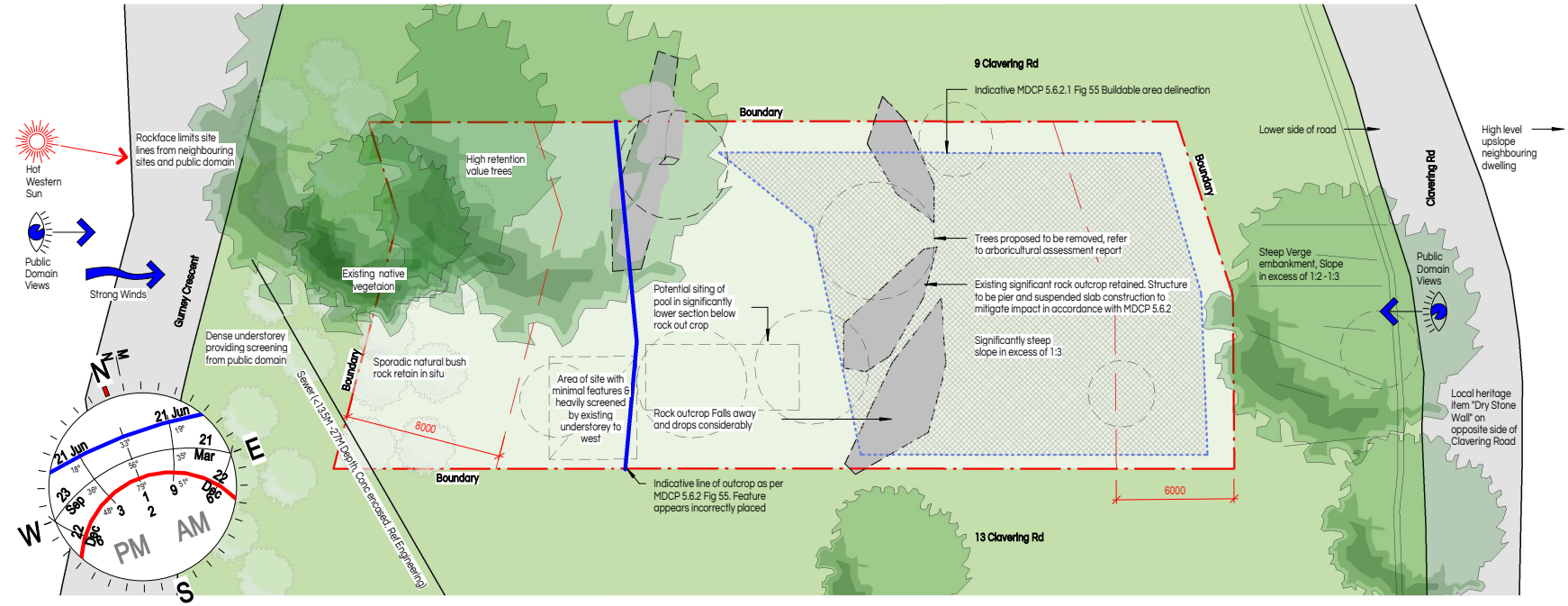

Sporadic Bushrock to lower portion of site


Rock Outcrop


Primary building area downslope


Steep Site Verge & Fig Tree


Clavering Rd & Verge



__1__ Site Analysis - Constraints & Oppourtunities
1:200


T14 & T15 & understorey downslope


Rock outcrop to be retained


Primary Building Area


Primary building area upslope


Upslope Neighbour

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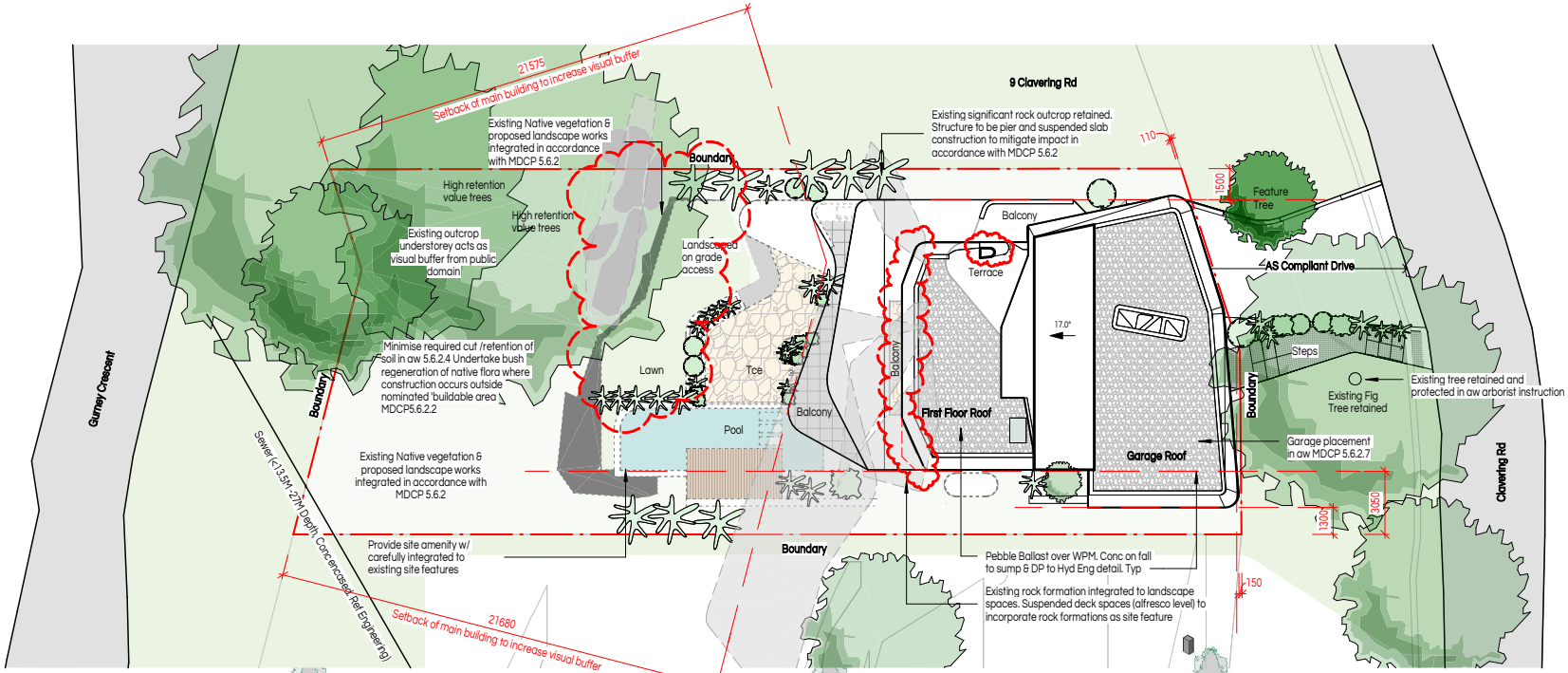
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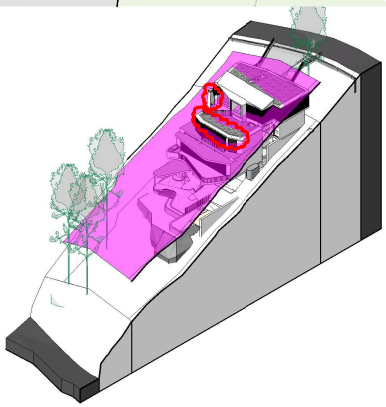
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1	SD Review	06 Aug 2025
2	Updated for consultant information	18 Aug 2025
3	Revised for Consultant Information	2 Sep 2025
4	Issued for Development Application	5 Sep 2025
5	Without Prejudice issue for discussion	27 Jan 2026
6	Issued for Approval	09 Mar 2026

Project: Nido
Location: 11 Clavering Rd, Seaforth NSW
Client: MD Living Residential
Drawing: Site Analysis - Constraints & Oppourtunities

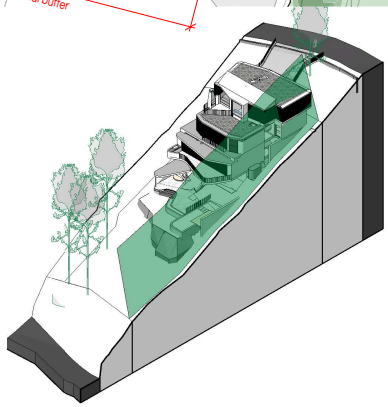
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As indicated	BS	BS
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Project number: 1289	Drawing #: D011	Revision: 6

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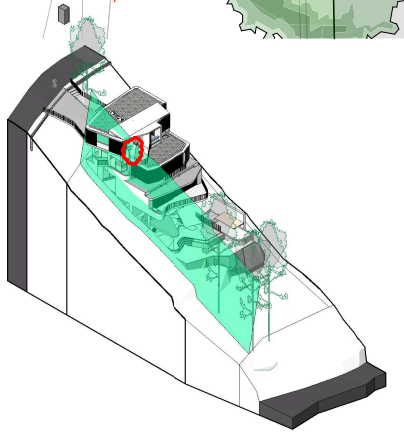




__2__ Site Analysis - LEP 8.5M Height Blanket



__3__ Site Analysis - DCP Setback Envelope Southern



__4__ Site Analysis - DCP Setback Envelope Northern

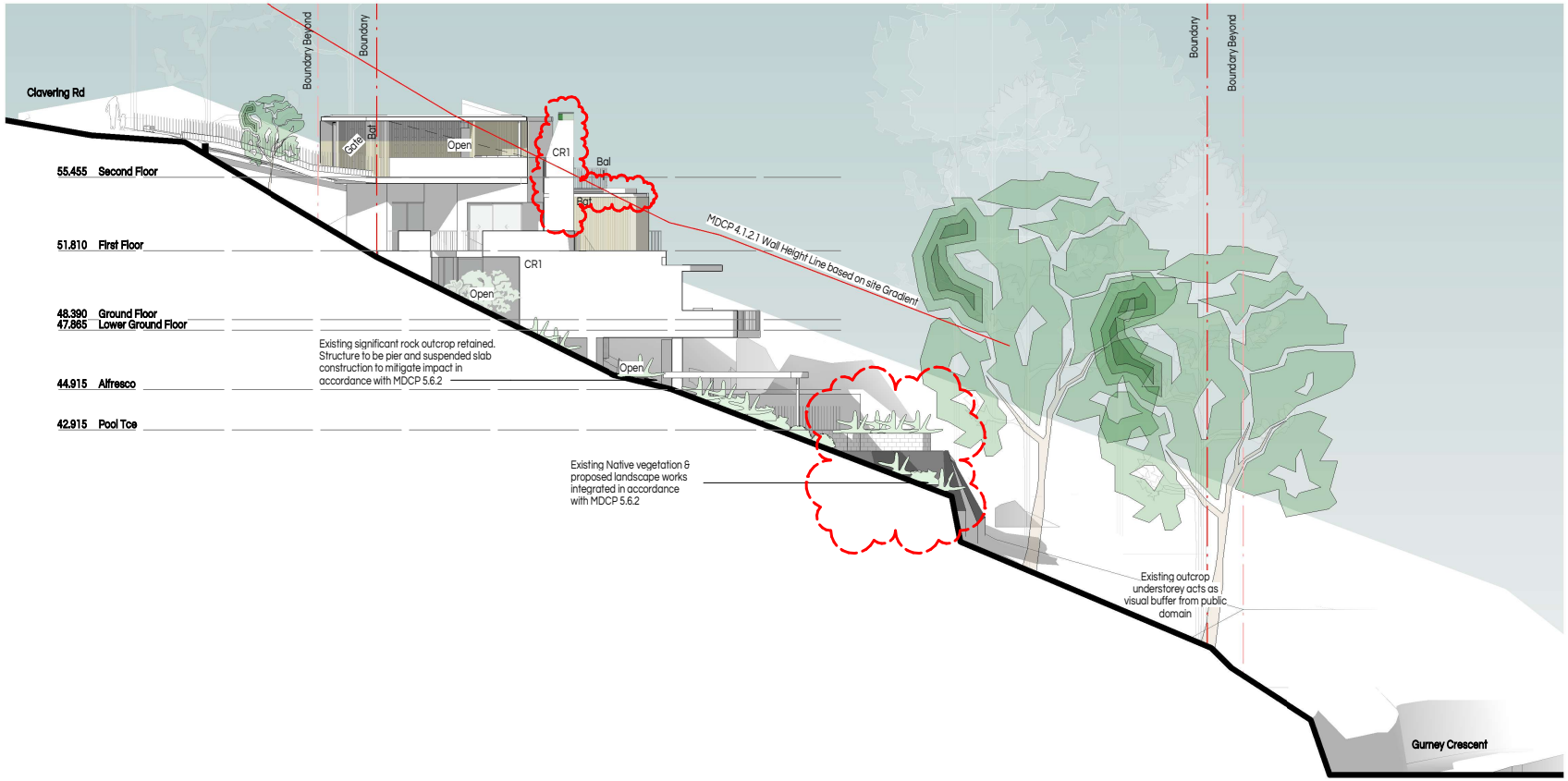
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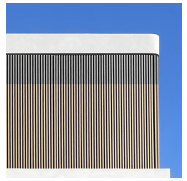
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Project: Nido		Scale @ A3: 1 : 200	Drawn by: BS / Checked by: BS
Location: 11 Clavering Rd, Seaforth NSW		Project Issue Date: July 2025	Sheet Issue Date: 09 Mar 2026
Client: MD Living Residential		Project number: 1289	Drawing #: D012 / Revision: 7
Drawing: Site Layout & Site Analysis - Proposed			

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Bat
High quality timber look aluminium battens, two tone



CR1
High quality textured render, 'Dark' colour



CR2
High quality textured render, green colour



Bal
High quality metal profile balustrade, bronze finish



Blnd
Operable External Venetian blinds, bronze finish



Garden
Integrated Landscaping. APZ compliant Australian native featuring Bushfire resisting species. Ref to Landscape Arch Docs

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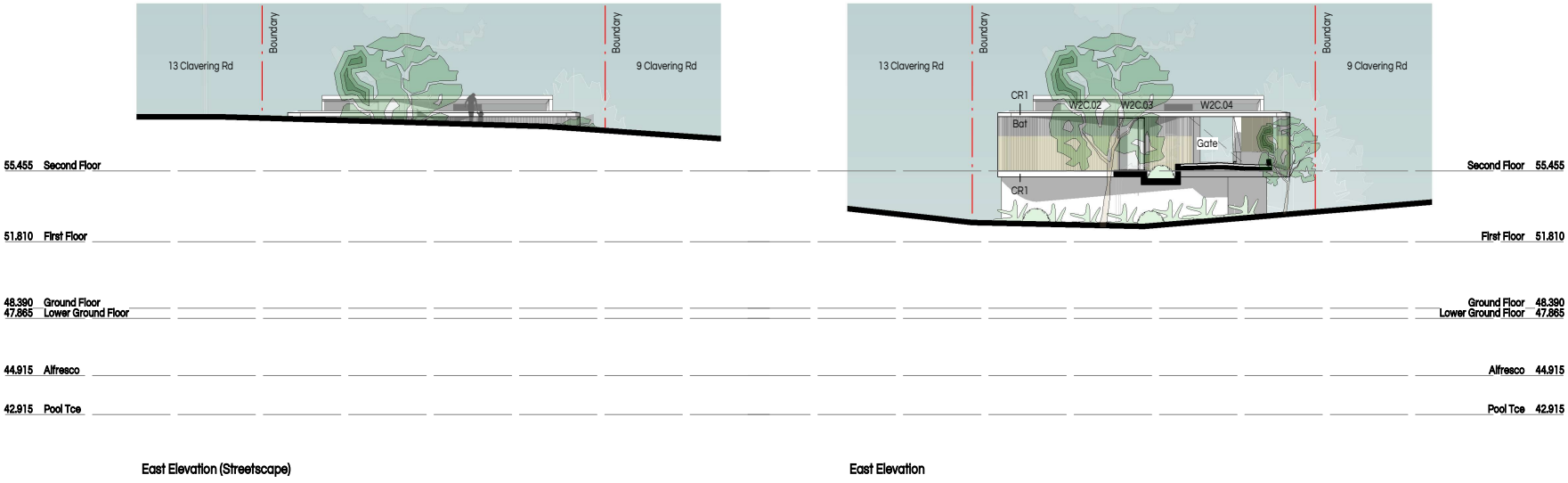
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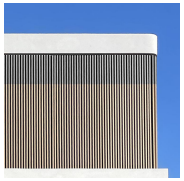
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Project: Nido
Location: 11 Clavering Rd, Seaforth NSW
Client: MD Living Residential
Drawing: North Elevation

Scale @ A3	Drawn by	Checked by
1 : 200	BS	BS
Project Issue Date: July 2025	Sheet Issue Date: 09 Mar 2026	
Project number: 1289	Drawing #: D401	Revision: 7

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Bat
High quality timber look aluminium battens, two tone



CR1
High quality textured render, 'Dark' colour



CR2
High quality textured render, green colour



Bal
High quality metal profile balustrade, bronze finish



Blnd
Operable External Venetian blinds, bronze finish



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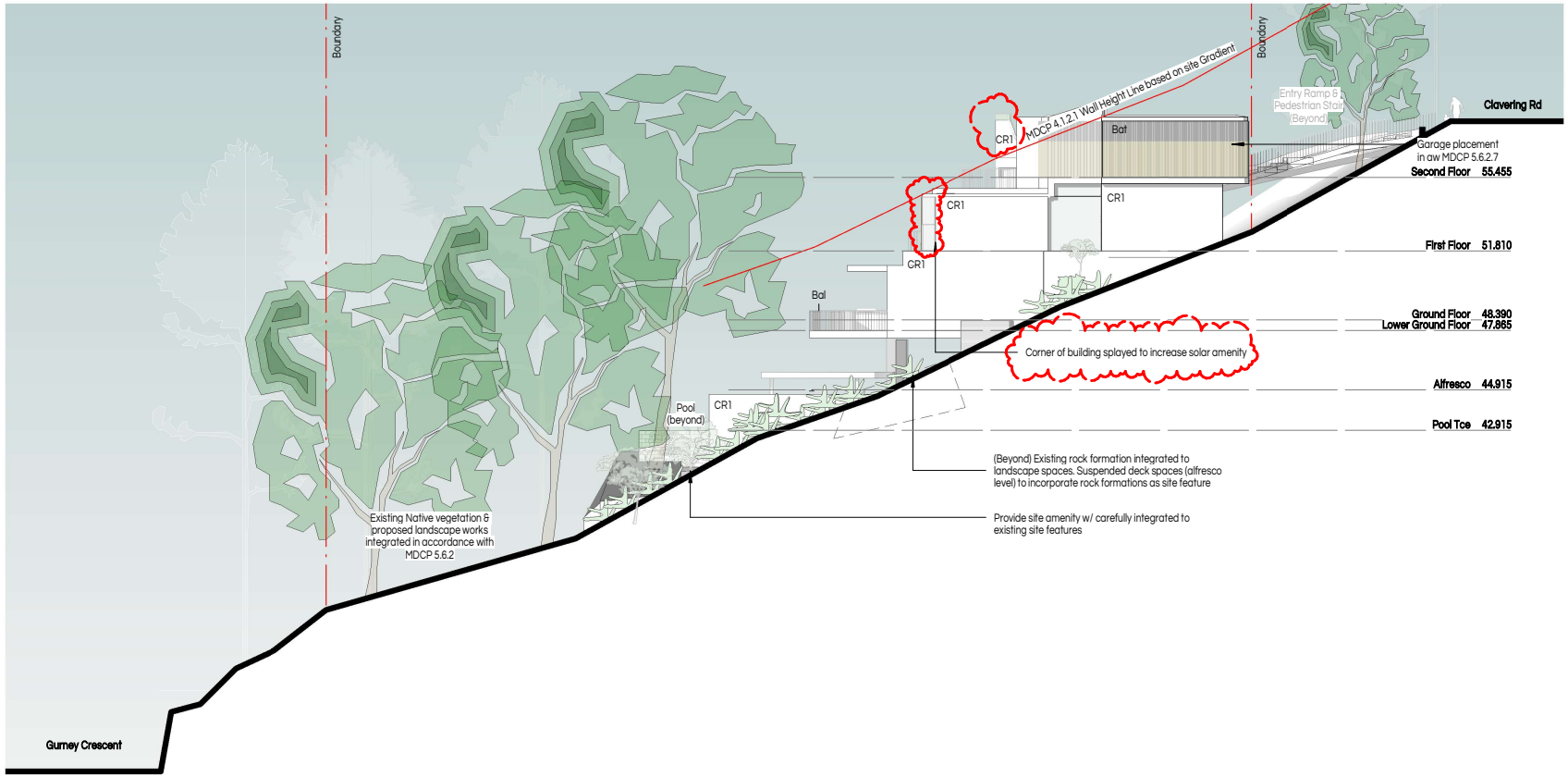
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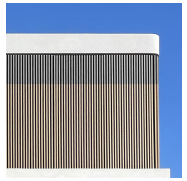
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Project: Nido
Location: 11 Clavering Rd, Seaforth NSW
Client: MD Living Residential
Drawing: East Elevation

Scale @ A3	Drawn by	Checked by
1 : 200	BS	BS
Project Issue Date: July 2025	Sheet Issue Date: 09 Mar 2026	
Project number: 1289	Drawing #: D402	Revision: 7

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Bat
High quality timber look aluminium battens, two tone



CR1
High quality textured render, 'Dark' colour



CR2
High quality textured render, green colour



Bal
High quality metal profile balustrade, bronze finish



Blnd
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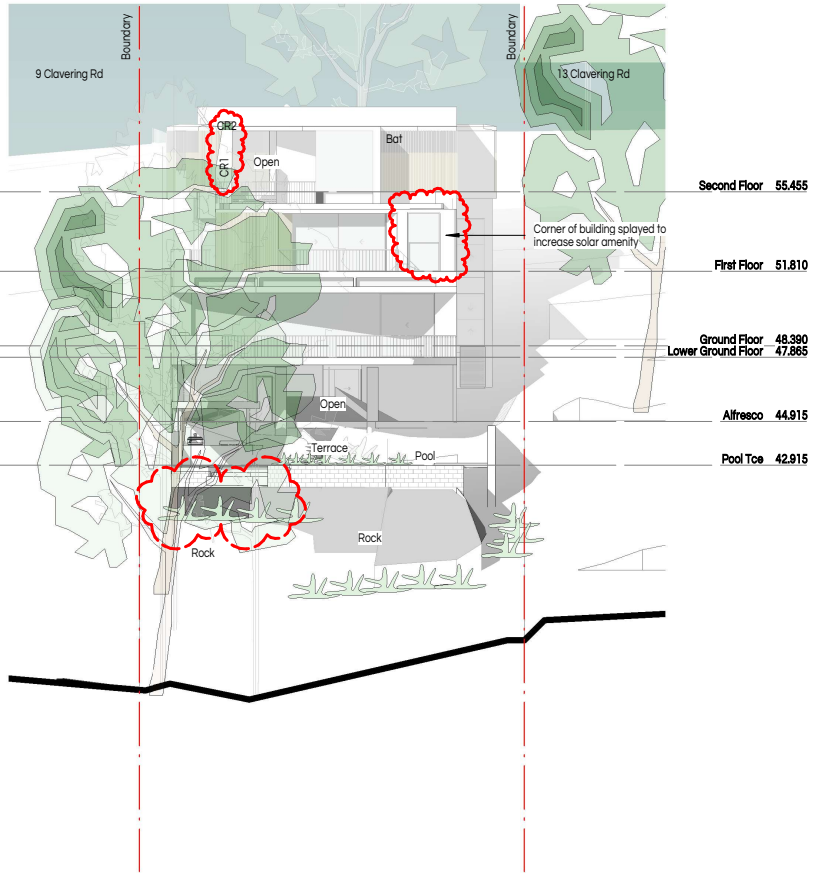
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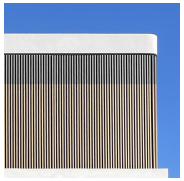
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Project: Nido
Location: 11 Clavering Rd, Seaforth NSW
Client: MD Living Residential
Drawing: South Elevation

Scale @ A3	Drawn by	Checked by
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Project Issue Date: July 2025	Sheet Issue Date: 09 Mar 2026	
Project number: 1289	Drawing #: D403	Revision: 6

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Bat
High quality timber look aluminium battens, two tone



CR1
High quality textured render, 'Dark' colour



CR2
High quality textured render, green colour



Bal
High quality metal profile balustrade, bronze finish



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DEVELOPMENT APPLICATION

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Project: Nido
Location: 11 Clavering Rd, Seaforth NSW
Client: MD Living Residential
Drawing: West Elevation

Scale @ A3: 1:200
Drawn by: BS
Checked by: BS
Project Issue Date: July 2025
Sheet Issue Date: 09 Mar 2026
Project number: 1289
Drawing #: D404
Revision: 7

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APPENDIX

CLAUSE 4.6 – MLEP 2013 – HEIGHT OF BUILDINGS

Prepared September 2025

WRITTEN REQUEST PURSUANT TO CLAUSE 4.6 OF MANLY LOCAL ENVIRONMENTAL PLAN 2013

11 CLAVERING ROAD, SEAFORTH

PROPOSED CONSTRUCTION OF A NEW DWELLING, GARAGE, DRIVEWAY, SWIMMING POOL AND ASSOCIATED LANDSCAPING

VARIATION OF A DEVELOPMENT STANDARD REGARDING COUNCIL'S HEIGHT OF BUILDINGS CONTROL AS DETAILED IN CLAUSE 4.3 OF THE MANLY LOCAL ENVIRONMENTAL PLAN 2013

For: Proposed construction of a new dwelling, garage, driveway, swimming pool and associated landscaping
At: 11 Clavering Road, Seaforth
Owner: The Property Owner
Applicant: MD Living Pty Ltd

1.0 Introduction

This revised written request is made pursuant to the provisions of Clause 4.6 of Manly Local Environmental Plan 2013. In this regard, it is requested Council support a variation with respect to compliance with the Height of Buildings control as described in Clause 4.3 of the Manly Local Environmental Plan 2013 (MLEP 2013).

This submission has been prepared to address the provisions within Section 35B of the *Environmental Planning and Assessment Regulation 2021*, and as discussed within this Written Request, will demonstrate the grounds on which the proposal considers the matters set out in Clause 4.6(3)(a) and (b) of the MLEP 2013.

This revised request accompanies architectural plans prepared by Buck & Simple, Project No 1289, Revision 4 dated 2 September 2025.

The relevant maximum height of the building in this locality is 8.5m and is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act.

The proposal new dwelling will have a maximum height of up to 10.36m above existing ground level, which exceeds the height control by 1.86m or variation to the control, of 21.88%, as noted in Figure 1.

Compliance with this control is constrained by the sloping topography of the site and results also from the requirement for functional and safe driveway access to be provided from the roadway to the garage within the site and for safe and equitable pedestrian access to the dwelling.

Additionally, the following other site features and aspects of the design are considered to warrant Council's support of the proposed variation to the height of buildings control:

- The site exhibits site levels which are far steeper than the surrounding sites in Clavering Road lots
- The built form is heavily modulated to reduce the bulk and scale
- The height breaches are related to the roof form only
- The finished floor level of the storey is fixed as it has been resolved provide for functional off street vehicle access. Lowering of the floor level and resulting ramp gradient would result in the driveway access gradient becoming non-compliant with Council's standards.
- The downslope vegetation with substantial height and canopy spread is to be retained, which will disguise/conceal a portion of the development from the perspective of Middle Harbour
- Views from the upslope neighbours are retained due to their elevation.
- Retention of vegetation between Clavering Rd and the property will conceal the already filtered views from the upslope properties

1.1 Manly Local Environmental Plan 2013 ("MLEP")

1.1.1 Clause 2.2 and the Land Use Table

Clause 2.2 and the Land Zoning Map provide that the subject site is zoned R2 – Low Density Residential (the R2 zone) and the Land Use Table in Part 2 of MLEP 2013 specifies the following objectives for the R2 zone:

- *To provide for the housing needs of the community within a R2 Low Density Residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development is for the purpose of a new dwelling house which is a permissible use in the R2 Low Density Residential zone.

1.1.2 Clause 4.3 – Height of buildings

Clause 4.3 of MLEP sets out the maximum height of a building as follows:

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

(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,
(b) to control the bulk and scale of buildings,
(c) to minimise disruption to the following—
(i) views to nearby residential development from public spaces (including the harbour and foreshores),
(ii) views from nearby residential development to public spaces (including the harbour and foreshores),

(iii) views between public spaces (including the harbour and foreshores),

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

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

(2) 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 Height of Buildings Map specifies a maximum building height of 8.5m.

1.1.3 The Dictionary to MLEP operates via clause 1.4 of MLEP. The Dictionary defines "building height" as:

building height *(or* ***height of building****) means—*

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

Is clause 4.3 of MLEP 2013 a development standard?

(a) The definition of "development standard" in clause 1.4 of the EP&A Act means standards fixed in respect of an aspect of a development and includes:

"(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,"

(b) Clause 4.3 relates to the maximum building height of a building. Accordingly, clause 4.3 is a development standard as defined in the Environmental Planning and Assessment Act, 1979.



Fig 1: Architectural Extract – Height of Buildings

2.0 Authority to vary a Development Standard

In September 2023, the NSW Government published amendments to Clause 4.6 of the Standard Instrument which change the operation of the clause across all local environmental plans, including the Pittwater LEP. The changes came into force on 1 November 2023.

The principal change is the omission of subclauses 4.6(3)-(5) and (7) in the Standard Instrument Principal Local Environmental Plan.

The following changes have been made as a result of this:

- Clause 4.6(3) was amended such that the requirement to 'consider' a written request has been changed with an express requirement that the consent authority 'be satisfied that the applicant has demonstrated' that compliance with the development standard is unreasonable or unnecessary.

- Clause 4.6(4)(a)(ii) was amended such that the requirement that the consent authority must be satisfied that the proposed development in the public interest has been removed.

- Clause 4.6(4)(b) & 5 amended such that the requirement for concurrence from the Planning Secretary has been removed.

The objectives of clause 4.6 of the LEP, as amended, seek to recognise that in the particular circumstances of this case strict application of development standards may be unreasonable or unnecessary. The clause provides objectives and a means by which a variation to the development standard can be achieved as outlined below:

Clause 4.6 Exception to development standard

(1) The objectives of this clause are as follows—
(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—
(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Note—
The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

(5) (Repealed)

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—
(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note—
When this Plan was made it did not include all of these zones.

(7) (Repealed)
(8) This clause does not allow development consent to be granted for development that would contravene any of the following—
(a) a development standard for complying development,
(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
(c) clause 5.4,
(caa) clause 5.5.
ca) clause 6.15,
(cb) a development standard on land to which clause 6.19 applies.
All

3.0 Purpose of Clause 4.6

The Manly Local Environmental Plan 2013 contains its own variations clause (Clause 4.6) to allow a departure from a development standard. Clause 4.6 of the LEP is similar in tenor to the former State Environmental Planning Policy No. 1, however the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) suggests a similar approach to SEPP 1 may be taken in part.

There is recent judicial guidance on how variations under Clause 4.6 of the LEP should be assessed. These cases are taken into consideration in this request for variation.

In particular, the principles identified by Preston CJ in *Initial Action Pty Ltd vs Woollahra Municipal Council [2018] NSWLEC 118* have been considered in this request for a variation to the development standard.

4.0 Objectives of Clause 4.6

Clause 4.6(1) of MLEP provides:

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The decision of Chief Justice Preston in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 ("Initial Action") provides guidance in respect of the operation of clause 4.6 subject to the clarification by the NSW Court of Appeal in ***RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130 at [1], [4] & [51]*** where the Court confirmed that properly construed, a consent authority has to be satisfied that an applicant's written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).

Initial Action involved an appeal pursuant to s56A of the Land & Environment Court Act 1979 against the decision of a Commissioner.

At [90] of *Initial Action* the Court held that:

"In any event, cl 4.6 does not give substantive effect to the objectives of the clause in cl 4.6(1)(a) or (b). There is no provision that requires compliance with the objectives of the clause. In particular, neither cl 4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard "achieve better outcomes for and from development". If objective (b) was the source of the Commissioner's test that non-compliant development should achieve a better environmental planning outcome for the site relative to a compliant development, the Commissioner was mistaken. Clause 4.6 does not impose that test."

The legal consequence of the decision in *Initial Action* is that clause 4.6(1) is not an operational

provision and that the remaining clauses of clause 4.6 constitute the operational provisions.

Clause 4.6(2) of the LEP provides:

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

Clause 4.3 (the Height of Buildings control) is not excluded from the operation of clause 4.6 by clause 4.6(8) or any other clause of the LEP.

Clause 4.6(3) of MLEP provides:

> *(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
>
> *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
>
> *(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

The proposed development does not comply with the maximum building height control development standard pursuant to clause 4.3 of MLEP which specifies a maximum building height of 8.5m in this area of Seaforth. The new dwelling will result in a maximum building height of 10.36m or exceed the height control by 1.86m or 21.88%.

Strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and there are considered to be sufficient environmental planning grounds to justify contravening the development standard. The relevant arguments are set out later in this written request.

Clause 4.6(4) is administrative and requires the consent authority to keep a record of its assessment of the clause 4.6 variation

Clause 4.6(6) relates to subdivision and is not relevant to the development.

Clause 4.6(8) is only relevant so as to note that it does not exclude clause 4.3 of MLEP from the operation of clause 4.6.

5.0 The Nature and Extent of the Variation

5.1 This request seeks a variation to the maximum building height standard contained in clause 4.3 of MLEP.

5.2 Clause 4.3 of MLEP specifies a maximum building height of 8.5m in this area of Seaforth.

5.3 The proposed new dwelling will provide for a maximum height of 10.36m, which exceeds Council's maximum building height by 1.86m or 21.88% and therefore does not comply with this control.

As previously discussed, a major contributor to the breach of the height control is sloping topography of the site on the importance for the proposed design to achieve functional driveway access from the road reserve together with safe and equitable pedestrian access to and within the dwelling from the street.

The proposal presents only a modest variation to the control, with the majority of the development readily meeting Council's height control.

As discussed in this submission, it is considered that the proposal is reasonable notwithstanding the breach the height control and this will be discussed further within this submission.

6.0 Relevant Caselaw

6.1 In *Initial Action* the Court summarised the legal requirements of clause 4.6 and confirmed the continuing relevance of previous case law at [13] to [29]. In particular the Court confirmed that the five common ways of establishing that compliance with a development standard might be unreasonable and unnecessary as identified in *Wehbe v Pittwater Council (2007) 156 LGERA 446; [2007] NSWLEC 827* continue to apply as follows:

17. The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].

18. A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].

19. A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].

20. A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].

21. A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.

22. These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

6.2 The relevant steps identified in *Initial Action* (and the case law referred to in *Initial Action*) can be summarised as follows:

1. Is clause 4.3 of MLEP a development standard?

2. Is the consent authority satisfied that this written request adequately addresses the matters required by clause 4.6(3) by demonstrating that:

   (a) compliance is unreasonable or unnecessary; and

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

3. Is the consent authority satisfied that the proposed development will be consistent with the objectives of clause 4.3 and the objectives for development for in the R2 zone?

7.0. Request for Variation

7.1 Is compliance with clause 4.3 unreasonable or unnecessary?

(a) This request relies upon the 1st way identified by Preston CJ in Wehbe.

(b) The first way in Wehbe is to establish that the objectives of the standard are achieved.

(c) Each objective of the maximum building height standard and reasoning why compliance is unreasonable or unnecessary is set out below:

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

The surrounding area is predominantly characterised by two – four storey development, which is heavily influenced by the sloping terrain within the locality.

Surrounding the land, within the currently developed sites are a number of other similar dwellings of between two and four storeys and in this regard, the proposal is compatible with the prevailing character of development in the vicinity.

This objective is achieved.

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

The proposed new works to the existing dwelling will not result in any unreasonable impacts on surrounding properties in terms of views, privacy or overshadowing.

Consistent with the decision of Roseth SC in *Project Ventures Developments v Pittwater Council [2005] NSWLEC 191*, it is my opinion that "*most observers would not find the proposed building offensive, jarring or unsympathetic*".

Further, the modulation of the front façade and building elevations where visible from the public domain minimises the visual impact of the development.

The proposal presents a compatible height and scale to the surrounding existing development and the articulation to the building facades and the fact the proposal follows the sloping topography of the site will suitably distribute the bulk of the new floor area.

The extent of the landscaping area surrounding the development will ensure that the bulk and scale of the proposal is appropriately ameliorated.

This objective is achieved.

(c) to minimise disruption to the following:

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

The proposal will provide for view corridors above and beside the dwelling to be maintained for the uphill properties towards the waterway.

Views from the surrounding public spaces are not adversely affected.

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

The shadow analysis prepared by Buck & Simple comprises plan views of the proposed shadow impacts.

The assessment considers that the adjoining property to the south, at No 13 Clavering Road will be similarly developed with a stepped elevated dwelling which will be designed to avail itself of the available solar throughout the day.

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

The works will respect the height, scale and form of the existing vegetation, topography and surrounding residential development and the existing development on the site.

The proposal will see the removal of existing vegetation for the construction of the dwelling and also to achieve the Bushfire Asset Protection Zone requirements with the existing significant vegetation within the site being preserved and protected during construction and further supplementary planting being provided in accordance with the Landscape Plans prepared by Lone Pine Landscape

Despite the variation to the building height control which occurs as a result of the existing slope of the land, the proposal is generally consistent with the height and scale of newer development in the locality.

7.2 Are there sufficient environmental planning grounds to justify contravening the development standard?

In Initial Action the Court found at [23]-[24] that:

> *23. As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not*

defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.

24. The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].

There are four environmental planning grounds which are sufficient to justify contravening the development standard, including:

1. The absence or avoidance of impacts resulting from the proposal to the surrounding properties and streetscape.
2. The proposal is compatible with the existing bulk and scale of the built form in the context of the site.
3. The modest increase in the departure from the development standard and absence of consequential impacts.
4. The proposal is also considered to be consistent with the applicable objects of the Environmental Planning and Assessment Act 1979 contained at Section 1.3

Each individual environmental planning ground is considered to be sufficient in itself and is discussed in further detail below:

1. The absence or avoidance of impacts resulting from the proposal to the surrounding properties and streetscape.[1]

The proposed variation to the height of buildings control, will not give rise to any adverse amenity impacts to neighbouring properties.

In particular, the proposed new roof area at the garage level which exceeds the height control is setback from the public frontage of the site to Clavering Road and will not be prominently visible within the streetscape, restricting any detrimental visual impact to the public areas surrounding the site.

[1] *Petrovic v Randwick City Council* [2021] NSW LEC 1242

The proposed development, even with the variation to the height of buildings control you will not appear out of character or introduce a new element that is not already present in the surrounding streetscape.

It is considered that there is an absence of any significant material impacts on the amenity or the environmental values of the locality as a result of the height variation. Specifically, the extent of variation with the height of buildings standard is entirely appropriate, particular given the topographical constraints presented by the steeply sloping nature of the site and:

- The breach to the height of buildings control will not result in adverse overshadowing to the future development immediately to the south at No 13 Clavering Road which it is anticipated will be designed to achieve the solar access controls within the MDCP.

  The breach of the height of buildings control does not give rise to any adverse visual or acoustic privacy impacts on neighbouring properties.

- As indicated in the various design montages included in the architectural submission, the substantial corridors along each side boundary and the articulated nature of the built form will allow for views to be retained over the dwelling from properties further uphill to the east and along the side boundary setbacks for public viewing from Clavering Road.

2. **The proposal is compatible with the existing bulk and scale of the built form in the context of the site.**[2]

The proposed building height manages the challenges of the sloping topography and the need to provide for functional and safe driveway access to the street together with equitable pedestrian access to the dwelling from the adjacent roadway area.

When viewed from the public areas in Clavering Road, the development presents as less than one storey, as shown in Figure 2 below (East Elevation), due to the entry level being located well below the road level. This allows opportunity for pedestrians to look over the roofscape.



Figure 2: East elevation presentation of the new dwelling, indicating modest height when viewed from Clavering Road

[2] *30 Fairlight Pty Limited v Northern Beaches Council* [2022] NSWLEC 1615

When viewed from the west and the Middle Harbour waterway, the building steps with the land slope and through the skilful use of articulated wall lines and compatible materials and finishes to complement the bushland nature of the surrounding site, the external appearance of the dwelling will not be perceived as "excessively bulky" or excessive in comparison to the scale of other nearby dwellings in the immediate vicinity foreshore area.

Notwithstanding the departure from the height of buildings control, the highly articulated and modulated nature of the design successfully distributes the floor space as perceived above ground level when viewed from the neighbouring properties and from the street and results in a building form which is contextually appropriate in the locality.

3. **The modest departure from the development standard and absence of consequential impacts.**[3]

   Consistent with the findings in Eather v Randwick City Council [2021] NSW LEC 1075 and Petrovic v Randwick City Council [2021] NSW LEC 1242, the modest breach of the height standard which results directly from the challenges presented by the sloping nature of the site and the necessity to provide for a functional and accessible dwelling from the public area and the absence of impacts consequential of the departure constitute environmental planning grounds, as it promotes the good design and amenity of the development in accordance with the objects of the EP&A Act.

4. **The proposal is also considered to be consistent with the applicable objects of the Environmental Planning and Assessment Act 1979 contained at Section 1.3 as follows:**

   - The proposal is considered to facilitate ecologically sustainable development as detailed by the proposal's compliance with BASIX to achieve objective (b).
   - Consistent with objective (c) the proposal is considered to provide for the orderly and economic use and development of land via the construction of a functional and appropriate dwelling to provide for modern habitable requirements in a highly sought after location.
   - The proposed development will maintain the general bulk and scale of the existing surrounding development and maintains architectural consistency with the prevailing development pattern which promotes the orderly & economic use of the land (c).
   - Similarly, the proposed development will provide for improved amenity within a built form which is compatible with the s surrounding streetscape pattern of Clavering Road and the nearby development in Gurney Crescent which also promotes the orderly and economic use of the land (c).
   - The proposal provides for a high quality architecturally designed building which in conjunction with the proposed materials and finishes and landscaping will make a positive contribution to the streetscape character of the locality. The proposal will otherwise not result in any unreasonable overshadowing, loss of privacy or loss of views to the adjoining or nearby properties and will result in

[3] *Eather v Randwick City Council* [2021] NSW LEC 1075

a built form which is compatible with the existing and desired character of the surrounding area. The proposal is therefore considered to satisfy this objective (g)

- The proposal has been designed and will be constructed so as to comply with all applicable standards relating to the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants and compliance with the National Construction Code. The proposal has also been designed so as to incorporate a range of high quality, robust and maintenance free building materials which respond to the site's exposed coastal location (objective (h)
- The proposed development provides for appropriate amenity for the occupants of the subject site and respects surrounding properties by locating the development where it will not unreasonably obstruct views across the site and will maintain the views from the site (g).

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development, particularly the provision of a building that manages the challenges presented by the sloping topography and provides for an appropriate dwelling that maintains views over and past the building from the public and private domain. These are not simply benefits of the development as a whole, but are benefits emanating from the breach of the height of buildings control.

It is noted that in *Initial Action,* the Court clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

7.3 Is the proposed development consistent with the objectives of clause 4.3 and the objectives of the R2 Low Density Residential Zone?

(a) Section 4.2 of this written request suggests the 1st test in Wehbe is made good by the development.

(b) Each of the objectives of the R2 Low Density Residential Zone and the reasons why the proposed development is consistent with each objective is set out below.

I have had regard for the principles established by Preston CJ in *Nessdee Pty Limited v Orange City Council [2017] NSWLEC 158* where it was found at paragraph 18 that the first objective of the zone established the range of principal values to be considered in the zone.

Preston CJ found also that "*The second objective is declaratory: the limited range of development that is permitted without or with consent in the Land Use Table is taken to be development that does not have an adverse effect on the values, including the aesthetic values, of the area. That is to say, the limited range of development specified is not inherently incompatible with the objectives of the zone".*

In response to *Nessdee,* I have provided the following review of the zone objectives: It is considered that notwithstanding the modest breach of the maximum building height by 1.86m for only a portion of the roof elements over the second floor, the proposed new dwelling will be consistent with the individual Objectives of the R2 Low Density Residential Zone for the following reasons:

- ***To provide for the housing needs of the community within a R2 Low Density Residential environment.***

  The proposal provides for the housing needs of the community by constructing a new dwelling house on the site, with improved residential amenity for the dwelling's occupants.

  The proposed dwelling presents a compatible form to newer development in the locality, which is commonly of a 2 to 3 storey scale.

  The proposal will be consistent with and complement the existing detached style single dwelling housing within the locality and as such, will not be a visually dominant element in the area. The development does not have any unreasonable amenity impacts on its adjoining neighbours.

  Accordingly, it is considered that the site may be further developed with a variation to the prescribed maximum building height control whilst maintaining consistency with the objectives of the R2 Low Density Residential Zone.

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

  This does not apply to the subject residential development.

7.4 Has the Council considered the matters in clause 4.6(5) of MLEP?

(a) The proposed non-compliance does not raise any matter of significance for State or regional environmental planning as it is peculiar to the design of the proposed new dwelling house for the particular site and this design is not readily transferrable to any other site in the immediate locality, wider region of the State and the scale or nature of the proposed

development does not trigger requirements for a higher level of assessment.

(b) As the proposed development complies with the objectives of the development standard and the objectives of the zone there is no significant public benefit in maintaining the development standard.

8.0 Conclusion

This development proposes a departure from the maximum height of a building control, with the proposed new dwelling to provide a maximum overall height of 10.36m above existing ground level.

As discussed, the height breach can be directly attributed to the sloping topography of the site, which presents a constraint to designing for a new dwelling which fully maintains the maximum building height control.

Additionally, the design of the second floor level and its relationship to the street achieves appropriate off street vehicle parking and safe and equitable pedestrian access from the roadway.

This written request to vary to the maximum building height specified in Clause 4.3 of the Manly LEP 2013 adequately demonstrates that that the objectives of the standard will be met.

The bulk and scale of the proposed development is appropriate for the site and locality.

In summary, the proposal satisfies all of the requirements of clause 4.6 of MLEP 2013 and the requested variation from the height of buildings development standard is reasonable and appropriate in the circumstances of the case.



VAUGHAN MILLIGAN
Town Planner

ITEM 4.2 DA2025/1222 - 13 CLAVERING ROAD SEAFORTH - CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is development involving the demolition of a heritage item and is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 pursuant to clause 4.6 of MLEP 2013 as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

B. The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2025/1222 for construction of a dwelling house including swimming pool at Lot 3 DP 1090937, 13 Clavering Road SEAFORTH subject to the conditions set out in the Assessment Report.

Reporting manager	**Daniel Milliken**
TRIM file ref	2026/328475
Attachments	⇩1 Assessment Report ⇩2 Appendix 1 ⇩3 Site Plans & Elevations ⇩4 Clause 4.6

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/1222

Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot 3 DP 1090937, 13 Clavering Road SEAFORTH NSW 2092
Proposed Development:	Construction of a dwelling house including swimming pool
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Md Living Pty Ltd

Application Lodged:	04/09/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	16/09/2025 to 30/09/2025
Advertised:	Not Advertised
Submissions Received:	10
Clause 4.6 Variation:	4.3 Height of buildings: 18.8%
Recommendation:	Approval

Estimated Cost of Works:	$ 2,692,848.00

EXECUTIVE SUMMARY

This development application seeks consent for Construction of a dwelling house including swimming pool.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the number of submissions received (10) and the proposal involving the partial demolition of a dry stone wall along the street frontage to Clavering Rd which is listed as a heritage item (Item no. I269). The demolition involves the removal of the top course of stones from the wall to permit a driveway onto the site.

The development site forms part of a group of seven vacant lots recently sold by the NSW Government to facilitate housing supply. It has a dual frontage to Clavering Road and Gurney Crescent and slopes steeply downward from the eastern boundary at Clavering Road to the western boundary at Gurney Crescent.

The site currently has no vehicular access. Due to the steep topography, the most suitable access point is from Clavering Road. The proposed driveway will require removal of the top course of the existing dry stone wall to achieve appropriate driveway levels.

The application has been reviewed by Council's Heritage Officer and is supported subject to conditions.

Concerns raised in the objections predominantly relate to view loss, non-compliance with building height, front and side setbacks, impact on the amenity of the surrounding area, impact on a known heritage item and non-compliance with clause 5.6.2 Gurney Crescent and Clavering Road.

Critical assessment issues included building height, front and side setbacks and view loss.

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

PROPOSED DEVELOPMENT IN DETAIL

The application seeks approval for the construction of a dwelling house on a vacant block.. The works include the following:

Second floor (street level):
- Double bay garage and vehicle manoeuvring area,
- the main point of entry and lobby area, a small study,
- plant and services rooms, a bin storage closet, and
- A small west-facing terrace.

First floor:
- Four bedrooms (one a master bedroom with ensuite), a laundry, and family bathroom.
- A small balcony is proposed on the western side of the master bedroom.

Ground floor:
- Kitchen and dining room, a sunken living room, a playroom, power room, and plant / services spaces.
- A courtyard on the northern side of the kitchen and dining space. A breezeblock wall is proposed on the northern side of the courtyard for privacy.
- A lift and spiral stair facilitate access between levels.

Roof form:
- The proposed roof forms are generally flat, and most will be landscaped i.e. green roofs. A "winged" roof form is proposed over the lobby area at the second floor.

Land Modification:
- Land modification is minimised by stepping floorplates and proposing suspended structures on piers where possible.
- The maximum depth of cut proposed is ~2.5m.

Application History
Following a preliminary assessment of the application and site inspection of the subject site and adjoining properties Council wrote to the applicant on 8 December 2025 outlining concerns that would not allow for Council to support the application in its current form. The concerns related to the heritage

listed dry stone wall, revised survey, Geotechnical report non-compliance with building and wall height, setback to boundaries, parking design, TOS and landscaping. Concerns were also raised by landscaping, Heritage and Development Engineering. The applicant lodged amended plans on 25 March 2026 to address the concerns raised.

The proposed amendments have a reduced environmental impact on the adjoining properties and public open space than the original proposal. Therefore, re-notification was not required in accordance with Northern Beaches Community Participation Plan. However, those who submitted submissions to Council were notified of the amended plans and documentation and provided with an opportunity to review the plans and provide additional comments.

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 Local Environmental Plan 2011 - 5.10 Heritage conservation
Manly Local Environmental Plan 2013 - Zone R2 Low Density Residential
Manly Local Environmental Plan 2013 - 4.3 Height of buildings
Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
Manly Local Environmental Plan 2013 - 6.2 Earthworks
Manly Development Control Plan - 3.4.3 Maintenance of Views
Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features
Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)
Manly Development Control Plan - 5.6.2 Gurney Crescent and Clavering Road, Seaforth

SITE DESCRIPTION

Property Description:	Lot 3 DP 1090937 , 13 Clavering Road SEAFORTH NSW 2092
Detailed Site Description:	The subject site with two street frontages and consists of one allotment located on the western side of Clavering Road, and eastern side of Gurney Crescent, SEAFORTH. The site is regular in shape with a frontage of 17.75m along Clavering Road and a depth of 48.84m. The site has a surveyed area of 836.9m². The site is located within the R2 Low Density Residential zone and is a vacant lot. The site does not have vehicular access. The site has steep terrain and fall of approximately 18.5m from the Clavering Road boundary to the Gurney Crescent boundary. The site contains disturbed native bushland. There are several high value trees, including one in the Clavering Road verge. There is a rock outcrop at the mid-point of the site. There are no known threatened species on the site. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by vacant allotments to the north and south. To the east and west of the site is residential dwellings of varying architectural styles. There are various public bushland reserves nearby. Middle Harbour foreshore is approximately75m west of the site.

Map:



SITE HISTORY

The site is one of seven allotments located along Clavering Road which were recently sold by the NSW State Government to provide additional land for housing needs. The land is undeveloped and has no vehicular access.

The land was originally acquired by the State Government for the proposed Warringah Transport Corridor (WTC), an expressway linking the Sydney Harbour Bridge to Seaforth, as identified in the 1946 Main Roads Development Plan and later incorporated into the 1956 Cumberland Planning Scheme. In 1974, the Sydney Area Transportation Study recommended an eight-lane freeway along this route; however, the proposal was abandoned in 1977 due to overestimated traffic forecasts and funding limitations. Land acquired for the corridor was subsequently rezoned based on planning and local considerations, though some councils advocated for its retention for future transport use, prompting a Commission of Inquiry in the early 1980s, which reported in 1983.

In 1997, the State Government approved the sale of surplus land, and in 1998 a collaborative process with Manly Council and the local community commenced to explore redevelopment opportunities. A planning study was undertaken to guide future land use, balancing residential development, community needs, and government asset value, with its findings publicly exhibited in late 1998 and presented to the community in February 1999.

The land along the Clavering Road was zoned residential and later R2 Low Density Residential. A Development Analysis of E & F Precincts in Abandoned Warringah Transport Corridor (Surplus RTA Lands) Study prepared by ERM, was released in the October 2000. The ERM study presented findings on how the land should be development to protect the environmental and visual character of the area. One of the findings being strict application of controls may result in poor building siting, including removal of significant trees or building on steep or sensitive areas a more site specific assessment was recommended.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to Development Engineering referral, landscape referral, bushland and biodiversity referral, heritage referral and non-compliance with the built form controls of the MLEP and MDCP. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the significant likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land and the proposed development is for a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes / a special fire protection purpose under Section 100B of the Rural Fires Act 1997. As such, the proposal is integrated development and requires a bush fire safety authority from the NSW Rural Fire Service.

The application was referred to the NSW RFS as integrated development. The NSW RFS issued a bush fire safety authority, subject to conditions. The recommendations of the Bush Fire Report , along with the conditions from the NSW RFS as part of the bush fire safety authority, have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 16/09/2025 to 30/09/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	**Address:**
Mr Geoffrey Cheriton Bowyer	3 Gurney Crescent SEAFORTH NSW 2092
Jonathan Kimberley Lane	31 Gurney Crescent SEAFORTH NSW 2092
Mr Benedict Martin McKeown	2 Clavering Road SEAFORTH NSW 2092
Mr Jasper Westmaas	4 Clavering Road SEAFORTH NSW 2092
Graham Lello	22 David Place SEAFORTH NSW 2092
Mr Colin Douglas Cronin	39 Gurney Crescent SEAFORTH NSW 2092
Mr John Steven Ball	95 Gurney Crescent SEAFORTH NSW 2092
Mrs Janet Ann Hassell	43 Gurney Crescent SEAFORTH NSW 2092
Peter Alexander Coventry	41 Gurney Crescent SEAFORTH NSW 2092
Mrs Anne Margaret Mckeown	2 Clavering Road SEAFORTH NSW 2092

A development application (DA2025/1332) for No. 11 Clavering Road, adjoining the site to the south, is currently under assessment. Several of the submissions received for this application were also raised with DA2025/1332 and concerns raised in this application are consistent with those identified in DA2025/1332. Accordingly, some of the responses below align with those provided in the assessment report for DA2025/1332.

The following issues were raised in the submissions:

- View loss from private and public space and loss of outlook
- Building height and wall height
- Front setback
- Amenity Impacts (Overshadowing and Solar Access)
- Heritage wall
- Development of the seven vacant lots and precedent
- Inadequate Documentation and Analysis
- Other compliance Concerns
- Stormwater management and slope stability
- Construction impacts
- Impact on flora and fauna
- Streetscape
- Clause 5.6.2 Gurney Crescent and Clavering Road

The above issues are addressed as follows:

- **View loss from private and public space and loss of outlook**
  Five submissions were received raising view loss from private and public spaces as a concern with the proposal.
  Comment:
  View loss has been addressed in detail under part 3.4.3 Maintenance of Views of this report. In summary, it was found that the development achieves a satisfactory outcome after having been assessed in detail against the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140. The extent of qualitative impact upon view sharing is considered to be "negligible" to "minor" and the design provides appropriate view sharing opportunities.

  View loss from public spaces has been addressed against the Land and Environment Court Case of Rose Bay Marina Pty Limited Vs Woollahra Municipal Council and anor (213) NSWLEC 1046. When reviewed against the planning principles the view is considered reasonable within its context.

- **Building and wall height**
  The submissions raised concerns with the building and wall height non-compliance calling it excessive due to the location of the non-compliance.
  Comment:
  The building and wall height non-compliance are addressed in Sections 4.3 (Height of Buildings) and 4.6 (Exceptions to Development Standards) of this report.

  In summary, the site constraints including the steep topography, natural features and the buildable

area as defined by clause 5.2.6 of the MDCP dictates the dwelling's siting and the finished floor level of the second (street) level, which accommodates the garage, driveway access, entry, and lobby. The non-compliance is limited to a small portion of the roof over the second-floor lobby that provides circulation to the lower levels, and the roof over the study, services, and terrace.

This minor exceedance does not result in unreasonable amenity impacts on surrounding properties and is considered acceptable given the site constraints. When viewed from the street, the site presents as a single storey dwelling. Relocating the dwelling further into the site would adversely affect the existing rock outcrop and significant trees, making the proposed siting appropriate.

- **Front setback**

The submissions raised concerns that proposal did not comply with the front setback requirement of the MDCP with a nil setback to front boundary. A submission also stated nos. 3 and 5 Clavering Road as examples of dwellings that complied with the front setback requirements in the vicinity of the site.

Comment:

The non-compliance with the front boundary setback is addressed in Section 4.1.4 (Setbacks – front, side and rear, and building separation) of this report. In summary, the siting of the dwelling is constrained by several factors, including the steeply sloping topography, existing natural features (notably rock outcrops and established vegetation),buildable area and the presence of the heritage-listed dry stone wall. The site is currently vacant and densely vegetated; accordingly, any development will appear more visually prominent in its current context. However, the site benefits from a substantial nature strip of approximately 9.5m, which will remain largely landscaped and provide a buffer to the street. From Clavering Road, the development presents as a single-storey form and is not considered to be visually dominant.

The site is zoned R2 Low Density Residential, and the proposed siting is consistent with the prevailing pattern of development in the locality, where garages and car parking are generally located within the front setback along Gurney Crescent and Clavering Road. The buildable area for the site under part 5.6.2 Gurney Crescent and Clavering Road is shown to run along the eastern front boundary, the north and south side boundaries up to the rock out crop that runs through the middle of the site.

There are two developed properties on the same side of Clavering Road (Nos. 3 and 5). No. 3 has no vehicular access, relying on pedestrian access only, while no. 5 includes a single garage located within the Council road reserve. Although these dwellings are set further back from Clavering Road, they predate the current planning framework, potentially do not have the same natural environment constraints that the site has and were not subject to the same controls at the time of construction.

Given the constrained nature of Clavering Road with limited on street parking, the site's distance from public transport, and the steep gradient required to access such services, the provision of on-site parking is reasonable and expected. Additionally, properties to the south of nos. 3 and 5 benefit from significantly wider nature strips, which provide a greater buffer between development and the street compared to other properties on Clavering Road.

- **Amenity Impacts (Overshadowing and Solar Access)**

The submissions raised concerns that proposal would unreasonably overshadow the adjoining properties. The submission objections to the reliance on undeveloped neighbouring land as justify for accepting adverse overshadowing impacts.

Comment:

The site is surrounded by vacant lots that are similarly steep and oriented east–west, making them

more susceptible to overshadowing than north-facing sites. The MDCP requires development to not result in unreasonable overshadowing of principal private open space and living room windows of adjoining propoerties.

As the adjoining sites are currently vacant, a detailed solar access assessment of future windows is not possible. However, the submitted shadow diagrams, together with the design of recently lodged developments along the street, indicate that the proposal is unlikely to result in unreasonable overshadowing of potential future private open space at No. 15 Clavering Road.

The proposed development is considered to satisfy the overshadowing requirements of the MDCP.

- **Heritage wall**
  The submissions raised concerns that development will impact on the heritage "dry stone wall".
  Comment:
  The vacant lots along Clavering Road do not have vehicular access. Access from Gurney Crescent is not feasible due to the significant level difference between the western boundary of the site and the road. Accordingly, the only practical access point is from Clavering Road. The site is zoned R2 Low Density Residential, where a dwelling with on-site parking is considered appropriate and expected.

  A heritage-listed dry stone wall is located along the site's eastern boundary, adjacent to Clavering Road. This wall was previously incorrectly mapped on Council's heritage maps as being on the eastern side of the road. The applicant was advised of this discrepancy and required to submit amended plans to minimise impacts to the wall, along with a Heritage Impact Statement, Construction Management Plan, revised Geotechnical Report, and a survey confirming the wall's location.

  Revised plans and a construction methodology were subsequently provided, demonstrating that driveway access can be achieved while limiting impacts to the heritage item. This includes restricting removal to the upper courses of the wall and implementing measures document and protect the remaining structure. Council's Heritage Officer has reviewed the submitted documentation and raises no objection to the proposal, subject to conditions.

- **Development of the seven vacant lots and precedent**
  The submissions raised concerns that development of the seven vacant lots along Clavering Road would unreasonably impact on the amenity of the adjoining properties and surrounding area. A submission requested Council look at the overall impact of the simultaneous development and require compliance with the relevant planning legislation.
  Comment:
  The surrounding dwellings have benefited from the subject sites remaining vacant for an extended period. However, these lots are zoned R2 Low Density Residential and are intended to accommodate single dwelling houses. Each development application is assessed on its individual merits based on the MLEP and MDCP.

  Site constraints, including steep topography, buildable area, significant vegetation, rock outcrops, and access limitations, will influence the design of future dwellings. As a result, some departures from built form controls under the MLEP and MDCP may occur; any such variations are assessed against the relevant objectives of the applicable controls.

  Potential impacts on the surrounding area, including traffic, parking, and the natural environment, were considered at the time the land was zoned for residential purposes and not expected to

unreasonably impact on the amenity of the surrounding properties.

- **Inadequate Documentation and Analysis**
  The submissions raised concerns that the view assessment, shadow analysis, and setbacks are considered insufficiently addressed or justified in the SEE. Some figures and illustrations in the SEE are described as misleading or incomplete.
  Comment:
  The Statement of Environmental Effects (SEE) addresses the relevant planning controls, policies, and environmental considerations, and outlines the likely environmental and social impacts of the proposal. While a SEE cannot fully assess impacts on neighbouring properties without access to those sites, Council undertakes an independent assessment to address this limitation. The submitted SEE is considered to meet the lodgement requirements.

  Council has conducted its own assessment of the proposal, including a review of the plans, SEE, and supporting reports, as well as site inspections and a view loss analysis. This has provided sufficient information to assess potential impacts on adjoining properties.

- **Other compliance Concerns**
  The submissions raised concerns that there is a possible non-compliance with garage width, side setback, excavation limits, buildable area, and floor space ratio (FSR). A submission requested clarification if car parking is included in the FSR calculations.
  Comment:
  Amended plans have been submitted reducing the garage width to comply with MDCP requirements.

  The side boundary setback variation is addressed in Section 4.1.4 (Setbacks – front, side and rear, and building separation). In summary, the proposed setbacks are considered adequate and will not result in unreasonable impacts on the amenity of adjoining properties.

  The proposed excavation exceeds the MDCP depth limit of 1m and is addressed in Section 4.4.5 (Earthworks – Excavation and Filling). Due to the site's steep slope and natural constraints, excavation beyond this limit is required. The extent of excavation is considered reasonable and is unlikely to adversely affect ground stability or surface and subsurface water flows. This is supported by the submitted Geotechnical Report.

  The proposed FSR complies with the MLEP, with car parking areas appropriately excluded from the FSR calculation.

- **Stormwater management and slope stability**
  The submissions raised concerns with the stormwater management of the site and slope stability as a result of the excavation. The objector requested a independent geotechnical engineer review the proposal.
  Comment:
  The Geotechnical Report submitted with the application, outlines the potential hazards associated with the proposed works. The report also provides recommendations on how these hazards can be minimised and the work undertaken. The proposed development is not unique for the area and recommendations within the Geotechnical Report are standard. The proposed works are not considered to be hazardous as long as the works are undertaken in accordance with the recommendations of Geotechncial Report. The report and recommendations will be included as a condition of consent. The amended Geotechnical Report meets Councils requirements and a pair review is not considered necessary.

The stormwater drainage plans have been designed by a qualified Engineer and reviewed by Councils Development Engineer. The proposed measures are considered sufficient to mitigate stormwater run off from the site subject to conditions.

- **Construction impacts**

The submissions raised concerns that excavation of the site would impact on the adjoining properties through noise, dust etc. The submission also requested an explanation of how the sediment and erosion measures will be managed during the construction of the dwelling. Concern was also raised with the impact the proposal will have on Clavering Road including damage to the road, increased traffic and parking of construction vehicles.

Comment:
The proposal is for residential construction and is not expected to generate noise or pollution beyond typical residential building activity. Standard conditions of consent will apply, including construction management and waste management requirements, as well as compliance with the Building Code of Australia and relevant Australian Standards. Provided these requirements are adhered to, impacts such as dust and noise are expected to be standard for this type of development. While some dust generation is unavoidable, any unreasonable impacts on adjoining properties can be reported to Council or the Principal Certifier for investigation.

Erosion and sediment control measures will be implemented as a standard condition of consent. An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified professional in accordance with:

- *Managing Urban Stormwater: Soils and Construction (Blue Book), Volume 1, 4th Edition (2004)*
- *Guidelines for Erosion and Sediment Control on Building Sites* (Department of Planning, Housing and Infrastructure)

Given the site's slope, a site-specific ESCP is required. All measures must be regularly maintained and remain in place until the site is stabilised.

Due to limited access along the road, traffic management measures will be required during construction to ensure safe vehicle movement and continuous access to adjoining properties. All works must be carried out in accordance with an approved Construction Traffic Management Plan (CTMP), with controls implemented by appropriately accredited personnel. Public roads and footpaths must be maintained in a safe condition at all times.

On-site provision must be made for construction worker parking. No more than two vehicles are permitted on-site at any one time within the approved work zone, with additional vehicles accommodated off-site. All vehicles must comply with the *Road Rules 2014 (NSW)*. Any illegal parking may be subject to enforcement action by Council Rangers.

A dilapidation report must be prepared and submitted to Council, relevant authorities, and adjoining property owners. This report is to document the existing condition of nearby public and private infrastructure, ensuring that any damage resulting from the works can be identified and appropriately addressed.

- **Impact on flora and fauna**
  The submissions raised concern the proposal was located very close to bushland and had a wide verity of fauna that will impacted by the loss of habitat.
  Comment:
  The applicant has submitted a Arborist report, Flora and Fauna Assessment Report, Landscape plan. The development has mostly been located within the buildable area as stipulated by the clause 5.6.2 of the MDCP to protect the natural environment features if the site. The application has been reviewed by Councils Landscape Officer and Bushland and Biodiversity Officer. Both Officers have not raised concern with the amended plans subject to conditions.

- **Streetscape**
  The submissions raised concern that the proposal had excessive bulk and scale and was inconsistent with the streetscape
  Comment:
  The proposed development comprises a single dwelling and is consistent with contemporary development in the surrounding area, including Gurney Crescent and Clavering Road. While the proposal includes some variations from the built form controls of the MLEP and MDCP, these have been appropriately addressed in this report and are considered acceptable in light of the site constraints and the limited impact on adjoining properties.

- **Clause 5.6.2 Gurney Crescent and Clavering Road**
  The submissions raised concern that the proposed development was inconsistent with requirements of clause 5.6.2 Gurney Crescent and Clavering Road.
  Comment:
  Clause 5.6.2 Gurney Crescent and Clavering Road have been addressed under part 5.6.2 of this report. In summary, the proposed development has been reviewed against the requirements of the clause and the findings of To implement the findings of the study entitled Development Analysis of E & F Precincts in Abandoned Warringah Transport Corridor (Surplus RTA Lands) Study prepared by ERM, 2000 on behalf of the RTA. It has been determined that the proposal is consistent with the objectives of the clause ERM study and can be supported, subject to conditions.

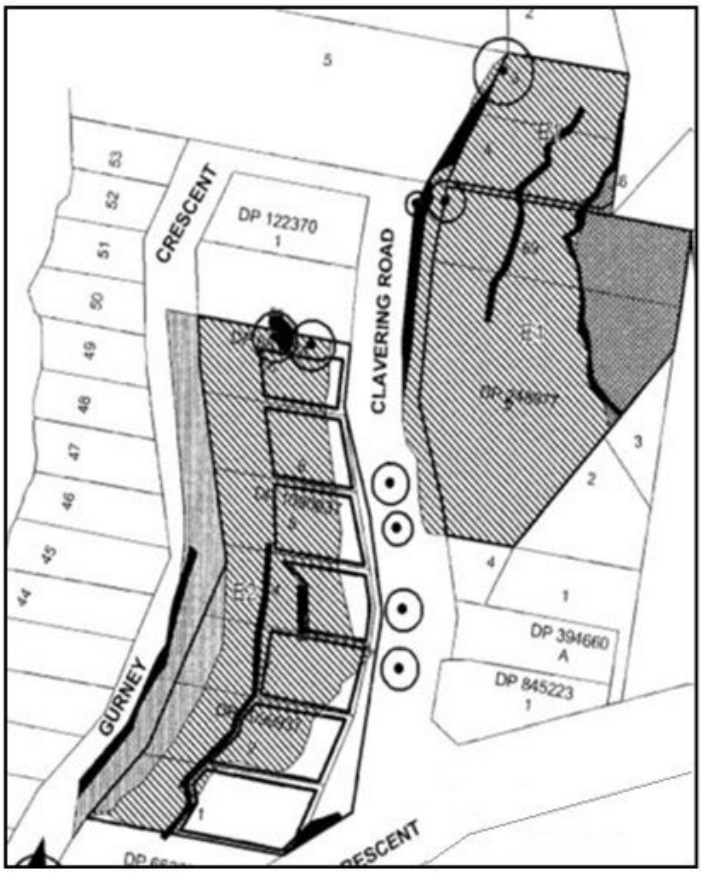


Figure 55 - Gurney Crescent 1 & 2

Image: *Buildable area as defined by clause 5.6.2.*

REFERRALS

Internal Referral Body	Comments
Landscape Officer	***Supported, subject to conditions.*** Council's Landscape Referral section have considered the application against the Manly Local Environment Plan (MLEP), and the following Manly DCP 2013 controls (but not limited to): • 3.3.1 Landscaping Design • 3.3.2 Preservation of Trees or Bushland Vegetation • 4.1.5 Open Space and Landscaping • 5.6 Rignold Street, Gurney Crescent and Clavering Road, Seaforth ***Additional Information Comment 02/04/2026:*** The amended reports and plans are noted. Tree removals can be expected on an undeveloped property. Furthermore, the Inner Protection Area (IPA) bushfire requirements limit tree canopy to 15% for this property. The Arboricultural Impact Assessment (AIA) identified 5 exempt trees for removal which may be managed or removed at the discretion of the applicant without consent. The AIA also identified 13 prescribed trees which require removal to facilitate the proposed works. The Arborist has determined the trees to be retained will meet the IPA tree canopy requirement. A Project Arborist shall be engaged to supervise all works in the tree protection zone of trees to be retained, and any tree pruning requirements. The landscape proposal is generally supported and all proposed planting shall be installed in accordance with the requirements outlined in the conditions of consent. Screen planting will be required at the low side of the pool shell to soften this structure. All on slab landscape planters shall meet Council's minimum soil depth requirements. The original comments have been addressed in the amended plans. ***Original Comment:*** The following concerns are raised: • From a landscape perspective the retention of tree 10 is problematic as ongoing maintenance will be required to comply with the bushfire management requirements and the considerable works proposed around tree 10 will alter its surrounding environment. The longevity of tree 10 is deemed low if it were to be retained. It is suggested this tree be removed and the space utilised for buildable area to lessen the impact on the lower areas of the site to the west, outside the buildable area. With tree 10 removed tree 20 should be considered for retention (high retention value) which will add more amenity value in the longer term. • It is noted that the main area of rock outcropping will be retained; however, it will be covered up by built form. The objectives of MDCP 5.6 and MLEP 6.9 speak to the maintenance of the visual and aesthetic qualities of the site. It is considered that a more appropriate approach would retain a greater area of the rock outcropping exposed. Consider the removal of the deck area to the south of the proposed pool and retain this area as exposed rock outcropping. This will visually link to the rock outcropping in the neighbouring property to the south which becomes more prominent, and will help to satisfy these controls. • The lower levelled grass area structure is outside the buildable area and detracts from the natural aesthetic of the site. It is suggested a lower intensification of this area or a lighter touch approach should be considered to achieve the desired backyard space while maintaining the aesthetic qualities of the natural landscape.

	This approach will also lessen the impact to tree 20.

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Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	***Supported, subject to conditions*** Council's Biodiversity Referrals team have assessed the Development Application for compliance against the following applicable controls and provisions: - Manly LEP 2013 - 6.5 Terrestrial biodiversity **Updated Comments:** The amended plans adequately address concerns regarding the rock outcrop and native replacement planting. Any new landscaping must take place outside of areas of retained bushland. **Original Comments 11/11/2025** The Arboricultural Impact Assessment Report (Stride Landscape Design, Aug 2025) assessed 31 trees, of which 25 are proposed for removal (on site: T2, T3, T7, T8, T9, T12, T13, T14, T18, T20, T23; on council land or adjoining property: T3A, T4A, T6A, T7A, T8A, T9A, T10A, T11A), and six are proposed for retention (T1, T4, T10, T11, T21, T22). Seven of the trees proposed for removal (T4A, T6A, T7A, T8A, T9A, T10A, T11A) are on neighboring property at 11 Clavering Rd, which council cannot approve for removal, so they must be retained. Of the remaining 18 trees proposed for removal on site, five are exempt (T5, T15, T16, T17, T19) and the remaining 13 are protected trees requiring council approval. This is approved, provided that the Landscape Plan is updated to include a minimum of 60% locally native trees. Locally native species must be representative of the plant community type (PCT) on site, or seeded from native species on site. According to the Flora and Fauna Report (Narla Environmental, Aug 2025), the vegetation community on site best conforms to PCT 3592: Sydney Coastal Enriched Sandstone Forest. All planting must be consistent with the APZ conditions set out by RFS (Sep 2025), and it should be noted that smooth barked, locally native species will be more fire resistant than exotic species that are not adapted to the local Australian fire regime. Landscape referral's recommendation to retain T20 instead of T10 is also noted and supported. Further, the Landscape referral's comments regarding the rock outcrop. While the main area will be retained, it is currently proposed to be covered by built form. Retaining a greater area of exposed rock will better meet the objectives of MLEP 6.5, which speak to the conservation of the biodiversity structure, function and composition of the land. Finally, the planting schedule only includes approximately 12% locally native species, by proportion of number of plants. Considering the scale of the impacts of this development on the biodiversity values of this site, it is recommended that this be updated to a minimum of 60% locally native species, to be in accordance with MLEP 6.5. Locally native species must again be representative of Sydney Coastal Enriched Sandstone Forest or seeded from native species on site.

	There are no objections in relation to biodiversity, subject to conditions.

Internal Referral Body	Comments
NECC (Development Engineering)	***Supported, subject to conditions.*** The proposed development is in Region 3. The proposed method of stormwater disposal utilising an on-site detention basin and level spreader is supported. A geotechnical report has been provided. The proposed vehicle crossing width and grade of 30% are not supported. The vehicle crossing design is to be amended to provide an maximum width of 4 metres on entry (bitumen) and 6.0 metres on the property boundary. The maximum grade of the vehicle crossing and internal driveway shall be limited to 25%. **Engineering Comments 31.03.2026** Revised master plans have been submitted. Development engineering raises no further objections to the proposed development, subject to conditions.

Internal Referral Body	Comments
Strategic and Place Planning (Heritage Officer)	***Supported, subject to conditions***

HERITAGE COMMENTS

Discussion of reason for referral

The proposal has been referred to Heritage as the subject site adjoins a heritage item

Item I269 - Dry Stone Wall

Details of heritage items affected

Statement of Significance
Dry stone wall

Other relevant heritage listings

SEPP (Biodiversity and Conservation) 2021	No	
Australian Heritage Register	No	
NSW State Heritage Register	No	
National Trust of Aust (NSW) Register	No	
RAIA Register of 20th Century Buildings of Significance	No	
Other	N/A	

Consideration of Application

Revised Comments - 4 June 2026
Following discussions with the applicants around access to the site and the difficulties revised plans and a construction methodology have been submitted. These have demonstrated how driveway access to the site can be achieved through the limiting the removal of only the top courses of the heritage listed sandstone wall as well as other measures to ensure the protection of the remaining heritage courses. Following the review of these plans and documents Heritage can support the proposal subject to conditions.

Heritage will also require two addition condition for During Works

Unexpected Finds – Non Indigenous Archaeology
As required by the Heritage Act 1977, in the event that historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and Heritage NSW must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including any the statutory requirements under the Heritage Act 1977.

Note: The Heritage Act 1977 impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

Reason: Statutory requirements for the protection of archaeology

Implementation Of Construction Methodology
Demolition and construction works are to be done in accordance with the Construction Methodology report. This report is also to be revised and updated to align with the advice of the appointed Heritage Architect and approved Temporary Protection Plan.

Reason: Ensure works are in accordance with approved methodology and heritage advice

Internal Referral Body	Comments
	The proposal seeks consent for a new dwelling with a driveway and crossover. The dry stone wall is on the western side of Clavering Road, holding up the current sealed road. The proposal impacts upon this wall and has not made any consideration of this wall or its significance. The proposal will have an unacceptable impact upon the wall. **Revised Comments - 09 April 2026** Following a review of the amended drawings and additional reports, including Midco Construction's "Driveway Construction Methodology" and the HIS prepared by GBA Heritage, the impact of the proposal upon the heritage listed dry stone wall remains unchanged. To minimised this impact, the width of the driveway crossover must be reduced from 4m to 3m. Alternatively, the possibility of a shared driveway crossover with the neighbouring property at 11 Clavering Road should be investigated to prevent repeated impacts on the heritage item. Therefore Heritage require amendments to the proposal. Consider against the provisions of CL5.10 of MLEP. Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes

Internal Referral Body	Comments
Traffic Engineer	***Supported, subject to conditions*** **Updated Referral response - Updated plans.** The plans provided to address the initial concerns raised related to the driveway have been provided and no additional concerns have been raised and as such the conditions previously provided are still valid and need to be added to any future consent. **Initial Referral Response** The Transport Network Team has reviewed the proposal and note the 30% grade in the long section of the access driveway. This is normally unacceptable without a demonstration that there is no other available design solution to meet the 25% grade requirement, under the AS2890.1, staff understand the design intent to minimise the impact of the proposed dwelling on the vista from the street and as such the deviation from the standard is accepted. It is also noted that the turning path analysis shows the vehicle entering the driveway from the opposite kerb alignment. It appears that the requirement to enter and exit the subject site in a forward direction can be achieved. Construction issues will be addressed by conditions to minimise impact to the adjoining properties.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Rural Fire Service - Local Branch - EP&A Act, s4.14	The proposal was referred to NSW RFS who provided a response stating that the proposal is acceptable subject to recommended conditions. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	The application was referred to Aboriginal Heritage Office, who raised no objections to the proposal subject to conditions.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs),

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

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

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

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1807019S dated 4 August 2025).

Where relevant, the embodied emissions have been quantified in the above BASIX Certificate.

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

SEPP (Transport and Infrastructure) 2021

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

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

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

SEPP (Resilience and Hazards) 2021

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

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	10.1m	18.8%	No
Floor Space Ratio	FSR: 0.45:1	FSR: 0.39:1 (333.6m^2)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
5.10 Heritage conservation	Yes

Detailed Assessment

5.10 Heritage conservation

Local heritage item, I269 – dry stone wall, Clavering Road

The heritage item (Item No. I269) is a dry stone wall located along the eastern boundary of the site, fronting Clavering Road. The site currently has no vehicular access. Given the steep topography, access from Clavering Road is the most suitable option. The proposed driveway will require removal of the top course of the dry stone wall to achieve appropriate levels to access the site.

The sandstone wall, constructed circa 1922 on the western side of Clavering Road, is of local heritage significance for its historical, aesthetic, technical, rarity and representative values. It demonstrates the early development of roads and infrastructure in Seaforth in the early twentieth century.

The wall was identified as a potential heritage item in 2003 and subsequently listed under Schedule 5 of the Manly Local Environmental Plan (MLEP). However, Heritage Map Sheet HER_001 incorrectly identifies the wall as being on the eastern side of Clavering Road within the road reserve.

Council officers have confirmed, through site inspection and review of earlier heritage studies (including a 2018 study prepared by former Manly Council), that the mapped location in the MLEP is incorrect. The heritage item is clearly located on the western side of Clavering Road. A planning proposal has therefore been prepared to correct this mapping inconsistency.

The applicants were advised of this discrepancy prior to the amendment to the MLEP being finalised. Following discussions regarding site access constraints, the applicants submitted revised plans and a construction methodology. These demonstrate that driveway access can be achieved while limiting impacts to the heritage item by removing only the upper courses of the wall and implementing measures to protect the remaining structure.

Based on this information, Council's Heritage Officer raises no objection to the proposal, subject to appropriate conditions.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	10.1m	18.8%	No
Floor Space Ratio	FSR: 0.45:1	FSR: 0.39:1 (333.6m^2)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

Zone R2 Low Density Residential

The underlying objectives of the R2 Low Density Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*
  Comment:
  The site is currently vacant and the proposed dwelling will provide housing within a low density residential environment.

  It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
  Comment:
  Not applicable. The proposal is for the construction of a single dwelling on a vacant lot

  It is considered that the development satisfies this objective.

4.3 Height of buildings

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	10.1m
Percentage variation to requirement:	18.8%

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

a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,
Comment:
The variation in building height arises from site access constraints, being a sloping site, natural environment features and the location of the buildable area. The site currently lacks vehicular access and features a significant level difference between Clavering Road and the site boundary. In addition, a heritage-listed wall is located within the road reserve in front of the site.

The second-storey finished floor level (FFL) (RL 55.58) is governed by the Clavering Road pavement level (approximately RL 58.28) and the ramp gradient requirements of AS2890.1. As a result, this level is effectively fixed, with the lower storeys determined accordingly.

Given the steep topography, it is common in the locality to position parking structures near the street boundary above habitable levels. This approach is widely observed in waterfront dwellings on the downslope side of Gurney Crescent.

The proposed building height and roof form respond appropriately to the site's topography, the scale of surrounding development, and the character of the streetscape. The roof form is consistent with nearby dwellings, and the building design incorporates articulation through recessed and varied wall planes, fenestration, balconies, and eaves to reduce the visual bulk.

b) to control the bulk and scale of buildings,
Comment:
The proposed dwelling house is acceptable with respect to the proposed variation to the Height of buildings development standard and all built form controls under the MDCP, including setbacks and wall heights. Additionally, the proposed development includes acceptable total open space and landscaped area. The development also complies with the FSR of the MLEP. This demonstrates the dwelling is of a bulk and scale anticipated for the subject site by the controls, and that the footprint of the dwelling is not excessive.

c) to minimise disruption to the following—
(i) views to nearby residential development from public spaces (including the harbour and foreshores),

(ii) views from nearby residential development to public spaces (including the harbour and foreshores),
(iii) views between public spaces (including the harbour and foreshores),
Comment:
The proposed development is designed and sited so as not to result in any unreasonable view loss to or from public or private land.

d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,
Comment:
The proposed development is acceptable with respect to the requirements of Clauses 3.4.1 Sunlight Access and Overshadowing and 3.4.2 Privacy and Security of the MDCP..

e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses,
Comment:
The development is not within a recreation or environmental protection zone.

4.6 Exceptions to development standards

The application seeks consent to vary a development standard as follows:

Development standard: Clause 4.3 Height of buildings
Requirement: 8.5m
Proposed: 10.1m
Percentage of variation: 18.8%

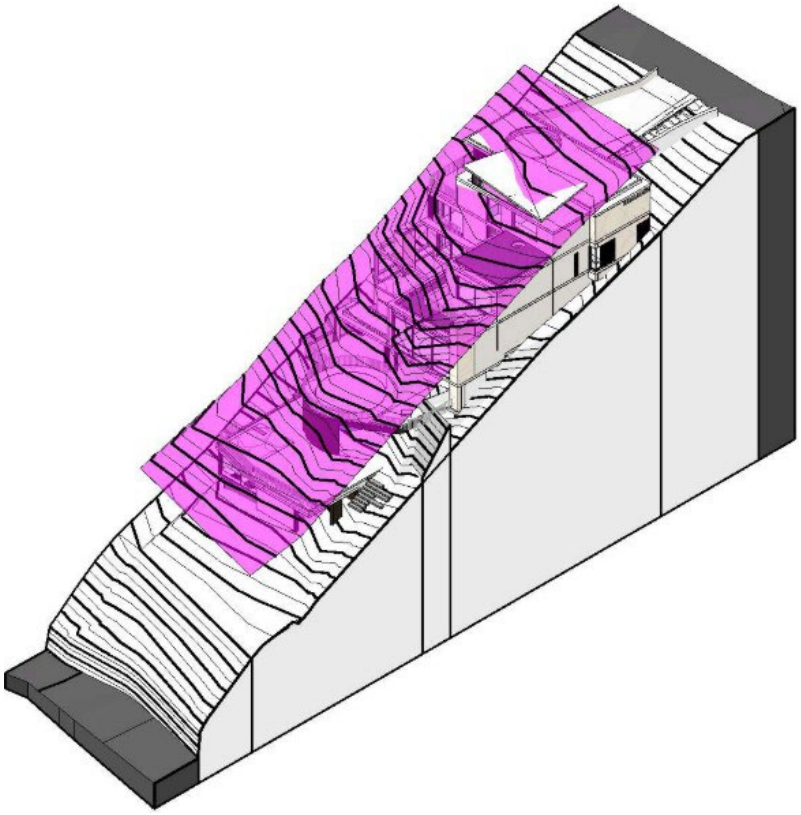


Image 1: *Height compliance blanket showing areas of the development that are above the 8.5m height requirement.*

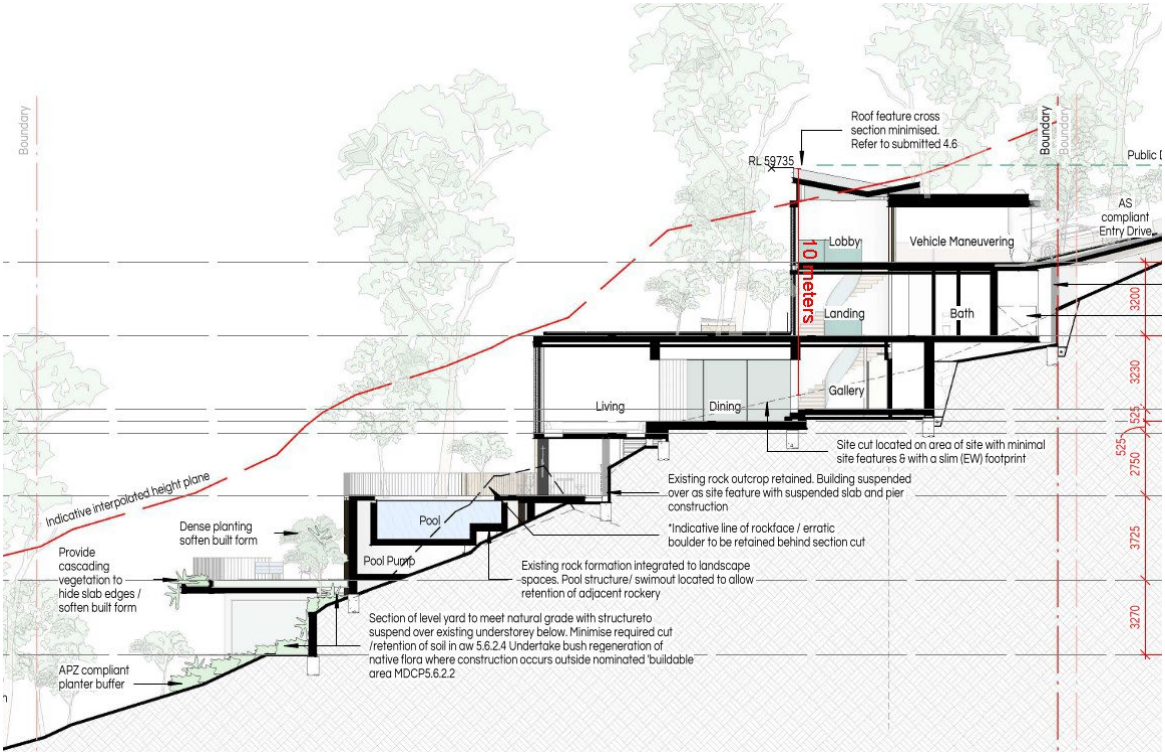


Image 2: *Long section showing the max. building height.*

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the MLEP 2013 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

(1) The objectives of this clause are as follows:
(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
Comment:
The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
Comment:
Clause 4.3 Height of buildings is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

Comment:
Council is satisfied that the Applicant has demonstrated that compliance with Clause 4.3 Height of buildings is unreasonable or unnecessary in the circumstances of this application for the following reasons:

- Design follows the site's natural slope, with floor levels and roof forms stepping down to create a terraced appearance.
- The dwelling will appear as a single storey from Clavering Road due to the elevated level compared to the building's upper floor.
- The building will not dominate or overpower the streetscape.
- Surrounding homes typically present as 1–2 storeys from the street but extend to 3+ storeys down the slope, making the proposal consistent with local character.
- Overall scale and form align with nearby developments, especially those on Gurney Crescent.
- Although a small portion of the roof exceeds the 8.5m height limit, most of the structure complies.
- The downslope siting reinforces the low visual impact from the street.
- Architectural design includes articulation (steps, recesses, breeze blocks) to reduce perceived bulk and scale.
- Use of neutral render and stone cladding helps visually soften the building.
- Retention of existing trees, plus additional planting and green roofs, will help screen and soften the building's appearance.
- Retained downslope vegetation, will help screen and conceal parts of the development from Middle Harbour views.
- Supplementary planting and green roofs will further soften the building's visual impact from the harbour.
- Material choices and building articulation reduce the perceived bulk and scale.
- Overall, the building's appearance from Middle Harbour is considered acceptable with adequate mitigation measures in place.
- Adjusting the roof to remove the height breach would not significantly change visual impact, as the building is viewed from a distance.
- Properties at 2 & 4 Clavering Road are elevated, and views toward Middle Harbour are expected to remain largely unaffected.
- Existing dense vegetation currently blocks views from Clavering Road, but the proposal may create new public sightlines to the harbour.
- Drawings show that views over the building toward Middle Harbour will still be possible despite the height breach.
- No shadow impact on public spaces.
- Some overshadowing will affect the undeveloped site at 15 Clavering Road, but:
    - Future development can still achieve adequate solar access (3+ hours to private open space, 2+ hours to living areas).

- Likely dwelling orientation would maintain good sunlight and water views.
- Despite the minor height breach, the proposal:
  - Maintains acceptable visual impact.
  - Preserves views and sightlines.
  - Ensures no impact on public spaces and reasonable sunlight access to neighbouring properties.

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

Comment:
In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the Applicant's written request has adequately demonstrated that that there are sufficient environmental planning grounds to justify contravening the development standard:

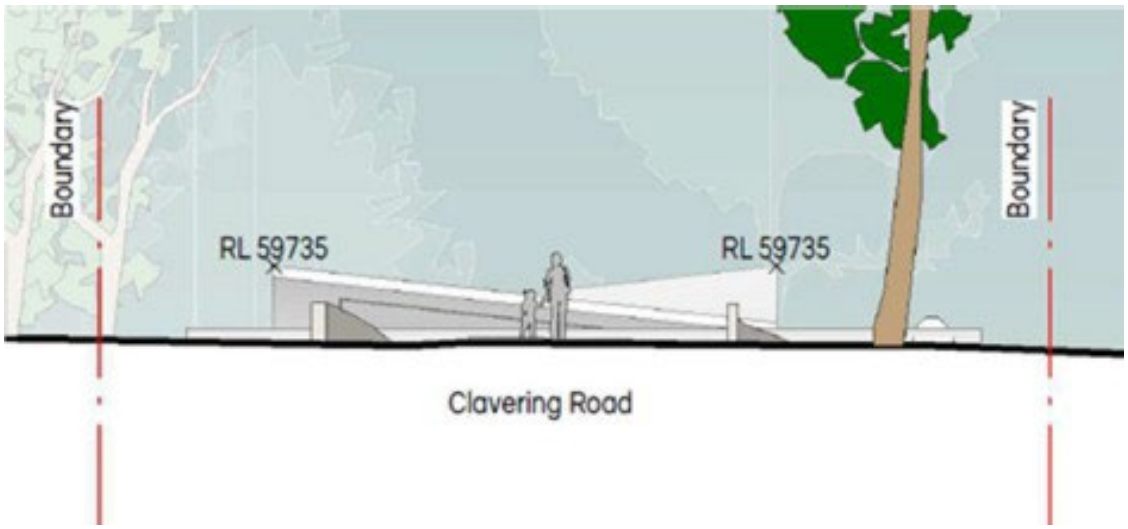
'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is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

The Clause 4.6 Request argues, in part:

'*The site falls ~9.8m over the length of the proposed floorplate (~43% grade). The breach is a function of sloping site terrain. This is evidenced by the fact that the breach is not uniform but rather occurs at the rear of the upper most level and relates primarily to the "winged" roof form. No habitable floor area breaches the height plane.*

The second storey necessarily accommodates the garage and a vehicle manoeuvring area. The FFL of the second storey is determined by the Clavering Road pavement level and ramp gradient requirements set out in AS2890.1. We understand that the FFL of the second storey is fixed because it cannot be lowered without increasing ramp gradient to the point it becomes noncompliant. Because the second storey FFL is fixed there is no tolerance to adjust the floor level to bring the roof form entirely below the 8.5m height line.
The unique site terrain and relationship to road pavement level contributes to the height breach.

The site is downslope of Clavering Road. The FFL of the proposed upper level (RL 55.58) is below the road pavement level (~RL 58.25) of Clavering Road.
Accordingly, the dwelling has a single storey streetscape presentation. A streetscape elevation is supplied at Figure 4.



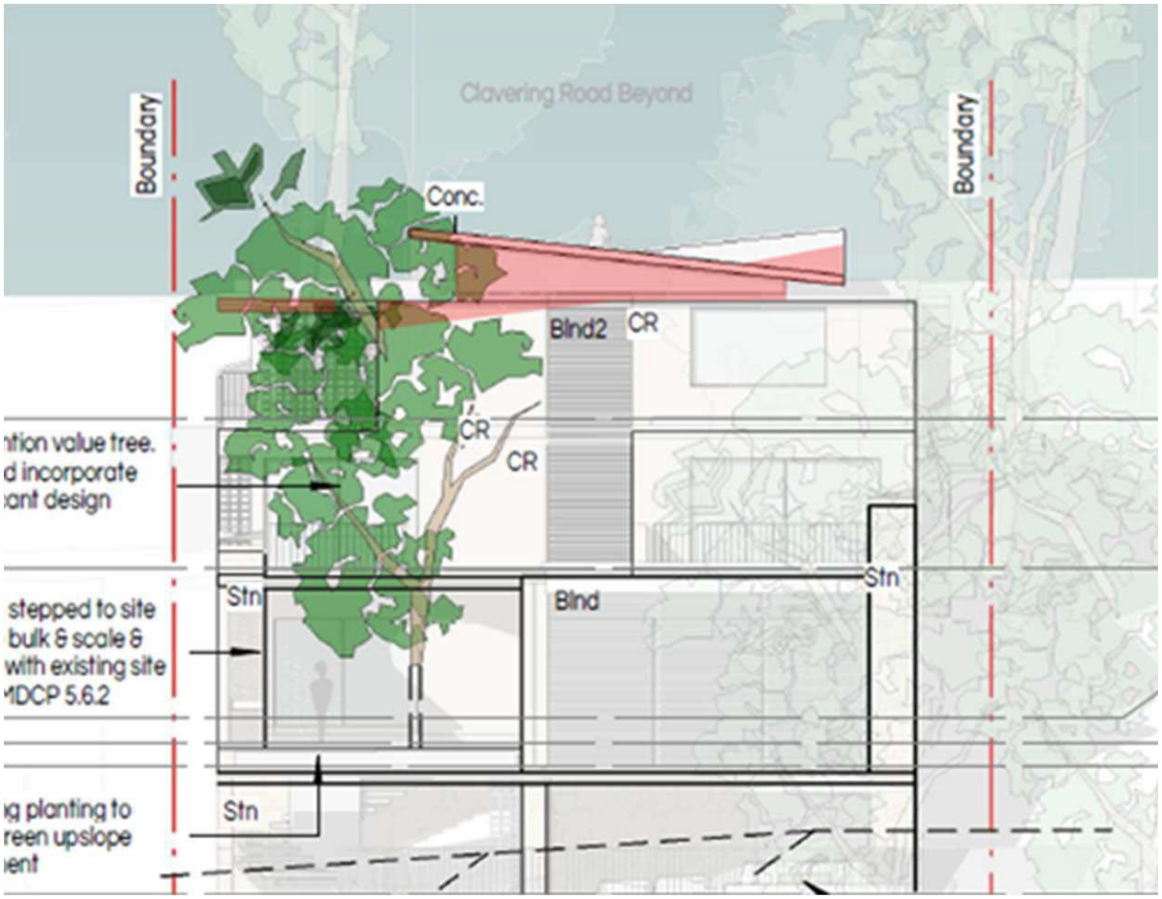
(Figure 4 - Streetscape elevation)

The street-facing façade of the dwelling comfortably complies with the height standard. The breaching component of the roof form is largely concealed behind the complying volume of the building from the perspective of Clavering Road. The render @ Figure 5 denotes the "non-compliant" portion of the building we anticipate will be evident form Clavering Road.



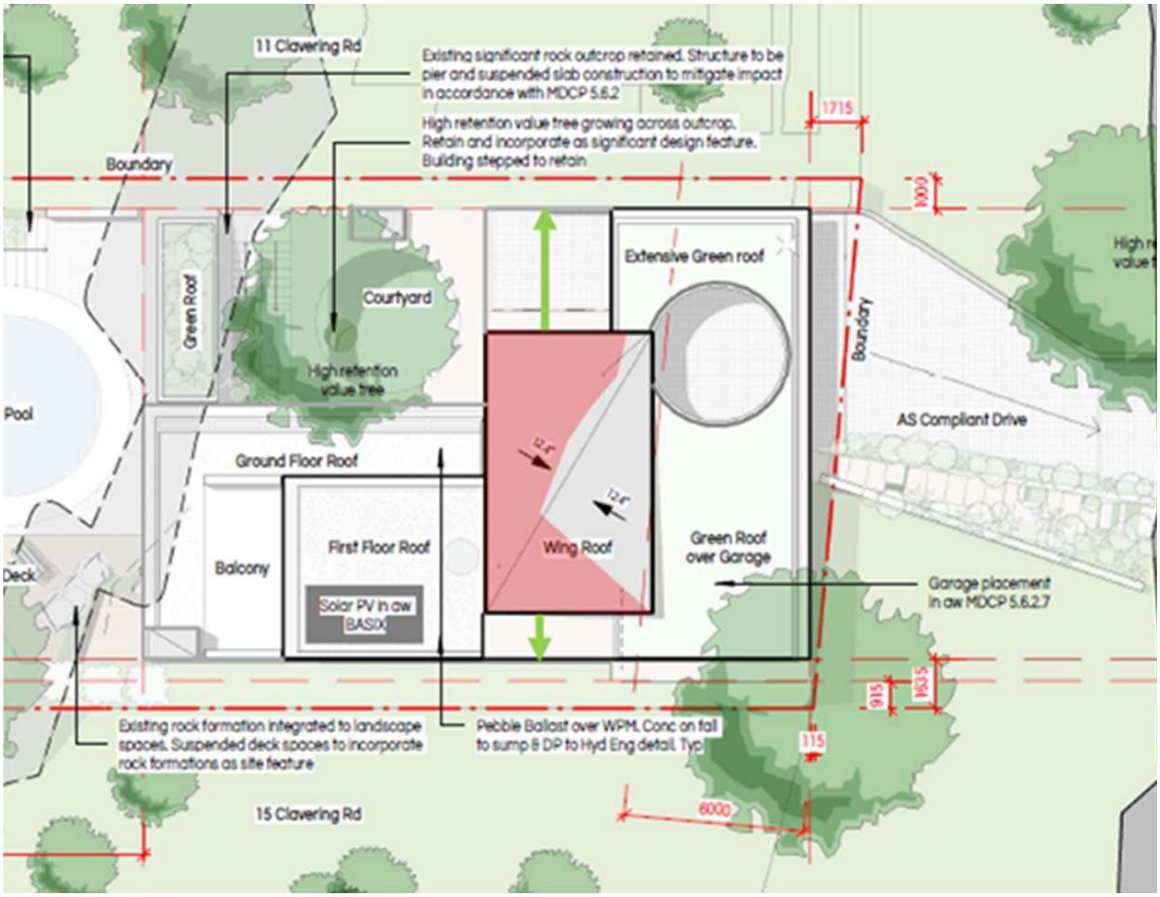
(Figure 5- Streetscape perspective)

The non-compliant elements of the building that will potentially be visible from the west are minor as denoted on the elevation extract @ Figure 6. Retained downslope vegetation includes “high value” Angophoras which have a substantial height and canopy spread and will disguise or conceal a portion of the development from the perspective of Middle Harbour. Views of the building from the west (i.e. Middle Harbour & Gurney Crescent properties) will be from a distance. In our opinion, the development will not overwhelm or impose on public and private land to the west, despite height breach.



(Figure 6 - Western elevation)

The breaching elements of the winged roof are offset from the edges of the roof form / floorplate below as denoted on the roof plan extract at Figure 7. This means that, from the perspective of nos. 11 & 15 Clavering Road, the noncompliant elements of the winged roof will be less visible, if visible at all.



(Figure 7 - Roof offset)

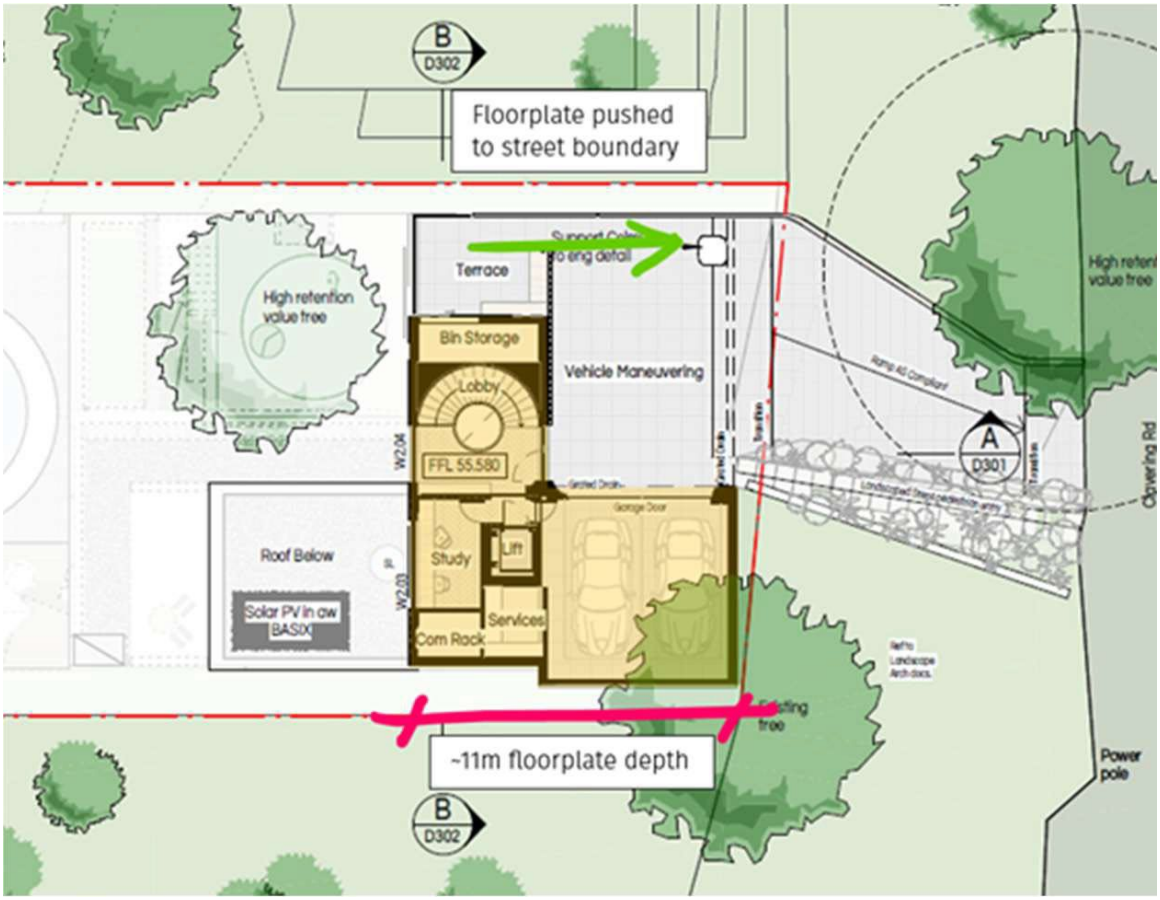
The winged roof form is an architectural design feature intended to contribute to the architectural quality and streetscape appearance of the dwelling. The roof form also promotes solar entry into the upper level and stair zone. A flat roof could conceivably be adopted to minimise or eliminate the breach, though doing so would only undermine design intent without yielding any upside.

Site terrain in the area is steep and dwellings on Gurney Crescent and Clavering Road are commonly stepped down their respective sites and have a terraced appearance. Dwellings consistently have a scale of 3+ storeys per drone image at Figure 8. In our opinion, the proposed dwelling is compatible with the scale and arrangement of dwellings in the locality despite height breach.



(Figure 8 - Drone image)

We've explained that the FFL of the second level cannot be dropped owing to ramp gradient requirements. It is sensible to provide a building entry and dwelling lobby at the second level form a streetscape and functionality perspective. To moderate the extent of consequent height breach, a modest (~94sqm) floor area is adopted, the maximum depth of the floorplate is only ~11m, and the floorplate is pushed close to street boundary.



(Figure 9 - floorplate arrangement)

The floor to ceiling clearance at first and second level are 2,700m and 2,500mm, respectively, and are not opulent or excessive. Clearances could be reduced to moderate the height breach, though doing so would only diminish amenity without yielding any tangible improvement to the built form outcome or streetscape presentation.

Design measures are employed to moderate perceived building scale:
o All elevations of the building incorporate considerable physical articulation along both vertical and horizontal planes i.e. steps and recesses in the building, sections of breeze-block wall.
o External materials consist of a neutral-coloured textured render and stone cladding to nominated wall surfaces. External materials will ameliorate built form.
o Various large, established trees are retained within the site and the road reserve and, in combination with proposed supplementary planting and extensive green roofs, will soften building form.

The proposal will have no unreasonable adverse impact on the amenity of the neighbours.
o Shadow: The shadow cast by the breaching component of the building is anticipated to by minor and inconsequential. A discussion concerning shadow impact is set out @ Table 1 of this Report.
o Privacy: There are no windows on the breaching components of the building from which sightlines to adjacent properties are obtained. The breach does not give rise to any adverse privacy impacts.

o Views: Given the properties to the east and the Clavering Road pavement level are elevated above the site, view impact is anticipated to be negligible. A discussion concerning potential view impact is provided @ Table 1 of this Report.

We have explained that there are sufficient environmental planning grounds to justify the proposed contravention of clause 4.3. The environmental planning grounds outlined are not general propositions but rather are specific to the site and the proposed development.'

It is agreed that The proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, thereby satisfying objects 1.3(c) and (g) of the EPA Act.

Public Interest:
Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion:
Council is satisfied as to the matters set out in Clause 4.6 of the MLEP 2013.

It is considered on balance, that having regard to the particular circumstances of the breach of the building height development due to the existing site constraints and topography, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

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

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

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development
Comment:
The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land
Comment:
The proposal will not unreasonably limit the likely future use or redevelopment of the land.

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

Comment:

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

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties
Comment:
The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material
Comment:
The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics
Comment:
The subject site does not contain any known relics.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area
Comment:
The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
Comment:
Conditions are included in the recommendation of this report that will minimise the impacts of the development.

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

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 836.9m²	**Requirement**	**Proposed**	**% Variation***	**Complies**
4.1.2.1 Wall Height	N: 8m (based on gradient 1.4+)	4.5 - 7.7m Studio - 4.5m	N/A	Yes
	S: 8m (based on gradient 1:4+)	4.4 - 8.7m	9.3%	No
4.1.2.2 Number of Storeys	2	3	N/A	No
4.1.2.3 Roof Height	Height: 2.5m	1.4m	N/A	Yes
	Parapet Height: 0.6m	0.6m	N/A	Yes
4.1.4.1 Street Front Setbacks	6m	0.115 - 1.7m	28.3 - 91%	No

4.1.4.2 Side Setbacks and Secondary Street Frontages	N: 2.5m (based on wall height)	Second floor - 1m First floor - 0.9 - 1.7m Ground floor - 1m Studio - 1m	32 - 64%	No
	S: 2.9m (based on wall height)	Second floor - 1 - 1.5m First floor - 0.9 - 1.6m Ground floor - 1.6m Studio - 11.3m	45 - 69%	No No No Yes
	Windows: 3m	0.9 - 1.6m	47 - 70%	No
4.1.4.4 Rear Setbacks	8m	Studio - 8.5m	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% of site area	61.64% (515.92m^2)	N/A	Yes
	Open space above ground 25% of total open space	25% (103.12m^2)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 40% of open space	43.2% (223m^2)	N/A	Yes
4.1.5.3 Private Open Space	18m^2 per dwelling	18m^2	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	6.1m	N/A	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	4.1m	95.9%	No
	1m curtilage/1.5m water side/rear setback	N: 3.5m/4.8m S: 6.1m/7.1m W: 15.5m/16.5m	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	Yes
4.4.5 Earthworks (Excavation and Filling)	No	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.6.2 Gurney Crescent and Clavering Road, Seaforth	No	Yes

Detailed Assessment

3.4.3 Maintenance of Views

Please see Appendix 1 for the full view loss assessment.

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

Description of non-compliance
Clause 4.1.2.1 of the MDCP stipulates that the maximum wall height permitted on both the northern and southern elevation is 8m. The application proposes a maximum wall height of 8.7m for the southern elevation.

Buildings on the site are not to exceed 2 storeys. The application proposes 3 stories which does not mee the requirement of clause 4.1.2.2 Number of Storeys.

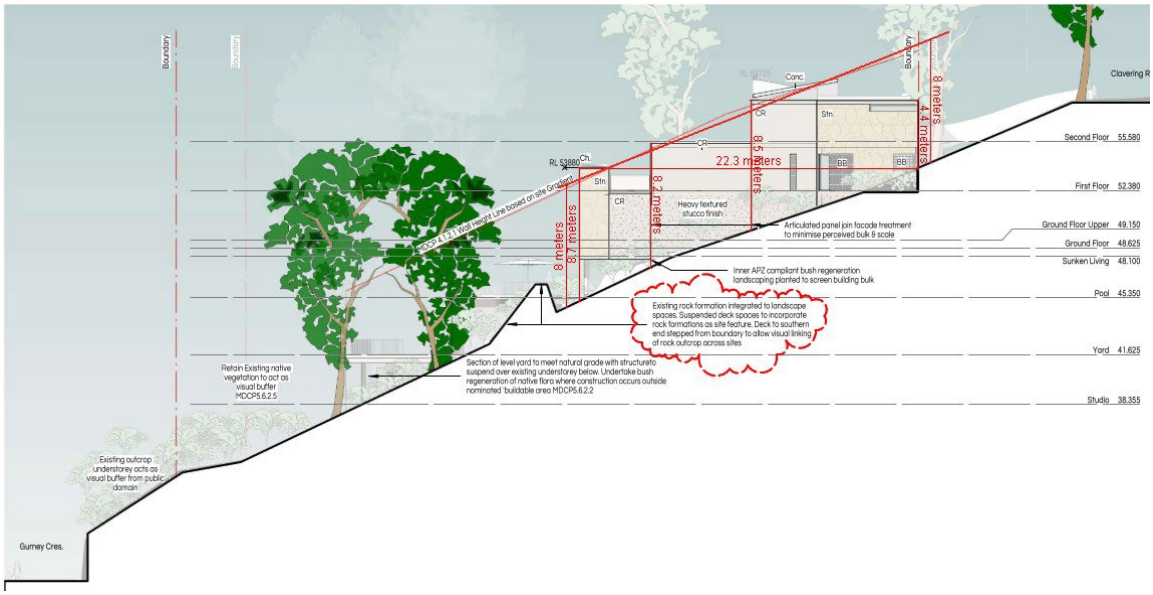


Image: *South elevation - Wall height requirement line shown in red.*

Merit consideration

There are no underlying objectives of this control under which to consider the merits of this variation. This control instead relies on the objectives for the Height of Buildings at clause 4.3 in the MLEP. The proposal has been assessed against these objectives under clause 4.6, above in this report. In summary, the variation is deemed to be reasonable and supported in this circumstance.

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

Description of non-compliance

4.1.4.1 Street Front setbacks

The clause requires a minimum 6 m front setback where neighbouring properties have variable street-facing building lines and no clear prevailing building line is established in the immediate vicinity. Clause 5.6.2 Gurney Crescent and Clavering Road of the MDCP requires structures to be located within a buildable area to protect the natural features of the site. The buildable area is from the front eastern boundary, along the north and south side boundaries to the rock outcrop that runs through the middle of the site. The site and surrounding properties are vacant blocks with no prevailing front setback. The application proposes a minimum front setback of 0.2m to the garage and 7m to the dwelling.

4.1.4.2 Side setbacks and secondary street frontages

Clause 4.1.4.2 Side setbacks and secondary street frontages stipulates that the setbacks between any part of a building and the side boundary must not be less than one third of the height of the building. The proposed new garage is required to be setback 1.4m from the northern side boundary based on a wall height of 4.2m. The Garage has a setback of 0.9m to the northern side boundary.

Under the above mentioned clause, the requirements for all new windows that face the side boundary are to be setback at least 3m. The proposal include two new windows to the northern elevation with a side setback of 0.9 - 1.6m.

Comment:
The objectives of the control are:

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.
Comment:
The site and adjoining properties are currently vacant, with no development on adjacent land or on sites to the western side of Clavering Road. As such, there is no established or "prevailing building line" applicable to the proposal.

The location of the dwelling has been determined by site-specific constraints, including the steep topography and the significant level change between the site and the Clavering Road pavement. Additionally, a substantial verge of approximately 9.5 metres separates the site from the road.

When viewed from the street, the garage level will present as a single-storey element. The wide verge will retain landscaping and provide effective visual screening of the development from Clavering Road.

Objective 2) To ensure and enhance local amenity by:

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

Comment:
Despite the numerical non-compliance with required side setbacks for the proposed works and associated windows, adequate privacy is maintained. The side elevation windows serve bedrooms, which are considered low-activity spaces, and are positioned to avoid direct views into neighbouring dwellings or private open spaces. As such, privacy between properties will be provided.

The raised outdoor area along the northern boundary incorporates privacy screening to further protect both the site and adjoining properties. The proposal will not result in unreasonable overshadowing or adversely affect significant view lines from surrounding private or public land.

Objective 3) To promote flexibility in the siting of buildings.
Comment:
Flexibility is justified in this instance, due to the required buildable area stipulated under clause 5.6.2 of the MDCP. Relocating the garage and entry further into the site would result in a significant height exceedance. Additionally, the variations relating to front setback, windows, and side setbacks will not cause unreasonable amenity impacts to adjoining properties and enable the delivery of a modernised dwelling.

The ERM Study, which provides recommendations for development on the vacant land along Clavering Road, stipulates that strict adherence to standard development controls could result in poor siting outcomes, such as unnecessary tree removal or construction on steep or sensitive land. By utilising the defined buildable area and appropriately responding to site constraints, the design avoids key natural features while achieving a built

form that integrates with the landscape and aligns with contemporary development in similar conditions.

Objective 4) To enhance and maintain natural features by:

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

Comment:
The site is undeveloped and some form of vegetation removal of expected, especially within the buildable area. Any tree proposed for removal are required to be replaced with native canopy trees. The landscape plan has been reviewed by councils landscape officer and includes mostly native local species. Acceptable dimensions of landscaped open space is provided on site to accommodate for plantings, deep soil zones, and vegetation. The native vegetation within the rear setback zone will be retained as well as several “high value” trees .

Objective 5) To assist in appropriate bush fire asset protection zones.
Comment*:*
Despite this non-compliance, the site remains suitable in terms of its bushfire-prone classification, as demonstrated in the supporting bushfire report.

The development is consistent with the objectives of the control and is acceptable on merit.

4.1.9 Swimming Pools, Spas and Water Features

Description of non-compliance
The development requires that swimming pools and spas must be built on or in the ground and not elevated more than 1m above natural ground level. The proposed swimming pool is 4.1m above natural ground level.

Comment:
The objectives of the control are:
Objective 1) To be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties.
Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the established character of the locality.
Objective 3) To integrate landscaping.
Objective 4) To become an emergency water resource in bush fire prone areas.

The elevated pool responds to the site’s topography and natural features such as the high value trees and rock outcrop and is integrated into the rear terrace as part of the dwelling’s overall design.

Located within the rear yard, the pool will not be visible from the public domain and will not impact the streetscape. Landscaping between the pool and the rear boundary provides visual screening, softens the built form, and reduces potential visual and acoustic impacts on adjoining properties.

The pool is generously set back from both side boundaries and will not result in unreasonable privacy or noise impacts on neighbouring dwellings.

The development is consistent with the objectives of the control and is acceptable on merit .

4.4.5 Earthworks (Excavation and Filling)

Description of non-compliance
The proposal involves several areas of excavation across the site to accommodate the proposed dwelling. The excavation has a maximum depth of 3.7m, which exceeds the 1m requirement.

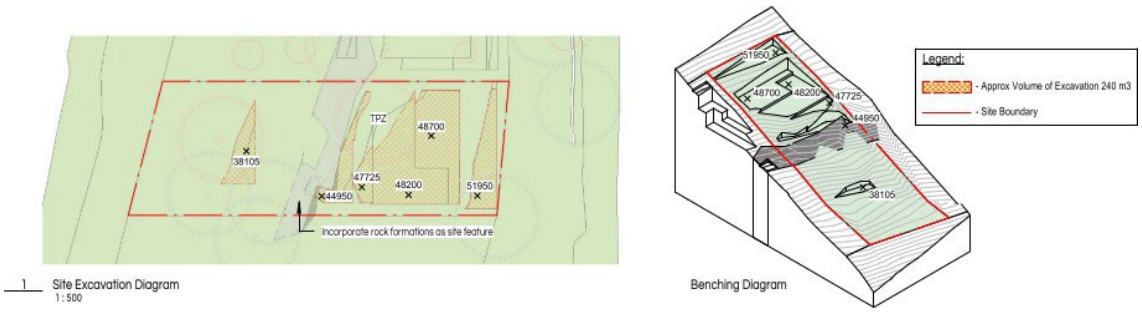


Image: Site excavation diagram.

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

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

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

Comment:
The excavation works are not considered to be excessive and are reasonable within the R2 Low Density Residential zone. The excavation works do not significantly alter the site topography or compromise the ability to establish the proposed landscape treatment on the site. The application has been accompanied by a Geotechnical Report (prepared by Morrow Geotechnics Pty Ltd, dated 20 March 2026) which states that the proposal will achieve an acceptable level of risk, subject to adherence to the recommendations stipulated within the report. A condition has been included with this consent to ensure compliance with the recommendations within the Geotechnical Report.

Having regard to the above assessment, it is concluded that the objectives of the control have been achieved. Therefore, the application is supported on merit in this particular circumstance.

5.6.2 Gurney Crescent and Clavering Road, Seaforth

Description of non-compliance

5.6.2.1 Buildable Area

The clause requires dwellings and associated structures, including swimming pools, to be generally located within the 'buildable area' delineated on Figure 55 Gurney Cres 1 and Gurney Cres 2. The proposed swimming pool and studio are located outside of the buildable area.

The clause allows for exceptions to this requirement where the development demonstrates that it meets the objectives, findings and intent of the ERM Study.

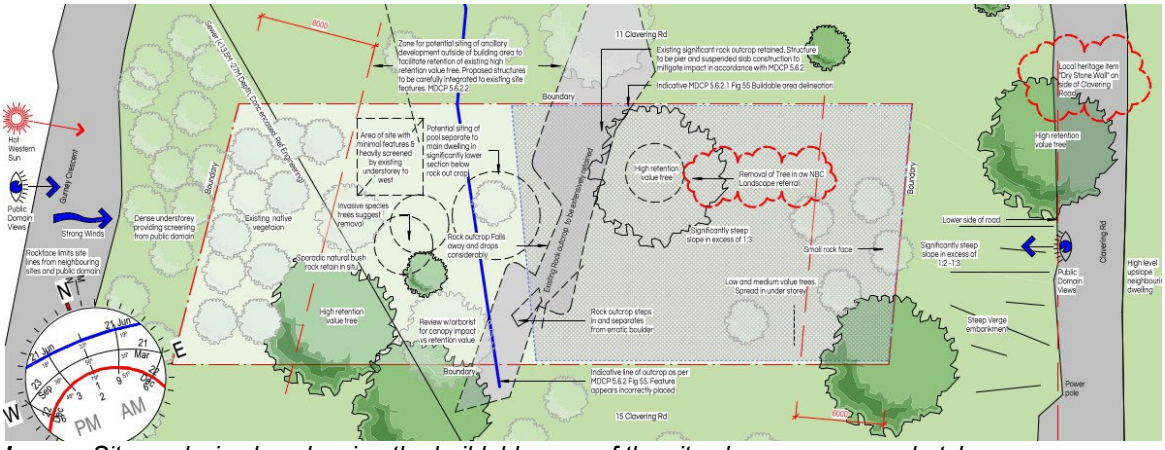


Image: *Site analysis plan showing the buildable area of the site shown as a cross hatch.*

Comment:

The objectives of the control are:

Objective 1) To identify areas on each site where development is preferred in order to provide both site specific and cumulative ecological, visual and water quality benefits;
Objective 2) To identify the characteristics of the subject land that require protection and to develop standards that encourage that protection;
Objective 3) To protect the amenity of the subject land and its locality for existing and future residents;
Objective 4) To encourage residential design that responds to each site and its surrounds;
Objective 5) To encourage preservation of the ecological values of each site and its surrounds;
Objective 6) To provide for and encourage ecologically sustainable building and site design;
Objective 7) To encourage maintenance of the visual character of the locality; and
Objective 8) To implement the findings of the study entitled Development Analysis of E & F Precincts in Abandoned Warringah Transport Corridor (Surplus RTA Lands) Study prepared by ERM, 2000 on behalf of the RTA ('ERM Study').

The buildable area as defined by clause 5.6.2 is located at the eastern portion of the site, where vegetation has been more disturbed, allowing the retention of higher-value bushland and significant trees at the western end. The placement of the swimming pool and studio outside the designated buildable area does not impact on key natural features of the site, including the rock outcrop or high value trees.

The proposal satisfies the objectives of the relevant clause by minimising impacts on biodiversity and

retaining ecological value. While some vegetation clearing is required, significant trees will be preserved, and overall biodiversity impacts are expected to be minimal. No threatened fauna species were identified during the May 2025 site assessment, and the proposed works are unlikely to adversely affect any local populations or contribute to species decline.

The development is generally consistent with the findings of the ERM Study, with most works contained within the nominated buildable area. Any works outside this area have been carefully designed to retain significant site features, including trees and rock outcrops. The visual character will be retained with existing native bush retained in the western portion of the site along with high retention trees. The proposed replace canopy trees and vegetation will help to further maintain the visual character of the site and surrounding area. The proposed colours and materials will help the development to blend into the natural environment.

The proposal exceeds minimum requirements for TOS and landscaped area. Stormwater management plans have been prepared by a qualified professional and reviewed by Council's Development Engineers.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of $26,928 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $2,692,848.

CONCLUSION

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

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

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

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

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

Council is satisfied that the Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify variation of the development standard contained within Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- There are sufficient environmental planning grounds to justify the variation.

PLANNING CONCLUSION

This proposal, for Construction of a dwelling house including swimming pool has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to demolition to a known heritage item.

The issues identified in the objections have been addressed in the report and, where considered necessary, are further addressed through conditions of consent.

The critical assessment issues building height, front and side setback, wall height and view loss are considered acceptable.

Overall, the development is a high quality design that performs well against the relevant controls, will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment and maintains the integrity of the heritage item whilst providing for modern living. The proposal has therefore been recommended for approval.

REASON FOR DETERMINATION

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

RECOMMENDATION

That Northern Beaches Council, as the consent authority, vary the development standard contained within Clause 4.3 Height of Buildings, pursuant to Clause 4.6 of the Manly Local Environmental Plan 2013 because the Applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2025/1222 for Construction of a dwelling house including swimming pool on land at Lot 3 DP 1090937, 13 Clavering Road, SEAFORTH, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

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

Approved Plans				
Plan Number	**Revision Number**	**Plan Title**	**Drawn By**	**Date of Plan**
D011	4	Site Analysis - Constraints & Opportunities	Buck & Simple	09 Mar 2026
D012	4	Site Layout & Site Analysis - Proposed	Buck & Simple	09 Mar 2026
D101	4	Floor Plan - Second Floor (Street Level)	Buck & Simple	09 Mar 2026
D102	4	Floor Plan - First Floor	Buck & Simple	09 Mar 2026
D103	4	Floor Plan - Ground Floor	Buck & Simple	09 Mar 2026
D104	4	Floor Plan - Terrace & Yard	Buck & Simple	09 Mar 2026
D105	4	Floor Plan - Studio	Buck & Simple	09 Mar 2026
D301	4	Section AA	Buck & Simple	09 Mar 2026
D302	4	Section BB	Buck & Simple	09 Mar 2026
D401	4	North Elevation	Buck & Simple	09 Mar 2026
D402	4	East Elevations	Buck & Simple	09 Mar 2026
D403	4	South Elevations	Buck & Simple	09 Mar 2026

D404	4	West Elevations	Buck & Simple	09 Mar 2026
S100 S101 S102	1	Site Plan Driveway Slab Plan Driveway Section	Vanguard Consulting Engineers	17/03/2026

Approved Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**
D060 - Erosion, Sediment Control & Waste Management Plan	4	Buck & Simple	09 Mar 2026
BUSHFIRE HAZARD ASSESSMENT FOR PROPOSED INFILL AT 13 CLAVERING ROAD, SEAFORTH	REF: 7487BF	HARRIS ENVIRONMENTAL CONSULTING	29/08/2025
Flora and Fauna Assessment Report – 13 Clavering Road, Seaforth NSW 2092	MDLS2	Narla Environmental	August 2025
V250547 - SW001 - GENERAL NOTES V250547 - SW100 - STORMWATER DRAINAGE STUDIO LEVEL V250547 - SW101 - STORMWATER DRAINAGE TERRACE & YARD LEVEL V250547 - SW102 - STORMWATER DRAINAGE GROUND FLOOR V250547 - SW103 - STORMWATER DRAINAGE FIRST FLOOR V250547 - SW104 - STORMWATER DRAINAGE SECOND FLOOR V250547 - SW200 - DRAINAGE DETAILS	C	Vanguard Consulting Engineers	29.08.2025
BASIX Certificate	Certificate number: 1807019S	House Energy Certified	04/08/2025
Aboriginal Heritage Assessment Report 11 & 13 Clavering Rd Seaforth NSW	-	Talking Walls	4 November 2025
ARBORICULTURAL IMPACT ASSESSMENT REPORT	Version 5.0	Stride Landscape Design	17/3/26

LPL_1002 - Plant Schedule & Imagery LPL_1101 - Landscape Plan, Rooftop Gardens LPL_1102 - Landscape Plan, Streetlevel (Second Floor) LPL_1103 - Landscape Plan, Terrace & Yard LPL_1104 - Landscape Plan, Garden Studio LPL_2101 - Landscape Section 01 LPL_2102 Landscape Elevation West	03	Lone Pine Landscapes	20/03/26
Geotechnical Investigation & Slope Risk Assessment	Reference: P3517_01 Rev1	Morrow Geotechnics Pty Ltd	20/03/2026
Driveway Construction Methodology -	Project Number: 012CLA & 013CLA Version B	Midco Construction	24/03/2026

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

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

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

2. **Compliance with Other Department, Authority or Service Requirements**
The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	N/A
NSW Rural Fire Service	Referral RFS	29 September 2025

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

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

3. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i) showing the name, address and telephone number of the Principal Certifier for the work, and

(ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

(iii) stating that unauthorised entry to the work site is prohibited.

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

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

(i) in the case of work for which a principal contractor is required to be appointed:

A. the name and licence number of the principal contractor, and

B. the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

A. the name of the owner-builder, and

B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

(i) protect and support the adjoining premises from possible damage from the excavation, and

(ii) where necessary, underpin the adjoining premises to prevent any such damage.

(iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

(iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. **General Requirements**

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

Demolition and excavation works are restricted to:
- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.

(c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.

(d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(g) Prior to the release of the Construction Certificate, payment of the following is required:

i) Long Service Levy - Payment should be made to Service NSW (online or in person) or directly to the Long Service Corporation. Payment is not required where the value of the works is less than $250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.

iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.

(h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

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

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

(l) Prior to the commencement of any development onsite for:

i) Building/s that are to be erected

ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

iii) Building/s that are to be demolished

iv) For any work/s that is to be carried out

v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.

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

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

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

(i) Swimming Pools Act 1992

(ii) Swimming Pools Amendment Act 2009

(iii) Swimming Pools Regulation 2018

(iv) Australian Standard AS1926 Swimming Pool Safety

(v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools

(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

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

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

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of $26,928.48 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of $2,692,848.00.

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

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

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

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

6. **Security Bond**

A bond (determined from cost of works) of $10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. **On Slab Landscape Planters**

a) Details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided. Landscape treatment details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, drainage and services connections.

b) The following soil depths are required to support planting: 300mm for groundcovers, grasses, and lawn; 600mm for shrubs; and 1m for small trees.

c) Design certification shall be submitted to the Certifier by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and ensure waterproofing and drainage is installed.

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

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for

Development Policy, and generally in accordance with the concept drainage plans prepared by Vanguard Consulting Engineers, reference number V250547, dated 29.08.2025. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

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

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

9. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**
The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

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

Reason: Compliance with this consent.

11. **Simple Photographic Heritage Recording**
A simple photographic record of the site is to be made of all existing buildings and structures including interiors, exteriors and their setting. This record must be submitted to and approved by Council's Heritage Advisor prior to the issue of the Construction Certificate and commencement of any demolition works or works on site.

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

Reason: To provide a simple photographic recording of the site prior to the commencement of any works.

12. **Vehicular Swept Paths**
Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Details demonstrating compliance with this condition must be submitted to the Principal

Certifier prior to the issue of the construction Certificate.

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

13. **Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to Council via an application for a Permit to Implement Traffic Control. The application form can be accessed via https://www.northernbeaches.nsw.gov.au/council/forms. Approval of the permit application by the Northern Beaches Council Traffic Team is required prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- A requirement for Pre-Construction and Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The post report must:
    - Compare the post-construction report with the pre-construction report,
    - Clearly identify any recent damage or change to the road/driveway/right of way and whether or not it is likely to be the result of the development works,
    - Should any damage have occurred, identify remediation actions taken.
    - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. Only two vehicles can be parked adjacent to the subject site, wholly within the approved work zone with other vehicles to use an approve satellite parking area.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Seven (7) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.

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

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

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

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

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.
Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

14. **On-Street Work Zone**
The applicant shall lodge an application for a work zone for the frontage of the site to Council for consideration and approval. Application forms for work zones are available on Council's website. Applications shall be lodged at least 4 weeks prior to work commencing.

An application must be lodged with Council for consideration and approval for a work zone for the frontage of the site.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.

15. **Pedestrian sight distance at property boundary**
A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas.

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

Reason: To maintain pedestrian safety.

16. **Submission Roads Act Application for Civil Works in the Public Road**
The Applicant is to submit an application (using form number 4025 available on Council website) for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.
The application is to include Civil Engineering plans for the design of elevated vehicle crossing and associated works, which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

1. A vehicular crossing 4 meters wide at the edge of street bitumen/ trafficable road and 6 meters wide at the boundary to be constructed in accordance with AS2890.1 and Council's Maximum Low Profile for vehicle crossings
2. Engineering Long sections along both edges and centerline of the proposed driveway shall be provided. Grades are not to exceed 1:4 in accordance with AS2890.1.
3. Structural details for any proposed supporting structures for the elevated driveway.
4. Safety barriers (if) and sight distances are to be in accordance with AS/NZS 2890.1:2004.
5. The suspended driveway be designed such that there is no load imposed on the existing batter/ retaining wall supporting the road.
6. The application is to include a geotechnical report that is prepared by an appropriately qualified Geotechnical Engineer to assess the impact of the proposed suspended driveway and entry stairs on the existing batter and retaining wall supporting the road reserve.
7. Structural Engineer's certification of the design of all retaining walls, piers, access stairs, elevated driveway and safety barriers.
8. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided.
9. Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces.
10. Plans to show a pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 at the vehicular access to the property
11. All stormwater grated drains to be placed within property boundary.

On completion of above listed works a positive covenant will be required to be registered on Title in respect to ongoing maintenance responsibilities of the structures approved in the

Public Road for the following:

1. Elevated driveway.
2. Pedestrian access stairs in the road reserve.
3. Supporting structures for the elevated driveway and stairs in the road reserve.

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

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

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

17. **Heritage Architect**
A suitably qualified and experienced heritage architect must be appointed for this project. Details of the appointment of this heritage architect are to be submitted to Council's Heritage Officer for approval, prior to the issue of a Construction Certificate.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

Reason: To ensure that all matters relating to significant fabric and spaces are guided by heritage conservation best practice.

18. **Temporary Protection Plan**
A Temporary Protection Plan including a statement of significance with documentary and physical evidence on the existing situation and original fabric of the heritage items and requirements and measures to retain necessary to retain the significance of the item must be prepared by a suitably qualified heritage architect to ensure all retained original fabric of the heritage retaining wall is protected during works and to guide the protection of the surrounding heritage fabric during construction works.

The Temporary Protection Plan is to be submitted to Council's Heritage Officer for approval prior to the issuing of the Construction Certificate

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority

Reason: To ensure the protection and retention of significant heritage fabric and the significance of the heritage item.

19. **Updated Road Verge Landscape Plan**
An updated road verge landscape plan is to be provided to Council's Heritage Officer for approval demonstrating how landscaping works other than the driveway and crossover have been designed to minimise impact to and removal of the heritage listing retaining wall.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority

Reason: Protection of heritage items, their fabric and significance

20. **Waste Management Plan**
A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

21. **Engagement of Project Ecologist**
A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with Flora and Fauna Assessment Report (Narla Environmental, Aug 2025).

The Project Ecologist must have one of the following memberships / accreditation:

- Practising member of the NSW Ecological Consultants Association (https://www.ecansw.org.au/find-a-consultant/) OR
- Biodiversity Assessment Method Accredited Assessor under the relevant legislation (https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor)

Evidence of engagement of the Project Ecologist is to be provided to the Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

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

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

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

23. **External Finishes to Roof**
The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

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

the development.

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

25. **Project Arborist**
a) A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

b) The Project Arborist shall be in attendance and supervise all works as nominated in the approved Arboricultural Impact Assessment, and in particular:
i) tree protection measures and works under sections 6.5 Tree Protection Plan and 6.6 Tree Protection Specifications,
ii) any pruning works.

c) All tree protection measures specified must:
i) be in place before work commences on the site, and
ii) be maintained in good condition during the construction period, and
iii) remain in place for the duration of the construction works.

d) The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS 4970-2025 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

26. **Tree Removal Within the Property**
a) This consent approves the removal of existing trees on the subject site as identified in the approved Arboricultural Impact Assessment.

b) A qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

27. **Tree Removal Within the Road Reserve**
a) This consent approves the removal of existing trees within the road reserve as listed below: i) tree 2 - *Allocasuarina littoralis*, and tree 3A - *Corymbia gummifera*.

b) A qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

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

Reason: Public liability.

28. **Sediment and Erosion Controls**
For developments that include more than 2500sqm of disturbance:

A Soil and Water Management plan (SWMP), in accordance with section 2.3 of the Blue Book, must be prepared and certified by a suitably qualified professional.

For sites larger than 250sqm and less than 2500sqm of disturbance:

An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified person in accordance with the following considerations and documents:

- Sites that have slopes exceeding 20% (measured in any direction across the site), and/or where works are within the high-water mark or adjacent to a waterway or watercourses are considered environmentally sensitive areas. These sites require a site-specific ESCP which must be prepared and certified by a suitably qualified professional,
- The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate – Volume 1, 4th Edition (2004)' (the Blue Book), and
- The 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure).

The ESCP must include the following as a minimum:

- Site Boundaries and contours,
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application),
- Location of site access, proposed roads and other impervious areas (e.g. parking area and site facilities),
- Existing and proposed drainage patterns with stormwater discharge points,
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected,
- North point and scale,

- Type of erosion control measures to divert and slow run-off around and within the site.

Environmentally sensitive areas (i.e. Sites that have slopes exceeding 20% and/or where works are within the high-water mark or adjacent to a waterway or watercourses) must also consider:

- Identify and mark any environmentally sensitive areas on and immediately next to the site and how you will protect these, including any appropriate buffer zones (for example, marking them out as 'no-go' areas),
- Details on vegetation you will clear, as well as areas of vegetation you will keep (mark no go areas),
- Detail on soil information and location(s) of problem soil types, especially dispersive soils and potential or actual acid sulfate soils,
- Location of any natural waterways that could receive run-off and how these will be protected these from run-off.

For sites smaller than 250sqm or where the disturbance is less than 50sqm:

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- Diverting uncontaminated run-off around cleared or disturbed areas, and
- Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- Preventing the tracking of sediment by vehicles onto roads, and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- Identifying any environmentally sensitive areas on and immediately next to the site, and demonstrating how these will be protected (for example, by designation as no-go areas).

Details demonstrating compliance with the relevant requirements above are to be submitted to the Certifier, and the measures implemented, prior to the commencement of works.

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

29. **Heritage Induction**
Prior to the commencement of any works, all contractors, trades persons and the like shall be given a site induction. This induction must be delivered by the appointed Heritage Architect and shall ensure that all contractors, trade persons and the like are made aware that:

· There is a heritage item in the road reserve
· There is a Temporary Protection Plan and Construction Methodology for the site to retain and protect heritage significance fabric and heritage significance
· There are statutory obligations under the National Parks and Wildlife Act 1974 and Heritage Act 1977 for all works to cease and Council and Heritage NSW to be notified of any unexpected built archaeological or Aboriginal archaeological finds during works.

Reason: To ensure all persons undertaking works on the site are aware of the heritage items and obligations

DURING BUILDING WORK

30. **Protection of Landscape Features and Sites of Significance**

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

b) Bush rock shall be salvaged from the subject site and stockpiled during works, and be reused in the landscape design in a manner that mimics its original position and context, the intent being that the rocks continue to provide valuable habitat.

c) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

31. **Protection of Existing Street Trees**

a) All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree(s) fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS 4970-2025 Protection of trees on development sites. As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

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

Reason: Street tree protection.

32. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:
i) all trees within the site not approved for removal,
ii) all trees and vegetation located on adjoining properties,
iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:
i) tree protection shall be in accordance with AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
iv) no excavated material, building material storage, site facilities, nor landscape materials are

to be placed within the canopy dripline of trees and other vegetation required to be retained,
v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2025 Protection of trees on development sites,
ix) the activities listed in section 4.2 of AS 4970-2025 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS 4373-2007 Pruning of amenity trees,
xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) The Principal Certifier must ensure that:
i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as complaint to AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

33. **Compliance with Ecologist's Recommendations – During Construction**
All impact mitigation measures specified in the approved Flora and Fauna Assessment Report/Biodiversity Development Assessment Report are to be implemented at the appropriate stage of development.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

34. **Pre-clearance Survey - Certified by Project Ecologist**
Any habitat for for native wildlife (including tree hollows) approved for removal is to be inspected for native wildlife by the Project Ecologist prior to its removal. If native wildlife is found within habitat to be removed, the animal is to be safely relocated by the Project Ecologist to a suitable location.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be prepared by the Project Ecologist and provided to the Principal Certifier prior to any Occupation Certificate.

Reason: To protect native wildlife.

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

Reason: To protect native wildlife.

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

Reason: To protect wildlife habitat.

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

Reason: Public safety.

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

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

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

Reason: To ensure public safety.

40. **Geotechnical Requirements**
All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

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

external structure of the building is complete.

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

42. **Maintenance of Sediment and Erosion Controls**
Erosion and sediment controls must be adequately maintained and monitored at all times, particularly surrounding periods of rain, and shall remain in proper operation until all development activities have been completed and the site is in a state where no substance other than rainwater can enter the stormwater system and waterways.

All sediment control measures must be maintained at, or above, their design capacity.

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log book or inspection test plan (ITP) must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

Details demonstrating compliance must be provided to the Certifier during demolition and building works.

Reason: Protection of the receiving environment and to ensure no substance other than rainwater enters the stormwater system and waterways.

43. **Implementation of Temporary Protection Plan**
The approved Temporary Protection Plan is to be adhered to during demolition and construction works. The appointed Heritage Architect will be responsible for ensuring that the Temporary Protection Plan is to adhered to.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority

Reason: To ensure the protection and retention of significant heritage fabric and the significance of the heritage item.

44. **Heritage Architect during works**
The nominated heritage architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording, demolition and excavation. The heritage consultant is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project. The heritage architect are also to ensure that the policies outlined in the Temporary Protection Plan and driveway Construction Methodology are adhered to.

Details demonstrating compliance with this condition must be provided to the Principal Certifying Authority.

Reason: To ensure that all matters relating to significant fabric and spaces are guided by heritage conservation best practice.

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

46. **Aboriginal Heritage**
If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning, Housing and Infrastructure.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning, Housing and Infrastructure.

Reason: Aboriginal Heritage Protection.

47. **Unexpected Finds – Non Indigenous Archaeology**
As required by the Heritage Act 1977, in the event that historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and Heritage NSW must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including any the statutory requirements under the Heritage Act 1977.

Note: The Heritage Act 1977 impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

Reason: Statutory requirements for the protection of archaeology

48. **Implementation Of Construction Methodology**
Demolition and construction works are to be done in accordance with the Construction Methodology report. This report is also to be revised and updated to align with the advice of the appointed Heritage Architect and approved Temporary Protection Plan.

Reason: Ensure works are in accordance with approved methodology and heritage advice

49. **Staff and Contractor Parking**
The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. Not more that 2 vehicles are to attend the subject site at anytime and be fully contained in the approved work zone with additional vehicles to be parked at a suitable satellite site (potentially on the corner of Dalwood and Macmillan Street)

Reason: To ensure minimum impact of construction activity on local parking amenity.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

50. **Required Screen Planting**
a) Screen planting shall be installed in accordance with the following:

i) at the low (western) side of the pool structure for the full diameter of the structure when viewed from the west,
ii) the selected planting is to comprise of species capable of attaining a height to the pool coping level (RL45.35) at maturity,
iii) plants are to be installed at minimum 1 metre intervals (or less) and be of a minimum container size of 200mm at planting in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
iv) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS 1926.1 for a non-climbable zone.

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

Reason: To maintain environmental amenity.

51. **Landscape Completion**
a) Landscape works are to be implemented in accordance with the approved Landscape Plan(s), and inclusive of the following conditions:
i) landscape works are to be contained within the legal property boundaries,
ii) planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
iii) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of AS2303 – Tree Stock for Landscape Use; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3 metres from buildings and other trees or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
iv) mass planting shall be installed in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
v) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,
vi) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone,
vii) where the property is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019.

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

Reason: Environmental amenity.

52. **Condition of Retained Vegetation**
a) Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:
i) compliance to any Arborist recommendations for tree protection generally and during excavation works,

ii) extent of damage sustained by vegetation as a result of the construction works,
iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

53. **Protection of Habitat Features – Certified by Ecologist**
All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Written details demonstrating compliance are to be certified by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

54. **Native Landscaping**
Any new landscaping is to incorporate a minimum 60% locally native vegetation species as a proportion of the total number of plants and take place outside of areas of retained bushland. Locally native species are to be consistent with the relevant section of the Native Planting Guide available on Council's website or PCT 3592: Sydney Coastal Enriched Sandstone Forest.

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

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

55. **Replacement of Canopy Trees**
At least 10 locally native canopy trees are to be planted on the site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with the Native Planting Guide - Manly Ward available on Council's website or PCT 3592: Sydney Coastal Enriched Sandstone Forest.

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

56. **No Weeds Imported On To The Site**
No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

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

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

weeds.

57. **Priority Weed Removal and Management**
All Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed using an appropriate control method.

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

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

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

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

59. **Waste Disposal Verification Statement**
On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within 14 days of completion of the demolition work.

Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

60. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**
The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link:
https://files-preprod-d9.northernbeaches.nsw.gov.au/nbc-prod-files/media/files/2023-12/guide-for-submitting-legal-documents.pdf?1756256223

The form for the application can be found on Council's website using the following link:
https://applications.northernbeaches.nsw.gov.au/T1PRProd/WebApps/eProperty/P1/eSubmit/Tr=WC.WEBGUEST&f=%24P1.ESB.TERMS.VIW&ReturnUrl=%2fT1PRProd%2fWebApps%2fe

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system including level spreader is to be submitted.

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

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered

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

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

Reason: Compliance with this consent.

62. **Geotechnical Certification Prior to Occupation Certificate**
The Applicant is to submit certification that the construction has been carried out in accordance with the recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

63. **Positive Covenant for Elevated Vehicle Crossing**
The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the completed request forms (NSW Land Registry standard forms 13PC) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved S138 plan by a Registered Surveyor), and Civil Engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and other responsibilities of the structures in the Public Road as identified in Condition Submission Roads Act Application for Civil Works in the Public Road of this consent. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services.

A copy of the certificate of title demonstrating the creation of the positive covenant for the

ongoing maintenance and other responsibilities of the structures is to be submitted.

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

Reason: To ensure adequate provision is made for the structures in the road reserve be maintained to an appropriate standard

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

64. **Landscape Maintenance**
a) If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components.

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

c) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan(s) and any conditions of consent.

d) A maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

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

Reason: To maintain local environmental amenity.

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

Reason: To protect wildlife habitat.

66. **Control of Domestic Dogs/Cats**
Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife and habitat.

67. **Landscaping adjoining vehicular access**
The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1,140mm

Reason: To maintain unobstructed sight distance for motorists.

68. **Swimming Pool/Spa Motor Noise**
The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

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

69. **No Approval for Removal of More than the top Course of Heritage Retaining Wall**
No approval is granted for the removal of more than the top course of the heritage sandstone wall for the construction of the driveway and cross over

Reason: Protection of heritage items, their fabric and significance

APPENDIX 1 – VIEW LOSS ASSESSMENT

Manly Development Control Plan 2013

Clause 3.4.3 Maintenance of Views

Description of non-compliance

Three submissions in the immediate vicinity to the proposed development raised view loss from there properties as a concern with the development. A view loss assessment was undertaken from no. 2 Clavering Road which is located to the east of the site and nos. 31 and 33 Gurney Crescent located south of the site.

Two submissions were received from no. 3 Gurney Crescent stating view loss from properties adjoining the development site as a concern with the development. To the east of the site are nos. 2, 4 and 6 Clavering Road. A full view loss assessment was undertaken from no. 2 and a view loss assessment from nos. 4 and 6 was undertaken through aerial photos, available plans and real estate photos. View loss from no. 3 was not raised and the development site is not visible from no. 3 Gurney Crescent.

View loss from public spaces has also been raised as a concern with the development and is addressed below.



Image: *Location of properties where a view loss assessment was undertaken highlighted in red. Location of property where view loss from neighbouring properties was mentioned highlighted in blue.*

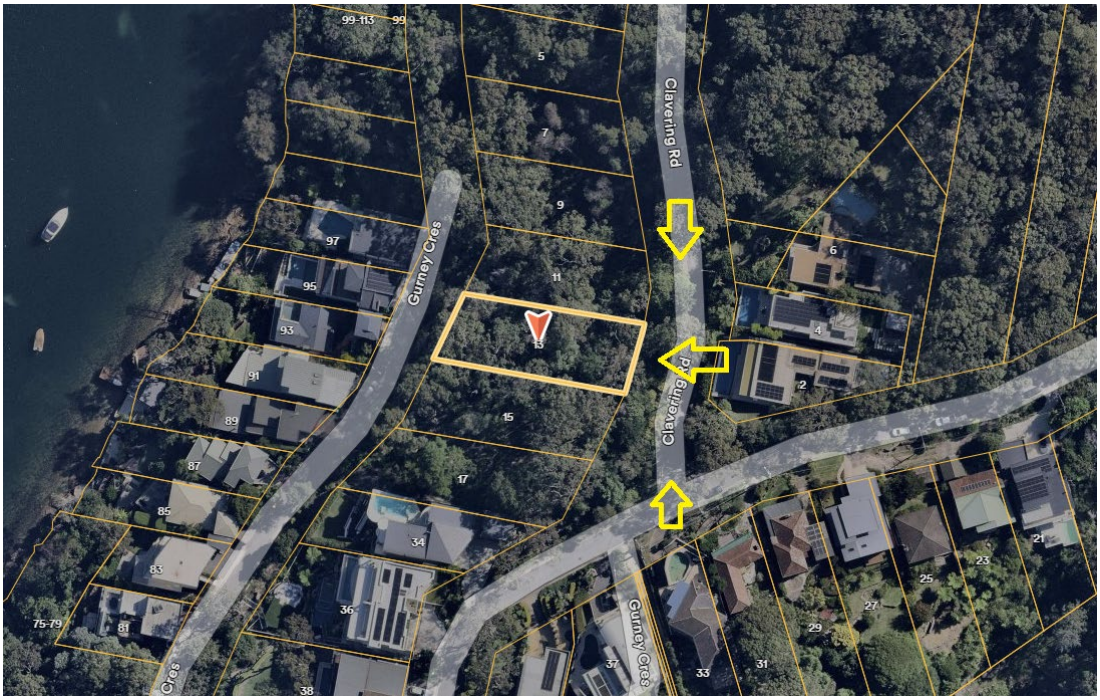


Image: *Location where photos for view loss from public spaces were taken from.*

Comment:
The objectives of the control are:

Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.
Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).
Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

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

Principle 1

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

No. 2 Clavering Road
Views affected by the development are heavily vegetated and obstructed water views of Middle Harbour to the west.

No. 4 Clavering Road
Possible views affected by the development are likely to be heavily vegetated and obstructed water views of Middle Harbour to the west.

No. 6 Clavering Road
The proposed development may affect the bushland outlook from no. 6. Loss of water views is considered unlikely due to the elevation difference between the sites location of the dwellings and angle in which views are obtained.

No. 31 Gurney Crescent
Views affected by the development are heavily vegetated and obstructed water views of Middle Harbour to the north-west.

No. 33 Gurney Crescent
The proposed development will affect the vegetated outlook from no. 33 Gurney Crescent to the north-west.

Principle 2

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

No. 2 Clavering Road
Views affected by the development are obtained from the west facing Ground floor Terrace located off the Living/Dining Room in a sitting and standing position.



Photo 1: *View from west facing ground floor terrace looking to the south-west of no. 2 Clavering Road in a standing position.*



Photo 2: *View from west facing ground floor terrace looking to the west over the top of development site from no. 2 Clavering Road in a standing position.*



Photo 3*: View from west facing ground floor terrace looking to the north-west of no. 2 Clavering Road in a standing position.*



Photo 4: *View from the Dining Room in a standing position.*



Photo 5*: View from the ground floor Living Room in a standing position.*



***Photo 6**: View from the lower ground floor Rumpus in a standing position looking to the west over the top of the development site.*

No. 4 Clavering Road
Views affected by the development are likely to be the same as no.2 with views obtained from the west facing first floor balcony in a sitting and standing position. The views are obtained over the front and side boundary of no. 13 Clavering Road.

No. 6 Clavering Road
The outlook affected by the development would be obtained from the west facing balcony located off the family room and living Room in a sitting and standing position over the front boundaries of the sites.



***Image:** View from first floor family room in a standing position looking west. Realeestate.com.au image.*



Image: *View from first floor west facing balcony looking south-west. Realestate.com.au image.*

No. 31 Gurney Crescent.
Views affected by the development are obtained from a standing position on the north facing front balcony. The views are obtained over the front and side boundary of no. 13 Clavering Road.



Photo 7*: View from the eastern end of the north facing, front balcony of no. 31 Gurney Crescent in a standing position.*



Photo 8: *View from the western end of the north facing, front balcony of no. 31 Gurney Crescent in a standing position.*

No. 33 Gurney Crescent

The outlook affected by the proposed development, is obtained from the north facing Alfresco area from a standing position. The views are obtained over the front and side boundary of no. 13 Clavering Road.

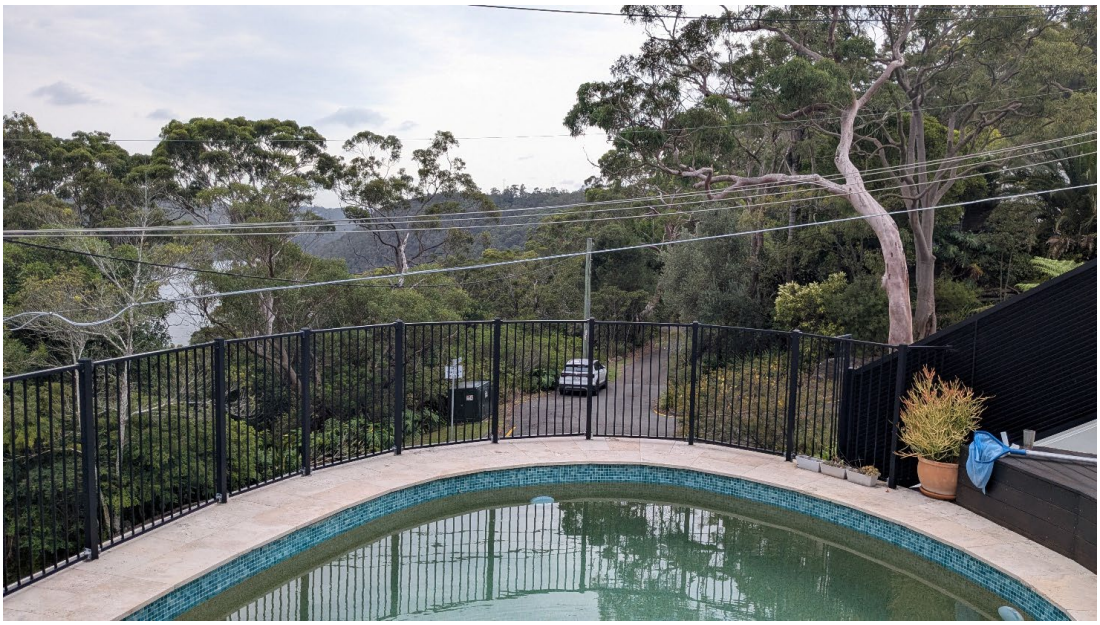


Photo 9: *View from the north facing Terrace of no. 33 Gurney Crescent.*

Principle 3

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

No. 2 Clavering Road
No. 2 Clavering Road will lose obstructed glimpses of water from the west facing ground floor terrace in a sitting and standing position. The ground floor west facing terrace will retain partially obstructed water views of middle harbour over the top of the development site in a sitting and standing position.

The remainder of the sites views will be unaffected by the development including water views of Middle Harbour to the north-west including the interface between land and water and obstructed water views will be retained from the Kitchen, Dining area in a sitting and standing position. Obstructed water views will be retained from Living area in a sitting and standing position. Obstructed water views will also be retained from the lower ground floor bedrooms and Rumpus in a sitting and standing position.

Due to the extent of the view loss and what views will be retained view loss is considered minor.

No. 4 Clavering Road
View loss is expected to be the similar to no. 2 Clavering Road. The property may lose obstructed glimpses of water from the west facing balcony in a sitting and standing position. The ground floor west facing terrace will retain partially obstructed water views of middle harbour over the top of the development site in a sitting and standing position.

Due to the extent of the view loss and what views will be retained view loss is considered minor.

No. 6 Clavering Road
The west facing balcony may lose some views of bushland from a sitting and standing position. The remainder of the sites views will be unaffected by the development including water views of Middle Harbour to the south-west and west including the interface between land and water. The sit will also retain views of the Sydney CDB to the south.

Due to the extent of the views potentially lost and what views will be retained, view loss is considered negligible.

No. 31 Gurney Crescent
The front north facing balcony may lose a minor portion of water views which are heavily obstructed by vegetation in a standing position. The balcony will retain unobstructed water views from the front balcony in a standing and sitting position over the top of the development.

No. 33 Gurney Crescent
The front north facing Alfresco area will lose vegetated outlook from a standing position. The Alfresco will retain obstructed water views of Middle Harbour to the north-west.

Principle 4

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development

would probably be considered acceptable and the view sharing reasonable.
Comment:
The proposed development does not comply with the building height requirement of the MLEP and has several non-compliances with the MDCP - wall height, side and front setback. While the proposal will result in the loss of minor glimpses of water through vegetation from nos. 2 and 4 Clavering Road and no. 31 Gurney Crescent, the sites will retain the majority of their views, being unobstructed and obstructed water views of Middle Harbour. The areas of the development that do not comply with the built form controls do not contribute to the loss of any significant views, instead, glimpses of water that are heavily obstructed by vegetation. The proposal complies with all other planning controls and the encroachment into the height of buildings, wall height, front and side setback is consistent with other development in the surrounding area due to the slope of the land. In this regard, the proposal is considered to be reasonable in its context and will allow for a reasonable sharing of views.

Public Domain Views

In determining the extent of the potential view loss from the public domain, the planning principles outline within the Land and Environment Court Case of Rose Bay Marina Pty Limited Vs Woollahra Municipal Council and anor (213) NSWLEC 1046 are applied to the proposal.

1. Nature and Scope of Views
The first step is to identify the nature and scope of the existing views from the public domain, including, but not limited to:
- Any existing obstructions of the view;
- Composition of the view (e.g. is it static or dynamic and, if dynamic, the nature and frequency of changes to the view);
- Are existing obstructions permanent or temporary;
- The cartilages of important elements within the view.
Comment:
The existing views obtained from the public domain, in this case being Clavering Road and the intersection of Gurney Crescent and Clavering Road, consists of filtered views to west and north-west of Middle Harbour and Castle Cove. Existing obstructions to the views include vegetation. The vegetation obstructions are large, well established located on the Council Road Reserve and spread across multiple properties. The adjoining sites have recently been sold and manly of the trees and vegetation the on these sites are likely to be removed and dwellings constructed. The change to the available outlook from the road will be permanent, assuming the application is approved and the proposal is maintained for the life of the development.

2. Locations of View Interruptions
The second step is to identify the locations in the public domain from which the potentially interrupted view is enjoyed.
Comment:
The affected view is available from the road and road reserve of Clavering Road and the intersection of Clavering Road and Gurney Crescent. In the location of the Clavering Road and Gurney Crescent do not contain any formal footpath. It is noted Clavering Road and Gurney Crescent are not classified as a major road, Clavering Road is also not a through road, thus traffic frequency is not considered to be significant.



***Photo 10**: View from the intersection of Gurney Crescent and Clavering Road looking towards the site.*



***Photo 11:** View from the road in front of the development site looking north-west.*



Photo 12: *View from the road in front of the development site looking west.*



Photo 13: *View from a car in front of the development site looking west.*



Photo 14: *View from a car in front of the development site looking south-west.*

3. Extent of Obstructions

The third step is to identify the extent of the obstruction at each relevant location. The impact on appreciation of a public domain view should not be subject to any eye height constraint. A public domain view is one that is for the enjoyment from many positions by all people.

Comment:

The location where views are obtained are limited to the roadway. Views are currently obtained from a seated position in a car travelling along Clavering Road and Gurney Crescent; or from a standing position on the street. The proposed development will result in the loss of some of the obstruct water views.

4. Intensity of public landuse

The fourth step is to identify the intensity of public use of those locations where that enjoyment will be obscured, in whole or in part, by the proposed private development.

Comment:

Clavering Road and Gurney Crescent do not contain any formal footpath and are not classified as major roads, Clavering Road is also not a through road and is not wide enough for two vehicles to pass in opposite directions, thus traffic frequency is not considered to be significant and limited to residents and their visitors. It is unknown how frequently the road used for walking. A submitter noted that they walked along Clavering Road frequently, however, the road is a dead end and does not link to other walking tracks. Foot traffic is likely to be minimal.

5. Documentation of the View

The final step to identified is whether there is any document that identifies the importance of the view to be assessed, such as international, national, state or local heritage recognition, or where the relevant planning controls promote or specifically requires the retention or protection of public domain views.

Comment:

Clavering Road does not have any international, national, state or local heritage recognition.
The MDCP requires development to minimise disruption to views from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from public places (including roads and footpaths). While the proposed development will result in the loss of water views of Middle Harbour, the height of the roof will allow for views over the top of the development. Views will also be maintained along the northern and southern boundary of the site.

Loss of views from the public domain is considered to be minimal as the majority of significant water views including the interface between land and water will be retained over the proposed dwelling

The development is consistent with the objectives of the control and is acceptable on merit.


Dense understorey screening public domain

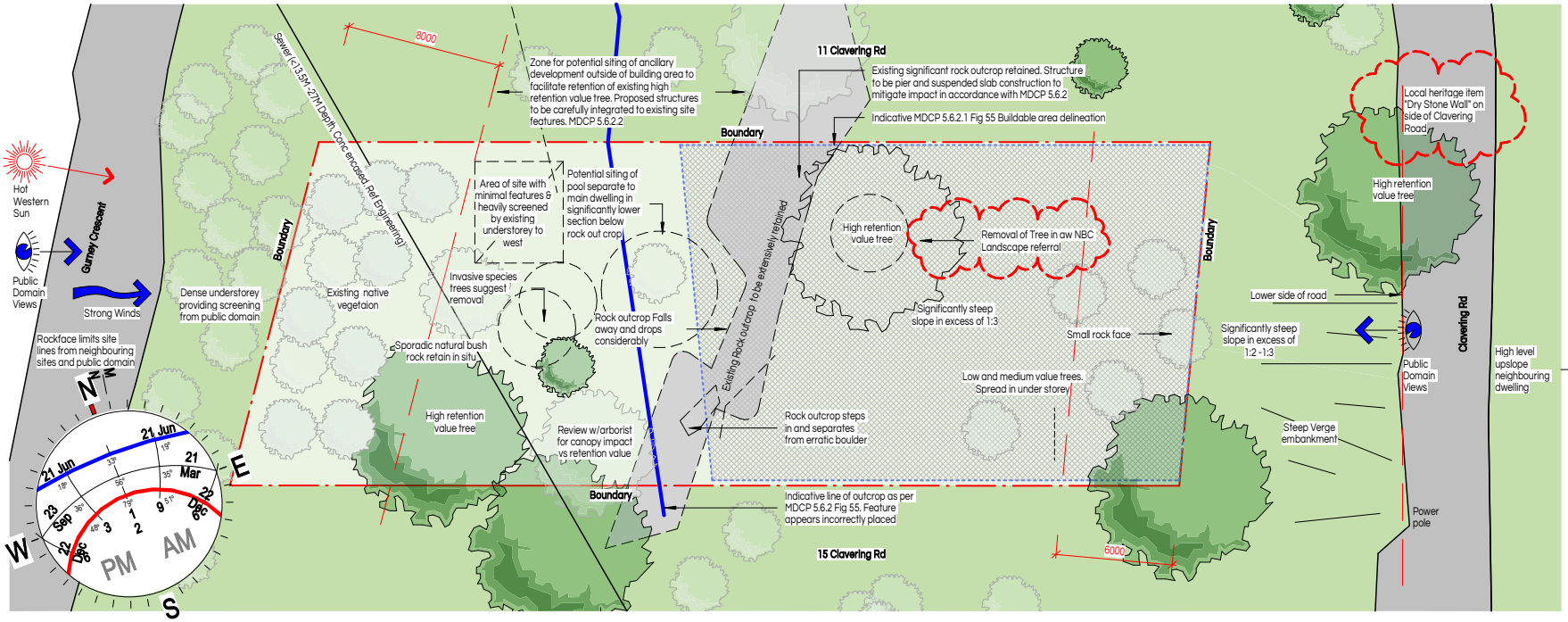

Sporadic Bushrock to lower portion of site


Rock Outcrop


Primary building area downslope


Steep Site Verge & rockery


Clavering Rd & Significant Tree



Site Analysis - Constraints & Oppourtunities
1:200


Downslope of Outcrop


Rock outcrop to be retained


Outcrop & Erratic Boulder


Outcrop & Erratic Boulder


Outcrop & Erratic Boulder


Primary building area upslope


Upslope Neighbour

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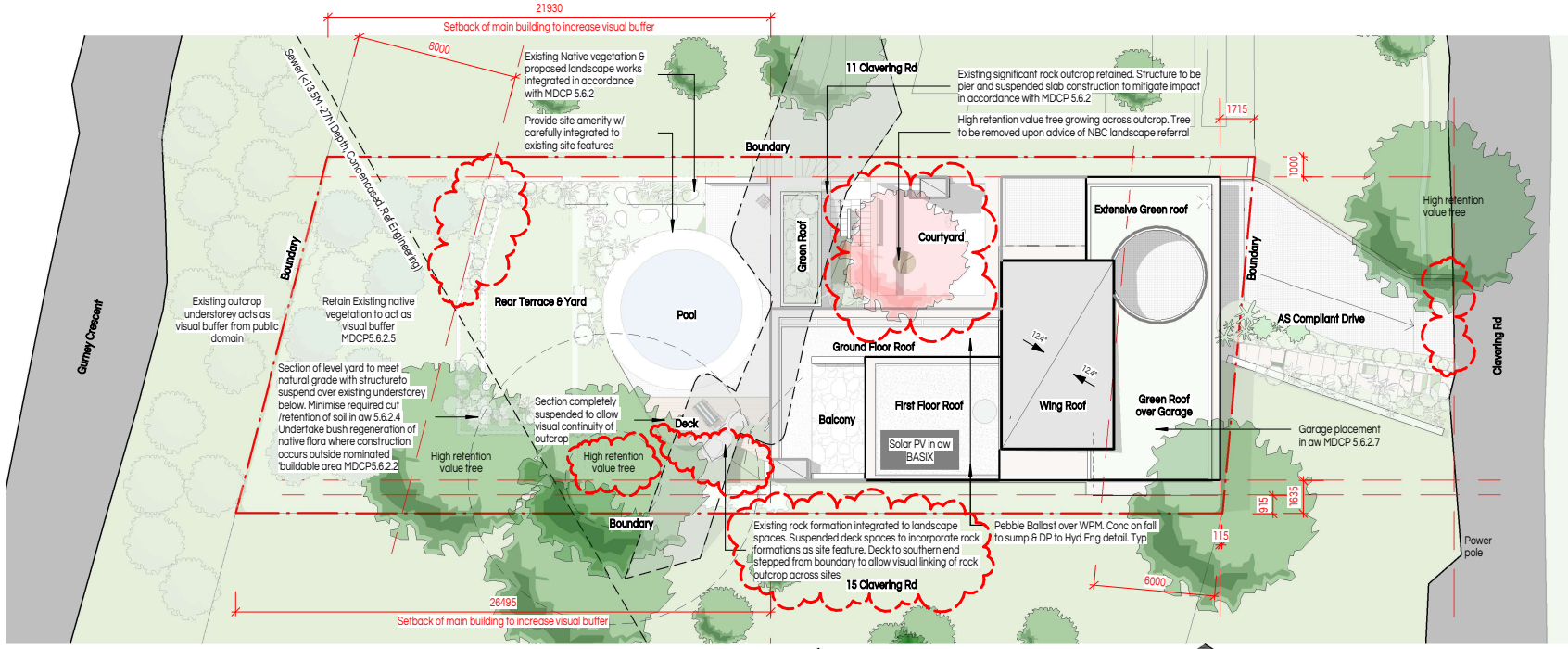
DEVELOPMENT APPLICATION

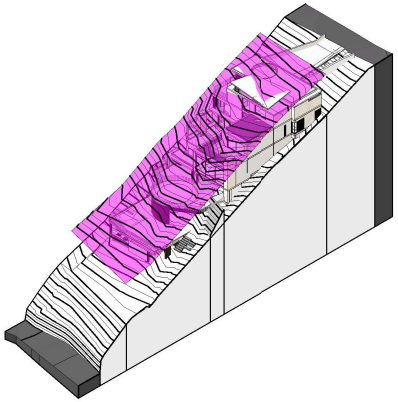
No.	Description	Date
2	Issued for Development Application	29 Aug 2025
3	Without Prejudice issue for discussion	27 Jan 2026
4	Issued for Approvals	09 Mar 2026

Project: Burumerring
Location: 13 Clavering Rd, Seaforth NSW
Client: MD Living Residential
Drawing: Site Analysis - Constraints & Oppourtunities

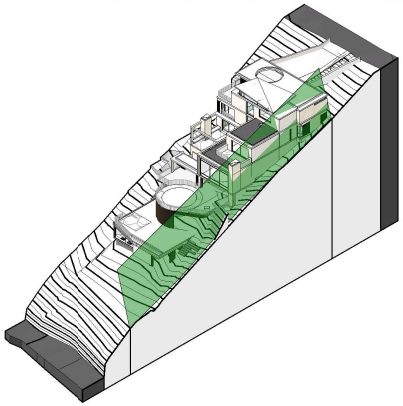
Scale @ A3	Drawn by	Checked by
As Indicated	BS	BS
Project Issue Date: May 2025	Sheet Issue Date: 09 Mar 2026	
Project number: 1285	Drawing #: D011	Revision: 4

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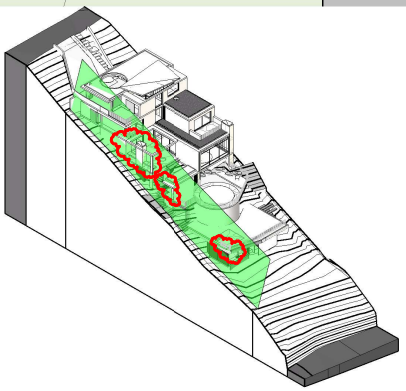




2 Site Analysis - LEP 8.5M Height Blanket



3 Site Analysis - DCP Setback Envelope Southern



4 Site Analysis - DCP Setback Envelope Northern

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TN

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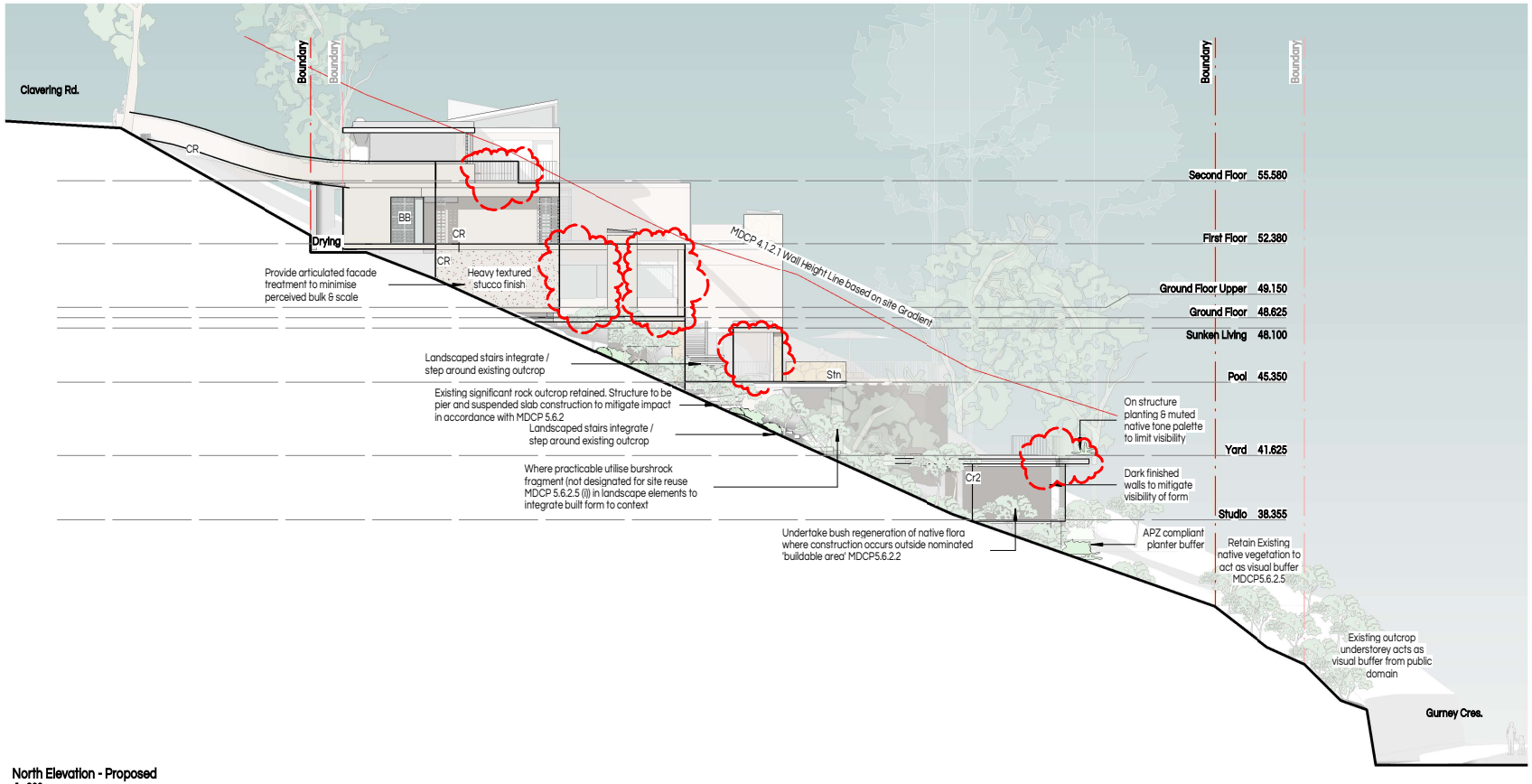
DEVELOPMENT APPLICATION

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3	Without Prejudice issue for discussion	27 Jan 2026
4	Issued for Approvals	09 Mar 2026

Project: Burumerring
Location: 13 Clavering Rd, Seaforth NSW
Client: MD Living Residential
Drawing: Site Layout & Site Analysis - Proposed

Scale @ A3	Drawn by	Checked by
1:200	BS	BS
Project Issue Date: May 2025	Sheet Issue Date: 09 Mar 2026	
Project number: 1285	Drawing #: D012	Revision: 4

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North Elevation - Proposed
1 : 200



CR & Cr2
Textured Render tonally match to high quality stone cladding with secondary ground plane darkened

Colour 01:
Dulux Rich Biscuit
Colour 2:
Dulux Tree Hollow

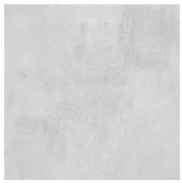


Stn
Stone Cladding & Aged Brass Artic panels

Eco Outdoor:
Freeform Hopetoun
**Where practicable utilise bushrock fragment (not designated for site reuse MDCP 5.6.2.5 (i)) in Lscape elements to integrate built form to context



BB
Breeze- block Privacy Screening.
Masonry by Lohas colour to match nom. Render Colour



Conc.
Low Carbon Class A finished concrete details.
Colour Natural Conc. by Boral



Blnd.
Operable External Venetian blinds by Vental
Finish: Anodised Aluminium
Colour: Anodic Dark Bronze



Garden
Integrated Landscaping. APZ compliant Australian native featuring Bushfire resisting species. Ref to Landscape Arch Docs

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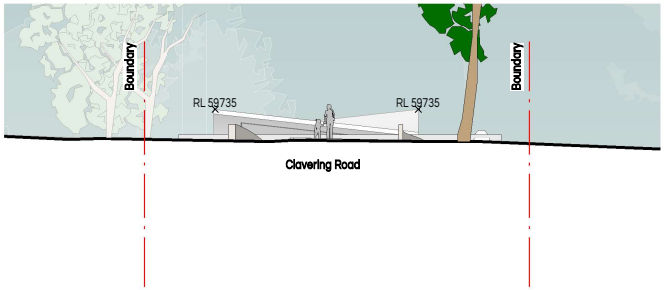
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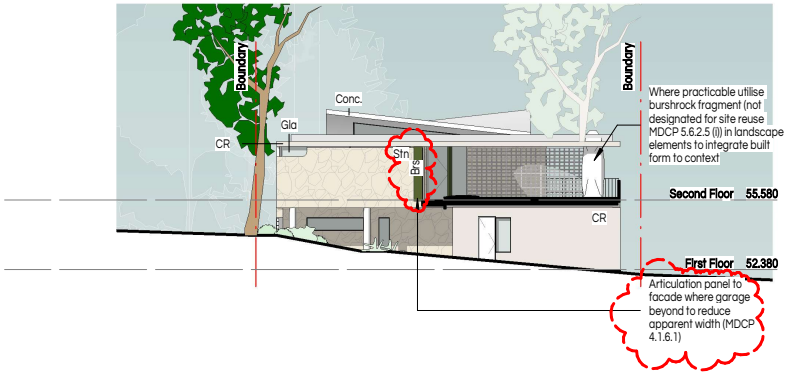
Project: Burumerring
Location: 13 Clavering Rd, Seaforth NSW
Client: MD Living Residential
Drawing: North Elevations

Scale @ A3	Drawn by	Checked by
As Indicated	BS	BS
Project Issue Date: May 2025	Sheet Issue Date: 09 Mar 2026	
Project number: 1285	Drawing #: D401	Revision: 4

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East Elevation - Proposed (Streetscape)
1:200

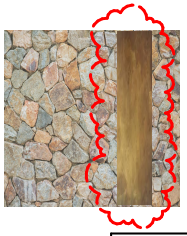


East Elevation - Proposed (Bdy)
1:200



CR & Cr2
Textured Render tonally match to high quality stone cladding with secondary ground plane darkened

Colour 01:
Dulux Rich Biscuit
Colour 2:
Dulux Tree Hollow

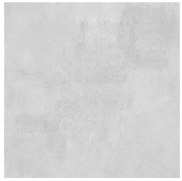


Stn
Stone Cladding & Aged Brass Artic panels

Eco Outdoor:
Freeform Hopetoun
**Where practicable utilise bushrock fragment (not designated for site reuse MDCP 5.6.2.5 (i)) in Lscape elements to integrate built form to context



BB
Breeze- block Privacy Screening.
Masonry by Lohas colour to match nom. Render Colour



Conc.
Low Carbon Class A finished concrete details.
Colour Natural Conc. by Boral



Blnd.
Operable External Venetian blinds by Vental
Finish: Anodised Aluminium
Colour: Anodic Dark Bronze



Garden
Integrated Landscaping. APZ compliant Australian native featuring Bushfire resisting species. Ref to Landscape Arch Docs

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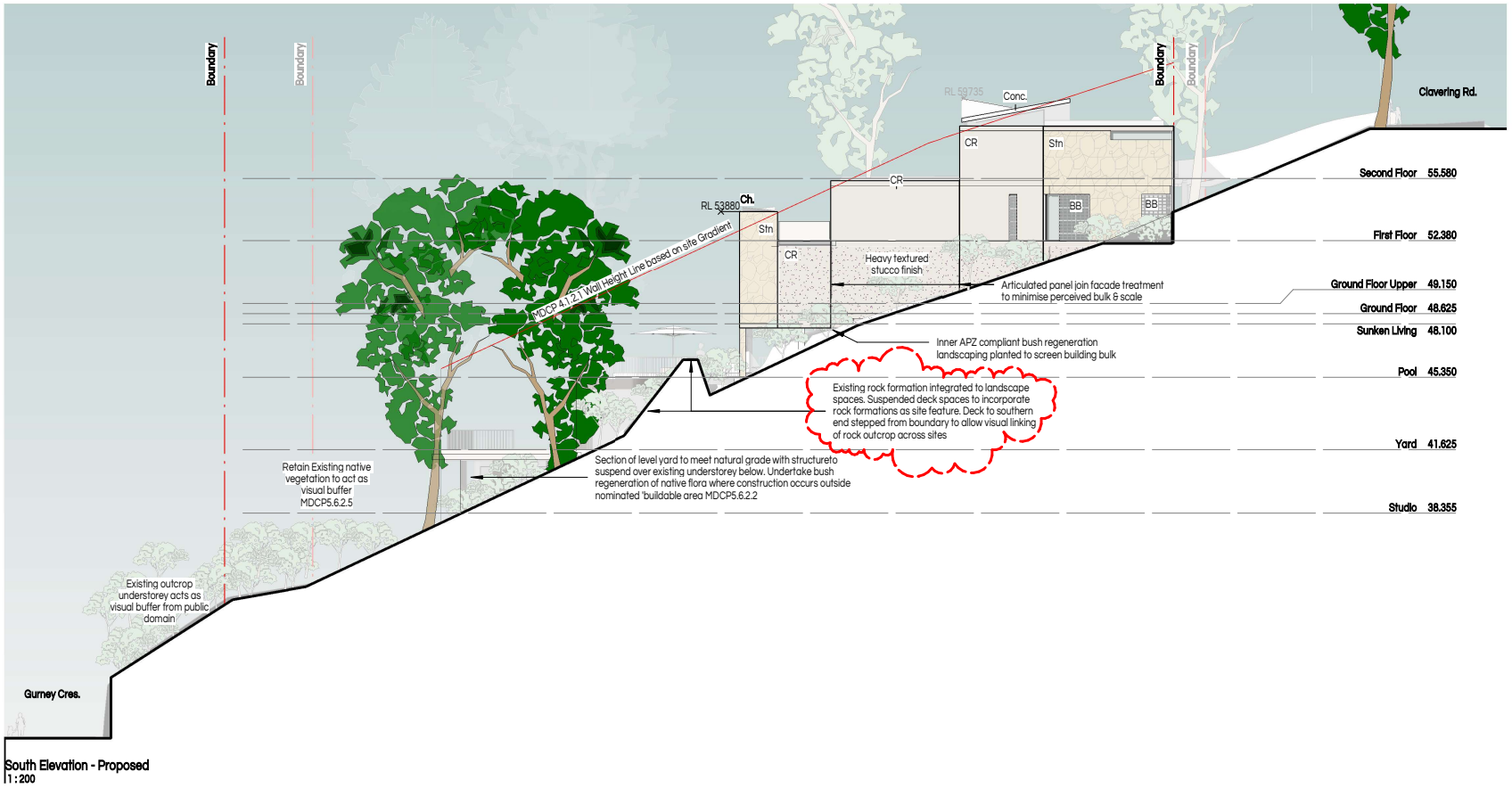
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Project: Burumerring
Location: 13 Clavering Rd, Seaforth NSW
Client: MD Living Residential
Drawing: East Elevations

Scale @ A3: As Indicated
Drawn by: BS
Checked by: BS
Project Issue Date: May 2025
Sheet Issue Date: 09 Mar 2026
Project number: 1285
Drawing #: D402
Revision: 4

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South Elevation - Proposed
1 : 200



CR & Cr2
Textured Render tonally match to high quality stone cladding with secondary ground plane darkened

Colour 01:
Dulux Rich Biscuit
Colour 2:
Dulux Tree Hollow

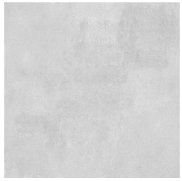


Stn
Stone Cladding & Aged Brass Artic panels

Eco Outdoor:
Freeform Hopetoun
**Where practicable utilise bushrock fragment (not designated for site reuse MDCP 5.6.2.5 (i)) in Lscape elements to integrate built form to context



BB
Breeze- block Privacy Screening.
Masonry by Lohas colour to match nom. Render Colour



Conc.
Low Carbon Class A finished concrete details.
Colour Natural Conc. by Boral



Blnd.
Operable External Venetian blinds by Vental
Finish: Anodised Aluminium
Colour: Anodic Dark Bronze



Garden
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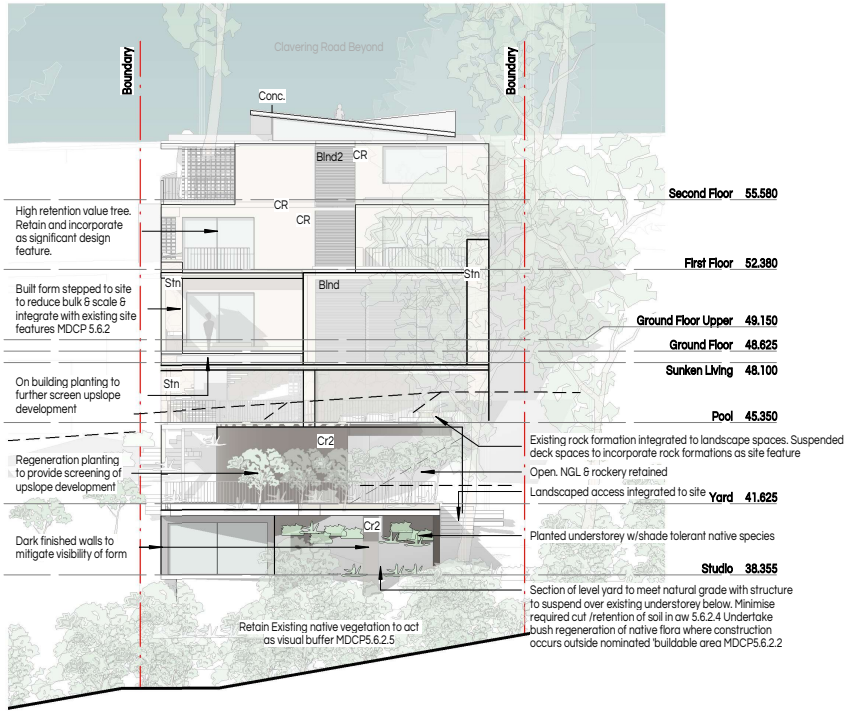
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Project: Burumerring
Location: 13 Clavering Rd, Seaforth NSW
Client: MD Living Residential
Drawing: South Elevations

Scale @ A3	Drawn by	Checked by
As Indicated	BS	BS
Project Issue Date: May 2025	Sheet Issue Date: 09 Mar 2026	
Project number: 1285	Drawing #: D403	Revision: 4

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CR & Cr2
Textured Render tonally match to high quality stone cladding with secondary ground plane darkened

Colour 01:
Dulux Rich Biscuit
Colour 2:
Dulux Tree Hollow

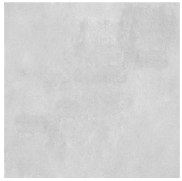


Stn
Stone Cladding & Aged Brass Artic panels

Eco Outdoor:
Freeform Hopetoun
**Where practicable utilise bushrock fragment (not designated for site reuse MDCP 5.6.2.5
(i)) in Lscape elements to integrate built form to context



BB
Breeze- block Privacy Screening.
Masonry by Lohas colour to match nom. Render Colour



Conc.
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Colour Natural Conc. by Boral



Blnd.
Operable External Venetian blinds by Vental
Finish: Anodised Aluminium
Colour: Anodic Dark Bronze



Garden
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Project: Burumerring
Location: 13 Clavering Rd, Seaforth NSW
Client: MD Living Residential
Drawing: West Elevations

Scale @ A3: As Indicated
Drawn by: BS
Checked by: BS
Project Issue Date: May 2025
Sheet Issue Date: 09 Mar 2026
Project number: 1285
Drawing #: D404
Revision: 4

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balance.
PLANNING

clause 4.6 variation request [height]

construction of a dwelling, detached cabana, garden terrace, and swimming pool

13 Clavering Road, Seaforth

Client	MD Living Residential Development
Project No.	2025-0171
Document Type	clause 4.6 variation request [height]
Document Author	Ryan Gill

Revision	Amendment Description	Date
Final	-	29.08.2025

Disclaimer

This report is dated 29 August 2025 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Balance Planning's opinion in this report. Balance Planning prepared this report on the instructions, and for the benefit only, of MD Living Residential Development (Instructing Party) for the purpose of supporting a development application (Purpose) and not for any other purpose or use.

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This report has been prepared with due care and diligence by Balance Planning and the statements, opinions and recommendations given by Balance Planning in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

INTRODUCTION

This clause 4.6 variation request [height] has been prepared to support an application for the construction of a dwelling, detached cabana, garden terrace, and swimming pool at 13 Clavering Road, Seaforth.

The proposal

The proposal includes tree removal and land modification works, and the construction of a three-storey dwelling with integrated double-bay garage, a swimming pool, and a detached cabana below a garden terrace. Associated landscaping and drainage works are proposed.

Land use zone

Manly Local Environmental Plan 2013 (MLEP) applies to the site.

The site is within Zone R2 Low Density Residential and the proposal is permitted with consent.

An extract of the zoning map is provided at Figure 1.

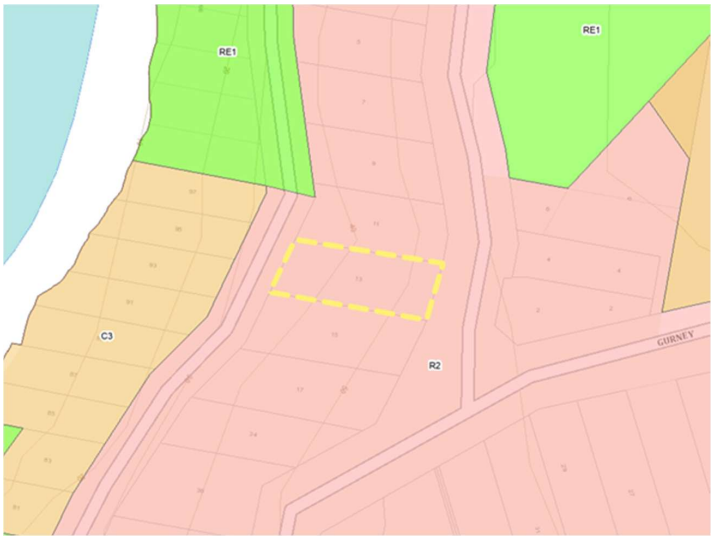


Figure 1 | Zoning Map extract (Source: NSW Govt.)

The variation

Clause 4.3(2) of MLEP states:

> "(2) 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 Height of Buildings Map indicates that the maximum building height permitted at the site is 8.5m.

An extract of the Height of Buildings Map is provided at Figure 2.



Figure 2 | Height of Buildings Map extract (Source: NSW Govt.)

The top edges of the "winged" roof form are @ RL59.735 and the maximum height of the dwelling is therefore 10.14m. The maximum extent of variation is 1.64m which equates to a percentage variation of 19.29%.

The breach relates to a small volume of the proposed roof form as illustrated by the height plane diagram at Figure 3.

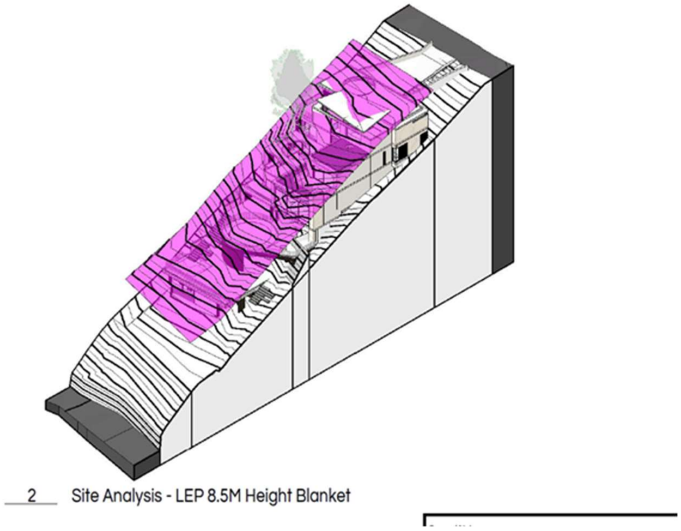


Figure 3 | Height blanket (Source: Buck & Simple)

Sheet D301 of the Architectural Plans includes a section with the 8.5m height line documented. The section is included with this report at **Attachment A**.

Clause 4.3 is not excluded from the operation of clause 4.6.

Purpose of the document

The purpose of this document is to address the provisions of clause 4.6 of BMLEP which require the submission of a written request from the applicant justifying contravention of the development standard.

This request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard.

ADDRESSING CLAUSE 4.6

This section of the written request addresses the key elements of clause 4.6 in turn.

Compliance is unreasonable or unnecessary [cl 4.6(3)(a)]

Cl. 4.6(3)(a) requires that the written request from the applicant demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case.

Here we explain that compliance with the development standard is unreasonable and unnecessary by demonstrating that the objectives of the development standard are achieved despite non-compliance with the standard.

The objectives of the clause 4.3 are addressed at Table 1.

Table 1 | Objectives of the development standard

Objective		Comment
(a)	to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,	The proposal is consistent with the "topographic landscape" of the site in the sense that the proposed floorplates and roof forms step down the site which gives the development a terraced appearance that reflects site terrain. The proposed dwelling will have a single storey presentation to the street (see Sheets D402 & D902 of Architectural Plans @ Attachment B) because of the elevated position of the Clavering Road pavement (~RL 58.32) relative to the FFL of the upper-most level (RL55.58). The building will not overwhelm or impose on Clavering Road. Freestanding dwellings in the immediate locality commonly have a single to two storey street presentation though consist of 3 + storeys stepping down site terrain. The proposed development is consistent with the topographic landscape of the site and the prevailing scale of dwellings in the locality, particularly those nearby on Gurney Crescent. The proposal achieves objective (a).
(b)	to control the bulk and scale of buildings,	While a portion of the upper-most level (primarily roof form) will breach the 8.5m height plane, the greater portion of the dwelling comfortably complies. The dwelling is downslope of Clavering Road and therefore has a single storey appearance from the perspective of

Objective		Comment
		Clavering Road, as illustrated by Sheets D402 & D409 of the Architectural Plans. All elevations of the dwelling incorporate considerable physical articulation i.e. steps and recesses in the building, sections of breeze-block wall. Articulation serves to modulate the building and moderate perceived scale. External materials consist of a neutral-coloured textured render and stone cladding to nominated wall surfaces. External materials will ameliorate building bulk and scale. Various large, established trees will be retained within the site and in the road reserve and, in combination with proposed supplementary planting and green roofs, will disguise and / or soften building form. In our opinion, the building bulk and scale is acceptable despite building height breach and achieves objective (b).
(c)	to minimise disruption to the following— (i) views to nearby residential development from public spaces (including the harbour and foreshores),	Retained downslope vegetation includes "high value" Angophoras which have a substantial height and canopy spread and will disguise / conceal a portion of the development from the perspective of Middle Harbour. Proposed supplementary planting along with green roofs will also function to soften the appearance of the building from the perspective of Middle Harbour. As noted, materiality and building articulation will also moderate the apparent scale of the building from the perspective of Middle Harbor. In our opinion, the appearance of the building from the perspective of Middle Harbour will be acceptable, and appropriate measures have been employed to moderate perceived bulk and scale. The roof form could conceivably be adjusted to moderate or eliminate the height breach, though doing so would make no meaningful difference to how the building appears from Middle Harbour because the building will be perceived at a distance. The proposal achieves objective (c)(i).

Objective		Comment
	(ii) views from nearby residential development to public spaces (including the harbour and foreshores),	The dwellings @ nos. 2 & 4 Clavering Road are elevated above the Clavering Road pavement. Based on site observations and available real estate images, we anticipate that sightlines from these properties towards Middle Harbour will be over the proposed development and views will not be unreasonably diminished. The proposal achieves objective (c)(ii).
	(iii) views between public spaces (including the harbour and foreshores),	The vegetation in the Clavering Road verge and within the site is presently dense and blocks line of sight from the Clavering Road pavement to Middle Harbour. The proposal is likely to create public sightlines from Clavering Road to Middle Harbour. The section @ Sheet D301 illustrates the anticipated public domain sight line over the tallest portion of the proposed winged roof form. We anticipate that it will be possible to see beyond the site to Middle Harbour from Clavering Road despite the building height breach. The proposal achieves objective (c)(iii).
(d)	to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,	Public spaces Shadow diagrams supplied at Sheet D901 of the Architectural Plans (and included at **Attachment C**) demonstrate the proposal will have no shadow impact on public spaces. Adjoining development Shadow diagrams also indicate shadow will be cast towards the property to the south @ 15 Clavering Road. This site is undeveloped and there are, according to the council's DA tracker, no approvals or proposals to develop the site. It is reasonable to anticipate that any dwelling proposal on this site would position private open space to the rear (western side) of the dwelling. Shadow diagrams confirm that this portion of the site will have solar exposure after midday i.e. 3 hours +. Similarly, a dwelling could conceivably be designed to ensure living room windows obtain 2 hrs + of direct solar access on the winter solstice.

Objective		Comment
		We speculate that main living room windows would be west facing to leverage water aspect, and, if so, those windows are likely to have 2 hrs + of solar exposure. Summary Despite building height breach, the proposal does not have shadow impact on public space and is arranged to maintain reasonable solar entry to the undeveloped site as no. 15 Clavering Road. The proposal achieves objective (d).
(e)	to ensure the height and bulk of any proposed building or structure in a recreation or conservation zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.	The objective does not apply because the site is not in a recreation or conservation zone.

The objectives of clause 4.3 are achieved despite non-compliance as outlined above. Strict compliance with clause 4.3 is therefore unreasonable and unnecessary in the circumstances of this case.

This discussion responds to cl.4.6(3)(a).

Sufficient environmental planning grounds [cl.4.6(3)(b)]

Cl. 4.6(3)(b) requires that the written request from the applicant demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.

Here we explain that there are sufficient environmental planning grounds to justify contravening the development standard. The environmental planning grounds described below are specific to the site and to the development:

- The site falls ~9.8m over the length of the proposed floorplate (~43% grade). The breach is a function of sloping site terrain. This is evidenced by the fact that the breach is not uniform but rather occurs at the rear of the upper most level and relates primarily to the “winged” roof form. No habitable floor area breaches the height plane.
- The second storey necessarily accommodates the garage and a vehicle manoeuvring area. The FFL of the second storey is determined by the Clavering Road pavement level and ramp gradient requirements set out in AS2890.1. We understand that the FFL of the second storey is fixed because it cannot be lowered without increasing ramp gradient to the point it becomes non-compliant. Because the second storey FFL is fixed there is no tolerance to adjust the floor level to bring the roof form entirely below the 8.5m height line. The unique site terrain and relationship to road pavement level contributes to the height breach.

- The site is downslope of Clavering Road. The FFL of the proposed upper level (RL 55.58) is below the road pavement level (~RL 58.25) of Clavering Road. Accordingly, the dwelling has a single storey streetscape presentation. A streetscape elevation is supplied at Figure 4.

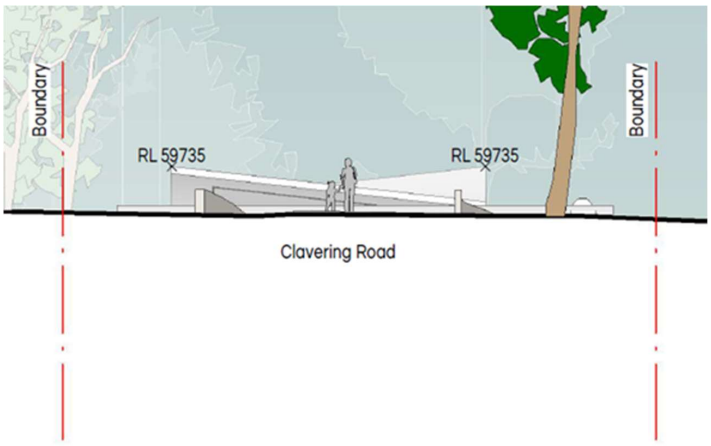


Figure 4 | Streetscape elevation (Source: Buck & Simple)

- The street-facing façade of the dwelling comfortably complies with the height standard. The breaching component of the roof form is largely concealed behind the complying volume of the building from the perspective of Clavering Road. The render @ Figure 5 denotes the "non-compliant" portion of the building we anticipate will be evident form Clavering Road.



Figure 5 | Streetscape perspective (Source: Buck & Simple)

- The non-compliant elements of the building that will potentially be visible from the west are minor as denoted on the elevation extract @ Figure 6. Retained downslope vegetation includes "high value" Angophoras which have a substantial height and canopy spread and will disguise or conceal a portion of

the development from the perspective of Middle Harbour. Views of the building from the west (i.e. Middle Harbour & Gurney Crescent properties) will be from a distance. In our opinion, the development will not overwhelm or impose on public and private land to the west, despite height breach.

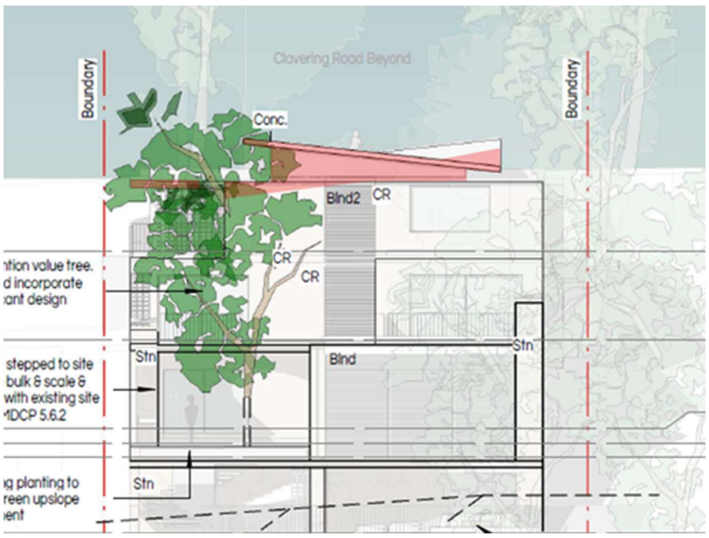


Figure 6 | Western elevation (Source: Buck & Simple)

- The breaching elements of the winged roof are offset from the edges of the roof form / floorplate below as denoted on the roof plan extract at Figure 7. This means that, from the perspective of nos. 11 & 15 Clavering Road, the non-compliant elements of the winged roof will be less visible, if visible at all.

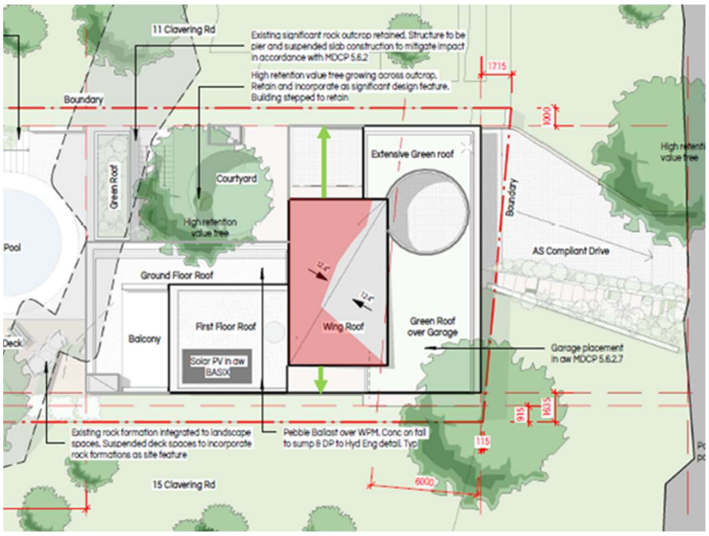


Figure 7 | Roof offset (Source: Buck & Simple)

- The winged roof form is an architectural design feature intended to contribute to the architectural quality and streetscape appearance of the dwelling. The roof form also promotes solar entry into the upper level and stair zone. A flat roof could conceivably be adopted to minimise or eliminate the breach, though doing so would only undermine design intent without yielding any upside.

- Site terrain in the area is steep and dwellings on Gurney Crescent and Clavering Road are commonly stepped down their respective sites and have a terraced appearance. Dwellings consistently have a scale of 3+ storeys per drone image at Figure 8. In our opinion, the proposed dwelling is compatible with the scale and arrangement of dwellings in the locality despite height breach.



Figure 8 | Drone image (Source: realestate.com)

- We've explained that the FFL of the second level cannot be dropped owing to ramp gradient requirements. It is sensible to provide a building entry and dwelling lobby at the second level form a streetscape and functionality perspective. To moderate the extent of consequent height breach, a modest (~94sqm) floor area is adopted, the maximum depth of the floorplate is only ~11m, and the floorplate is pushed close to street boundary.

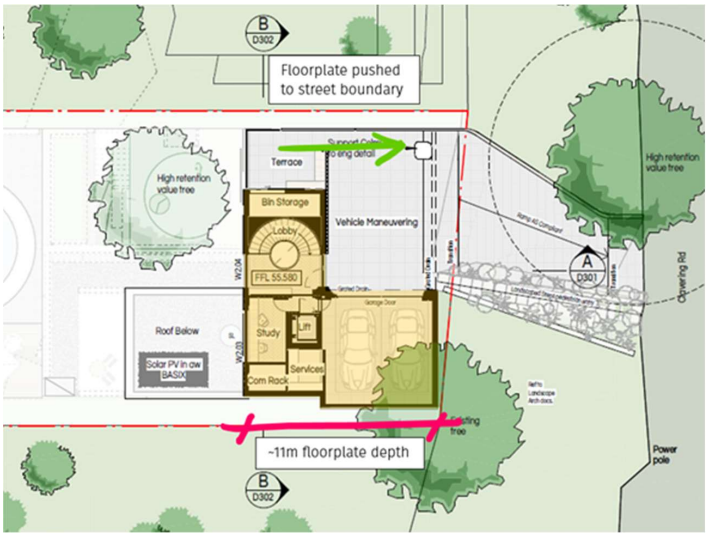


Figure 9 | Floorplate arrangement (Source: Buck & Simple)

- The floor to ceiling clearance at first and second level are 2,700m and 2,500mm, respectively, and are not opulent or excessive. Clearances could be reduced to

moderate the height breach, though doing so would only diminish amenity without yielding any tangible improvement to the built form outcome or streetscape presentation.

- Design measures are employed to moderate perceived building scale:
    - All elevations of the building incorporate considerable physical articulation along both vertical and horizontal planes i.e. steps and recesses in the building, sections of breeze-block wall.
    - External materials consist of a neutral-coloured textured render and stone cladding to nominated wall surfaces. External materials will ameliorate built form.
    - Various large, established trees are retained within the site and the road reserve and, in combination with proposed supplementary planting and extensive green roofs, will soften building form.
- The proposal will have no unreasonable adverse impact on the amenity of the neighbours.
    - Shadow: The shadow cast by the breaching component of the building is anticipated to by minor and inconsequential. A discussion concerning shadow impact is set out @ Table 1 of this Report.
    - Privacy: There are no windows on the breaching components of the building from which sightlines to adjacent properties are obtained. The breach does not give rise to any adverse privacy impacts.
    - Views: Given the properties to the east and the Clavering Road pavement level are elevated above the site, view impact is anticipated to be negligible. A discussion concerning potential view impact is provided @ Table 1 of this Report.

We have explained that there are sufficient environmental planning grounds to justify the proposed contravention of clause 4.3. The environmental planning grounds outlined are not general propositions but rather are specific to the site and the proposed development.

SUMMARY

This clause 4.6 variation request [height] has been prepared to support an application for the construction of a dwelling, detached cabana, garden terrace, and swimming pool at 13 Clavering Road, Seaforth.

This written request seeks to vary clause 4.3 of MLEP. The proposed development has a maximum height of 10.14m. The development will exceed permitted building height by 1.64m which equates to a percentage variation of 19.29%.

We have demonstrated that strict compliance with the development standard is unnecessary and unreasonable in the circumstances of the case given the development achieves the objectives of the standard notwithstanding non-compliance.

Further, we have explained that there are sufficient environmental planning grounds to justify contravening the development standard, namely that the non-compliance is primarily a function of sloping site terrain, the Clavering Road pavement level informs ramp design which dictates the FFL of the second level and consequently gives rise to a height breach, the building has a single storey presentation to Clavering Road, and the scale of the building is compatible with those in the locality, such as on Gurney Crescent. Additionally, we have found that, despite height breach, the proposal is unlikely to have a significant adverse impact on neighbour amenity.

In our opinion, a variation to the standard is warranted.

ATTACHMENT A | SECTIONS

ATTACHMENT B | STREET ELEVATION

ATTACHMENT C | SHADOW DIAGRAMS

5.0 NON PUBLIC MEETING ITEMS

ITEM 5.1 DA2026/0383 - 12 THE STRAND DEE WHY - AMENDING DEVELOPMENT APPLICATION IN RELATION TO DEVELOPMENT CONSENT NO. DA2025/0718 GRANTED FOR DEMOLITION WORKS AND CONSTRUCTION OF A SHOP TOP HOUSING DEVELOPMENT TO CARRY OUT MAJOR ALTERATIONS AND ADDITIONS TO THE APPROVED DEVELOPMENT

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3, and Clause 18 of the State Environmental Planning Policy (Housing) 2021, pursuant to clause 4.6 of WLEP 2011 as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

B. The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2026/0383 for Amending Development Application in relation to Development Consent No. DA2025/0718 granted for demolition works and construction of a shop top housing development to carry out major alterations and additions to the approved development at Lot 13 DP 6953, 12 The Strand DEE WHY subject to the conditions set out in the Assessment Report.

Reporting manager	**Steve Findlay**
TRIM file ref	2026/328507
Attachments	⇩1 Assessment Report ⇩2 Site Plans & Elevations ⇩3 Clause 4.6

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2026/0383

Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 13 DP 6953, 12 The Strand DEE WHY NSW 2099
Proposed Development:	Amending Development Application in relation to Development Consent No. DA2025/0718 granted for demolition works and construction of a shop top housing development to carry out major alterations and additions to the approved development
Zoning:	Warringah LEP2011 - Land zoned E1 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Studio Johnston Architects

Application Lodged:	02/04/2026
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Mixed
Notified:	22/04/2026 to 20/05/2026
Advertised:	22/04/2026
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: WLEP 2011: 44.38% / Housing SEPP: 17.83%
Recommendation:	Approval

Estimated Cost of Works:	$11,281,407.14

EXECUTIVE SUMMARY

This development application seeks to amend Development Consent No. DA2025/0718, which was granted for demolition of an existing shop top housing development and the construction of a new shop top housing development comprised of two basement car parking levels and four above-ground levels containing two retail premises at the ground floor, and 6 apartments across three residential levels. The current development application is an 'amending development application' as it proposes major

alterations and additions to the approved development.

The proposed amendments include; reconfiguration of the lift and stairs core, re-allocation of the approved parking spaces, and addition of a fourth residential level, such that the development involve will comprise 7 residential apartments. One of the proposed apartments (Apt 102) is to be provided as "Affordable Housing". Therefore, Clause 18 of the *State Environmental Planning Policy (Housing) 2021* ('Housing SEPP') applies, which provides additional "bonus" building height beyond Clause 4.3 Height of Buildings of the *Warringah Local Environmental Plan 2011* ('WLEP 2011').

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) because it seeks to vary the maximum building height provided by Clause 4.3 of the WLEP 2011, as increased by Clause 18 of the Housing SEPP, by more than 10% (17.83%). Further, the application seeks to vary the non-discretionary development standard for landscaped area provided by Section 19 (2)(b) of the Housing SEPP by more than 10% (62.95%).

The written requests to vary the height of buildings development standard and the landscaped area non-discretionary development standard demonstrate that the resultant development is consistent with, and compatible with the desired future character and existing and recently approved developments in the E1 Local Centre zone and along the Dee Why beachfront commercial strip.

The assessment report details how the written requests to vary the height of buildings development standard and the landscaped area non-discretionary development standard achieve the relevant legislative requirements and are acceptable on merit in the circumstances of the case. In short, the written Clause 4.6 requests are well-founded and are supported for the reasons demonstrated by the Applicant. The written requests demonstrate that compliance with the development standards is unreasonable and unnecessary, as the objectives of the E1 Local Centre zone, Clause 4.3 Height of Buildings of the WLEP, and Sections 15A and 19 of the Housing SEPP are achieved. The written requests also demonstrate sufficient environmental planning grounds for the variations to the height of buildings development standard and the landscaped area non-discretionary development standard.

In accordance with Council's Community Participation Plan, the development application was publicly notified and exhibited on Council's website. No submissions were received.

Overall, this assessment demonstrates that the amended development scheme is consistent with the objectives of the E1 Local Centre zone, the provisions of the Housing SEPP, the Apartment Design Guide, and the Warringah Development Control Plan 2011.

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

PROPOSED DEVELOPMENT IN DETAIL

Overview of the Application

The development application seeks to amend Development Consent No. DA2025/0718, which granted consent for demolition of the existing shop top housing development, and construction of a new "four-storey" shop top housing development, comprised of two levels of basement parking, ground floor retail premises and three residential levels totalling 6 apartments.

This proposal seeks minor alterations to the approved levels and addition of a fourth residential level (totalling 7 apartments - that is, one extra apartment), such that the development will constitute a "5-storey" shop-top housing development, comprising the following:

Level	Approved Development	Proposed Amended Development
Basement 2:	Parking for 7 residential cars and 4 bicycles, storage, and services.	As approved, with reconfigured lift core and services.
Basement 1:	Parking for 2 residential cars, 4 retail staff cars, and 2 visitor cars, 5 bicycles, and services.	As approved, with reconfigured lift core and services, relocated bike lockers, and conversion of approved visitor parking spaces to residential parking spaces.
Ground Floor:	Two retail premises, bin rooms, amenities, commercial storage, services, loading dock, and vehicular entry to basements.	As approved, with reconfigured lift/stair core.
First Floor:	Two 3-bedroom apartments, each with eastern and western balconies and lightwells/courtyards.	As approved, with reconfigured lift/stair core, services and dwelling entries, and nomination of unit 102 as affordable housing.
Second Floor:	Two 4-bedroom apartments, each with eastern and western balconies and lightwells.	As approved, with reconfigured lift/stair core, services and dwelling entries.
Third Floor:	Two 4-bedroom apartments, each with eastern and western balconies and lightwells.	As approved, with reconfigured lift/stair core, services and dwelling entries.
Fourth Floor:	Not approved.	One four-bedroom apartment, with eastern and western balconies and lightwells.
Roof:	Clerestorey windows, solar panels, mechanical plant, and air conditioning units.	Deletion of the clerestorey windows, addition of a roof opening with retractable awning, and reconfiguration of the solar panels, mechanical plant, and air conditioning units.



Figure 1: *Photomontage of the proposed/amended development, from the south-east (subject site outlined in red)*

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 Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Local Environmental Plan 2011 - Zone E1 Local Centre
Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Local Environmental Plan 2011 - 6.1 Acid sulfate soils
Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
Warringah Development Control Plan - B2 Number of Storeys
Warringah Development Control Plan - B6 Merit Assessment of Side Boundary Setbacks
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - B10 Merit assessment of rear boundary setbacks
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 13 DP 6953 , 12 The Strand DEE WHY NSW 2099

Detailed Site Description:	The subject site consists of one allotment located on the western side of The Strand, Dee Why. The site is regular in shape with a frontage of 16.675 metres along The Strand and a depth of 45.72 metres. The site has a surveyed area of 765.1m^2. The site is located within the E1 Local Centre zone and currently accommodates a two-storey shop top housing development, comprised of two ground floor retail premises and one first floor apartment. The site is generally level and does not contain any vegetation. The site benefits from a rear Right of Carriageway access from Howard Avenue to the north of the subject site. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development along the western side of The Strand is predominantly characterised by shop top housing developments, with food and drink premises at the ground floor level. The eastern side of The Strand is the foreshore reserve of Dee Why Beach.

Map:



SITE HISTORY

The land has been developed as an older style shop-top housing development for an extended period of time.

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

DA2025/0718 - The approved DA, was for demolition works and construction of shop top housing was approved by the Northern Beaches Local Planning Panel on 3 December 2025.

DA2026/0383 - The current DA, is an '*Amending Development Application*', which seeks to make substantial changes to the approved development under Development Consent No. DA2025/0718 and so is not subject to Section 4.55 of the *Environmental Planning and Assessment Act 1979* ('the Act'), as it is not lodged as a modification application. That is, it does not need to meet the test of being substantially the same as the development for which consent was granted under DA2025/0718.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	**Comments**
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clause 29 of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clauses 62 and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the significant likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received for this application.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 22/04/2026 to 20/05/2026 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Environmental Health (General)	**Conditions Provided** This application is seeking consent for alterations and additions to approved shop top housing building under DA2025/0718. An acoustic report has been provided by Acoustic logic dated 19 March 2026, document reference 20241346.1/1903A/R2/ANP.

Internal Referral Body	Comments
Landscape Officer	**Conditions Provided** The application is assessed by Landscape Referral against SEPP (Housing) 2021, the ADG, Warringah Local Environmental Plan 2011, and the Warringah Development Control Plan 2011. The Arboricultural Impact Assessment submitted under DA2025/0718 outlined that the neighbouring trees would not be adversely impacted upon by the proposed development. An arboricultural statement is provided in this application which states no additional impact to the neighbouring trees will occur. All neighbouring trees and vegetation shall be retained and protected during the works. The landscape proposal is generally supported and all proposed planting shall be installed in accordance with the requirements outlined in the conditions of consent. All on slab planters must meet the ADGs minimum soil depth requirements. Any damage to the public domain shall be rectified by the applicant. Note to planner: include the Arboricultural Impact Assessment submitted under DA2025/0718 in the approved reports.

Internal Referral Body	Comments
NECC (Coast and Catchments)	**Conditions Provided** This application was assessed in consideration of: • Supplied plans and reports; • *Coastal Management Act 2016*; • *State Environmental Planning Policy (Resilience & Hazards) 2021* (sections 2.10, 2.11 & 2.12); • *North and Middle Harbour Estuarine Planning Level Study (July 2022)*; • Relevant LEP and DCP sections of the *Warringah Local Environmental Plan 2011* (LEP) and *Warringah Development Control Plan 2011* (DCP). The application is generally consistent with relevant planning controls. *Coastal Management Act 2016* The subject site is located within the coastal zone and therefore *Coastal Management Act 2016* is applicable to the proposed development. The development application is in line with the objects, as set out under section 3 of the *Coastal Management Act 2016*. Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by ABC Planning dated March 2026 the development application does generally comply with the objectives of the *Coastal Management Act 2016* with respect to matters related to coastal processes and hazards. As such the application is generally consistent with the objects of the *Coastal Management Act 2016.* This referral has not assessed the compliance of the proposed development, for any potential impact on the scenic value of the area in accordance with the objectives of section 3(a) of the *Coastal Management Act 2016* that relate to scenic impact. Assessment of compliance with section 3(a) of the *Coastal Management Act 2016* will be by the development assessment officer assessing this development application. *State Environmental Planning Policy (Resilience & Hazards) 2021* The subject site is located on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the *State Environmental Planning Policy (Resilience & Hazards) 2021*. Hence, section 2.10, section 2.11 and section 2.12 of the *State Environmental Planning Policy (Resilience & Hazards) 2021* apply for this development application. Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report the development application satisfies requirements under section 2.10, section 2.11 and section

Internal Referral Body	Comments
	2.12 of the *State Environmental Planning Policy (Resilience & Hazards) 2021*. This referral has not assessed the compliance of the development application against any potential impact on the visual amenity or scenic qualities of the coast in accordance with section 2.11(1)(a)(ii) and section 2.11(1)(a)(iii) of the *State Environmental Planning Policy (Resilience & Hazards) 2021*. Assessment of compliance with these sections of the *State Environmental Planning Policy (Resilience & Hazards) 2021* will be by the development assessment officer assessing this development application. As such, it is considered that the development application does comply with the requirements of the *State Environmental Planning Policy (Resilience & Hazards) 2021.* <u>Warringah LEP 2011 and Warringah DCP 2011</u> No other coastal related issues identified. As such, it is considered that the development application generally does comply with the requirements of the coastal relevant sections of the Warringah LEP 2011 and Warringah DCP 2011.
NECC (Development Engineering)	**Conditions Provided** Council's Development Engineer raises no objection to this proposal subject to conditions. <u>Stormwater</u> The proposed stormwater design is generally satisfactory subject to conditions. <u>Site Access and Parking</u> The proposed site access and parking design is generally satisfactory subject to conditions. <u>Geotechnical Investigation</u> A geotechnical statement has been submitted stating no changes to the previous geotechnical recommendations. After a discussion with Council's Catchment Team and Stormwater Assets team, dewatering can go to the kerb and gutter.

Internal Referral Body	Comments
NECC (Water Management)	**Conditions Provided** The proposal must comply with the General Requirements of the Northern Beaches Water Management for Development (WMD) Policy. Rainwater tanks are required to be installed for water conservation purposes, in accordance with BASIX requirements. Development Application DA2025/0718 is subject to WaterNSW General Terms of Agreement for construction dewatering (IDAS reference 1162180). A separate Council dewatering discharge approval will be required for any discharge to Council assets. Discharge to the kerb will not be permitted, and a piped connection to an approved discharge point must be provided.
Parks, reserves, beaches, foreshore	**No Conditions Required** Parks, Reserves and Foreshores raise no concerns.
Strategic and Place Planning (Urban Design)	**No Conditions Required** This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment. The application seeks consent for demolition works and construction of shop top housing at 12 The Strand, Dee Why, comprising two levels of basement parking, two ground floor retail tenancies and four storeys of residential units. This site has a previously approved DA (DA2025/0718). The current proposal utilises the in-fill affordable housing bonus enabling additional height and FSR, resulting in an additional storey as compared to the previous approval, and one unit (102) dedicated as an affordable rental unit. The proposal is a well-considered response that will be a positive contributor to the future character and vibrancy of Dee Why beach. Urban Design raises no objection to the proposed development.

Internal Referral Body	Comments
Traffic Engineer	**Conditions Provided** This development application involves the demolition of the existing structures to facilitate the construction of a five-storey shop-top housing development, comprising two retail tenancies (Retail 1 - 83.56 m2 and Retail 2 - 98.16m2), and 7 residential apartments (5 x 4-bedroom units, 1 x 3-bedroom adaptable unit, and 1 x 3-bedroom Affordable Rental Housing unit). The original approved DA2025/0718 was a four-storey 6-unit shop-top housing development, which included a 2 level basement providing a total of 15 off-street car park spaces. The parking comprised of 9 resident spaces, 2 resident visitor spaces, and 4 retail staff (including 1 accessible space). Vehicle access is obtained via the existing rear right of carriageway via Howard Avenue, and the additional dwelling will have a negligible impact on traffic generation. There is no increase in the total number of parking spaces provided within the basement carpark. The primary issue from a traffic and parking perspective relates to the reallocation of parking spaces. <u>Residential and Retail Parking</u> The Transport Impact Statement (TIS), prepared by PDC Consultants, dated 19/03/2026, has determined the residential parking requirements from SEPP Housing. This equates to a requirement for 10 residential parking spaces based on 1 space required for the affordable 3-bedroom unit (1 space per dwelling), and 9 spaces required for the 6 non-affordable dwellings (1.5 space per dwelling). The proposal provides 11 resident parking spaces which is 1 space more than the SEPP requirement. The TIS indicates that 8 retail spaces are required based on the parking rate of 1 space per 16.4 m2 GLFA. The Applicant's traffic consultant has deemed that the highlighted areas shown on the Ground Level plan, Dwg No. A-110-003 Rev.02 (dated 16.03.2026) as the Retail GFA (total 181.72 m2). They have also assumed that GLFA should be 75% of this area, and has applied a GLFA of 136 m2 for calculation of the retail parking requirement. If this method was to be adopted then the GFA of 319.46 m2 shown on the GFA Calculations plan, Dwg No. A-710-001 Rev.02 (dated 16.03.2026) should be used. The actual GFA would convert to a GLFA of 234.45 m2, requiring 15 retail parking spaces not 8. The GFA generally includes toilets, hallways, and corridors, so it is not clear why the traffic consultant has not simply used the highlighted areas shown on the Ground Level plan (which exclude these components), as the Retail GLFA. Applying the areas from the Ground Level plan (83.56 and 98.16 m2) would require 11 retail parking spaces. The TIS therefore significantly underestimates the retail parking requirements, with a minimum shortfall of 7 spaces (depending on the GLFA calculation used).

Internal Referral Body	Comments
	Accessible Parking The purpose of accessible parking is to provide safe, close, and convenient parking for people with mobility impairments or disabilities. The proposal to assign the only accessible parking space within the development to retail staff restricts the use of the space and availability for their visitors. There are limited accessible parking spaces within the Dee Why Beach area, which are in high demand, so it is necessary that accessible parking be readily available within the development site. The accessible parking space can generally function as an additional retail parking space but should be marked “Visitor” so that it is available to both retail customers and resident visitors holding a valid Mobility Parking Scheme permit. The TIS incorrectly calculates the number of retail parking spaces required under the WDCP, resulting in a significantly higher shortfall. The proposal provides 11 resident parking spaces which is 1 more than the SEPP requirement for residential parking. The proposed parking allocation therefore cannot be accepted when there is inadequate retail and accessible parking provisions. The surplus resident parking space must be reallocated for retail staff parking so there are 4 adjacent retail spaces situated along the eastern wall of the Basement 1 carpark. The proposed double garage with storage can be modified to provide a single car garage with storage for the residential unit. The existing accessible parking should be marked ‘Visitor” so that space is available to both retail and resident visitors. The overall proposal would be considered satisfactory subject to the recommended Conditions.
Waste Officer	**Conditions Provided** Supported with conditions including that an Operational Waste Management Plan will be required setting out responsibilities of the residents, building manager and commercial and retail operators for efficient use of the waste facilities. The Building Manager will be responsible for managing the waste and waste education for the residents and commercial entities.

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

External Referral Body	Comments
Nominated Integrated Development - WaterNSW - Water Management Act 2000, s90(2) - Water management works approval to construct and use a specified water supply/drainage/flood work at a specified location	**General Terms of Approval Provided** The development application was referred to WaterNSW under Section 90(2) of the *Water Management Act 2000*, given dewatering is required during excavation and construction works, requiring a water supply work approval. WaterNSW are supportive of the proposed development, subject to specified General Terms of Approval (GTAs), which provide the requirements for management of groundwater during dewatering. WaterNSW have confirmed that the GTAs provided for DA2025/0718 apply in full to DA2026/0383 and have been included in full as conditions of consent in the recommendation of this report.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

Housing and Productivity Contribution

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

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

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	$12,000	new dwelling lot
	Medium or high-density residential development	$10,000	new dwelling
	Commercial development	$30	square metre of new GFA
	Industrial development	$15	square metre of new GFA

Comment:
The subject site is sited within the Greater Sydney region. The amended development is for demolition of the existing shop top housing development and construction of a new shop top housing development.

The existing shop top housing development is comprised of 215m^2 of commercial gross floor area and

one residential apartment.

The approved development under DA2025/0718 comprises of 251m2 of commercial gross floorspace and six (6) residential apartments being an increase of 36m2 on existing commercial gross floor area, and five (5) additional dwellings.

The proposed amending application does not change the 251m^2 of commercial gross floor area but increases the number of residential apartments by one (1) to a total of six (7) additional dwellings from current.

As such, the combined contribution for both development applications is as follows:

- Commercial: 36m^2 x $30 = $1,080.00
- Residential: 6 x $10,000 = $60,000.00
- **Total: $61,080.00**

A condition has been imposed requiring the payment of these contributions.

SEPP (Sustainable Buildings) 2022

2.1 Standards for BASIX development and BASIX optional development

A BASIX certificate has been submitted with the application (see Certificate No. 1793533M_04 dated 27 March 2026).

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

3.1 Application of Chapter

(1) This Chapter applies to development, other than development for the purposes of residential accommodation, that involves—

(a) *the erection of a new building $5 million, or*

(b) *alterations, enlargement or extension of an existing building, if the development has a capital investment value of $10 million or more.*

Comment:
The chapter is not applicable. Whilst the development involves the erection of a new building that has an estimated development cost of $11,281,407.76, the portion of the development related to non-residential development is less than $5 million.

SEPP (Housing) 2021

CHAPTER 2 - AFFORDABLE HOUSING

Division 1 – In-Fill Affordable Housing

Section 15A Objective of Division

The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

Comment:
The amended development introduces an affordable housing apartment, which was previously not contemplated for the development under DA2025/0718. As such, the amended development contributes to the delivery of in-fill affordable housing to meet the needs of the relevant households.

Section 15C Development to which Division applies	
Standard	**Compliance/Comment**
(1) This division applies to development that includes residential development if:	
(a) the development is permitted with consent under Chapter 3, Part 4 or another environmental planning instrument, and	**Complies** The amended development is defined as shop top housing, which is permissible with consent in the E1 Local Centre zone under the WLEP 2011.
(b) the affordable housing component is at least 10%, and	**Complies** The affordable housing component of the development is 11.26% of the gross floor area.
(c) all or part of the development is carried out: (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven local government area—in an accessible area, or (ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone. ***relevant zone*** means the following— (a) Zone E1 Local Centre, (b) Zone MU1 Mixed Use, (c) Zone B1 Neighbourhood Centre, (d) Zone B2 Local Centre, (e) Zone B4 Mixed Use.	**Complies** The subject site is within the Eastern Harbour City of the Six Cities Region, and is within 400 metres walking distance of a bus stop used by a regular bus service in accordance with the definition of 'accessible area' provided by the Dictionary of the Housing SEPP.

Section 18 Affordable housing requirements for additional building height	
Standard	**Compliance/Comment**
(1) This section applies to development that includes residential development to which this division applies if the development: (a) includes residential flat buildings or shop top housing, and (b) does not use the additional floor space ratio permitted under section 16.	**Complies** The amended development is for shop top housing, and does not use the additional floor space ratio provision under section 16 of the Housing SEPP.

(2) The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3).	**Noted** The amended development includes 11.26% of the gross floor area as affordable housing, equating to an additional height provision of 22.52%, being 15.93 metres.
(3) The minimum affordable housing component, which must be at least 10%, is calculated as follows:	

Section 19 Non-Discretionary Development Standards – the Act, s 4.15	
(1) The object of this section is to identify development standards for particular matters relating to residential development under this division that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.	The amended development is considered against the landscaped area requirement of Section 19 only, and no more onerous requirement is contemplated. The amended development provides landscaped area in a manner consistent with the predominant character of existing and approved developments along The Strand and in this beachfront locality, which is generally minimal and on-structure. The proposed landscaped area response is suitable and proportionate to this particular development.
Standard	**Compliance/Comment**
(a) A minimum site area of 450m².	**Complies** The subject site has a surveyed area of 765.1m2.
(b) a minimum landscaped area that is the lesser of: (i) 35m2 per dwelling, or (ii) 30% of the site area,	**Satisfactory on merit** The amended development includes 85.03m2 of landscaped area as defined by the Dictionary of the Housing SEPP, equating to 11.11% of the site. A written request to vary the non-discretionary development standard accompanies the development application. Assessment of this matter is detailed in the section of this report relating to Clause 4.6 Exceptions to Development Standards of the WLEP 2011.

(e) the following number of parking spaces for dwellings used for affordable housing: (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,	**Complies** The amended development includes one affordable housing apartment, being three-bedrooms in size. This requires one parking space. The amended development includes 6 standard apartments, comprised of 5 x 3-bedroom apartments and one x 4-bedroom apartment. This requires 9 parking spaces. The total number of residential parking spaces required is 10. The amended development provides 11 residential parking spaces. Council's Traffic Engineer has recommended (by way of condition of consent) that the oversupply of one residential space be re-allocated to partially account for the shortfall of residential visitor spaces required by the WDCP 2011.
(f) the following number of parking spaces for dwellings not used for affordable housing: (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,	
(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,	**Complies** The proposed development achieves the minimum internal areas for each apartment, as detailed below under Chapter 4.

Section 21 Must be used for Affordable Housing for at least 15 years	
Standard	**Compliance/Comment**
(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development: (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and (b) the affordable housing component will be managed by a registered community housing provider.	**Complies** A condition of consent has been included in the recommendation of this report requiring that the approved affordable housing component will be managed by a registered community housing provider and maintained for a period of at least 15 years from the issue of the Occupation Certificate.

CHAPTER 5 - DESIGN OF RESIDENTIAL APARTMENT DEVELOPMENT

Application of Chapter

Clause 144 of State Environmental Planning Policy Housing 2021 (SEPP Housing) stipulates that:

(1) This chapter applies to development only if:
- (a) the development consists of:
  - (i) the erection of a new building,
  - (ii) the substantial redevelopment or the substantial refurbishment of an existing building, or
  - (iii) the conversion of an existing building, and
- (b) the building concerned is at least 3 or more storeys, not including underground car parking storeys, and

(c) the building contains at least 4 dwellings.

As previously outlined, the proposed development is for major alterations and additions to create a five-storey residential apartment development with two levels of basement car parking and the provision of 7 apartments. As per the provisions of Clause 144 outlining the application of the policy, the provisions of Chapter 4 SEPP Housing are applicable to the assessment of this application.

As previously outlined within this report Clause 29 of the Environmental Planning and Assessment Regulation 2021 requires the submission of a Design Verification Statement from the qualified designer at lodgement of the development application. This documentation has been submitted with the development application.

Referral to design review panel for development applications

Clause 145 of SEPP Housing requires:

(2) Before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development).

Comment:
Northern Beaches Council has an appointed Design and Sustainability Advisory Panel (DSAP). DA2025/0718 (being the consent be amended by this current application) was referred to DSAP during assessment. DSAP were supportive of the development, subject to recommendations. The development was amended to incorporate those recommendations. This amending development application does not introduce any inconsistencies with the previous DSAP advice, so referral to DSAP for this application was not necessary. This application was instead referred to Council's Urban Designer, whose comments are detailed in the section of this report relating to Referrals.

Non-discretionary development standards for residential apartment development

Clause 148 of SEPP Housing contain non-discretionary development standards that, if complied with, prevent the consent authority from requiring more onerous standards for the matters (i.e 'must not refuse' standards).

The following are non-discretionary development standards under sub clause (2):

(a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide
(b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,
(c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Comment:
As noted in the below assessment, the proposal meets the minimum requirements of the ADG in relation to Part 3J, 4D and 4C. This assessment has not required more onerous standards and does not recommend refusal of any of these reasons.

DESIGN QUALITY PRINCIPLES - Schedule 9

Principles	
Principle 1: Context and Neighbourhood Character	Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.
Principle 2: Built Form and Scale	Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.
Principle 3: Density	Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.
Principle 4: Sustainability	Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.
Principle 5: Landscape	Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.

Principle 6: Amenity	Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.
Principle 7: Safety	Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.
Principle 8: Housing Diversity and Social Interaction	Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.
Principle 9: Aesthetics	Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.
Comment: The proposal is consistent with each of the above Design Quality Principles, as demonstrated in the ADG assessment below.	

APARTMENT DESIGN GUIDE

The following table is an assessment against the criteria of the 'Apartment Design Guide' as required by SEPP Housing.

Development Control	Criteria / Guideline	Comments
Part 3 Siting the Development		
Site Analysis	Does the development relate well to its context and is it sited appropriately?	**Satisfactory** The amended development suitably addresses the subject site and its context.

Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	**Satisfactory** The amended development is consistent with developments in the streetscape and allows for adequate solar access to the subject site and adjacent sites.
Public Domain Interface	Does the development transition well between the private and public domain without compromising safety and security? Is the amenity of the public domain retained and enhanced?	**Satisfactory** The amended development delineates public and private land well. The amenity of the public domain is retained and enhanced with the redevelopment of the site, and in that the two facades provide visual interest and active land uses along the street frontages.
Communal and Public Open Space	Appropriate communal open space is to be provided as follows: 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter)	**Satisfactory on merit** The amended development does not include communal open space, which is consistent with the approved development under DA2025/0718. This remains acceptable in consideration of the site's context, being immediately at the foreshore of Dee Why Beach.

<table>
<tr>
<td>Deep Soil Zones</td>
<td>Deep soil zones are to meet the following minimum requirements:

<table>
<tr><th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr>
<tr><td>Less than 650m^2</td><td>-</td><td rowspan="4">7%</td></tr>
<tr><td>650m^2 – 1,500m^2</td><td>3m</td></tr>
<tr><td>Greater than 1,500m^2</td><td>6m</td></tr>
<tr><td>Greater than 1,500m^2 with significant existing tree cover</td><td>6m</td></tr>
</table>
</td>
<td>Satisfactory on merit
The amended development does not include areas of deep soil, which is consistent with the approved development under DA2025/0718.

This remains acceptable given the existing character along The Strand of wholly built-upon sites and in consideration of the site's context, being immediately at the foreshore of Dee Why Beach.</td>
</tr>
<tr>
<td>Visual Privacy</td>
<td>Minimum required separation distances from buildings to the side and rear boundaries are as follows:

<table>
<tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr>
<tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr>
<tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr>
<tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr>
</table>

Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.

Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</td>
<td>Satisfactory on merit
The amended development retains the same designas the approved development under DA2025/0718, including blank walls immediately along the northern and southern side boundaries, other than for provision of the centralised light wells.

The light wells remain designed so as not to result in an unreasonable visual privacy impact, given the inclusion of screening and the alignment of the lightwell with the internal apartment hallway walls where the glazing is orientated to the adjoining properties.

The amended development retans a compliant minimum 6.095 metre setback to the rear boundary.</td>
</tr>
</table>

Pedestrian Access and entries	Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify? Large sites are to provide pedestrian links for access to streets and connection to destinations.	**Satisfactory** The amended development retains clear pedestrian entry via The Strand.
Vehicle Access	Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?	**Satisfactory** The amended development retains clear vehicular access via the rear (west) of the site, separate from the pedestrian entry to the front (east) of the site. Vehicular and pedestrian access points remain suitably located and designed so as to provide high quality streetscape presentation along The Strand.
Part 4 Designing the Building		
Amenity		
Solar and Daylight Access	To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space: • Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.	**Satisfactory** All 7 apartments receive a minimum of 2 hours of direct sunlight between 9am and 3pm at midwinter.
	• A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.	**Satisfactory** All apartments receive direct sunlight in midwinter.

<table>
<tr><td rowspan="2">Natural Ventilation</td><td>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:

• At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</td><td>Satisfactory
All 7 apartments are cross-ventilated.</td></tr>
<tr><td>• Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.</td><td>Satisfactory
All apartments are cross-through in layout, and at no point is there a depth of greater than 18 metres from a glass line.</td></tr>
<tr><td>Ceiling Heights</td><td>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:

<table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor

2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table></td><td>Satisfactory
The amended development includes floor to ceiling heights of 2.7 metres at each residential level.</td></tr>
</table>

<table>
<tr>
<td>Apartment Size and Layout</td>
<td>Apartments are required to have the following minimum internal areas:

<table>
<tr><th>Apartment type</th><th>Minimum internal area</th></tr>
<tr><td>Studio</td><td>35m^2</td></tr>
<tr><td>1 bedroom</td><td>50m^2</td></tr>
<tr><td>2 bedroom</td><td>70m^2</td></tr>
<tr><td>3 bedroom</td><td>90m^2</td></tr>
</table>

The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m^2 each.

A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m^2 each.</td>
<td>Satisfactory
All units within the development are of compliant minimum area.</td>
</tr>
<tr>
<td></td>
<td>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</td>
<td>Satisfactory
Each habitable room has access to a window of sufficient dimensions.</td>
</tr>
<tr>
<td></td>
<td>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</td>
<td>Satisfactory
All habitable rooms include depths of less than 6.8 metres, except where allowed in relation to open plan living, dining and kitchen areas.</td>
</tr>
<tr>
<td></td>
<td>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</td>
<td>Satisfactory
No point in any of the open plan kitchen, dining and living rooms is set more than 8 metres from a window.</td>
</tr>
<tr>
<td></td>
<td>Master bedrooms have a minimum area of 10m2 and other bedrooms 9m^2 (excluding wardrobe space).</td>
<td>Satisfactory
All bedrooms achieve minimum areas.</td>
</tr>
<tr>
<td></td>
<td>Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.</td>
<td>Satisfactory
All bedrooms achieve minimum dimensions.</td>
</tr>
<tr>
<td></td>
<td>Living rooms or combined living/dining rooms have a minimum width of:
• 3.6m for studio and 1 bedroom apartments
• 4m for 2 and 3 bedroom apartments</td>
<td>Satisfactory
All combined living and dining rooms achieve the minimum dimensions.</td>
</tr>
<tr>
<td></td>
<td>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</td>
<td>Satisfactory
All units achieve the minimum dimensions.</td>
</tr>
</table>

<table>
<tr><td>Private Open Space and Balconies</td><td>All apartments are required to have primary balconies as follows:

<table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table>
The minimum balcony depth to be counted as contributing to the balcony area is 1m</td><td>Satisfactory
All units achieve the minimum balcony areas and dimensions.</td></tr>
<tr><td>Common Circulation and Spaces</td><td>The maximum number of apartments off a circulation core on a single level is eight.</td><td>Satisfactory
The amended development contains one circulation core to service 7 apartments across four floors.</td></tr>
<tr><td>Storage</td><td>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:

<table><tr><th>Dwelling Type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m²</td></tr><tr><td>1 bedroom apartments</td><td>6m²</td></tr><tr><td>2 bedroom apartments</td><td>8m²</td></tr><tr><td>3+ bedroom apartments</td><td>10m²</td></tr></table>
At least 50% of the required storage is to be located within the apartment.</td><td>Satisfactory
The amended development includes compliant storage area for each unit, split between the units themselves and the basement parking.</td></tr>
<tr><td>Acoustic Privacy</td><td>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.</td><td>Satisfactory
The amended development is suitably designed with respect to the relationship between noise sources and bedrooms.</td></tr>
<tr><td>Noise and Pollution</td><td>Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.</td><td>Satisfactory
The amended development is laid out and designed to mitigate noise disruption from external sources, noting the busy location along the Dee Why Beach foreshore.</td></tr>
<tr><td colspan="3">Configuration</td></tr>
</table>

Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	**Satisfactory** The proposed development includes two 3-bedroom apartments and five 4-bedroom apartments.
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	**Satisfactory** The building facade provides visual interest and active uses consistent with the existing character of the streetscape.
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	**Satisfactory** The roof contains centralised plant and solar panels.
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	**Satisfactory** The supporting landscape plan details suitable landscaping and vegetation that is consistent with the landscape character of existing developments in the vicinity.

<table>
<tr>
<td>Planting on Structures</td>
<td>When planting on structures the following are recommended as minimum standards for a range of plant sizes:
<table>
<tr><th>Plant type</th><th>Definition</th><th>Soil Volume</th><th>Soil Depth</th><th>Soil Area</th></tr>
<tr><td>Large Trees</td><td>12-18m high, up to 16m crown spread at maturity</td><td>150m3</td><td>1,200mm</td><td>10m x 10m or equivalent</td></tr>
<tr><td>Medium Trees</td><td>8-12m high, up to 8m crown spread at maturity</td><td>35m3</td><td>1,000mm</td><td>6m x 6m or equivalent</td></tr>
<tr><td>Small trees</td><td>6-8m high, up to 4m crown spread at maturity</td><td>9m3</td><td>800mm</td><td>3.5m x 3.5m or equivalent</td></tr>
<tr><td>Shrubs</td><td></td><td></td><td>500-600mm</td><td></td></tr>
<tr><td>Ground Cover</td><td></td><td></td><td>300-450mm</td><td></td></tr>
<tr><td>Turf</td><td></td><td></td><td>200mm</td><td></td></tr>
</table>
</td>
<td>Satisfactory
The amended development includes on-structure planting areas that achieve the minimum soil depths and areas.</td>
</tr>
<tr>
<td>Universal Design</td>
<td>Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features</td>
<td>Satisfactory
The proposed development includes one adaptable unit (101) and one liveable unit (102), equating to 28.57% of the 7 units.</td>
</tr>
<tr>
<td>Mixed Use</td>
<td>Can the development be accessed through public transport and does it positively contribute to the public domain?

Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.</td>
<td>Satisfactory
The subject site is within close walking distance of regular bus services. The amended development includes retail premises at the ground floor.</td>
</tr>
<tr>
<td colspan="3">Performance</td>
</tr>
</table>

Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	**Satisfactory** The amended development is supported by a suitable BASIX Certificate, with all relevant requirements shown on plans.
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	**Satisfactory** The amended development is supported by suitable water management plans.
Waste Management	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	**Satisfactory** The amended development is supported by a suitable waste management plan as well as compliant waste storage and collection areas.
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	**Satisfactory** The proposed development is designed in such a manner that will ensure the longevity and sustainability of the building.

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

These recommendations will be included as a condition of consent.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

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

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

1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

- *a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- *b) coastal environmental values and natural coastal processes,*
- *c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- *d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- *e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- *f) Aboriginal cultural heritage, practices and places,*
- *g) the use of the surf zone.*

Comment:
The amended development is supported by a geotechnical risk assessment report and architectural plans that demonstrate the proposed development is of acceptably low risk in relation to the above matters. As such, the proposed development is not anticipated to result in adverse impact.

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

- *a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or*
- *b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- *c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:
The development is designed, sited and will be managed to avoid an adverse impact, in accordance with the above at (1).

Division 4 Coastal use area
2.11 Development on land within the coastal use area

1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:

a) has considered whether the proposed development is likely to cause an adverse impact on the following:

i) existing, safe access to and along the foreshore, beach, headland or rock
ii) platform for members of the public, including persons with a disability,
iii) overshadowing, wind funnelling and the loss of views from public places to
iv) foreshores,
v) the visual amenity and scenic qualities of the coast, including coastal headlands,
Aboriginal cultural heritage, practices and places,
cultural and built environment heritage, and

b) is satisfied that:

i) the development is designed, sited and will be managed to avoid an adverse
ii) impact referred to in paragraph (a), or
iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
if that impact cannot be minimised—the development will be managed to mitigate that impact, and

c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:
The amended development is supported by a geotechnical risk assessment report and architectural plans that demonstrate the proposed development is of acceptably low risk in relation to the matters above. As such, the amended development is designed, sited and will be managed so as not to result in adverse impact with respect to those matters. The amended development has been reviewed by Council's Coast & Catchments team, who are supportive of the application, subject to conditions of consent. The amended development has been considered in relation to the coastal and built environment, bulk and scale throughout the assessment, as demonstrated within this report.

Division 5 General
2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

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

Comment:
Given the above, the amended development is designed such that it will not result in increased risk of coastal hazards on the subject site or surrounding land.

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

Chapter 4 – Remediation of Land

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

under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential and commercial land uses.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	Max. 13m*	Max. 18.77m	44.38%	**No***

* To the extent of any inconsistency (such as height of buildings), the *State Environmental Planning Policy (Housing) 2021* prevails over the *Warringah Local Environmental Plan 2011*.

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone E1 Local Centre

With respect to the written requests to vary the height of buildings development standard of the *Warringah Local Environmental Plan 2011*, and the non-discretionary development standard for landscaped area provided by Section 19 (2)(b) of the *State Environmental Planning Policy (Housing) 2021*, the objectives of the E1 Local Centre zone are addressed as follows:

To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.

Comment:

The amended development remains for shop top housing (as with DA2025/0718), comprised of two retail premises at the ground floor and residential apartments above. As such, the proposed development contributes to the retail uses in Dee Why to serve the needs of people who live in, work in, and visit the area.

To encourage investment in local commercial development that generates employment opportunities and economic growth.
Comment:
The amended development encourages investment in local commercial development by way of including two retail premises at the ground floor. These uses generate employment and contribute to local economic growth.

To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
Comment:
The amended development contributes to a vibrant and active local area by way of including two retail premises at the ground floor, and residential apartments above. This is consistent with the existing and desired future character of Dee Why, particularly along the beachfront.

To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
Comment:
The amended development includes two retail premises at the ground floor.

To ensure new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
Comment:
The amended development includes two retail premises at the ground floor, thereby providing an active street frontage, and contributing to the existing vibrant, diverse streetscape, and to the existing pedestrian traffic along the beachfront.

To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.
Comment:
Despite the proposed variation to the height of buildings development standard, the amended development is compatible with the scale, architectural treatment and landscape character along The Strand and surrounding streets, as detailed throughout this report.

4.3 Height of buildings

Clause 4.3 Height of Buildings of the WLEP 2011 provides that the maximum building height is 13 metres. Section 18 of the *State Environmental Planning Policy (Housing) 2021* ('Housing SEPP') provides that the maximum permissible building height for residential flat buildings can be increased by up to 30%, based on a formula relating to the proposed affordable housing component at Section 18(3).

The amended development provides 11.26% of the gross floor area as affordable housing. In accordance with the formula at Section 18(3), the maximum permissible building height can be increased by 22.52%, so up to **15.93 metres**. The amended development seeks a maximum building height of 18.77 metres, which equates to a variation to Clause 4.3 of the WLEP of 44.38% and a variation to the additional height permitted by Section 18 of the Housing SEPP of 17.83%. As the Housing SEPP prevails over the WLEP 2011, the final calculation of non-compliance is **17.83%**.

With respect to the written request to vary the height of buildings development standard, the objectives of this clause are addressed as follows:

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

Comment:
The amended development is comprised of five above-ground storeys, being a ground floor for the purpose of retail premises and ancillary uses (residential lobby, storage, services, waste rooms, vehicular access and the like) and four storeys of residential apartments above. The only portion of the development that is non-compliant with the maximum building height is due to rooftop services and a minor portion of the roof slab, rather than due to a full storey of building form.

It is noted that a maximum of 3 storeys is envisaged under Clause B2 Number of Storeys of the WDCP 2011. However, the proposed 5 storeys is demonstrably acceptable for the reasons detailed in the relevant section of this report.

The subject site is situated in an area of varied and dense built form, including a number of examples of four- and five-storey buildings in the visual catchment of the site, namely:

- 4 The Strand to the south
- 9 The Strand to the south (as approved under DA2003/1381, which remains a valid consent despite its age)
- 13 The Strand to the south
- 18-19 The Strand to the south (as approved under DA2025/1912)
- 22-23 The Strand to the north
- 105 Howard Avenue to the west
- 110 Oaks Avenue to the south-west

It is understood this development is a 5 storey building and one storey higher than a number of those developments. However, such height is envisaged by the additional height provisions applying under Housing SEPP. As such, the proposed development is compatible to the height and scale of surrounding and nearby development, as well as development anticipated for the site by the controls, and is consistent with this objective despite the proposed variation to the height of buildings development standard.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,
Comment:
The proposed development is demonstrably acceptable with respect to the above matters, as addressed in the sections of this report relating to Clauses D6 Access to Sunlight, D7 Views, and D8 Privacy of the WDCP.

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,
Comment:
The amended development provides consistency with existing and approved developments in the immediate locality, as well as and compatibility with the applicable planning controls. Further, the amended development is of high quality architectural style and is of a type and scale anticipated for the site. As such, the amended development avoids adverse impact and is complementary to the existing streetscape and scenic quality of The Strand and the beachfront of Dee Why.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.
Comment:
As above, the amended development's built form and impacts are acceptable for the reasons detailed throughout this report. As such, the amended development does not give rise to unreasonable visual impact from public places, including The Strand, and Dee Why beach reserve and foreshore, and Dee Why beach itself.

4.6 Exceptions to development standards

CLAUSE 4.3 HEIGHT OF BUILDINGS - WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011 (AS AMENDED BY SEPP HOUSING)

The application seeks consent to vary a development standard as follows:

Development Standard: Clause 4.3 of the WLEP and Section 18 of the Housing SEPP
Requirement: 13 metres, increased to 15.93 metres by Section 18 of the Housing SEPP
Proposed: 18.77 metres
Percentage of Variation: 17.83%

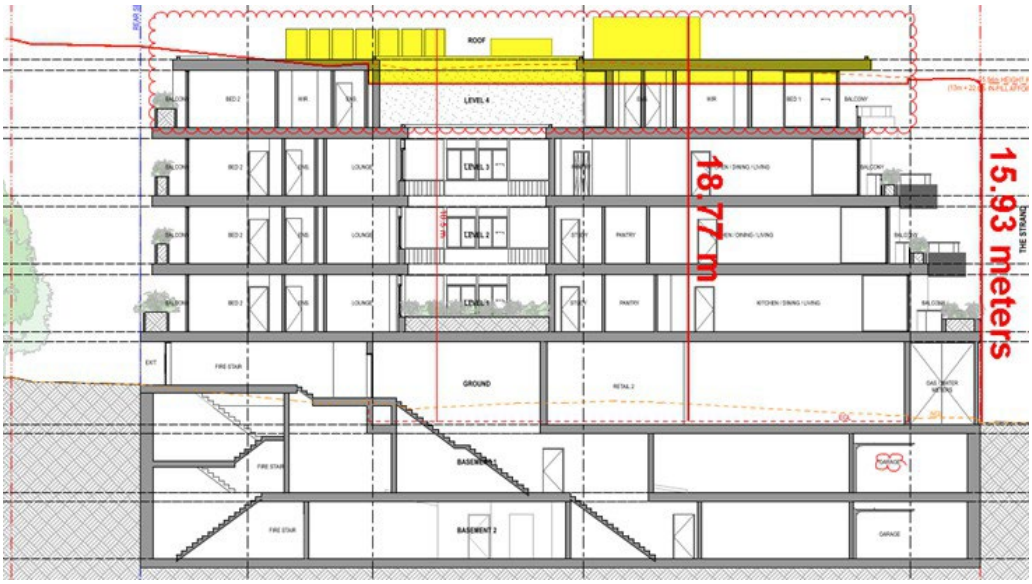


Figure 2: *Section showing the portion of the development above the height limit – above the 15.93m bonus height allowance (Housing SEPP) - measured from existing ground level.*

Comment:
As shown above, the elements of the amended development that breach the maximum height of buildings development standard are:

- Roof slab over new unit 401
- Hot water plant
- Solar panels
- Lift overrun
- Air conditioning plant

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the WLEP 2011 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

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

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

Comment:
The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

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

Comment:
Clause 4.3 is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

Comment:
Council is satisfied that the Applicant has demonstrated that compliance with Clause 4.3 Height of Buildings is unreasonable or unnecessary in the circumstances of this application because the amended development is consistent with the objectives of Clause 4.3 Height of Buildings and the objectives of the E1 Local Centre zone. Assessment of these objectives is detailed in the relevant sections of this assessment report.

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

Comment:
In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the Applicant's written request has adequately demonstrated that that there are sufficient environmental planning grounds to justify contravening the development standard:

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

The Clause 4.6 Request argues, in part:

- *"**Consistent with the existing context and future desired character***
  The five-storey presentation is consistent with the desired future character of the town centre and

surrounding context, as demonstrated by the objectives and controls for Local and Neighbourhood centres being met, despite the height variation.
NSW Department of Planning, Housing and Infrastructure defines buildings with 3 – 6 storeys as mid-rise buildings, indicating that buildings within this scale range are compatible and harmonious within the same built form context.
The surrounding built and approved context in The Strand contains buildings between three and five storeys, with an eight-storey building at the northern end, the tallest, and an approved four / five-storey building at the adjoining site at No. 9 -11 The Strand. The proposed five-storey building is therefore considered compatible with the mid-rise nature of the surrounding approved and built form context.

No visual bulk or streetscape impacts
When viewed within the streetscape, the maximum variation to building services in the centre of the building will not be visible. The maximum proposed variation is therefore not visually dominant in the streetscape and does not introduce any streetscape or visual bulk impacts, while the minor (6.84%) variation to the proposed front parapet will not be readily perceptible.
The highly articulated front façade on the lower levels is unchanged from that approved. The proposed fifth storey has a recessed glazing line (9.45m northern two-thirds and 6.65m southern third) with an associated deep-set balcony, opening in the roof slab, and a single protruding curved balcony feature, which combine to further reduce the visual bulk of the proposal while coherently relating to the approved front façade on the levels below.

No view impacts
There are no unreasonable view impacts associated with the proposal or height variation.
The proposal does not affect any coastal views to the east of adjoining properties addressed to The Strand, as the building continues to align with the approved front setback.
There is no unreasonable view loss impacts to the units in 110 - 112 Oaks Avenue as any view loss from the proposal is not associated with non-compliant elements, the views from the units are obtained over side boundaries, any view impacts are deemed to be minor, and there is significant and mature vegetation that visually screens and limits views lines to and from 110 - 112 Oaks Avenue to the east.
Furthermore, in the assessment and subsequent approval of DA2025/0718, Council established that a three-storey building that complies with the height of building standard on the subject site would result in the same view loss impacts as that associated with any building above this height, such as the four-storey building approved. Therefore, the proposed five-storey building associated with this proposal is not expected to introduce any additional view loss impacts beyond those already approved.

No unreasonable overshadowing impacts
Considered design attributes, including the recessed fourth and fifth floors, central location of building services with the maximum height variation, and minimal height variation of the eastern parapet, ensure that there is no discernible overshadowing to the public open space at Ted Jackson Reserve associated with the non-compliant elements. As shown in Figure 3 below, the 3pm shadows to the foreshore area created by the proposal are not greater than those generated by a compliant building envelope.
The overshadowing produced by the proposal is restricted to the late afternoon and predominantly falls on the footpath, The Strand and the area under the Norfolk Island Pine trees on the foreshore reserve, further demonstrating that there is no unreasonable overshadowing to any public open space associated with the proposal.
...
Due to the east-west orientation of the site, the majority of the shadows from the development fall

onto the roof of the apartment building to the south at No. 9 - 11 The Strand. This three-storey shop-top housing building has a zero side setback to the north, with all openings for the residential units to the east. The proposal will not create any additional overshadowing to the east-facing living area windows of these residential units. The private open space for these units is provided through a central internal courtyard. These areas are self-shadowed, and the proposal will not unreasonably create any additional shadows in these areas. The approved four/five-storey shop-top housing building retains a similar configuration to the existing building – nil side setback and primary openings to the east - and it is not considered that there would be any shadow impacts to this building if it were to be constructed as approved.

The east-facing apartments in 110 - 112 Oaks Avenue will continue to receive morning sun that is consistent with that approved. As demonstrated by the extract of the proposed (Figure 4) eye of sun diagrams, there is no material decrease in solar access to the east-facing units in No. 110 - 112 Oaks Avenue associated with the proposal.

This is due to the approved 6.095m rear setback being maintained for Ground Level – Level 3 and the additional setback of 9.02m of the northern two-thirds of the proposed fifth-storey roof, which retains the approved solar access to the units on the middle and top floor and windows on the northern half of the ground floor. The eastern-facing windows on the southern half of the ground floor do not receive solar access with the approved scheme, and therefore, there will be no change to solar access to these windows associated with the proposal.

Furthermore, it should be noted that the rear/western roofline of the proposed building is predominantly compliant with the height standard, further demonstrating that there are no unreasonable shadow impacts to the western adjoining neighbours associated with non-compliant elements of the proposal.

...

Provision of floor-to-floor heights that can achieve compliant residential ceiling heights

The proposed 3.2m floor-to-floor heights provide for compliant 2.7m floor-to-ceiling heights for the residential floors and compliant NCC slab thickness. The 3.9m floor-to-ceiling height for the ground floor commercial outperforms the 3.3m control, adding significant amenity to the retail spaces while appropriately responding to the site slope and footpath RLs. The compliance with both the ADG floor-to-ceiling heights and the NCC slab thickness requirements contributes to the degree of non-compliance.

No unreasonable privacy impacts

The proposal continues to configure the living areas and primary balconies of all apartments to face the east (street frontage), which ensures the proposal has no unreasonable privacy impacts on surrounding properties.

On the southern side, there are no openings on the proposed fifth storey in the lightwell or on the boundary elevation. On the northern side, there are no openings proposed on the boundary elevation. The openings in the northern lightwell on the proposed fifth storey are recessed from the boundary, have raised planters screening and are configured to ensure there are no privacy impacts to the neighbour to the north, while letting light into the central part of the proposed unit. The relationship and privacy impacts of the levels below on both the northern and southern sides remain the same as those approved.

The proposed apartment on the fifth floor has a secondary living space and a balcony to the west. This will be a secondary space with the glazing line setback 10.87m and a raised planter to screen view lines. Collectively, these elements will provide mutual privacy screening and introduce no unreasonable privacy impacts to neighbours to the west.

Site slope

The existing ground levels slope by approximately 2.40m from the south-west corner (rear) to the

north-east corner (front). This results in the front roof of the building breaching the height plane, where the rear roof (at building line) is predominantly compliant, despite the roof having the same RL for the whole building. The site slope, therefore, significantly contributes to the visible height variation at the front of the building.
Overall, the proposal will provide a suitable design and amenity in terms of the built environment, represent the orderly and economic use and development of land, and provide the delivery of housing and affordable housing, which are identified as objects of the Act (Section 1.3 of the EP&A Act).
The building envelope and design of the proposal respond appropriately to the unique opportunities and constraints of the site, and create no unreasonable external amenity impacts to surrounding properties or public spaces. On the above basis, it is considered that there are sufficient environmental grounds, as outlined above, to permit the building height variation in this instance."

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.3 Height of Buildings.

The non-compliant portion of the development is limited to the rooftop services and a minor portion of the roof slab, rather than due to a full storey of building form. In this way, the non-compliance:

- Is predominantly not resultant from the building proper (habitable floor space in the form of apartments).
- Is minor in nature, other than where centralised on the site, so will not be visually prominent when viewed from the public domain or adjoining properties.
- Does not result in unreasonable amenity impacts.

The amended development is consistent and compatible with the prevailing building height, the existing streetscape, both the existing character and desired future character of the area, does not unreasonably disrupt significant views to or from the site, and provides adequate solar access to adjacent properties.

The amended development satisfies objects (b), (g), and (k) of the Act (s1.3), because it:

- Promotes the supply, delivery and maintenance of housing, including affordable housing.
- Promotes good design, amenity and the proper construction and maintenance of built environments, including the protection of the health and safety of the occupants of buildings.
- Promotes the orderly and economic use and development of land.

Public Interest:

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion:

Council is satisfied as to the matters set out in Clause 4.6 of the WLEP 2011.

It is considered on balance that, given the portions of the development that result in the variation (being the rooftop services and a minor portion of the roof slab, rather than due to a full storey of building form), the context of the site, and height of surrounding development, the proposed departure from the development standard is acceptable, and it is reasonable that flexibility to the standard be applied.

SECTION 19 (2)(b) LANDSCAPED AREA - STATE ENVIRONMENTAL PLANNING POLICY

(HOUSING) 2021

The application seeks consent to vary a development standard as follows:

Development Standard: Section 19 (2)(b) of the Housing SEPP
Requirement: Minimum landscaped area of 30% of the site area (229.53m^2)
Proposed: 11.11% (85.03m^2)
Percentage of Variation: 62.95%

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the WLEP 2011 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

(1) The objectives of this clause are as follows:
(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:
The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

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

Comment:
Section 19 (2)(b) of the Housing SEPP is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

Comment:
Council is satisfied that the Applicant has demonstrated that compliance with Section 19 (2)(b) of the Housing SEPP is unreasonable or unnecessary in the circumstances of this application because the amended development is consistent with the relevant objectives of the Housing SEPP (at sections 15A and 19) and the objectives of the E1 Local Centre zone. Assessment of these objectives is detailed in the relevant sections of this assessment report.

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

Comment:
In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the Applicant's written request has adequately demonstrated that that there are sufficient environmental planning grounds to justify contravening the development standard:

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

The Clause 4.6 Request argues, verbatim:

- *The landscaped area has been increased from that approved through the provision of additional raised planters at the rear of Level 4.*
- *The proposed provision of landscaped area is suitable for the location and the proposed shop-top housing development in The Strand, Dee Why local centre. The prevailing built form character of the centre is for zero side and front setbacks, with rear hardstand parking and loading areas, and basement parking access. This configuration does not permit any landscape area on the sites. The proposal is considered to improve this condition by adding significant on-slab/structure greenery to the building, which will set a new benchmark for landscaping/greenery in this zero-setback, town-centre context of The Strand.*
- *Notwithstanding the landscaped area non-compliance, the proposal includes a high-quality landscape design that includes planting a variety of trees, shrubs, climbers, and groundcovers. Landscaping is provided through on-slab/structure raised planters at all levels, on both the front and rear façades, and in internal light wells, to add greenery to the site, soften the built form in the streetscape, and minimise privacy impacts. Refer to the Landscape Plan prepared by Wyer & Co submitted with this application.*
- *The landscaped area variation facilitates the provision of diverse housing in the town centre, including affordable housing. The variation does not compromise the ability to provide a high level of amenity for future residents and does not result in any adverse impacts to neighbouring properties, the streetscape, or the public domain.*
- *The proposal is consistent with the E1 Local Centre zone objectives.*
- *The proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represent the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979).*

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Section 19 (2)(b) of the Housing SEPP.

The amended development is consistent and compatible with the prevailing landscape outcome of developments, the existing streetscape, and both the existing character and desired future character of the area.

The amended development satisfies objects (b), (g), and (k) of the Act (s1.3), because it:

- Promotes the supply, delivery and maintenance of housing, including affordable housing.
- Promotes good design, amenity and the proper construction and maintenance of built environments, including the protection of the health and safety of the occupants of buildings.
- Promotes the orderly and economic use and development of land.

Public Interest:

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion:

Council is satisfied as to the matters set out in Clause 4.6 of the WLEP 2011.

It is considered on balance that, given the portions of the development that result in the variation (being the dense character and context of the site and its surrounding area) the proposed departure from the development standard is acceptable, and it is reasonable that flexibility to the standard be applied.

6.1 Acid sulfate soils

Under Clause 6.1 (3), development consent is required or the carrying out of works on land classified as Class 5 acid sulfate soils, within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

Comment:
The subject site is partially classified as Class 5 acid sulfate soils. However, no works are proposed on land as described above.

The proposed development is not anticipated to result in unreasonable risk with respect to acid sulfate soils.

6.2 Earthworks

The objectives of Clause 6.2 Earthworks require development:

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

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

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality
Comment:
The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land
Comment:
The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both
Comment:
The excavated material will be processed according to the Waste Management Plan for the

development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties
Comment:
The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material
Comment:
The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics
Comment:
The subject site does not contain any known relics.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area
Comment:
The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

6.4 Development on sloping land

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

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and
Comment:
The development application is accompanied by a geotechnical assessment report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective.

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

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and
Comment:
The development application is accompanied by a geotechnical assessment report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

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

The development application is accompanied by a geotechnical assessment report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions.

Therefore, the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B2 Number of Storeys	Maximum of 3 storeys	5 storeys	66.67%	**No**
B6 Merit Assessment of Side Boundary Setbacks	Side boundary setbacks to have regard to streetscape, amenity, and setbacks of neighbouring developments.	Nil with lightwells – Consistent with existing and surrounding.	-	Yes - See discussion in the section relating to Clause B6 of the WDCP
B7 Front Boundary Setbacks	Ground Floor: Min. 2.5m	Services: Nil	100%	**No** *
		Building: Min. 3.3m	-	Yes
	First Floor: Min. 2.5m	Balcony/Planter: Nil	100%	**No** *
		Building: Min. 3.3m	-	Yes
	Second Floor: Min. 6.5m	Balcony/Planter: Min. 700mm	89.23%	**No** *
		Building: Min. 4.3m	33.85%	**No** *
	Third Floor: Min. 6.5m	Balcony/Planter: Min. 2m	69.23%	**No** *
		Building: Min. 5.7m	12.3%	**No** *
	Fourth Floor: Min. 6.5m	Balcony: Min. 3.9m	40%	**No**
		Building: 6.65m	-	Yes
B10 Merit Assessment of Rear Boundary Setbacks	Rear boundary setbacks to have regard to streetscape, amenity, and setbacks of neighbouring developments.	6.095m - Consistent with surrounding.	-	Yes - See discussion in the section relating to Clause B10 of the WDCP

Appendix 1 Car Parking Requirements	Residential:	1.5 spaces per 3+ bed apartment (11 spaces)	11 spaces	-	Yes
		1 visitor space per 5 dwellings, or part thereof (2 spaces)	Nil	100%	**No**
	Retail:	1 space per 16.4m^2 of gross leasable floor area (181.72m^2 = 11 spaces**)	4 spaces	63.63%	**No** *

* Unchanged - as approved by DA2025/0718.

** To the extent of any inconsistency (such as parking requirements), the *State Environmental Planning Policy (Housing) 2021* prevails over the Warringah Development Control Plan 2011.

Compliance Assessment

Clause	**Compliance with Requirements**	**Consistency Aims/Objectives**
B2 Number of Storeys	No	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes

Detailed Assessment

B2 Number of Storeys

Description of Non-compliance

The amended development is comprised of five storeys (above ground), where a maximum of three is allowable under this control.

It is noted that the maximum height of buildings development standard under WLEP 2011 is 13.0m, which technically allows sufficient scope for a four-storey building. The discord between the LEP and DCP was primarily to allow for varied roofscape and to facilitate roof top elements for mixed-use developments, however the overall height has been applied to allow for a fourth storey.

Section 18 of the *State Environmental Planning Policy (Housing) 2021* ('Housing SEPP') provides that the maximum permissible building height for residential flat buildings, including shop-top housing), can be increased by up to 30%, based on a formula relating to the proposed affordable housing component at Section 18(3). The formula allows for a maximum building of 15.93m, which allows sufficient scope for a five-storey bulding. As such, given that the WLEP 2011 and Housing SEPP prevails over the WDCP 2011 to the extent of any inconsistency, a certain level of flexibility should be applied in the application of the development standard and this built form control.

Comment:

The objectives of the control are:

- *To ensure development does not visually dominate its surrounds.*
- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*
- *To provide equitable sharing of views to and from public and private properties.*
- *To ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties.*
- *To provide sufficient scope for innovative roof pitch and variation in roof design.*
- *To complement the height of buildings control in the LEP with a number of storeys control.*

The amended development is comprised of five above-ground storeys, being a ground floor for the purpose of retail premises and ancillary uses (storage, services, vehicular access and the like) and four storeys of residential apartments above. It is also noted that the proposed development includes a breach to the height of buildings development standard of 17.83%, predominantly due to rooftop services

and a portion of the roof slab, rather than due to a full storey of building form. As such, the proposed number of storeys does not offend the objectives and requirements of Clause 4.3 of the WLEP 2011, nor this control.

The subject site is situated in an area of varied yet dense built form, including a significant and predominant number of four and five storey buildings in the visual catchment of the site, as detailed in the section of this report relating to Clause 4.3 Height of Buildings of the WLEP. The proposed development steps its form along The Strand by way of increasing the front setback at the upper levels and staggered balcony structures, and provides a setback of 6.095 metres to the rear, being consistent with other nearby developments. As such, the proposed development does not dominate the surrounding area by way of its height, bulk and scale.

The amended development provides consistency and compatibility with existing and approved developments in the immediate locality, as well as with the applicable planning controls. The amended development is of high quality architectural style and is of a type and scale anticipated for the site. As such, the amended development will not result in adverse impacts and is complementary to the existing streetscape and scenic quality of The Strand and the beachfront of Dee Why.

The proposed development is acceptable with respect to amenity, as addressed in the sections of this report relating to Clauses D6 Access to Sunlight, D7 Views, and D8 Privacy of the WDCP 2011.

The amended development does not seek excessive overall height as it provides appropriate floor-to-ceiling heights of 2.7 metres for the residential levels, suitable floor slab thicknesses, and a flat roof form. The flat roof is innovative in that it provides suitable building redevelopment of the site while minimising overall height and bulk, without unreasonable impacts. The roof also provides a suitable location for services mechanical plant, and solar panels, which will generally not be visible from the perspective of the public domain.

The development is consistent with the objectives of the control and is acceptable on merit.

B6 Merit Assessment of Side Boundary Setbacks

This control requires that side boundary setbacks are to be addressed on merit, having regard to the streetscape, amenity of surrounding properties, and setbacks of neighbouring development.

The amended development retains the nil side setbacks to the north and south, other than where the landscaped lightwells are located. Such setbacks are consistent with all other existing and approved developments along The Strand (including the approved development subject of this application), and do not result in any unreasonable amenity impacts to adjoining or nearby properties, as demonstrated throughout this report.

As such, the amended development is compliant with the requirements of this control.

B7 Front Boundary Setbacks

Description of Non-compliance

This control requires front setbacks to be a minimum of 2.5 metres from the boundary to the ground and first floors, and minimum 6.5 metres from the boundary to the floors above. The approved development included non-compliant front boundary setbacks. The amended development introduces an additional storey with a balcony located 3.9 metres from the front boundary. The remainder of the introduced storey is compliant with this control.

Comment:

The objectives of the control are:

- *To create a sense of openness.*
- *To maintain the visual continuity and pattern of buildings and landscape elements.*
- *To protect and enhance the visual quality of streetscapes and public spaces.*
- *To achieve reasonable view sharing.*

The approved development steps back away from the front boundary as the building increases in height. The amended development introduces an additional storey that continues this stepping, thereby continuing to provide a sense of openness by way of that stepping of form.

The non-compliant element is the balcony, being a partially solid and partially glazed built form element. The balcony therefore provides a suitable balance between openness with respect to bulk and scale, and privacy for occupants of the new level. Furthermore, the balcony is offset from the approved balconies of the levels below, such that it breaks up the built form presentation to the streetscape.

The amended development suitably maintains the visual continuity of buildings along The Strand, noting that the predominant character is to provide dense built form and little or no landscaping.
The amended development allows for reasonable view sharing, as addressed in the section of this report relating to Clause D7 Views of the WDCP.

The development is consistent with the objectives of the control and is acceptable on merit.

B10 Merit assessment of rear boundary setbacks

This control requires that rear boundary setbacks are to be assessed on merit, having regard to the streetscape, amenity of surrounding properties, and setbacks of neighbouring development.

The amended development retains a minimum 6.095 metre setback to the rear western boundary, increased to minimum 6.8 metres for the introduced upper level. Such rear setbacks are consistent with (and in some cases, greater than) all other existing and approved developments along The Strand (including the approved development subject of this application, and does not result in any unreasonable amenity impacts to adjoining or nearby properties, as demonstrated throughout this report.

As such, the amended development is compliant with the requirements of this control.

C3 Parking Facilities

Description of Non-compliance

The parking requirements for the development are as follows:

Use	DA2025/0718		DA2026/0383		Compliance
	Required	Approved	Required	Proposed	
Residential	9 spaces	9 spaces	11 spaces	11 spaces	Yes
Visitor	2 spaces	2 spaces	2 spaces	Nil	No - shortfall of 2

Retail	11 spaces	4 spaces	11 spaces	4 spaces	No - shortfall of 7, as approved
Total	15 spaces		15 spaces		

Comment:

The objectives of the control are:

- *To provide adequate off street carparking.*
- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*
- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

The Housing SEPP provides a lesser requirement for residential parking (10 spaces), which prevails over the WDCP 2011 requirement. As such, there is an overprovision of one residential parking space. As a result, Council's Traffic Engineer has recommended (by way of condition of consent) that the surplus space be re-allocated to partially account for the shortfall of residential visitor spaces required by the WDCP 2011.

The amended development continues to rely on the existing vehicular access driveway from Howard Avenue, over which a right of carriageway benefitting the site exists. As such, the proposed vehicular entry point to the basement parking levels will not be visible from the public domain, so will be of minimal visual impact and dominance in this regard. To require additional parking for the purpose of supporting the retail premises is unnecessary, and may result in additional and unreasonable visual impact.

The development is consistent with the objectives of the control and is acceptable on merit.

D6 Access to Sunlight

In relation to DA2025/0718, submissions to that application raised concern that the development would result in unreasonable overshadowing impacts to 110 Oaks Avenue including the clothes drying area in the north-eastern corner, and the gardens to the east of the building.

Assessment of DA2025/0718 established that there was no unreasonable overshadowing impact resulting from the development, and that the development complied with the requirements of this control.

The current application seeks to amend DA2025/0718 by way of one additional level above the approved built form. In the absence of objection to the application, and given that the amended development remains compliant with the requirements of this control, a detailed assessment is not warranted.

D7 Views

In relation to DA2025/0718, submissions to that application from 110 Oaks Avenue (relating to Units 5, 7, and 10) and 9 The Strand raised concern that the development would result in view loss to those properties.

Assessment of DA2025/0718 established that there was no unreasonable impact to views resulting from the development.

This application seeks to amend DA2025/0718 by way of one additional level above the approved built

form. This has the effect of reducing view from surrounding properties to the sky only. In the absence of objection to the application, and in light of the lack of impact with respect to views, a detailed assessment of this control is not warranted.

D8 Privacy

In relation to DA2025/0718, submissions to that application raised concern that the development would result in unreasonable visual privacy impacts to 110 Oaks Avenue as a result of the rear setback.

Assessment of DA2025/0718 established that there was no unreasonable impact to privacy resulting from the development.

This application seeks to amend DA2025/0718 by way of one additional level above the approved built form, with a greater rear setback than that approved under DA2025/0718. That is, it is set further away from adjacent residential properties than the approved development. In the absence of objection to the application, and given that the amended development complies with the requirements of this control, a detailed assessment is not warranted.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of $12,849 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $1,284,855.

CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all

other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

Council is satisfied that the Applicant's written request under Clause 4.6 of the *Warringah Local Environmental Plan 2011* seeking to justify variation of the development standards contained within Clause 4.3 Height of Buildings (and Section 18 of the *State Environmental Planning Policy (Housing) 2021*) and Section 19 (2)(b) of the *State Environmental Planning Policy (Housing) 2021* have adequately addressed and demonstrated that:

- Compliance with the development standards is unreasonable or unnecessary in the circumstances of the case; and
- There are sufficient environmental planning grounds to justify the variations.

PLANNING CONCLUSION

This development application seeks to amend Development Consent No. DA2025/0718, which was granted for demolition of an existing shop top housing development and the construction of a new shop top housing development comprised of two basement car parking levels and four above-ground levels containing two retail premises at the ground floor, and 6 residential apartments across three levels. The current development application is an 'amending development application' as it proposes major alterations and additions to the approved development.

The proposed amendments include reconfiguration of the lift and stairs core, re-allocation of the approved parking spaces, and addition of a fourth residential level, such that the development involves 7 residential apartments. One of the proposed apartments (102) is to be provided as affordable housing. As such, Clause 18 of the *State Environmental Planning Policy (Housing) 2021* ('Housing SEPP') applies, which provides additional building height beyond Clause 4.3 Height of Buildings of the *Warringah Local Environmental Plan 2011* ('WLEP 2011').

The application is being referred to the Northern Beaches Local Planning Panel (NBLPP) because it seeks to vary the maximum building height provided by Clause 4.3 of the WLEP 2011 and the additional height permitted by Clause 18 of the Housing SEPP, by more than 10% (17.83%). Further, the application seeks to vary the non-discretionary development standard for landscaped area provided by Section 19 (2)(b) of the Housing SEPP by more than 10% (62.95%).

In accordance with Council's Community Participation Plan, this amending development application was

publicly notified and exhibited on Council's website. No submissions were received.

This report has provided a detailed assessment of each element that is non-compliant with a built form control. Despite the non-compliant elements, the amended development is demonstrably acceptable on balance, for the following reasons:

- The amended development suitably responds to the individual characteristics and context and setting of the subject site.
- The subject site is located in an area of infill development of varied though dense building typologies, within which the proposed development is compatible.
- There are no unreasonable environmental or amenity impacts resulting from the development, including its non-compliant elements.
- The proposal satisfies the provisions of SEPP Housing, the Apartment Design Guide and the WDCP 2011.
- There are no matters of public interest that warrant refusal of the application.

This report has detailed how the written requests to vary the height of buildings development standard under Clause 4.6 of WLEP 2011 and the landscaped ares non-discretionary development standard of the Housing SEPP achieve the relevant legislative requirements and are acceptable on merit in the circumstances of the case. In short, the written requests are well-founded and are supported for the reasons demonstrated by the Applicant. The assessment report demonstrates that compliance with the development standards is unreasonable and unnecessary, as the objectives of the E1 Local Centre zone, Clause 4.3 Height of Buildings of the WLEP, and Sections 15A and 19 of the Housing SEPP are achieved. The written requests also demonstrate sufficient environmental planning grounds for the variations to the height of buildings development standard and the landscaped area non-discretionary development standard.

The assessment concludes with a full set of recommended conditions of consent, which are standard in nature, other than as they relate to the 'amending' nature of the development application.

Overall, the development is a high-quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment.

The development application has therefore been recommended for **approval**.

REASON FOR DETERMINATION

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

RECOMMENDATION

That Northern Beaches Council, as the consent authority, vary the development standards contained within Clause 4.3 Height of Buildings (and Section 18 of the *State Environmental Planning Policy (Housing) 2021*), and Section 19 (2)(b) of the *State Environmental Planning Policy (Housing) 2021*, pursuant to Clause 4.6 of the *Warringah Local Environmental Plan 2011* because the Applicant's written requests have adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2026/0383 for Amending Development Application in relation to Development Consent No. DA2025/0718 granted for demolition works and construction of a shop top housing development to carry out major alterations and additions to the approved development on land at Lot 13 DP 6953, 12 The Strand, DEE WHY, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

1. **Relationship to Other Consents**
   This consent cannot operate without, and is to be read in conjunction with, Development Consent No. DA2025/0718 dated 15 December 2025. The conditions of consent under DA2025/0718 apply to the development approved under DA2026/0383.

   In order to ensure consistency between consents, prior to the issue of a Construction Certificate for the development the subject of this development consent, Development Consent DA2025/0718 dated 15 December 2025 is to be modified pursuant to sections 4.17(1)(c) and 4.17(5) of the *Environmental Planning and Assessment Act 1979*, and section 67 of the *Environmental Planning and Assessment Regulation 2021* by:

   1. **Adding Condition 1A Relatioonship to Other Consents to read as follows:**

      This consent cannot operate without consent DA2026/0383. The conditions of consent under DA2025/0718 apply to the development approved under DA2026/0383.

      To the extent of any inconsistency between this consent and the development consent granted to DA2026/0383, the plans, drawings, documents and conditions approved by DA2026/0383 shall prevail.

      In particular the following conditions of DA2025/0718 are superseded by conditions contained in DA2026/0383 as follows:

DA2025/0718 Superseded Condition		DA2026/0383 Prevailing Condition	
1.	Approved Plans and Supporting Documentation	2.	Approved Plans and Supporting Documentation

2.	Compliance with Other Department, Authority or Service Requirements	3.	Compliance with Other Department, Authority or Service Requirements
7.	Policy Controls	4.	Policy Controls
9.	Housing and Productivity Contribution - Development Consents	5.	Housing and Productivity Contribution - Development Consents
12.	On-Site Stormwater Detention Details	6.	On-Site Stormwater Detention Details
13.	Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans	7.	Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans
50.	Landscape Completion	12.	Landscape Completion
53.	Allocation of Parking Spaces (Strata Title)	13.	Allocation of Parking Spaces (Residential)
54.	Allocation of Parking Spaces (Retail/Commercial)	14.	Allocation of Parking Spaces (Retail/Commercial)
58.	Waiting Bay	18.	Waiting Bays
69.	'No Parking' Signs on Right of Way	15.	'No Parking' Signs on Right of Way
78.	Parking Spaces	22.	Parking Spaces

All other conditions under DA2026/0383 apply in addition to those under DA2025/0718.

Reason: To ensure consistency between consents.

In particular, but without limitation, alterations and additions to approved building at 12 The Strand, Dee Why detailed within DA2026/0383 supersede the plans and requirements of DA2025/0718 and must be complied with as requirements of this consent.

Reason: To ensure consistency between consents.

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

Approved Plans				
Plan Number	**Revision Number**	**Plan Title**	**Drawn By**	**Date of Plan**
A-100-002	02	Demolition Plan	Studio Johnston	16 March 2026
A-100-003	02	Proposed Site Plan	Studio Johnston	16 March 2026
A-101-001	02	Waste Management Site Plan	Studio Johnston	16 March 2026

A-101-002	02	Excavation Plan	Studio Johnston	16 March 2026
A-110-001	02	Basement 2	Studio Johnston	16 March 2026
A-110-002	02	Basement 1	Studio Johnston	16 March 2026
A-110-003	02	Ground Level	Studio Johnston	16 March 2026
A-110-004	02	Level 1	Studio Johnston	16 March 2026
A-110-005	02	Level 2	Studio Johnston	16 March 2026
A-110-006	02	Level 3	Studio Johnston	16 March 2026
A-110-007	02	Level 4	Studio Johnston	16 March 2026
A-110-008	02	Roof	Studio Johnston	16 March 2026
A-115-001	02	Adaptable Apartments	Studio Johnston	16 March 2026
A-115-002	02	Livable Apartments	Studio Johnston	16 March 2026
A-210-001	02	North Elevation	Studio Johnston	16 March 2026
A-210-002	02	South Elevation	Studio Johnston	16 March 2026
A-210-003	02	East Elevation	Studio Johnston	16 March 2026
A-210-004	02	West Elevation	Studio Johnston	16 March 2026
A-310-001	02	Section AA	Studio Johnston	16 March 2026
A-310-002	02	Section BB	Studio Johnston	16 March 2026
DA_00	02	Cover Page	Wyer & Co	28 January 2026
DA_01	02	Master Plan	Wyer & Co	28 January 2026
DA_03	02	Ground Floor	Wyer & Co	28 January 2026
DA_04	02	Level 01	Wyer & Co	28 January 2026
DA_05	02	Level 02	Wyer & Co	28 January 2026
DA_06	02	Level 03	Wyer & Co	28 January 2026

DA_07	02	Level 04	Wyer & Co	28 January 2026
D00	F	Cover Page	SYJ Consulting Engineers	20 March 2026
D01	F	Basement 02 Stormwater Management Plan	SYJ Consulting Engineers	20 March 2026
D02	F	Basement 01 Stormwater Management Plan	SYJ Consulting Engineers	20 March 2026
D03	F	Site Stormwater Management Plan	SYJ Consulting Engineers	20 March 2026
D04	F	First Floor Drainage Plan & Roof Drainage Plan	SYJ Consulting Engineers	20 March 2026
D05	F	Stormwater Details	SYJ Consulting Engineers	20 March 2026
D06	F	Site Erosion and Sedimental Control Plan	SYJ Consulting Engineers	20 March 2026

Approved Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**
Access Report	240400C-ACCESS-r5	Credwell	17 March 2026
Acoustic Assessment	2	Acoustic Logic	19 March 2026
Arborist Statement	-	Lee Hancock Consulting Arborist	2 February 2026
BASIX Certificate 1793533M_04	-	Credwell Energy	27 March 2026
BCA Assessment Report	240400C-BCA-r3	Credwell	17 March 2026
Fire Safety Strategy	E	Performance Based Consulting	4 March 2026
Geotechnical Assessment Letter	-	Green Geotechnics	16 March 2026
NatHERS Certificate 0011888270	-	Gredwell Energy	27 March 2026
Section J - DTS Report	240400E-SJ-r4	Credwell	27 March 2026
Transport Impact Statement	02	PDC Consultants	19 March 2026
Waste Management Plan	-	Applicant	Undated

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

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

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

3. **Compliance with Other Department, Authority or Service Requirements**
The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Referral - Ausgrid	17 April 2026
WaterNSW	Referral - WaterNSW	9 July 2025

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

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

FEES / CHARGES / CONTRIBUTIONS

4. **Policy Controls**
Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of $112,814.07 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of $11,281,407.14.

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

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

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

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

5. **Housing and Productivity Contribution - Development Consents**

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

Contribution Type	**Amount**
Housing and Productivity Contribution	$61,080.00
Strategic Biodiversity Component and/or Transport Project Component	$0
Total:	**$61,080.00**

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

$$\frac{highest\ PPI\ number}{consent\ PPI\ number}$$

where—

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

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

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

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

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

Development	**Time by which HPC must be paid**
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
Manufactured home estate for which no construction certificate is required	Manufactured home estate for which no construction certificate is required

4. The HPC must be paid using the NSW planning portal (https://pp.planningportal.nsw.gov.au/).

5. If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:
   a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
   b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

   If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 2 at the time of payment.

6. Despite condition 1, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024 exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Reason: Statutory requirement.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

6. **On-Site Stormwater Detention Details**
The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by

SYJ Consulting Engineers, drawing number 241012, D00; D01; D02; D03; D04 and D05, Rev F, dated 20/03/2026.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering. Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

7. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**
The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Green Geotechnics, dated 30/04/2025 and 16/03/2026, are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

8. **Vehicle Access and Parking**
All internal driveways, vehicle turning areas, and vehicle parking space dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

The shop-top housing development is to provide 10 resident parking spaces, 1 accessible parking space and 4 retail parking spaces.

The following revisions must be undertaken to the car park layout and parking allocation shown on the Basement 1 plan, Dwg No. A-110-002 Rev.02:

- Modify the double garage with storage located in the south-eastern corner of Basement 1, to provide a single garage with storage for the residential unit.
- Provide an additional retail parking space marked “RETAIL STAFF”, with 4 adjacent retail spaces situated along the eastern wall.
- Reallocate the “RETAIL STAFF” accessible parking space to visitor accessible parking marked “VISITOR”.

Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifier prior to the issue of a Construction Certificate. Reason: To ensure allocation of parking spaces for the development in general accordance with Australian Standards and WDCP relating to manoeuvring, access and parking.

DURING BUILDING WORK

9. **Dewatering Management**
WaterNSW is the lead regulatory authority for all groundwater dewatering activities. The applicant must obtain and comply with all relevant WaterNSW recommendations, approvals, and conditions prior to commencing any groundwater dewatering.

Groundwater dewatering discharge to Council stormwater systems or natural assets is not permitted without prior written approval from Council. Discharge to the kerb will not be permitted, and a piped connection to an approved discharge point must be provided. The applicant must comply with all discharge approval conditions imposed by Council in relation to

such discharge including discharge rates and quality.

Reason: To ensure site groundwater dewatering is appropriately managed, discharge rates are controlled, and the receiving environment and groundwater resources are protected.

10. **Geotechnical Requirements**
All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

11. **Traffic Management**
Traffic management procedures and systems must be in place and practised during the course of the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

Note: A plan of traffic management is to be submitted to and approved by the Principal Certifier.

Reason: To ensure pedestrian safety and continued efficient network operation.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

12. **Landscape Completion**
a) Landscape works are to be implemented in accordance with the approved Landscape Plan(s).

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

Reason: Environmental amenity.

13. **Allocation of Parking Spaces (Residential)**
A total of 10 residential parking spaces must be designated for resident parking as shown on the revised Basement 1 plan. All carparking spaces are to be assigned to individual units. All residential units must be assigned a minimum of one parking space.

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

Reason: To ensure parking availability for residents.

14. **Allocation of Parking Spaces (Retail/Commercial)**
Parking allocated to this development must be clearly signposted and linemarked as being for the exclusive use of this development. A total of 4 retail parking spaces must be designated for staff parking, and 1 accessible parking space for visitor parking as shown on the revised Basement 1 plan.

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

Reason: To ensure retail parking availability.

15. **'No Parking' Signs on Right of Way**
The developer must install 'No Parking' signs along the full length of the wall on the western side of the Right of Way, up to the property boundary of 18-19 The Strand. In addition, no bins or other materials are to be stored/placed along this wall.

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

Reason: To maintain unobstructed access for service and waste collection vehicles, as any parking or placement of bins within the Right of Way would restrict the access width and manoeuvring space required for these vehicles.

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

Reason: To advise that visitor parking has been provided and is available within the development.

17. **Affordable Housing Certification**
Prior to the issue of any Occupation Certificate, the applicant must provide to the Certifier and Council evidence that the affordable housing component is complete and ready for occupation. In this regard, the following is required:

(a) A restriction has been registered against the title of the site on which development is to be carried out, in accordance with section 88E of the *Conveyancing Act 1919*, requiring:
   (i) A minimum of one (1) dwelling within the development to be used for the purposes of affordable housing for a minimum of 15 years from the date of the issue of the Occupation Certificate, as defined by the *Environmental Planning and Assessment Act 1979* and *State Environmental Planning Policy (Housing) 2021*; and
   (ii) The affordable housing component to be managed by a registered community housing provider.

(b) An agreement with a registered community housing provider for the management of the affordable housing has been given to the Registrar of Community Housing, including the name of the registered community housing provider.

Reason: Compliance with *State Environmental Planning Policy (Housing) 2021*.

18. **Waiting Bays**
Waiting bays must be line marked in the basements as per the approved plans.

Reason: To prevent vehicle to vehicle conflict on the ramp.

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

19. **Sight Lines Within Carparks**
The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by landscaping or signage.

Reason: To maintain unobstructed sight distance for motorists.

20. **Commercial Waste and Recycling Storage**
Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed.

21. **Affordable Housing Component**
A minimum of one (1) dwelling within the development to be used for the purposes of affordable housing for a minimum of 15 years from the date of the issue of the Occupation Certificate, as defined by the *Environmental Planning and Assessment Act 1979* and *State Environmental Planning Policy (Housing) 2021*.

Reason: Compliance with *State Environmental Planning Policy (Housing) 2021*.

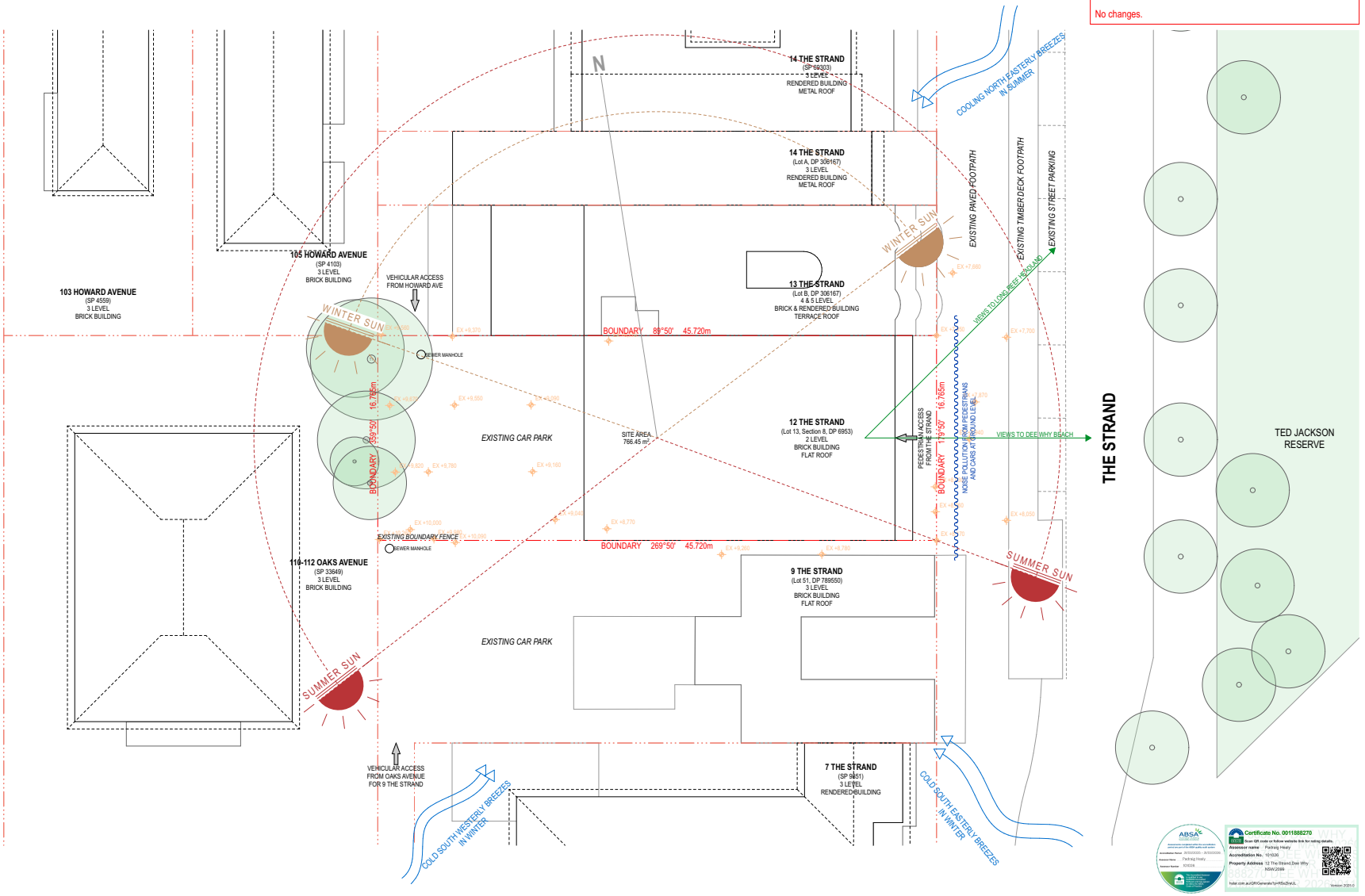
22. **Parking Spaces**
The development is to maintain the following parking allocation for the life of the development:
- 10 resident parking spaces marked with the number of the respective unit
- 1 accessible parking space marked visitor (for retail and resident visitors)
- 4 retail parking spaces marked for retail staff
- 10 bicycle spaces

Car parking provided should be used solely for the designated uses within the development. The line marking and/or sign to identify the unit/tenancy is to be maintained accordingly. Manoeuvring areas must be kept clear of obstructions at all times.

Reason: To ensure the appropriate management of parking on site for the life of the development.

CHANGES FROM APPROVED DA2025/0718

No changes.



STUDIO JOHNSTON
Level 1, 268A Devonshire Street
Surry Hills
NSW 2010 AUSTRALIA
studiojohnston.com.au
T + 61 2 9211 2700
F + 61 2 9211 2785
ABN - 63111324353
contact@studiojohnston.com.au

Project: 12 THE STRAND, DEE WHY
Client: VCross Dee Why Pty Ltd

REV	DESCRIPTION	DRAWN	DATE
01	For Coordination	APOG	21/01/26
02	DA Submission	OG	16/03/26

ALL LEVELS TO AUSTRALIAN HEIGHT DATUM.
IT IS THE CONTRACTOR'S RESPONSIBILITY TO CONFIRM ALL MEASUREMENTS ON SITE PRIOR TO COMMENCEMENT OF WORK. DRAWINGS SHOULD NOT BE SCALED. WRITTEN DIMENSIONS ONLY SHOULD BE TAKEN FROM DRAWINGS. ALL DIMENSIONING IS TO SUBSTRATE BRICKWORK / BLOCKWORK UNLESS OTHERWISE NOTED.
DESIGN AND DRAWINGS REMAIN COPYRIGHT OF STUDIO JOHNSTON NOT TO BE USED FOR CONSTRUCTION.

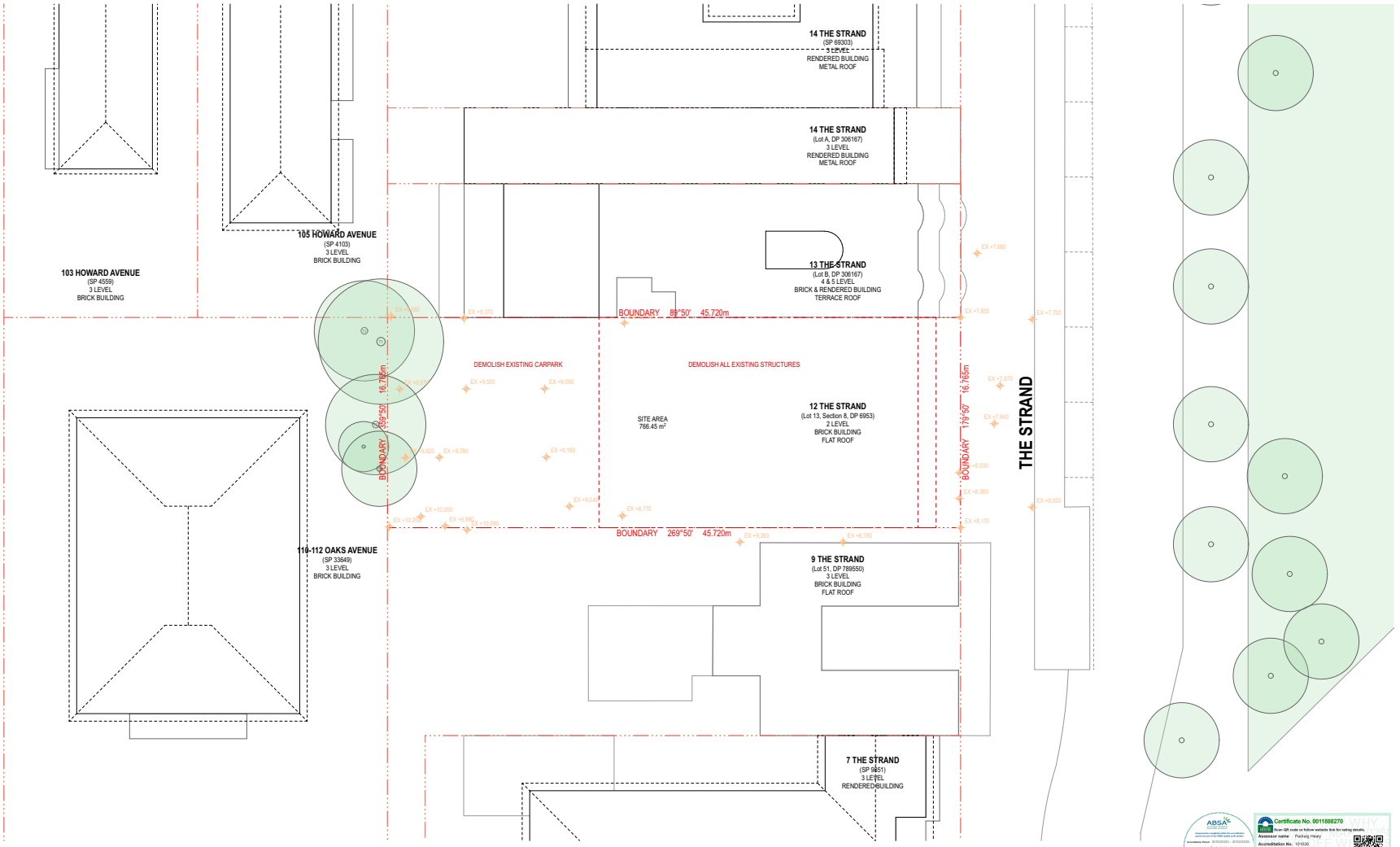
Series: SITE PLANS
Title: Site Analysis Plan

Job No.	2401
Scale	1:200 @ A2
Date	16/3/2026
Drawn/Checked	OG/CJ
Dwg No.	A-100-001
Rev.	02

Certificate No. 0011888270
Assessor name Padraig Healy
Accreditation No. 1010320
Property Address 12 The Strand,Dee Why NSW 2099

CHANGES FROM APPROVED DA2025/0718

No changes.



Certificate No. 0011888270

STUDIO JOHNSTON

Level 1, 268A Devonshire Street
Surry Hills
NSW 2010 AUSTRALIA
studiojohnston.com.au

T + 61 2 9211 2700
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ABN - 63111324353
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Series: SITE PLANS

Title: Demolition Plan

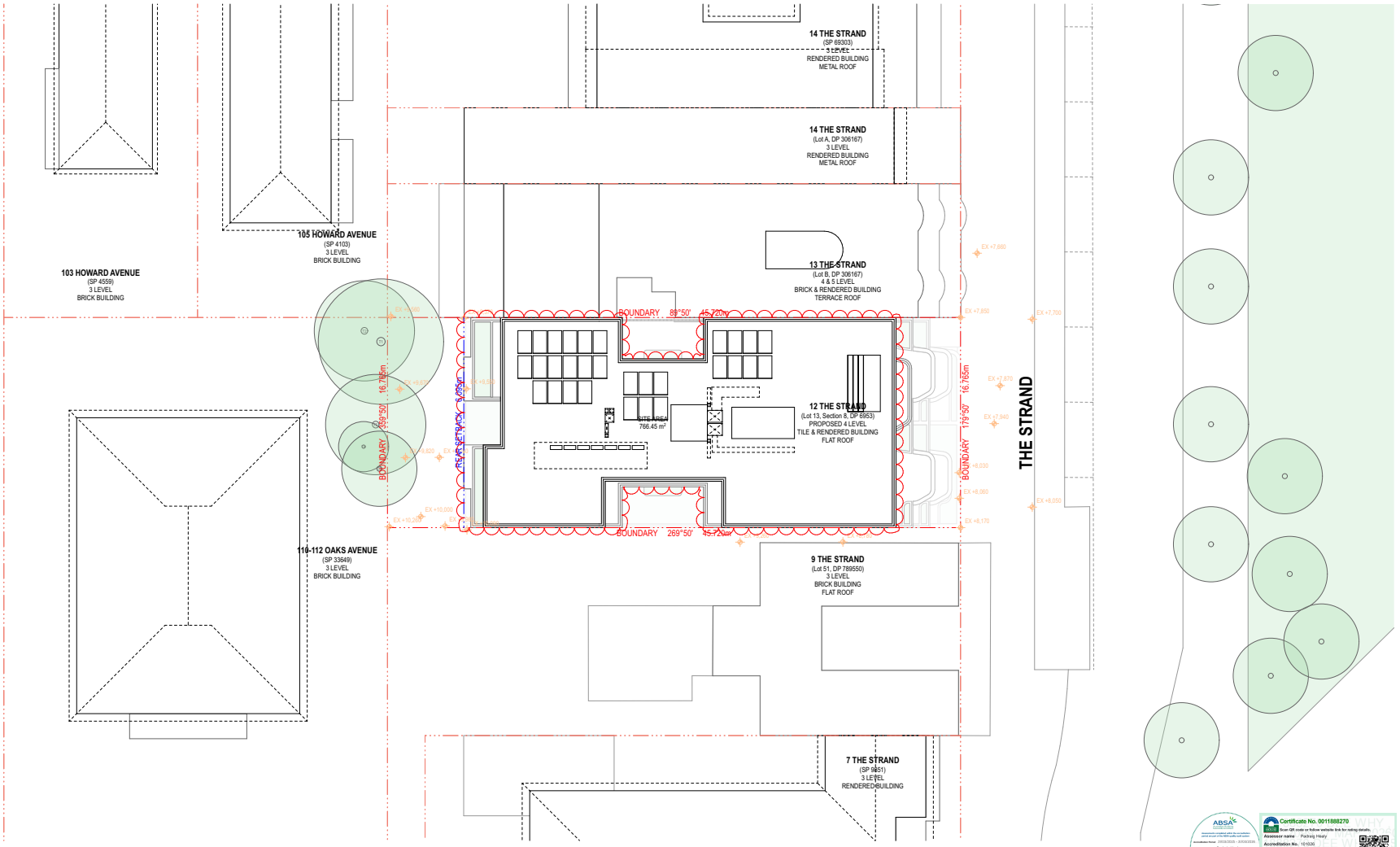
Job No.	2401
Scale	1:200 @ A2
Date	16/3/2026
Drawn/Checked	OG/CJ

Dwg No. A-100-002

Rev. 02

CHANGES FROM APPROVED DA2025/0718

- Additional unit on Level 4.



STUDIO JOHNSTON
Level 1, 268A Devonshire Street
Surry Hills
NSW 2010 AUSTRALIA
studiojohnston.com.au
T + 61 2 9211 2700
F + 61 2 9211 2785
ABN - 63111324353
contact@studiojohnston.com.au

Project: 12 THE STRAND, DEE WHY
Client: VCross Dee Why Pty Ltd

REV	DESCRIPTION	DRAWN	DATE
01	For Coordination	AP/OG	21/01/26
02	DA Submission	OG	16/03/26

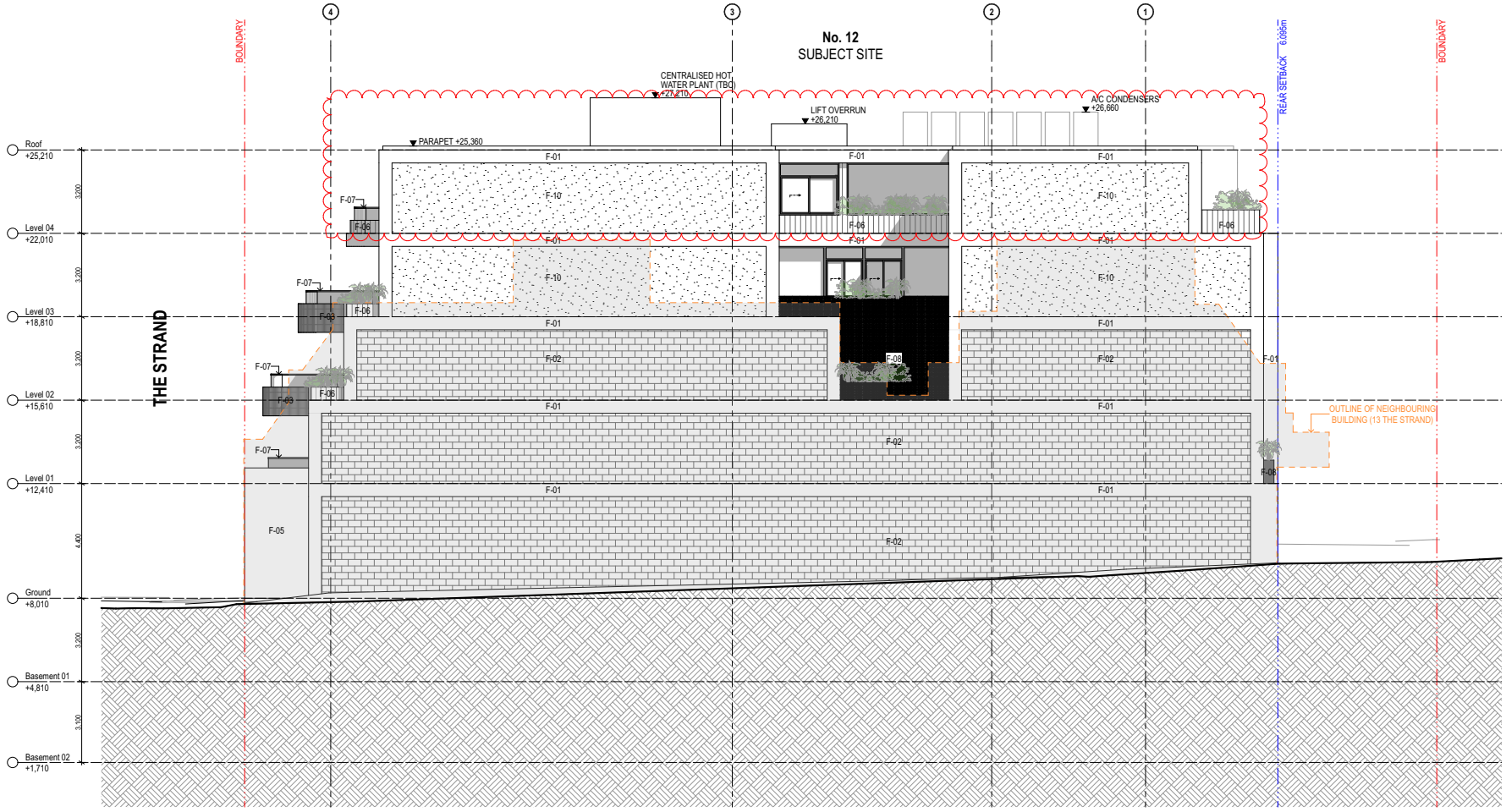
ALL LEVELS TO AUSTRALIAN HEIGHT DATUM.
IT IS THE CONTRACTOR'S RESPONSIBILITY TO CONFIRM ALL MEASUREMENTS ON SITE PRIOR TO COMMENCEMENT OF WORK. DRAWINGS SHOULD NOT BE SCALED. WRITTEN DIMENSIONS ONLY SHOULD BE TAKEN FROM DRAWINGS. ALL DIMENSIONING IS TO SUBSTRATE BRICKWORK / BLOCKWORK UNLESS OTHERWISE NOTED.
DESIGN AND DRAWINGS REMAIN COPYRIGHT OF STUDIO JOHNSTON NOT TO BE USED FOR CONSTRUCTION

Series: SITE PLANS
Title: Proposed Site Plan

Job No.	2401
Scale	1:200 @ A2
Date	16/3/2026
Drawn/Checked	OG/CJ
Dwg No.	A-100-003
Rev.	02

CHANGES FROM APPROVED DA2025/0718

- Additional unit on Level 4.





F-01 - Concrete Finish *Exterior*
F-02 - Concrete Block *Exterior*
F-03 - Light Tiles *Exterior*
F-04 - Coloured Tiles *Exterior*
F-05 - Off-form Concrete *Entry Awning*
F-06 - Boardform Concrete *Balcony upstands*
F-07 - Glass Balustrade *Balcony*
F-08 - Breeze blocks *Balcony, courtyard*
F-09 - Dark Colour Powdercoat *Window frames, planters*
F-10 - Light Colour Textured Render *External Walls*



STUDIO JOHNSTON
Level 1, 268A Devonshire Street Surry Hills NSW 2010 AUSTRALIA
studiojohnston.com.au
T + 61 2 9211 2700
F + 61 2 9211 2785
ABN - 63111324353
contact@studiojohnston.com.au

Project: **12 THE STRAND, DEE WHY**
Client: VCross Dee Why Pty Ltd

REV	DESCRIPTION	DRAWN	DATE
01	For Coordination	APOG	21/01/26
02	DA Submission	OG	16/03/26

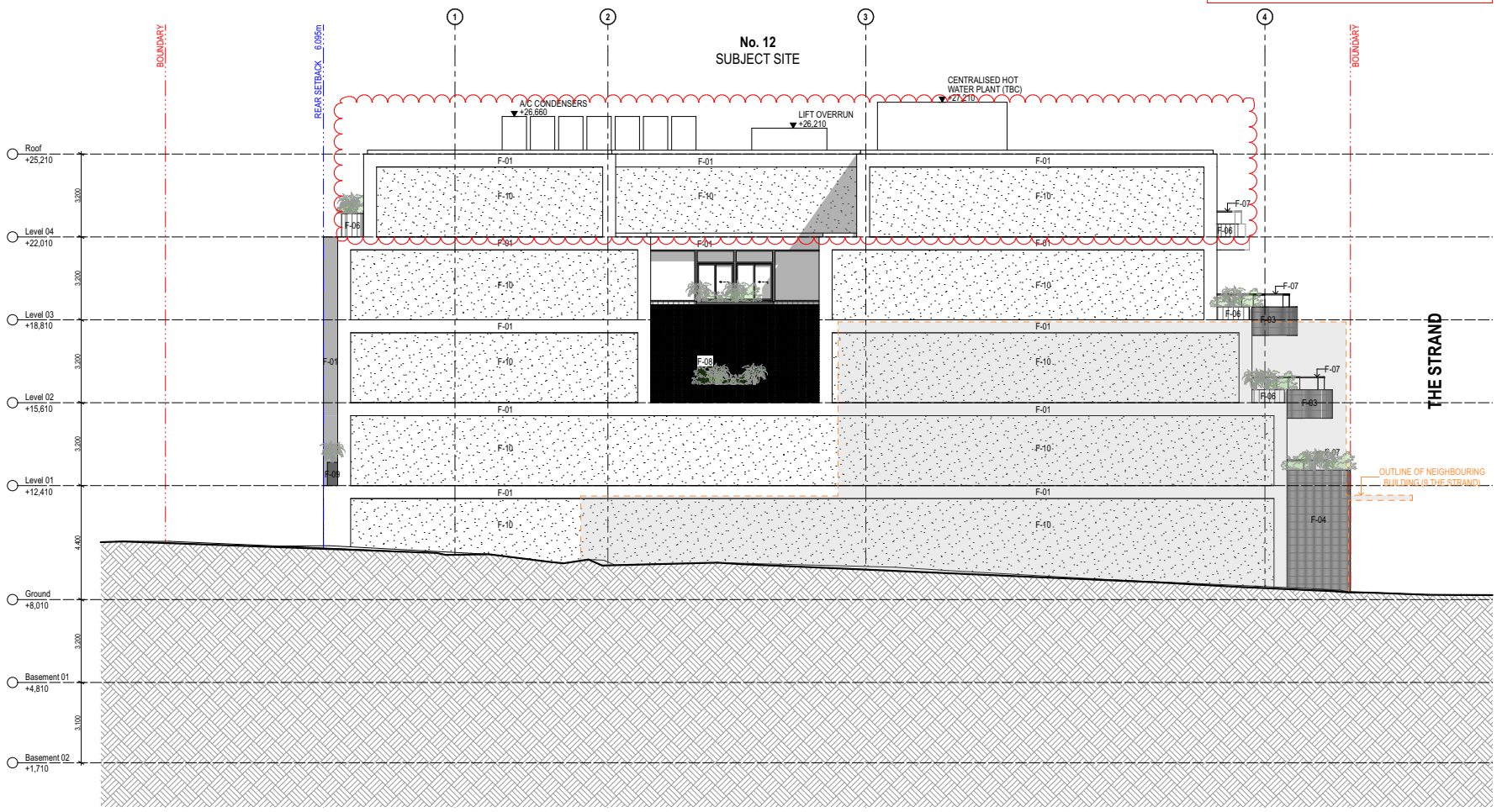
ALL LEVELS TO AUSTRALIAN HEIGHT DATUM.
IT IS THE CONTRACTOR'S RESPONSIBILITY TO CONFIRM ALL MEASUREMENTS ON SITE PRIOR TO COMMENCEMENT OF WORK. DRAWINGS SHOULD NOT BE SCALED. WRITTEN DIMENSIONS ONLY SHOULD BE TAKEN FROM DRAWINGS. ALL DIMENSIONING IS TO SUBSTRATE BRICKWORK / BLOCKWORK UNLESS OTHERWISE NOTED.
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Series: **ELEVATIONS**
Title: North Elevation

Job No.	2401
Scale	1:100 @A2
Date	16/3/2026
Drawn/Checked	OG/CJ
Dwg No.	A-210-001
Rev.	02

CHANGES FROM APPROVED DA2025/0718

- Additional unit on Level 4.





F-01 - Concrete Finish *Exterior*
F-02 - Concrete Block *Exterior*
F-03 - Light Tiles *Exterior*
F-04 - Coloured Tiles *Exterior*
F-05 - Off-form Concrete *Entry Awning*
F-06 - Boardform Concrete *Balcony upstands*
F-07 - Glass Balustrade *Balcony*
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Project: 12 THE STRAND, DEE WHY
Client: VCross Dee Why Pty Ltd

REV	DESCRIPTION	DRAWN	DATE
01	For Coordination	APOG	21/01/26
02	DA Submission	OG	16/03/26

ALL LEVELS TO AUSTRALIAN HEIGHT DATUM.
IT IS THE CONTRACTOR'S RESPONSIBILITY TO CONFIRM ALL MEASUREMENTS ON SITE PRIOR TO COMMENCEMENT OF WORK. DRAWINGS SHOULD NOT BE SCALED. WRITTEN DIMENSIONS ONLY SHOULD BE TAKEN FROM DRAWINGS. ALL DIMENSIONING IS TO SUBSTRATE BRICKWORK / BLOCKWORK UNLESS OTHERWISE NOTED.
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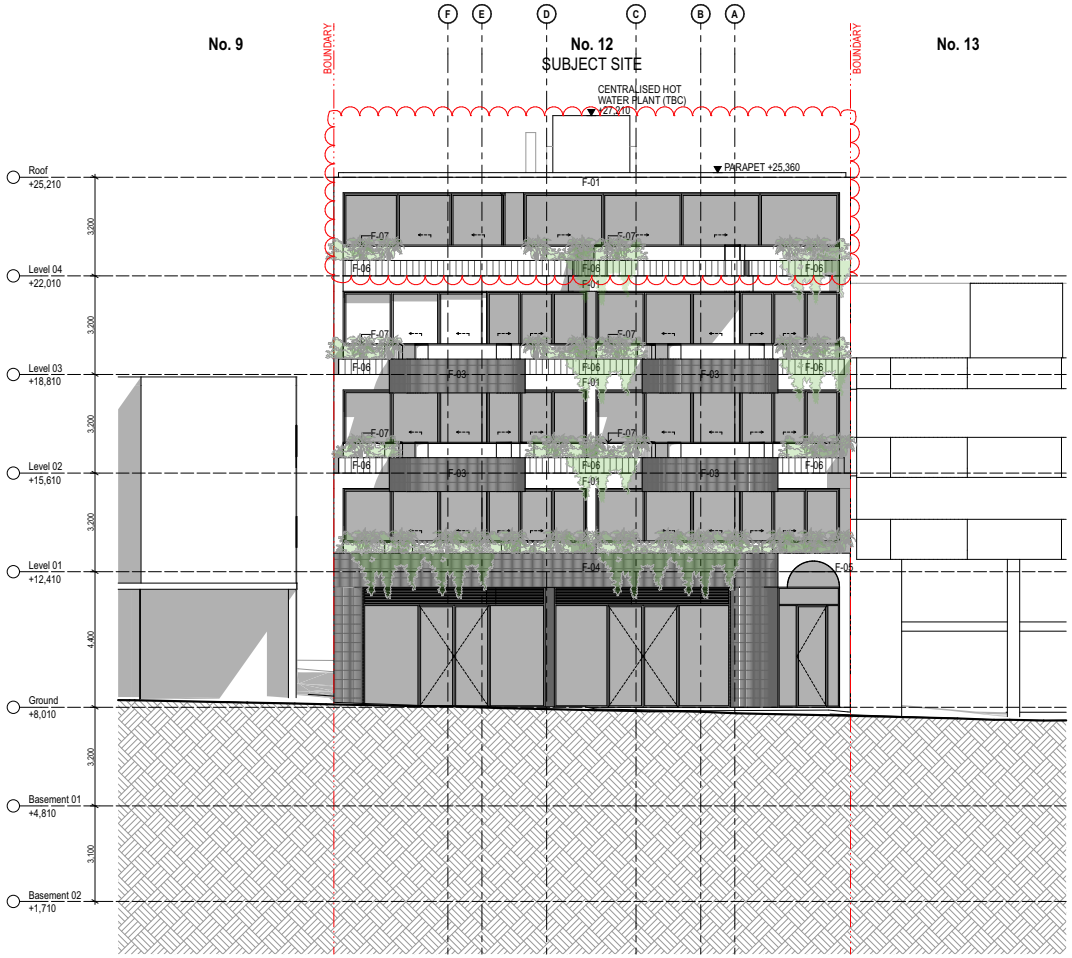
Series: ELEVATIONS
Title: South Elevation

Job No. 2401
Scale 1:100 @A2
Date 16/3/2026
Drawn/Checked OG/CJ

Dwg No. A-210-002
Rev. 02

CHANGES FROM APPROVED DA2025/0718

- Additional unit on Level 4.





F-01 - Concrete Finish *Exterior*
F-02 - Concrete Block *Exterior*
F-03 - Light Tiles *Exterior*
F-04 - Coloured Tiles *Exterior*
F-05 - Off-form Concrete *Entry Awning*
F-06 - Boardform Concrete *Balcony upstands*
F-07 - Glass Balustrade *Balcony*
F-08 - Breeze blocks *Balcony, courtyard*
F-09 - Dark Colour Powdercoat *Window frames, planters*
F-10 - Light Colour Textured Render *External Walls*

STUDIO JOHNSTON
Level 1, 268A Devonshire Street
Surry Hills
NSW 2010 AUSTRALIA
studiojohnston.com.au
T + 61 2 9211 2700
F + 61 2 9211 2785
ABN - 63111324353
contact@studiojohnston.com.au

Project: 12 THE STRAND, DEE WHY
Client: VCross Dee Why Pty Ltd

REV	DESCRIPTION	DRAWN	DATE
01	For Coordination	APOG	21/01/26
02	DA Submission	OG	16/03/26

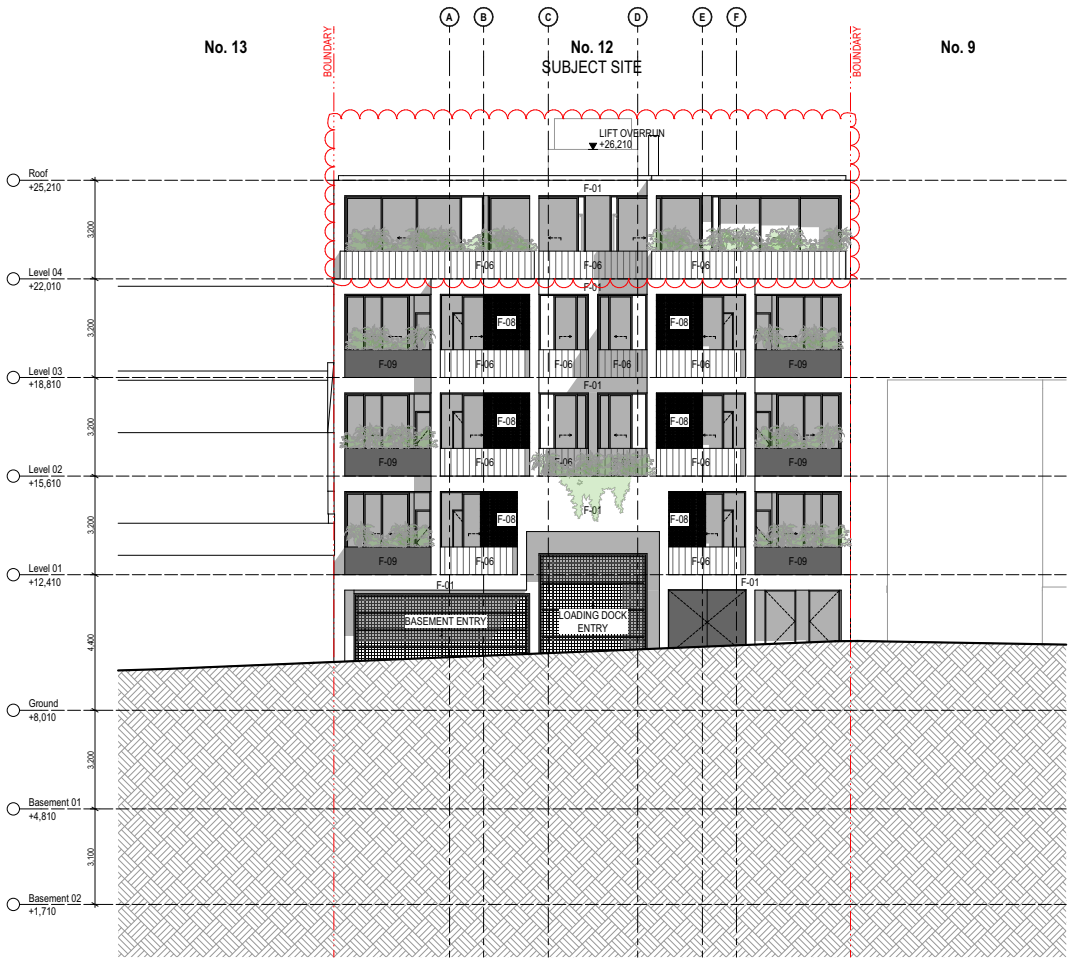
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Series: ELEVATIONS
Title: East Elevation

Job No.	2401
Scale	1:100 @ A2
Date	16/3/2026
Drawn/Checked	OG/CJ
Dwg No.	A-210-003
Rev.	02

CHANGES FROM APPROVED DA2025/0718

- Additional unit on Level 4.




F-01 - Concrete Finish
Exterior


F-02 - Concrete Block
Exterior


F-03 - Light Tiles
Exterior


F-04 - Coloured Tiles
Exterior


F-05 - Off-form Concrete
Entry Awning


F-06 - Boardform Concrete
Balcony upstands


F-07 - Glass Balustrade
Balcony


F-08 - Breeze blocks
Balcony, courtyard


F-09 - Dark Colour Powdercoat
Window frames, planters


F-10 - Light Colour Textured Render
External Walls





STUDIO JOHNSTON

Level 1, 268A Devonshire Street
Surry Hills
NSW 2010 AUSTRALIA
studiojohnston.com.au

T + 61 2 9211 2700
F + 61 2 9211 2785
ABN - 63111324353
contact@studiojohnston.com.au

Project
12 THE STRAND, DEE WHY

Client
VCross Dee Why Pty Ltd

REV	DESCRIPTION	DRAWN	DATE
01	For Coordination	APOG	21/01/26
02	DA Submission	OG	16/03/26

ALL LEVELS TO AUSTRALIAN HEIGHT DATUM.

IT IS THE CONTRACTOR'S RESPONSIBILITY TO CONFIRM ALL MEASUREMENTS ON SITE PRIOR TO COMMENCEMENT OF WORK. DRAWINGS SHOULD NOT BE SCALED. WRITTEN DIMENSIONS ONLY SHOULD BE TAKEN FROM DRAWINGS. ALL DIMENSIONING IS TO SUBSTRATE BRICKWORK / BLOCKWORK UNLESS OTHERWISE NOTED.

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Series
ELEVATIONS

Title
West Elevation

Job No.	2401
Scale	1:100 @ A2
Date	16/3/2026
Drawn/Checked	OG/CJ

Dwg No.
A-210-004

Rev.
02

APPENDIX 1

CLAUSE 4.6 VARIATION REQUEST TO BUILDING HEIGHT DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.3 OF WARRINGAH LEP 2011

12 THE STRAND, DEE WHY

Amending development application to the approved shop top housing development under DA2025/0718 for inclusion of affordable housing and additional residential storey.

PREPARED BY

ABC PLANNING PTY LTD

MARCH 2026

CLAUSE 4.6 VARIATION REQUEST TO BUILDING HEIGHT DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.3 OF WARRINGAH LEP 2011

This Clause 4.6 variation request has been prepared to accompany the amending development application to the approved shop top housing development to include affordable housing and an additional residential storey, at Lot 13 Section (8) in DP 6953, commonly known as No. 12 The Strand, Dee Why.

Clause 4.6 of the *Warringah Local Environmental Plan 2011* (WLEP2011) allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards.

This Clause 4.6 variation request takes into account the relevant aspects of the Land and Environment Court judgement in *Initial Action Pty Ltd v Woollahra Council [2017] NSWLEC 1734,* as revised by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130,* and more recently the decision of *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112.

In particular, in the SJD decision, the Court at [73] held that "*it should be noted cl 4.6 of [LEP] is as much a part of [LEP] as the clauses with development standards. Planning is not other than orderly simply because there is reliance on cl 4.6 for an appropriate planning outcome.*"

The site is zoned E1 Local Centre land use zone in accordance with the WLEP2011, in which shop top housing is a permitted land use.

The proposal results in a non-compliance with Clause 4.3 of the WLEP2011, which relates to the height of buildings. As such, this Clause 4.6 variation request has been prepared in accordance with Clause 4.6 of the WLEP2011:

Clause 4.6 Exceptions to development standards

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Note—
The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).
(4) The consent authority must keep a record of its assessment carried out under subclause (3).
(5) (Repealed)
(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—
(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
Note—
When this Plan was made it did not contain Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU6 Transition or Zone R5 Large Lot Residential.
(7) (Repealed)
(8) This clause does not allow development consent to be granted for development that would contravene any of the following—
(a) a development standard for complying development,
(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
(ba) clause 4.4, to the extent that it applies to land identified on the Key Sites Map as Site F, Site G, Site H or Site I,
(c) clause 5.4,
(caa) clause 5.5.
(d) (Repealed)
(8A) Also, this clause does not allow development consent to be granted for development that would contravene a development standard for the maximum height of a building shown on the Height of Buildings Map on land shown on the Centres Map as the Dee Why Town Centre.
(8B) Despite subclause (8A), development on Site C or Site E may exceed the maximum height of building shown on the Height of Buildings Map if the maximum height is allowable under clause 7.14.

This Clause 4.6 variation has been prepared in accordance with the 'Guide to Varying Development Standards' prepared by the Department of Planning and Environment in 2023.

This Clause 4.6 variation request outlines the nature of the exceedance of the building height development standard and provides an assessment of the relevant matters in Clause 4.6 of the WLEP2011.

This Clause 4.6 variation request demonstrates that compliance with the development standard relating to building height is unreasonable or unnecessary in the circumstances and establishes that there are sufficient environmental planning grounds to justify contravening the development standard, satisfying Clause 4.6(3) of the WLEP2011. This Clause 4.6 variation request also

demonstrates that the proposed development will be consistent with the objectives of the height of buildings development standard and the E1 zoning of the site.

Development Standard to be Varied

The proposal seeks a variation to the development standard contained within Clause 4.3 of the WLEP2011 and the associated building height map (**Figure 1**).

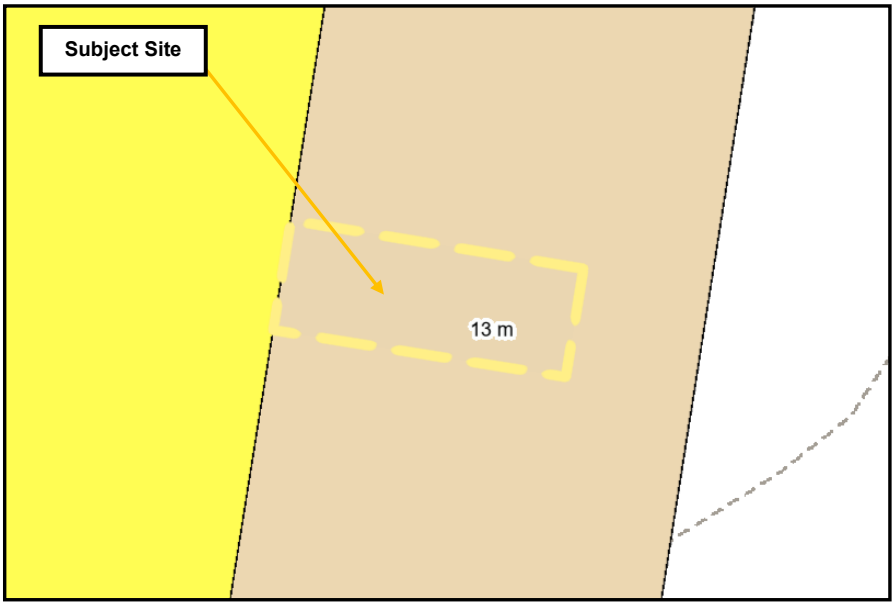


Figure 1: Building Height Map

Pursuant to Clause 4.3 of the WLEP2011, the site is subject to a maximum building height of 13m.

Under Division 1 of the Housing SEPP, up to 30% additional FSR and height allowances are provided for proposals that contain a minimum of 10% of total GFA (15% affordable housing for use of full 30% bonus) that are available for affordable rental for 15 years through a registered housing provider, where the proposal is shop top housing or residential flat buildings.

The proposal dedicates Unit 102 (211.54m^2) as an affordable rental unit to be managed by a registered housing provider for 15 years. As the total proposed GFA is 1,877.52m^2 this dedication equates to 11.3% of the GFA as affordable housing, and therefore the proposal can benefit from a height bonus of 22.6% / 2.94m, pursuant to Clause 18(2) of the Housing SEPP, resulting in a maximum height for the proposal of 15.94m

The proposal has a maximum building height of 18.96m to the services (hot water plant) above EGL, being a 18.95% (3.02m) variation from the numerical development standard that includes the height bonus afforded by the Housing SEPP. The proposed maximum roof parapet height at the front of the buildings is 17.03m, a minor 6.84% (1.09m) variation from the development standard, as illustrated below (Figure 2).

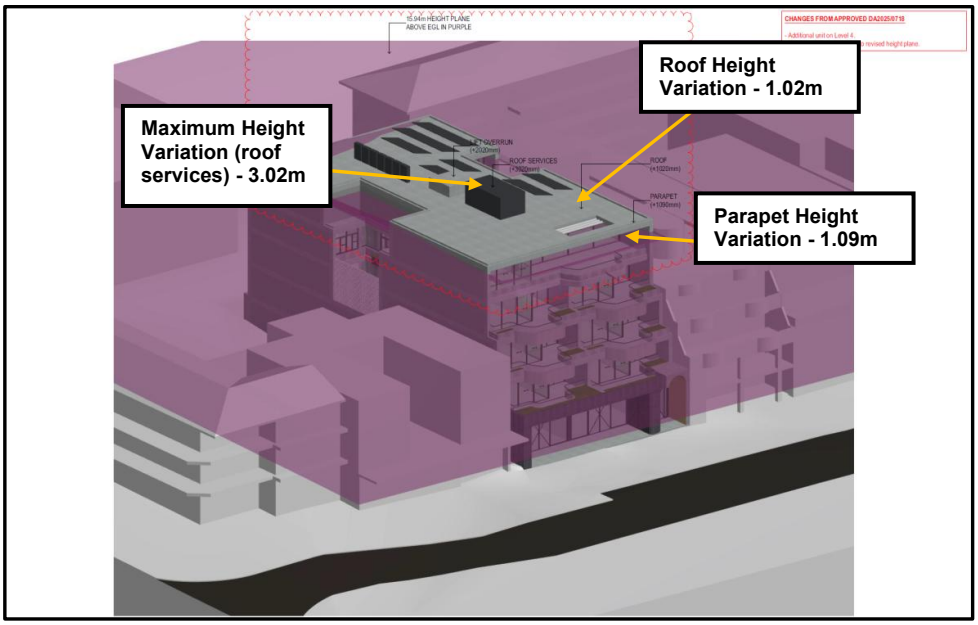


Figure 2: Extract Height Plane Diagram, illustrating minor height variation to the front parapet and maximum height variation to the centrally located roof services

Justification for Contravention of the Development Standard

This Clause 4.6 variation request is considered to justify the contravention of the development standard and addresses the matters required to be demonstrated by Clause 4.6(3), of which there are two aspects. Both aspects are addressed below:

4.6(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances

5-Part test

As outlined in the 'Guide to Varying Development Standards' prepared by the Department of Planning and Environment in 2023, the common ways to establish whether compliance with the development standard is unreasonable or unnecessary is known as the '5-Part Test' (from the case of Wehbe v Pittwater Council [2007] NSWLEC 827).

The 5-Part Test is summarised as follows:

Compliance with the development standard is unreasonable or unnecessary if the:

1. ***objectives of the development standard are achieved notwithstanding the non-compliance***
2. *underlying objective or purpose is not relevant to the development*
3. *underlying objective or purpose would be defeated or thwarted if compliance was required*

4. *development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard*
5. *zoning of the land on which the development is proposed was unreasonable or inappropriate*.

An applicant only needs to satisfy at least one part of the 5-Part Test, not all 5 parts.

Assessment: Despite the non-compliance with the building height control, the proposal achieves the objectives of the development standard and the zoning, as demonstrated in the following table:

Consistency with the Objectives of the Building Height Development Standard in the LEP	
Objectives	**Assessment**
a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,	• Notwithstanding the height variation, the proposal is compatible with the surrounding existing and approved mid-rise character of the area. Developments including Nos. 9-11 The Strand under Mod2010/0063, a 4/5 storey shop top housing development; Nos. 13-14 The Strand, and Nos. 18–19 The Strand under (Mod2018/0193), a 4-storey shop-top housing development, further demonstrates the compatibility of the proposal with the surrounding context. A current DA proposes adding an additional storey at this address under the same planning pathway, confirming the proposal's compatibility despite the height variation. • The proposed flat roof associated with the height variation is compatible with the surrounding built form and prevailing flat roofs along this part of The Strand, including the adjoining buildings to the north and south. The services atop the roof are recessed and will not be perceptible from the public domain; therefore, these elements above the height limit will not generate any adverse streetscape or amenity impacts. • The proposal has been designed to reduce bulk and scale, through the recessive nature of the proposed fifth storey as it presents to The Strand to reduce visual bulk and scale. The 9.45m recessed glazing line and associated deep-set balconies to the front and rear elevations create effective articulation of the proposed built form and suitably relate to the approved building façade on levels Ground, 1, 2 & 3. These measures assist in reducing the overall bulk and scale of the built form, including height variation, and in creating a sense of openness.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,	*View Loss Impacts* • 110 - 112 Oaks Avenue: there is no view loss impacts to the units in 110 - 112 associated with the non-complying elements of the proposal to east-facing units addressed to 110 - 112 Oaks Avenue. The assessment of the approved four-storey building demonstrated that view loss from these units would be present at three storeys, a height significantly below that envisaged by the 13m WLEP2011 height limit. The proposal does not result in any additional view loss impacts beyond those already approved. • Adjoining properties address to The Strand: The approved front setback is maintained, and the proposal does not reduce the water views captured by these properties to the east. *Loss of Privacy* • 110 - 112 Oaks Avenue: The proposed fifth storey is further setback at the rear, with a highly recessed glazing line (10.87m) and raised planter beds, which suitably limit any privacy impacts to the units to the rear of the site. The relationship and privacy impacts of the levels below remain the same as those approved. • Adjoining properties address to The Strand: on the southern side, there are no openings on the proposed fifth storey in the lightwell or on the boundary elevation. On the northern side, there are no openings proposed on the boundary elevation. The openings in the lightwell are recessed from the boundary, have raised planters that screen, and are configured to ensure there is no privacy impact on the neighbour to the north, while allowing light into the central part of the unit. The relationship and privacy impacts of the levels below on both the northern and southern sides remain the same as those approved. *Overshadowing* • 110 - 112 Oaks Avenue: The proposed fifth storey is further setback at the north-western corner (9.52m) to allow morning solar access to 110 - 112 Oaks Avenue. Accordingly, the unit will receive the same morning solar access as that approved. • Adjoining properties address to The Strand: on the southern side, the proposed shadows fall on the roof, while the central private open space area is self-

	shaded. Morning solar access to units obtained from east-facing openings is unaffected by the proposal. On the northern side, there are no shadow impacts due to the site relationship. Foreshore public space: there is no discernible overshadowing to the public open space at Ted Jackson Reserve associated with the non-compliant elements. The overshadowing produced by the proposal is essentially from compliant forms and is restricted to the late afternoon and predominantly falls on the footpath, The Strand, and the area under the Norfolk Island Pine trees on the foreshore reserve, further demonstrating that there is no unreasonable overshadowing of any public open space associated with the proposal.
(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,	• The height variation does not generate any impacts upon any bush environment as the site is not located in the vicinity of any bushland areas. • When viewed from surrounding coastal areas, the proposed height variation will not generate any adverse visual impacts due to the minor and indiscernible nature of the elements over the height limit at the front facade. • The proposed variety of architectural features is considered to be of a high standard, which will enhance the character of The Strand and the foreshore setting, including indentation and recesses, deep-set balconies to front and rear elevations, privacy screens, and steps in the floor levels, creating good articulation to the built form and building façade. • New landscaping to the front and rear balconies, plus side elevation recessed cut-outs, is proposed, including palms, shrubs, grasses and groundcovers. Landscape plantings soften the built form and will have a positive visual impact on the streetscape over time, when viewed from coastal areas. • On this basis, the objective is satisfied despite the height variation.
(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.	• The development maintains the approved front setback that steps as the building height increases, with the proposed fifth storey aligning with the approved fourth storey. The stepped front setback and highly articulated front façade ensure that the proposed streetscape presentation continues to make a positive contribution to the revitalising streetscape in the Stand, and there will be no

	unreasonable visual bulk issues associated with the proposal. • The recessed glazing line and associated deep-set balcony to front and rear elevations create effective articulation to the built proposed built form and are suitable in relation to the approved building façade on levels Ground, 1, 2 & 3. These measures assist in reducing the overall bulk and scale of the built form, including height variation, and in creating a sense of openness. • The recessive and minor elements over the height limit, combined with the stepped form of the built form as perceived from the public domain and coastal areas opposite, ensure that the components over the height standard will not generate any adverse visual impacts. • On this basis, the objective is satisfied despite the height variation.
Consistency with the Objectives of the E1 Local Centre Zone	
Objectives	**Assessment**
• *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.* • *To encourage investment in local commercial development that generates employment opportunities and economic growth.* • *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.* • *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.* • *To ensure new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.* • *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*	**Complies** • The site is within the E1 Local Centre land use zone under the provisions of WLEP2011. • The height variation is associated with the provision of a shop-top housing development that allows for the achievement of the zone objectives. • The proposed building height variation does not raise any inconsistency with the ability of the proposal to achieve the objectives of the E1 Local Centre Zone, as follows: o The proposal is considered to satisfy the zone objectives by providing for ground-floor retail with active frontage, plus upper-level residential development, that contributes to a vibrant and active local centre. o The proposal includes 2 x ground floor retail tenancies which will generate employment opportunities and contribute to economic growth. o The proposed ground-floor retail will contribute to a diverse and active street frontage. o The proposal includes 7 x residential units, including one affordable unit, which will contribute to a vibrant and active local centre, and deepen the centre's economic base. o The proposal will increase the supply of affordable housing and housing diversity in an

	accessible location, better meeting the housing needs of the community. ○ The proposed five-storey height is consistent with the prevailing mid-rise nature of the area and the adjoining neighbour at Nos. 13-14 The Strand, being a five-storey shop-top housing development, while the adjoining neighbour at Nos. 9-11 The Strand has approval for a four- or five-storey shop-top housing development under Mod2010/0063, determined on 01/07/2010. Furthermore, Nos. 18-19 The Strand has approval for a four-storey shop-top housing development (Mod2018/0193), determined on 05/12/2018. ○ The proposed colours, materials and finishes enhance the architectural design of the dwellings and are suitable for the contemporary design and foreshore setting. The mix of materials, which includes concrete finish, off-form concrete, rendered brick, anodised aluminium windows, glass balustrade, tiles, and breeze blocks, provides an interesting presentation and variation contributing to the streetscape character. ○ New landscaping to the front and rear balconies, plus side elevation recessed cut-outs, is proposed, including palms, shrubs, grasses and groundcovers. Landscape plantings soften the built form and will have a positive visual impact on the streetscape over time.

Compliance with the development standard is unreasonable and unnecessary as the proposed building height and bulk are of an appropriate form and scale and are compatible with surrounding development and the desired future character for the locality, and meet the objectives of the development standard.

4.6(3)(b) there are sufficient environmental planning grounds to justify contravening the development standard

As outlined in the 'Guide to Varying Development Standards' prepared by the Department of Planning and Environment in 2023, the term 'environmental planning grounds', while not defined in the EP&A Act or the Standard Instrument, refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in section 1.3 of the EP&A Act. The scope of environmental planning grounds is wide, as exemplified by the court cases (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [10]).

Assessment: Environmental planning grounds justifying the contravention of the building height development standard include:

Consistent with the existing context and future desired character
The five-storey presentation is consistent with the desired future character of the town centre and surrounding context, as demonstrated by the objectives and controls for Local and Neighbourhood centres being met, despite the height variation.

NSW Department of Planning, Housing and Infrastructure defines buildings with 3 – 6 storeys as mid-rise buildings, indicating that buildings within this scale range are compatible and harmonious within the same built form context.

The surrounding built and approved context in The Strand contains buildings between three and five storeys, with an eight-storey building at the northern end, the tallest, and an approved four / five-storey building at the adjoining site at No. 9 -11 The Strand. The proposed five-storey building is therefore considered compatible with the mid-rise nature of the surrounding approved and built form context.

No visual bulk or streetscape impacts
When viewed within the streetscape, the maximum variation to building services in the centre of the building will not be visible. The maximum proposed variation is therefore not visually dominant in the streetscape and does not introduce any streetscape or visual bulk impacts, while the minor (6.84%) variation to the proposed front parapet will not be readily perceptible.

The highly articulated front façade on the lower levels is unchanged from that approved. The proposed fifth storey has a recessed glazing line (9.45m northern two-thirds and 6.65m southern third) with an associated deep-set balcony, opening in the roof slab, and a single protruding curved balcony feature, which combine to further reduce the visual bulk of the proposal while coherently relating to the approved front façade on the levels below.

No view impacts
There are no unreasonable view impacts associated with the proposal or height variation.

The proposal does not affect any coastal views to the east of adjoining properties addressed to The Strand, as the building continues to align with the approved front setback.

There is no unreasonable view loss impacts to the units in 110 - 112 Oaks Avenue as any view loss from the proposal is not associated with non-compliant elements, the views from the units are obtained over side boundaries, any view impacts are deemed to be minor, and there is significant and mature vegetation that visually screens and limits views lines to and from 110 - 112 Oaks Avenue to the east.

Furthermore, in the assessment and subsequent approval of DA2025/0718, Council established that a three-storey building that complies with the height of building standard on the subject site would result in the same view loss impacts as that associated with any building above this height,

such as the four-storey building approved. Therefore, the proposed five-storey building associated with this proposal is not expected to introduce any additional view loss impacts beyond those already approved.

No unreasonable overshadowing impacts

Considered design attributes, including the recessed fourth and fifth floors, central location of building services with the maximum height variation, and minimal height variation of the eastern parapet, ensure that there is no discernible overshadowing to the public open space at Ted Jackson Reserve associated with the non-compliant elements. As shown in Figure 3 below, the 3pm shadows to the foreshore area created by the proposal are not greater than those generated by a compliant building envelope.

The overshadowing produced by the proposal is restricted to the late afternoon and predominantly falls on the footpath, The Strand and the area under the Norfolk Island Pine trees on the foreshore reserve, further demonstrating that there is no unreasonable overshadowing to any public open space associated with the proposal.

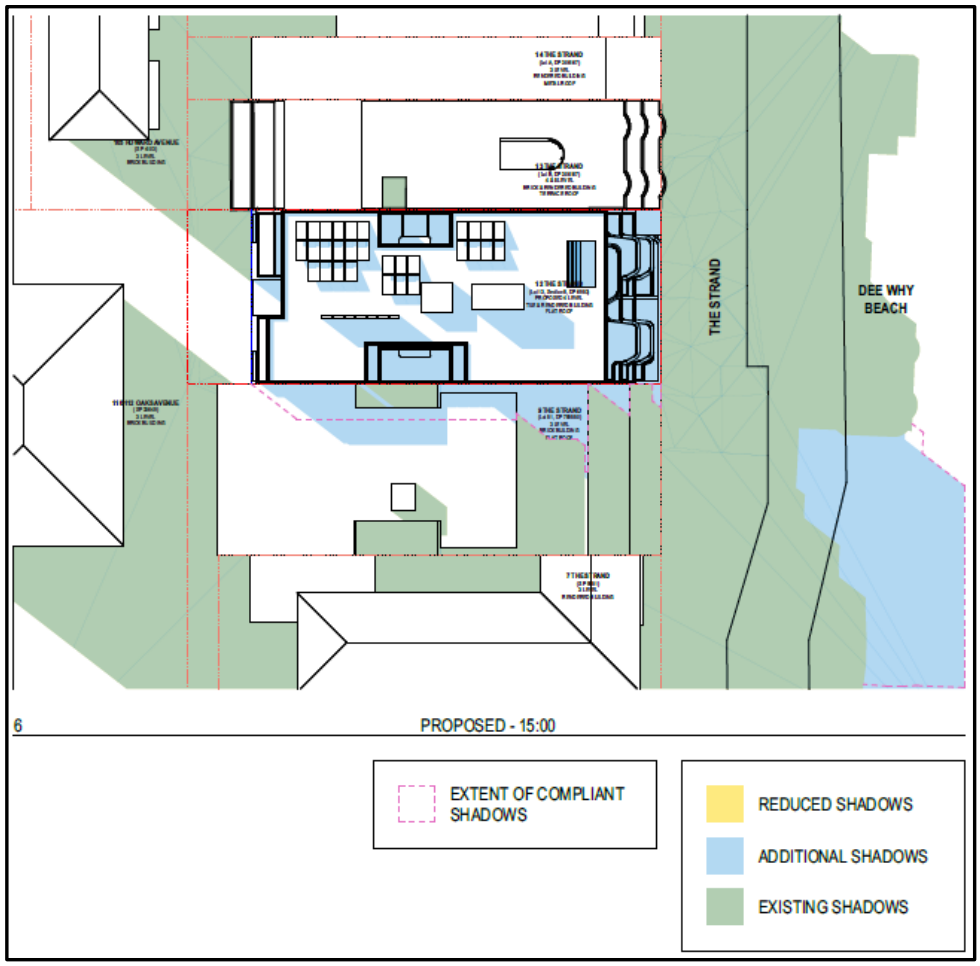


Figure 3: Excerpt of solar diagram showing that there is no additional shadow to the foreshore area from the non-compliant elements above and beyond a complaint form

Due to the east-west orientation of the site, the majority of the shadows from the development fall onto the roof of the apartment building to the south at No. 9 - 11 The Strand. This three-storey shop-top housing building has a zero side setback to the north, with all openings for the residential units to the east. The proposal will not create any additional overshadowing to the east-facing living area windows of these residential units. The private open space for these units is provided through a central internal courtyard. These areas are self-shadowed, and the proposal will not unreasonably create any additional shadows in these areas. The approved four/five-storey shop-top housing building retains a similar configuration to the existing building – nil side setback and primary openings to the east - and it is not considered that there would be any shadow impacts to this building if it were to be constructed as approved.

The east-facing apartments in 110 - 112 Oaks Avenue will continue to receive morning sun that is consistent with that approved. As demonstrated by the extract of the proposed (Figure 4) eye of sun diagrams, there is no material decrease in solar access to the east-facing units in No. 110 - 112 Oaks Avenue associated with the proposal.

This is due to the approved 6.095m rear setback being maintained for Ground Level – Level 3 and the additional setback of 9.02m of the northern two-thirds of the proposed fifth-storey roof, which retains the approved solar access to the units on the middle and top floor and windows on the northern half of the ground floor. The eastern-facing windows on the southern half of the ground floor do not receive solar access with the approved scheme, and therefore, there will be no change to solar access to these windows associated with the proposal.

Furthermore, it should be noted that the rear/western roofline of the proposed building is predominantly compliant with the height standard, further demonstrating that there are no unreasonable shadow impacts to the western adjoining neighbours associated with non-compliant elements of the proposal.

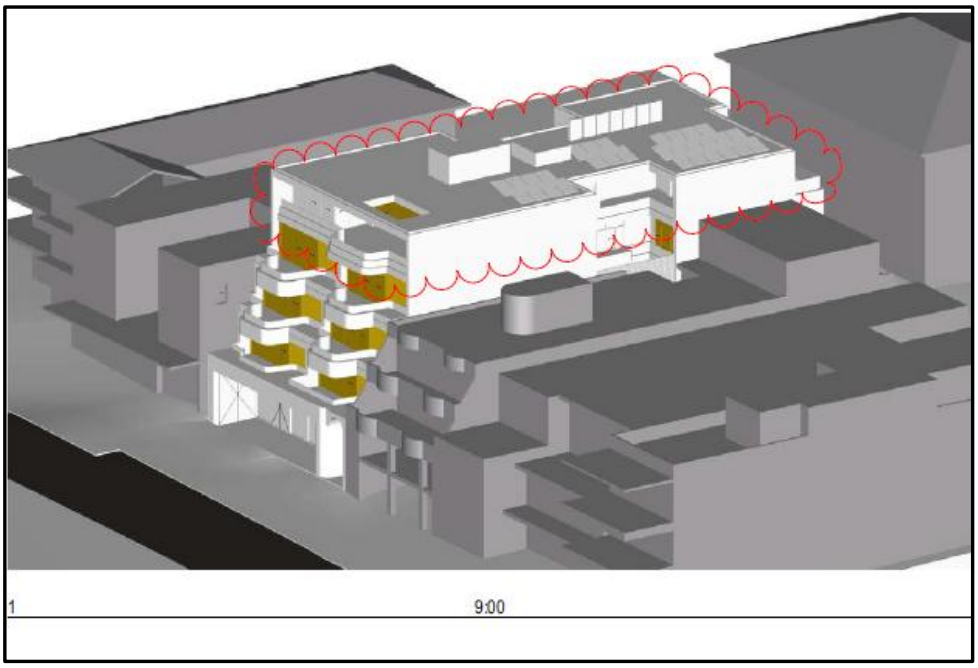


Figure 4: Extract of the proposed eye of the sun diagram at 9am, winter solstice

Provision of floor-to-floor heights that can achieve compliant residential ceiling heights

The proposed 3.2m floor-to-floor heights provide for compliant 2.7m floor-to-ceiling heights for the residential floors and compliant NCC slab thickness. The 3.9m floor-to-ceiling height for the ground floor commercial outperforms the 3.3m control, adding significant amenity to the retail spaces while appropriately responding to the site slope and footpath RLs. The compliance with both the ADG floor-to-ceiling heights and the NCC slab thickness requirements contributes to the degree of non-compliance.

No unreasonable privacy impacts

The proposal continues to configure the living areas and primary balconies of all apartments to face the east (street frontage), which ensures the proposal has no unreasonable privacy impacts on surrounding properties.

On the southern side, there are no openings on the proposed fifth storey in the lightwell or on the boundary elevation. On the northern side, there are no openings proposed on the boundary elevation. The openings in the northern lightwell on the proposed fifth storey are recessed from the boundary, have raised planters screening and are configured to ensure there are no privacy impacts to the neighbour to the north, while letting light into the central part of the proposed unit.

The relationship and privacy impacts of the levels below on both the northern and southern sides remain the same as those approved.

The proposed apartment on the fifth floor has a secondary living space and a balcony to the west. This will be a secondary space with the glazing line setback 10.87m and a raised planter to screen view lines. Collectively, these elements will provide mutual privacy screening and introduce no unreasonable privacy impacts to neighbours to the west.

Site slope

The existing ground levels slope by approximately 2.40m from the south-west corner (rear) to the north-east corner (front). This results in the front roof of the building breaching the height plane, where the rear roof (at building line) is predominantly compliant, despite the roof having the same RL for the whole building. The site slope, therefore, significantly contributes to the visible height variation at the front of the building.

Overall, the proposal will provide a suitable design and amenity in terms of the built environment, represent the orderly and economic use and development of land, and provide the delivery of housing and affordable housing, which are identified as objects of the Act (Section 1.3 of the EP&A Act).

The building envelope and design of the proposal respond appropriately to the unique opportunities and constraints of the site, and create no unreasonable external amenity impacts to surrounding properties or public spaces. On the above basis, it is considered that there are sufficient environmental grounds, as outlined above, to permit the building height variation in this instance.

Conclusion

This Clause 4.6 variation request is considered to adequately address the relevant matters under Clause 4.6 and demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances (Clause 4.6(3)(a)) and that there are sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b)).

The proposal is consistent with the objects of Section 1.3 of the EP& A Act by promoting the following:

- economic welfare of the community and a better environment (Section 1.3(a))
- the supply and delivery of housing, including affordable housing (Section 1.3(b))
- protect the environment (Section 1.3(e))
- sustainable management of built heritage (Section 1.3(f))
- good design and amenity of the built environment (Section 1.3 (g))
- orderly and economic use and development of land (Section 1.3(k))

The proposed development will be in the public interest because it is consistent with the objectives of the height of buildings development standard under the Warringah LEP 2011.

For reasons mentioned herein, this Clause 4.6 variation request is forwarded in support of the development proposal at No. 12 The Strand, Dee Why and is requested to be looked upon favourably by the consent authority.

ITEM 5.2 DA2025/1215 - 2-4 GLADYS AVENUE FRENCHS FOREST - DEMOLITION WORKS, AMALGAMATION OF TWO LOTS INTO ONE AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is development to which *State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment)* applies and is 4 or more storeys in height.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2025/1215 for Demolition works, amalgamation of two lots into one and construction of a residential flat buildingat Lot 1 & 3 DP 25713, 2-4 Gladys Avenue subject to the conditions set out in the Assessment Report.

Reporting manager	**Steve Findlay**
TRIM file ref	2026/328686
Attachments	⇩1 Assessment Report ⇩2 Site Plans & Elevations ⇩3 Design and Sustainability Advisory Panel Report

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/1215

Responsible Officer:	Dean Pattalis
Land to be developed (Address):	Lot 3 DP 25713, 4 Gladys Avenue FRENCHS FOREST NSW 2086 Lot 1 DP 25713, 2 Gladys Avenue FRENCHS FOREST NSW 2086
Proposed Development:	Demolition works, amalgamation of two lots into one and construction of a residential flat building
Zoning:	Warringah LEP2011 - Land zoned R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	The Trustee For Gladys Trust

Application Lodged:	03/09/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	12/09/2025 to 03/10/2025
Advertised:	12/09/2025
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	$ 25,420,101.30

EXECUTIVE SUMMARY

This development application seeks consent for demolition of existing dwellings and construction of an seven (7) storey residential flat building containing 40 apartments above two levels of basement car parking containing 54 resident car parking spaces, six car share spaces, 20 motorcycle spaces and 80 bicycle spaces. Out of the 40 apartments proposed, 10 are proposed as Affordable Housing.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) for determination as the development consists of a residential flat building that is at least four storeys in height and is assessed under Chapter 4 of State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

Of the 10 affordable housing apartments proposed, five of these apartments are 'in-fill affordable housing' apartments within the meaning of Chapter 2, Part 2, Division 1 of the Housing SEPP. As the in-fill affordable housing component is greater than 10% of the entire building's gross floor area, the development benefits from a 20.2% uplift in building height and floor space ratio (FSR) above the baseline standards of 22m and 2.2:1 respectively, which are the standards that apply under *Chapter 6 Low and Mid Rise Housing of SEPP (Housing) 2021*. This uplift in building height and density that is permitted under Section 16 of the Housing SEPP, results in a new height standard of 26.4m and a new FSR standard of 2.64:1. Despite the expanded development standards provided for the site by SEPP Housing, the proposal does not seek to maximise the site's development potential and sits well below the maximum permitted height and floor space ratio, proposing a building height of 24.07m and FSR of 1.88:1.

The application was advertised to the community for a period of 21 days in accordance with Council's Community Participation Plan. No submissions were received during the notification and advertising period.

It is noted that development consent has previously been granted by the NBLPP on the subject site (DA2023/1751) for a residential flat building and affordable housing component up to four storeys and 13.88m in height, with an approved floor space ratio of 1.2:1. The current proposal before Council generally retains the siting, bulk, size and scale of the approved scheme under DA2023/1751, but adds a three storey uplift, in line with the provisions of State Environmental Planning Policy (Housing) 2021 under Chapter 6 - Low and Mid Rise Housing, which have the effect of increasing the maximum height permissible on the land to 22m, and increasing the maximum permissible FSR to 2.2:1 (excluding bonus provisions under Chapter 2).

The application was referred to the DSAP as part of the assessment, who were generally supportive of the development, subject to incorporating some minor amendments to further improve internal and external amenity. Amended information provided by the applicant during the assessment process have generally adopted the DSAP recommendations.

The critical assessment issues relate to; the appropriateness of the additional building height and density permitted by Chapter 2 and Chapter 6 of the Housing SEPP, residential amenity having regard to the design quality principles and Apartment Design Guide (ADG) criteria called upon by Chapter 4 of the Housing SEPP and design excellence having regard to Clause 8.5 of the WLEP 2011.

In response to the issues raised by Council as a result of the preliminary assessment in the RFI letter, the applicant made substantial amendments to the proposal, including reconfigurations and reductions to Levels 4, 5 and 6 to provide a recessive visual presentation from the levels below at the northern elevation, as well as enhanced separation to the northern side and south-west (rear) boundaries. Furthermore, a landscape planter was added above the basement driveway entrance to address referral requirements from Council's Landscape Officer, reconfigurations to the basement parking arrangement in response to referral requirements from Council's Traffic Engineer, an Operational Waste Management Plan provided in response to referral requirements from Council's Waste Officer, as well as additional solar access studies provided in relation to on-site communal open space and future development to the south.

The assessment considers that the height, bulk and scale of the development provides an appropriate

response to the local controls having regard to the required podium and tower setbacks, while benefiting from an increase in building height and density as part of the State Government's initiatives in relation to Low and Mid Rise Housing in proximity to nominated town centre precincts, as well as to deliver affordable housing in well-located areas. The proposal maintains appropriate spatial separation to surrounding sites and is setback an appropriate distance to the street to maintain a high quality outcome in the context of visual character and amenity. Moreover, the proposal contains 40 apartments that will provide a high level of amenity for the future building occupants and provides a high quality landscaped setting that contains landscaping around the curtilage of the development to achieve the desired future character of medium and high density housing within the Frenchs Forest precinct.

The proposal results in minor departures from the WDCP controls in relation to building setbacks presenting to the street and to the R2 zoned land to the north. However, given the contextual relationship to the recently constructed boarding house on that adjoining site which is in the R2 zone, and high level of articulation of the building façades, the variations are supported on merit.

The assessment concludes that the development meets the design quality principles under Chapter 4 of the Housing SEPP and exhibits design excellence in accordance with Clause 8.5 of the WLEP 2011. The development will also result in positive social and economic impacts through the delivery of 10 affordable housing apartments to cater for low to moderate income earners within the area.

Overall, the development is consistent with all applicable environmental planning instruments and regulatory provisions. Therefore, the development is considered to be in the public interest.

Accordingly, it is recommended that the NBLPP **approve** the application, subject to the recommended conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for demolition of existing dwellings and the construction of a residential flat building.

The building is seven (7) storeys in height and contains 40 Apartments (1 x 1 bedroom, 6 x 2 bedrooms, 31 x 3 bedrooms and 2 x 4 bedrooms).

The proposal allocates 10% of the gross floor area of the building for affordable housing, in accordance with Chapter 2 of SEPP (Housing) 2021. Further to this, an additional 8.7% of the gross floor area of the building is to be dedicated to Council as affordable housing under Clause 6.11 of Warringah Local Environmental Plan (2011).

Specifically, the proposal consists of:

Site Preparation Works

- Demolition of existing dwellings on the site and associated structures.
- Removal of 78 Trees across the site, 28 of which are 'exempt species' and 50 trees are prescribed species.
- Consolidation of two lots into one.

Basement Levels

- Two basement levels with the upper level to be accessed from Gladys Avenue.

- 54 resident car spaces, 6 car share spaces, 4 accessible spaces, 80 bicycle spaces, 20 motorcycle spaces, 4 visitor spaces
- Waste storage area, residential storage, bathroom, plant room, lift core and car wash bay

Ground Level

- Waste presentation area, visitor bike parking, access path and fire escape paths, communal open space.
- Residential entry with double lift core.
- Landscaping surrounding footprint of the building, including both planted and retained trees.
- 5 x 3 bedroom (including 1 adaptable unit) 1 x 2 bedroom and 1 x 1 bedroom apartments

Levels 1, 2 and 3

- 6 x 3 bedroom apartments and 1 x 2 bedroom apartments to each level

Level 4

- 4 x 3 bedroom and 2 x 2 bedroom apartments

Level 5

- 4 x 3 bedroom apartments

Level 6

- 2 x 4 bedroom apartments

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.

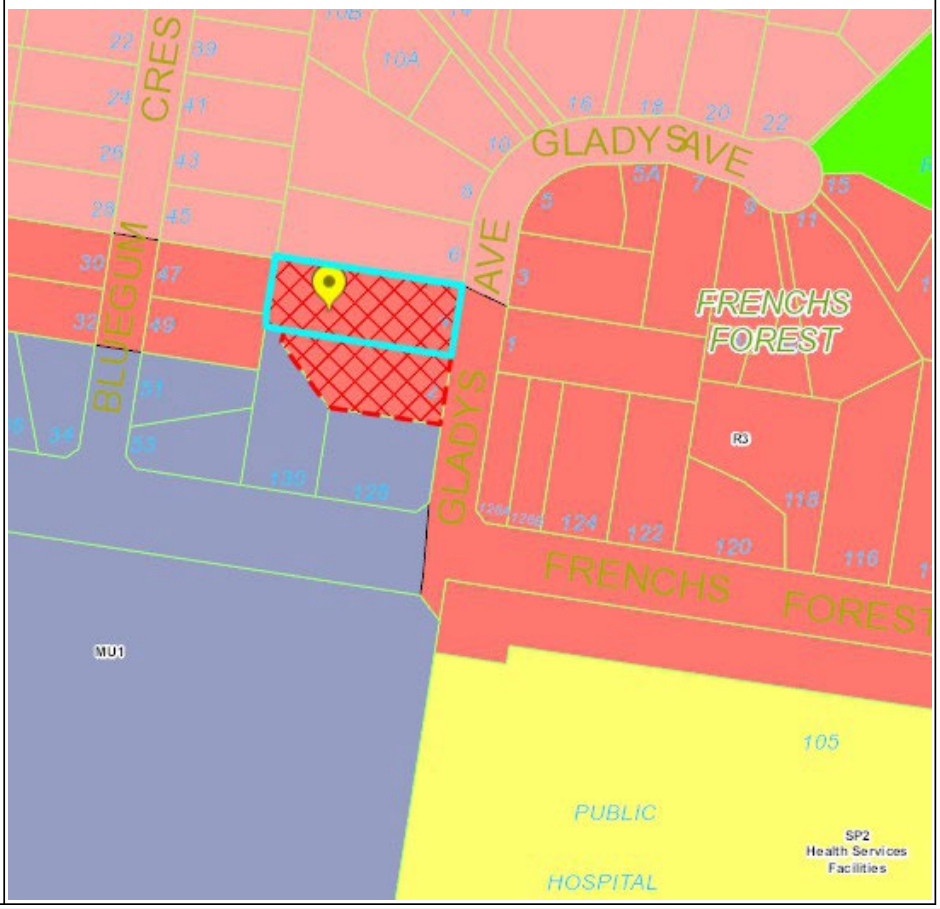
SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
Warringah Local Environmental Plan 2011 - 6.11 Affordable housing
Warringah Local Environmental Plan 2011 - 8.5 Design excellence—Sites F, G and I
Warringah Local Environmental Plan 2011 - 8.6 Minimum site areas—Sites G, H and I
Warringah Local Environmental Plan 2011 - 8.7 Minimum street frontages—Sites G, H and I
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan - D19 Site Consolidation in the R3 and IN1 Zone
Warringah Development Control Plan - 5.2 Precinct 05 Frenchs Forest Road West Neighbourhood
Warringah Development Control Plan - 6 Parking

SITE DESCRIPTION

Property Description:	Lot 3 DP 25713 , 4 Gladys Avenue FRENCHS FOREST NSW 2086 Lot 1 DP 25713 , 2 Gladys Avenue FRENCHS FOREST NSW 2086

Detailed Site Description:	The subject site consists of two (2) allotments located on the western side of Gladys Avenue. The site is irregular in shape with a combined frontage of 45.72m along Gladys Avenue and a depth of 60.96m. The two sites have a total surveyed area of 2480m². The site is located within the R3 Medium Density Residential zone and accommodates a detached dwelling house on each lot, one with a swimming pool. The site has a slight fall to the rear (western) boundary. The site has a number of mature canopy trees within the curtilage of the existing dwellings, particularly on the southern boundary and the front (eastern) boundary facing the street. There are 89 trees with in the site. **Detailed Description of Adjoining/Surrounding Development** The local urban form is characterised by a leafy suburb comprising of 1-2 story residential homes with a mix of designs developed post 1950. The area is in a state of change due to the vicinity of the Northern Beaches Hospital, the surrounds have been recently re-zoned to allow denser development, this is a part of the Frenchs Forest Town Centre Precinct. To the east is an existing dwelling house, however, there is a proposed town house development (yet to be determined at this time). To the south is an existing undeveloped existing single story home and this site has been rezoned Mixed Use (MU1). Also to the south is a recently developed boarding house (approved prior to the zoning change). To the north is a boarding house under construction. To the west are detached dwelling houses, however, these sites have been zoned R3 with the same height and density as the subject land. An extract on the WLEP 2011 Zoning Map is shown below:


BLUEGUM CRES
GLADYS AVE
GLADYS AVE
FRENCHS FOREST
FRENCHS FOREST
MU1
R3
PUBLIC
HOSPITAL
SP2
Health Services
Facilities

Map:


BLUEGUM CRESCENT
GLADYS AVENUE
Frenchs Forest
NORTHERN BEACHES COUNCIL

SITE HISTORY

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

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

Previous Approval - DA2023/1751

This application for demolition works, site amalgamation and a four (4) storey residential flat building on the subject site, comprising 28 apartments and provision for infill affordable housing, was approved by the NBLPP on 20/11/2024.

In February 2025, State Environmental Planning Policy (Housing) 2021 was amended to include Chapter 6 - Low and Mid Rise Housing. The provisions under Part 4 apply to the land - being located within 400m of an identified Town Centre on the Town Centres Map. This had the effect of increasing the maximum height allowed on the land (excluding the bonus under Chapter 2) to 22m, and increasing the maximum permissible FSR to 2.2:1.

The current proposal before Council generally retains the siting, bulk, size and scale of the approved scheme under DA2023/1751 and provides a further three additional storeysto the development, in accordance with the amendments to the standards that apply to the site under the SEPP.

Current Application - DA2025/1215

Amended information has been provided during the assessment period in response to a *Request for Further Information* (RFI) sent to the applicant.

The amendments to the proposal are summarised as follows:

- Levels 4, 5 and 6 reconfigured and reduced to provide a recessive visual presentation from the levels below at the northern elevation, as well as enhanced separation to the northern side and south-west (rear) boundary
- Landscape planter addition above basement driveway entrance to provide visual softening and address referral requirements from Council's Landscape Officer.
- Reconfigurations to basement parking arrangement in response to referral requirements from Council's Traffic Engineer
- Operational Waste Management Plan provided in response to referral requirements from Council's Waste Officer
- Additional solar access studies in relation to on-site communal open space and future development to the south
- Written response and updated internal amenity relating to recommendations of the Design and Sustainability Advisory Panel (DSAP)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clause 29 of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to a Council RFI and submitted to Council on 26/05/2026. Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clauses 62 and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (b) – the significant likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 12/09/2025 to 03/10/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	**ADVICE PROVIDED AND CONDITIONS RECOMMENDED** **General** *The Panel has previously reviewed a DA for a residential flat building on this amalgamated site under approved DA2023/1751 (4 stories and 28 apartments).* *The current application is for a 7-storey residential flat building containing 40 apartments, in the form of a wholly separate application of substantially greater height, scale and density.* **Strategic context, urban context: surrounding area character** *The subject site is zoned R3 Medium Density, is adjoined by land in the R3 zone to the east and west, MU1 Mixed Use zone to the south, and R1 Low Density Residential to the north.* *The site is less than 400m walking distance from the Frenchs Forest Precinct, therefore the site is located within a 'low and mid-rise Housing' area within the meaning of State Environmental Planning Policy (Housing) 2021 (Housing SEPP) and medium density development typologies such as residential flat buildings are permitted on the site pursuant to the Housing SEPP.* *The Housing SEPP has introduced greater height and FSR provisions than currently allowed for under the LEP and DCP. This increases the impact of developments such as this one particularly with regard to overshadowing, bulk, scale and character in relation to the surrounding area. From a design perspective the Panel is sympathetic to many of the concerns that are raised but it is also mindful that the Housing SEPP is responding to a severe housing shortage in NSW – which also demands urgent attention. The Panel seeks to balance NSW demands for increased housing density (and height) with the overall design and amenity objectives of the ADG. Consideration is also given to ensuring that proposed new apartment buildings show a considered attempt to respond thoughtfully to surrounding local character (existing and future). In this regard the Panel considers that the subject application delivers a generally positive response to the above-mentioned constraints and opportunities of the site, with the exception of the proposed interface to the northern boundary.* *Recommendations* *1. Revise the interface to the northern boundary as recommended below.* Planner Comment See below description of revision to northern interface as recommended. **Scale, built form and articulation** *It is noted that DA2023/1751 for a 4-storey building is approved with a 6m setback from the northern boundary. This is a change of zone to an*

Internal Referral Body	Comments
	R2 zone where the Apartment Design Guide recommends an additional 3m setback in addition to a 6m setback from the property boundary. It is also noted that a 2-storey boarding house is currently under construction on the adjoining site, with a setback to first floor windows of approximately 4m. The proposed development has the lowest 4 storeys set back 6m from the northern boundary and the private open space for apartments on the fifth storey extending to the parapet of the 4th storey below. The ADG design criteria for building separation does not permit the private open space on a fifth storey to extend to the parapet below (Figure 3F.3). This is particularly relevant on this site, where first floor windows of a boarding house are close to the boundary between the properties. A landscape separation is proposed, however at this intensity of development trees are insufficient to retain privacy and amenity. *<u>Recommendations</u>* *2. Repeat the Level 5 plan (6th storey plan) be repeated on Level 4 (the 5th storey) so that private open spaces are set back from the 4th storey parapet below and the scale of the overall built form is reduced when viewed from Gladys Avenue. This will create a one-step built form above Level 4 and avoid a "wedding cake" built form. The stepped form on the northern end of the side will be similar to the stepped form on the southern end of the site, with a consistent 4-storey scale at the lower levels.* <u>Planner Comment</u> Amended plans have been received during the assessment process which have reconfigured and reduced the Level 4 Plan in the context of the northern elevation. Enhanced separation to the northern side boundary has been provided with a 9m setback to the northern private open space areas and a varied setback of 9.7m - 13m provided to the outer walls. The planter on the outside of the private open space areas has also been extended across the full length of the balcony to provide additional visual softening. Furthermore, the articulated northern elevation results in the front-facing wall to unit 4.06 having the greatest spatial separation to the northern boundary and also having a reduced horizontal distance when viewed from Gladys Avenue, as is the intent of the DSAP recommendation. **Access, vehicular movement and car parking** *The central access that is clear and easy to navigate is supported. Consideration should be given for widening it in places, such as in front of the lift, to assist with furniture removals and to articulate and alleviate the gun barrel effect.* *The scale of this development and the number of apartments and height of building have increased substantially since the previous approval. The provision of one lift for this increased number of apartments and height of building is insufficient for those times when the lift breaks down or needs maintenance.* *The location of the visitor's bike parking is commended.*

Internal Referral Body	Comments
	Recommendations *3. Ensure that sufficient space is provided outside the lifts, particularly at ground floor level, for furniture removal, amenity and the avoidance of an excessively long and straight corridor.* *4. Provide a second lift core.* Planner Comment The proposed plans have been amended to provide a second lift core whilst also recessing the lift shafts into the wall for greater furniture circulation and amenity. **Landscape** *The Landscape plan is generally supported, with the following recommendations.* *The Level 4 private open spaces currently have acoustic and visual privacy issues, with respect to their corresponding interfaces that allow direct viewing.* *A similar issue exists between the communal BBQ area at ground level and the entry driveway ramp. Effective screening is required here both through planting and architectural screening.* *Recommendations* *5. Re-plan Level 4 open spaces and adjoining apartments to resolve current privacy issues.* *6. Provide effective screening at the BBQ area and the entry driveway ramp.* Planner Comment The proposed Level 4 open spaces at the northern elevation have been reconfigured to provide greater separation between the primary trafficable areas of the respective private open space areas and resolve direct viewing issues. In relation to the proposed communal BBQ area, a landscape planter area and screen has been provide between the area and the entry driveway ramp. **Amenity** *Apartments are generally thoughtfully laid out given the U-shaped building envelope. However, Apartment 0.06 has an inefficient layout, with excessive entry circulation space.* *The western bedroom in Apartment 0.06 does not have a window.* *Recommendations* *7. Re-design Apartment 0.06 to reduce entry circulation space.* *8. Provide a splayed window to the western bedroom and avoid privacy issues with the pedestrian path outside.* Planner Comment The entry corridor to apartment 0.06 has been widened to provide a

Internal Referral Body	Comments
	greater and more functional circulation. A new window has also been added to the western bedroom. **Façade treatment/Aesthetics** *The approach to the façade and aesthetics is commended. Careful detailing of the GRC cladding will be required to ensure its elegant intent is maintained.* *Recommendations* *9. Ensure that the intended built outcome of the GRC cladding is achieved through careful detailing.* Planner Comment The as-constructed development shall be required to reflect consistency with the proposed external finish schedule and suitable conditions shall be recommended. **Sustainability** *The proposal contains a number of good initiatives such as a centralised heat pump hot water system, solar panels on the roof and ample bike parking.* *However, the BASIX certificate nominates 6 Star clothes dryers, which are heat pump dryers and there is no air conditioning. Once the air conditioning is included, and if the 6 Star dryers cannot be accommodated, the BASIX energy requirement may not be met.* *Recommendations* *10. Check the design of the laundries to ensure they can accommodate the nominated dryer – this type of dryer cannot be wall mounted.* *11. Include air conditioning on the BASIX certificate if it is being provided.* *12. Increase the amount of PV.* *13. Input all individual heating and cooling loads for each apartment into the BASIX certificate so that it can be demonstrated that the project meets minimum BASIX thermal comfort requirements for ALL apartments.* *14. Review the design to ensure acoustic privacy between adjacent apartments.* Planner Comment The proposed laundry areas are considered adequate to accommodate dryer facilities. An amended BASIX Certificate has been submitted during the assessment process demonstrating compliance with thermal comfort requirements, whilst the proposed external air conditioning units are located on the roof and screened from view. Solar panels have been expanded on the roof plan. Common walls shall be designed of an acoustic rating and thickness to comply with minimum BCA requirements. Reasonable horizontal co-

Internal Referral Body	Comments
	location has also been provided between living areas and bedrooms of respective units to minimise acoustic impacts. **PANEL CONCLUSION** The Panel is supportive of the proposal in general, subject to the recommendations noted above. Amended plans depicting the Panel's recommendations should be submitted to Council staff for evaluation. The proposal does not need to return to the Panel.

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Landscape Officer	**CONDITIONS RECOMMENDED** The application is assessed by Landscape Referral against SEPP Housing, Warringah Local Environmental Plan 2011 and the Warringah Development Control Plan 2011. <u>Additional Information Comment 24/03/2026:</u> The amended reports and plans are noted. The planter above the driveway basement entrance has been partially reinstated which will help the visual amenity in the northern setback. The following items from the original comments have not been addressed and will be conditioned: • include mid-storey planting (5-7m high) in the garden bed in the rear setback that contains the transplanted palms (#29 and #95), • remove reference to turfed areas in the eastern front setback and if *Viola* is to be used as a path for access to the southern side pedestrian gate, provide a direct route from the gate to the street, • trees in the southern neighbouring property shall be retained (57, 60 and 98). It is noted drawing DA2-A-102 it states "*potential public domain works not part of application...*" and as such tree 4 shall be retained. <u>Original Comment:</u> *The previous approval for this site is noted. Concern is raised with the removal of the large planter in the northern setback above the driveway which was supporting tree planting. This planter was contributing to the softening of the northern facade in an area heavily impacted by the built form (driveway and paths), and now an increased building height. The driveway levels have been redesigned resulting in the loss of this planter and amenity in the northern setback.* *Landscape Referral notes the request for further information from Council's Waste team which may impact the arrangement around the driveway and bin storage area. Should amended plans be submitted the Landscape Plans will need to be coordinated with any changes and shall also capture the following items:* • *substitute Lagerstroemia 'Tonto' in the northern on structure planters with taller deciduous tree species,* • *include mid-storey planting (5-7m high) in the garden bed in the rear setback that contains the transplanted palms (#29 and #95),* • *remove reference to turfed areas in the eastern front setback and if Viola is to be used as a path for access to the southern side pedestrian gate, provide a direct route from the gate to the street,*

Internal Referral Body	Comments
	• *coordinate all on structure planters on levels 4, 5 and 6 with the architectural plans (no level 3 planters) and provide the proposed planting scheme,* • *trees in the southern neighbouring property shall be retained (57, 60 and 98).* *Generally, the proposed tree removals/retentions are in line with the previous approval, which is supported. It is noted trees 39 and 92 will be removed in addition to the previous approval and these species are exempt, therefore no concerns are raised. Tree 34 will now be retained.*

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	**CONDITIONS RECOMMENDED** The comments in this referral relate to the following applicable controls and provisions: • Warringah DCP – Clause E2 Prescribed Vegetation • Warringah DCP – Clause E6 Retaining Unique Environmental Features The development application proposes the removal of 71 trees to accommodate the proposed development, 22 of which are non-native species and 49 are native trees with 12 locally native to the area (PCT 3259: Sydney Coastal Shale-Sandstone Forest). A Flora and Fauna Assessment has been prepared and submitted with the application (East Coast Ecology, June 2024). This assessment was originally prepared for DA2023/1751 and has been utilised again for DA2025/1215 as the development footprint is the same and no additional clearing is being proposed. The Flora and Fauna Assessment confirms that the application does not trigger entry into the Biodiversity Offsets Scheme and that no significant impacts would take place. The proposed works would result in the clearing of a total of 0.04ha of Plant Community Type (PCT) 3259: Sydney Coastal Shale-Sandstone Forest, 0.07ha of urban exotic/native vegetation. No significant impacts have been identified although PCT 3259 has been associated with Duffys Forest Threatened Ecological Community. 5 part-tests have been prepared for Duffys Forest TEC and Eastern Pygmy Possum (Cercartetus nanus) and concluded that no significant impacts would take place. No objections are raised subject to the implementation of the appropriate impact mitigation measures and appropriate landscaping. The submitted landscape plan will have to be amended to avoid the inclusion of exempt species (i.e Lagerstroemia) and plants identified as weeds in the Northern Beaches Council Local Priority Weeds Management Plan and no plants with a Biosecurity Duty should be included (i.e Murraya paniculata). No objections in relation to biodiversity, subject to conditions.
NECC (Development Engineering)	**CONDITIONS RECOMMENDED** The stormwater management plans detailing the provision of on site stormwater detention have been reviewed and are supported. Evidence is to be provided that the subject properties are benefited by the downstream drainage easement . No objections to the development subject to conditions.

Internal Referral Body	Comments
NECC (Water Management)	**CONDITIONS RECOMMENDED** This application has been assessed with consideration of the following: - Supplied plans and supporting documentation - Relevant provisions of the Local Environmental Plan (LEP) and Development Control Plan (DCP) - Northern Beaches Water Management for Development Policy (WMD Policy) - Principles of Water Sensitive Urban Design (WSUD) - State Environmental Planning Policy (Resilience and Hazards) 2021 - Water Management Act 2000 and Water Management (General) Regulation 2018 The proposed stormwater management strategy is considered satisfactory, incorporating measures for harvesting, reuse, and filtration. While the design reflects some Water Sensitive Urban Design (WSUD) principles, it does not include vegetated systems or pervious pavement —key features that support improved water quality and reduced runoff. Further consideration of these elements is encouraged to strengthen the environmental performance of the development. Approval is recommended, subject to conditions ensuring the implementation of the proposed strategy.

Internal Referral Body	Comments
Strategic and Place Planning (Development Contributions)	**CONDITIONS RECOMMENDED** **ASSESSMENT OF DEVELOPMENT APPLICATION** This assessment is limited to development contributions under Section 7.11 of the Environmental Planning and Assessment Act. The site is subject to other contributions and it is the responsibility of the Assessment Officer to ensure affordable housing contributions and the State's Housing and Productivity Contribution is imposed on development approved on the subject site. The Frenchs Forest Town Centre Contributions Plan 2023 (the Contributions Plan) came into force on 20 December 2023 and applies to the land. The Contributions Plan funds the delivery of local infrastructure required to support development in the Frenchs Forest Town Centre and levies both residential and non-residential development that will generate additional demand for infrastructure. If approved, DA2025/1215 will result in a residential flat building comprising 40 dwellings. The bedroom breakdown is as follows: • 1 x 1 bed dwellings • 6 x 2-bed dwellings • 33 x 3+bed dwellings (including 2 x 4 bed dwellings) Chapter 2.1 of the Contributions Plan identifies that the residential contribution is based on the net increase in dwelling. A credit is to be provided for any existing development, namely two existing 3-bed dwellings on the subject site. Taking into account the existing 2 dwellings, there is a net increase of 38 dwellings on the site. A development contribution will be calculated in accordance with the residential rates in Table 2 and indexed in accordance with chapter 3.3 of the Contributions Plan (see excerpt of the latest contribution rates below).

Internal Referral Body	Comments
	Latest Contribution Rates (as of May 2026) **Frenchs Forest Town Centre Contributions Plan 2023**

	Current Rates
Residential Rates	
Per resident	**$13,086.00**
Boarding house rooms	**$18,320.00**
Seniors living self contained dwellings	**$19,629.00**
0-1 bedroom dwellings	**$19,758.00**
2 bedroom dwellings	**$29,281.00**
3+ bedroom dwellings	**$41,524.00**
Non-Residential Rate	**$305.00**

Rates are indexed annually following the release of the Valuer General's report on land values in the Northern Beaches, and the release of the Producer Price Indexes (March) by the ABS.

The total contribution amount is calculated as follows:

- 1 x 1 bed dwellings = 1 x $19,758.00 = $19,758.00
- 6 x 2-bed dwellings = 6 x $29,281.00 = $175,686.00
- 33 x 3+bed dwellings = 33 x $41,524.00 = $1,370,292.00

Sub total = $1,565,736.00

less a credit for the 2 x existing 3-bedroom dwellings (2 x $41,524.00 = $83,048.00)

$1,542,056.00 - $81,792.00 = $1,482,688.00

Total contribution required = $1,482,688.00

If there is any change to the proposed composition or quantum of dwellings to be approved, the application must be referred to SPP3 to recalculate the required contribution.

RECOMMENDATION

A. No objection is raised so long as the dwelling numbers and bedroom composition is based on the following dwelling breakdown:

- 1 x 1 bed dwellings
- 6 x 2-bed dwellings
- 33 x 3+bed dwellings (including 2 x 4 bed dwellings)

= 40 dwellings.

In the event there is any change to the proposed composition or quantum of dwellings to be approved, the application must be referred to SPP3 to recalculate the required contribution.

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	B. A credit for the 2 x existing 3-bedroom dwellings has also been applied. C. The following condition should be imposed: P*rior to issue of any Construction Certificate or Subdivision Certificate for the construction of the residential flat building (whichever occurs first), the applicant must pay a total monetary contribution to Council of $1,482,688.00 in accordance with the Frenchs Forest Town Centre Contributions Plan 2023.* *The monetary contribution is based on the 40 dwellings in the residential flat building comprising:* *• 1 x 1 bedroom dwellings* *• 6 x 2 bedroom dwellings* *• 33 x 3+bedroom dwellings (including 2 x 4 bedroom dwellings).* *A credit is applied for the 2 existing three-bedroom dwellings on the site.* *The monetary contribution will be adjusted at the time of payment in accordance with the provisions of the Frenchs Forest Town Centre Contributions Plan 2023. Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Principal Certifier.* *The Applicant may negotiate with Council for the direct provision of other facilities and services, and/or the dedication of land (other than land identified above) in lieu of the monetary contribution above (or any portion of that monetary contribution) through a Planning Agreement between Council and the Applicant in accordance with the Frenchs Forest Town Centre Contributions Plan 2023 and Council's Planning Agreement Policy (as amended). The Planning Agreement between the Applicant and Council must be finalised, formally signed and in place prior to the payment of the monetary contribution.* *A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.* *Reason: To provide for contributions in accordance with the Contribution Plan that enables the provision of local infrastructure and services commensurate with the increased demand resulting from development in the Frenchs Forest Town Centre.*

Internal Referral Body	Comments

Internal Referral Body	Comments
Strategic & Place Planning (Affordable Housing Contributions)	**CONDITIONS RECOMMENDED** **INTRODUCTION** On 23 September 2025, Strategic and Place Planning provided a referral response to this application. An updated response is provided based on the updated architectural plans provided on 26 May 2026. The contribution calculation and conditions will require further amendment if there are changes to the quantum of total GFA and/or changes in the total GFA of dwellings to be dedicated. **SUBJECT SITE** The subject site is 2-4 Gladys Ave FRENCHSFOREST (Lot 1 & 3 DP 25713). The land is zoned R3 Medium Density residential under the Warringah LEP 2011 and is identified as a site contained within the WLEP 2011 affordable housing contributions scheme map. The site currently contains 2 dwelling houses. **ASSESSMENT OF DA** The submitted Statement of Environmental Effects (SEE) has been prepared by Smith & Tzannes architecture and urban planning. The SEE advises that the application seeks consent for demolition works, and construction of a residential flat building comprising a total of 40 units. **Affordable Housing Contributions Scheme** The application is on land identified as being within the Northern Beaches Council Affordable Housing Contributions Scheme (The Scheme), French's Forest Planned Precinct "Area A". The following affordable housing contribution rates apply to development applications for residential floorspace within this area: Where the contribution is provided as a dedication of dwellings: · Within area "A" the dedication in favour of the consent authority, free of cost, one or more complete dwellings with a gross floor area equivalent to 10% of the accountable total floor space.

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	Where the contribution is provided as an equivalent monetary contribution: · $11,000 per square metre* * (as described in the Scheme dated September 2021 with the contribution indexed on an annual basis on 1 March every year in accordance with clause 3.2.1 of the Scheme, with the current figure for 1 March 2026 being $14,855.91). The Scheme identifies that generally the contribution is to be provided via dedication of dwellings, or if the percentage of accountable total floor space (the gross floor area of the residential component of the development) results in an area which equates to less than 50 square metres, or where Council otherwise considers it appropriate to achieve a better affordable housing outcome, a monetary contribution equivalent to the market value of the dwellings that would otherwise be required will be sought as condition of development consent. In some cases, a contribution may also comprise a dedication and monetary contribution. The Scheme also identifies a principle that Affordable housing must consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with the same type of dwellings within the development to which the development application relates, especially in terms of internal fittings and finishes, solar access and privacy. **Warringah Local Environmental Plan 2011** The application is on land identified within the WLEP 2011 affordable housing contributions scheme map in the Frenchs Forest Town Centre requiring not less than 10% of the gross floor area of the building to be used for affordable housing subject to the requirements of clause 6.11 of Warringah LEP 2011. Clause 6.11 of Warringah LEP 2011 applies to development in an affordable housing contribution area that involves— *(a) the erection of a new building with a gross floor area of more than 200 square metres, or* *(b) alterations to an existing building that will result in the creation of more than 200 square metres of gross floor area intended to be used for residential purposes, or*

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	(c) alterations to an existing building and the consequent creation, whether for the same or a different purpose, of more than 100 square metres of gross floor area. The application contains the erection of a new building with a gross floor area of more than 200 square metres and so clause 6.11 applies. Clause 6.11 also stipulates a consent authority may, when granting development consent to development to which this clause applies, impose a condition requiring a contribution equivalent to the applicable affordable housing levy contribution for the development. A condition imposed under this clause must provide for the affordable housing levy contribution to be satisfied: *(a) by dedication in favour of the Council of land comprising—* *(i) 1 or more dwellings, each having a gross floor area of not less than 50 square metres, with any remainder paid as a monetary contribution to the Council, or* *(ii) other land approved by the Council in accordance with the Affordable Housing Contributions Scheme, with any remainder paid as a monetary contribution to the Council, or* *(b) if the Council agrees, by monetary contribution paid to the Council.* The application is therefore required to identify the dwellings to be dedicated to Council for the purpose of affordable housing, and provide a monetary contribution for the remainder of the required GFA in accordance with the Scheme and WLEP 2011. **Council Resolution (18 November 2025)** Council endorsed a new planning proposal for amendments to the Scheme and WLEP 2011, including:

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· 3% contribution for Development Applications (DAs) for residential development (excluding dwelling houses and secondary dwellings) within the 9 town centres under NSW Low- & Mid-Rise Housing Policy

· 2% contribution for DAs for higher-density residential development (e.g. residential flat buildings, multi-dwelling housing and shop top housing), across the Northern Beaches (starts 2 years after proposal finalisation).

· Frenchs Forest contribution adjusted from 10% to 3% for privately owned land.

The proposed amendments to the Scheme and WLEP 2011 (and consequential changes to the %) are currently in draft form subject to change. Any final amendments will only take effect upon gazettal of amendments to WLEP 2011. Until then the existing Scheme and WLEP 2011 affordable housing contribution rates continue to apply.

Proposed affordable housing contribution

The application is for 4,662m2 of residential gross floor area (GFA).

10% of which (466.2m2) is to be dedicated to Council as affordable housing, in perpetuity.

The application (Plan 23_030 DA2-A-810, Rev G dated 26/05/2026) seeks to dedicate to Council 5 units (see Table 1), and the remainder of the affordable housing 10% GFA requirement of 466.2m2 (being 64.2m2 (466.2m2 - 402m2)) to be paid via monetary contribution in accordance with the Scheme and WLEP 2011.

Apartment		Area m2
0.02	2 bed	82
0.03	3 bed	101
0.07	1 bed	55
1.02	2 bed	82
2.02	2 bed	82
	Total	**402**

Table 1 - Affordable housing to be dedicated to Council under WLEP 2011 and AHCS

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	A further 10% (469m^2) of total GFA (or 5 apartments) is proposed as affordable housing, to be managed by a community housing provider for a period of 15 years as required by the Housing SEPP, and does not form part of these referral comments.

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Traffic Engineer	**CONDITIONS RECOMMENDED** **Referral Comments 28/5/26** The applicant has provided further updated plans that satisfy the outstanding matters in the referral response dated 25/3/26 (below). The indented loading bay has been revised and vehicle tracking provided to demonstrate compliance. Additional parking space has been removed and replaced with improved bicycle facilities Conditions provided. **Referral comments 25/3/26** The Applicant has provided updated Architectural Plans Revision D, dated 13/2/26; in response to concerns raised regarding allocation of parking spaces and provisions for waste collection and deliveries. The amended proposal includes some of the suggested design recommendations, however there are still issues in relation to visitor parking and the proposed indented loading bay. All parking provisions for the development have been provided however there is an additional Visitor parking space provided on the Basement C1 Plan. The WDCP specifies maximum parking rates for residents and visitor parking, so only 4 Visitor parking spaces can be provided for the 40-unit development. It is suggested that an additional Accessible Parking space be provided in the centre of the visitor parking area, with an existing space removed to provide a new Shared Area. The bollard shown between the Car Share and existing Accessible Parking space can be relocated to the new Shared Area to comply with the WDCP. The Applicant proposes an indented loading bay located south of the access driveway, with turning paths for a 10.5m garbage truck, provided by Varga Traffic Planning Pty Ltd. The drawings show the Council Waste vehicle obstructing the access driveway which is unacceptable. The Ground Floor Plan, Drawing No. DA2-A-102, Rev D; also shows the existing powerpole located in the kerb. As per previous approval for the site DA2023/1751, the existing rollover kerb along the site frontage needs to be replaced with a vertical faced kerb and gutter. The kerb face for the indented bay must be a minimum 1m from the existing power pole. Future plans for Gladys Avenue would require the removal of on-street parking to facilitate traffic flow. The swept path analysis should therefore show access to the proposed indented bay without parked

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	vehicles along the frontage of the site. Updated swept paths are required showing the Council Waste vehicle draw-in as close to the kerb as possible in a forward direction (outside of the traffic lane for passing traffic in Gladys Avenue). It is permitted to use the full length of the indented bay and then reverse straight back into its final position. The proposal cannot be supported in its current form. Amendments to the Ground Floor Plan are necessary and further refinement of the indented parking bay is required with additional swept paths demonstrating appropriate access. **Referral comments 24/10/25** This development application involves the demolition of the existing structures to facilitate the construction of a residential development building, comprising a total of 40 units and additional basement car parking. Nett increase of 12 units across a new level from previously approved DA2023/175 for 28 unit development (17 x 2 bedroom unit and 21 x 3 bedroom units). The Transport Network section has reviewed the proposal with respect to access, parking, and traffic generation impacting the road network. Government policies to increase housing and development in the Frenchs Forest precinct has large implications to the future access and traffic generation in Gladys Avenue, which is approximately 200m in length and a 'No Through Road'. The development site is located in the Frenchs Forest Town Centre under the Warringah Development Control Plan (WDCP) 2011. Special Area Controls apply to Gladys Avenue which is situated within Precinct 05 Frenchs Forest Road West Neighbourhood. These controls are required to provide adequate on-site parking for a mix of development and vehicle types, and to support the reduction of car trips and encourage the use of sustainable transport. The WDCP specifies maximum parking rates for residents and visitor parking; and minimum parking rates for dedicated car share spaces, electrical vehicle charging spaces as well as motorcycle and bicycle parking. The maximum parking rates · 1 bedroom (including studio) 0.6 spaces · 2 bedroom 1 space · 3 bedrooms and more 1.5 spaces · Visitor car parking 0.1 spaces per dwelling

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	The minimum parking rates · Car share dedicated space 2 spaces per 15 dwellings · Electric vehicle charging space 2% of dwellings or 2 per development (whichever is greater) · Motorcycle parking 0.5 spaces per dwelling · Bicycle parking 2 spaces per dwelling 0.25 spaces per dwelling for visitor bicycle parking · People with disabilities 3% of the required parking spaces · Car wash bay 1 bay per 50 dwellings, up to a maximum of 4 per building Under the WDCP, the 40 unit development comprising 1 x 1-bedroom unit (including 1 affordable), 6 x 2-bedroom units (including 5 affordable), 31 x 3 bedroom units (including 4 affordable) and 2 x 4-bedroom units), should provide a maximum of 57 resident (including 2 accessible) and 4 visitor spaces (including 1 accessible). The development must also provide a minimum of 6 car share, 1 car wash bay, 2 electric vehicle charging spaces, 20 motorcycle parking, 80 resident bicycle and 10 visitor bicycle parking spaces. Under SEPP Housing 2021 for in-fill affordable housing, the development requires a total of 52 resident parking spaces. The proposal provides 69 resident (including 4 accessible) and 4 visitor spaces. The proposed 69 resident spaces exceeds the maximum 57 spaces permitted under the WDCP and should be reduced by 12 spaces to comply. One additional car share space is also required to provide the minimum of 6 car share spaces. The proposed development does however provide the required 1 car wash bay, EV charge points for every car space, 20 motorcycle parking, 10 visitor bicycle parking spaces and 40 double tier bike lockers with e-bike charges for resident bicycle parking, which complies with these aspects under the WDCP. Section 5.2.10 Parking, basement design and basement access requires that parking, servicing and loading shall be accommodated internally within the building and screened from the street. The previously approved DA2023/175 for a residential flat building (28 units) at the site was approved in November 2024, and did not include additional provisions for on-site loading and servicing. However, since that time Council has required subsequent developments to address loading and servicing requirements for developments located within

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	Precinct 05 Frenchs Forest Road West Neighbourhood including the following: · DA2023/1821 - Residential flat building (40 units), 106 Frenchs Forest Road West; provision of an at-grade loading bay for waste collection (HGV access). · DA2024/0499 - Three residential flat buildings (124 units), 11 Gladys Avenue, 116 & 120 Frenchs Forest Road West; provision of an at-grade loading bay for waste collection (HGV access) as well as an internal loading dock within the Basement level (SRV access). · DA2024/1390 - Seniors housing development (19 units), 12-14 Gladys Avenue, provision of an indented loading bay outside No.10 Gladys Avenue. The current proposal for the site is for a 40 unit residential flat building which is more than 40% increase in dwellings from the previous 28 unit development. Noting the changes in the precinct and intensification of the development the new proposal should be required to make provisions for on-site loading and servicing. From a traffic perspective, it is preferable to provide an internal loading dock facility suitable for Council's waste collection vehicles, which is in accordance with the WDCP. The required changes to the car park layout on Basement C1 and necessary reduction of resident parking spaces from 69 to a maximum of 57 spaces, creates an opportunity for the provision of this facility (subject to height clearance provisions) which should be considered as part of the overall review of the parking layout. A loading bay which can accommodate Council's waste collection and service/delivery vehicles should be provided in the following order of preference: · internal loading dock facility within the basement car park · at-grade loading/service bay (on -site) · indented loading/service bay (road reserve) There are a number of issues which can not be supported due to the proposed parking facilities and location, parking layout, access and circulation. Changes should be made to the design to improve safety, functionality and comply with AS2890.1:2004. · Proposed number of residential spaces exceeds the maximum rate for WDCP - G9 Frenchs Forest Town Centre. The proposed 69 resident spaces needs to be reduced to a maximum of 57 spaces and a minimum 6 car share spaces provided in accordance with the WDCP.

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	· Car Share and visitor parking must be publicly accessible and not located behind a secure access point or gate. The existing spaces should be relocated to the section of car park west of the lift for convenient access. Residential parking spaces should therefore be located in the eastern half of Basement C1, behind a secure shutter or boom gate to separate the parking areas. · Tandem (stacked) parking spaces is not supported at the entry ramp of the Basement C1 car park. These spaces require increased manoeuvring which affects access all vehicles entering the car park. The first row of 6 spaces should be reallocated as Car Share parking and the area occupied by the tandem spaces can be reassigned for other use. Alternatively if additional area is required for waste services, the 6 car share spaces can be centrally located on the opposite side of the parking aisle. · Visitor parking could be relocated to the south-west corner with the provision of 4 visitor spaces (including 2 accessible). · Further reduction of 4 residential spaces under WDCP can provide opportunity to reduce excavation, such as area below access ramp to Basement C2 car park in the eastern corner, north of Section A (DA2-A-204) · Alternatively using the same footprint, the 4 spaces nearest to the Basement C2 ramp can cause conflict issues affecting access and the spaces could be removed and area reused for other purposes. · Provision of a 2m wide concrete footpath along the property frontage (Category 1 Pedestrian Area applies for Strategic and Local centres). Amended plans to address the above issues should be accompanied by an updated swept path analysis to demonstrate access to driveways, circulation roadways, and manoeuvring into parking spaces. The proposal is not acceptable in its current form and it is requested that the additional information be provided prior to further review.

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Waste Officer	**CONDITIONS RECOMMENDED** 25 March 2026 - Updated waste management comments Developer has provided amended plans to accommodate bins for 40 apartments over 6 floors. Chute room has been separated from resident accessible overflow storage and a recycling cupboard has been provided on each level for resident use. Door to recycling/FOGO storage area must be minimum 1.2m wide and must open outwards and be able to be latched in an open position. Confirm that other doors are sliding doors able to be latched open. Building manager will be responsible for moving bins from individual levels as required and for moving bins the evening prior to collection to the temporary bin holding area on Gladys Avenue. Parking bay must be provided for Council's 10.5m HRV for dedicated use on collection day. Updated Operational Waste Management plan to be conditioned as plan refers to 4 levels not 6 and recycling is collected weekly for both streams for MUDS. 8 September 2025 - Previous waste management comments A full Operational Waste Management Plan has not been provided for assessment. This must include: Full detail including plans showing locations of waste storage area, chute inlets and recycling cupboards on individual floors with dimensions. Path of travel for bins to external collection point (maximum grade 3%), minimum 2m wide is not pass through any internal walkways, doors or rooms and be compliant with Work Health & Safety for building management and collection staff. The vehicular driveway must not be used for transferring bins between the basement bin room and the street level holding bay. A separate pathway must be provided to eliminate any conflict between vehicles and persons wheeling bins or utilising a bin tug. Doors to bin storage must be minimum 1.2m wide opening outwards and able to be latched in open position. Chute on each level requires a recycling cupboard to be located adjacent to or opposite the chute on each level and sufficient to hold a minimum of

Internal Referral Body	Comments
	1 x 240L blue lid paper recycling bin and 1 x 240L yellow lid comingled recycling bin. Plans for Levels 1-6 show chute but do not indicate an appropriate recycling cupboard. Recycling cupboards must be shown on the plans and must be of adequate size to accommodate enough recycling bins to allow for three days of recycling generated by the number of dwellings on that floor; Recycling cupboards must be conveniently located for residents on each residential level of the development (maximum distance of 30m) and access is to be in accordance with AS 1428 (Set) - 2003: Design for access and mobility. Signage is to be placed on the recycling cupboard on every residential level indicating how to use the system effectively and accepted material; The recycling cupboards should have an opening large enough for loose recycling to be placed into the bins behind. To prevent occupants from dumping excess rubbish, the cupboard should be locked, accessible only to the building manager / caretaker. A building manager / caretaker will need to rotate recycling bins from the recycling cupboard to the bin storage area/s, at a minimum, every three days (based on generation rate of number of dwellings on the floor). It is preferable that a service lift be provided to transfer bins between the recycling cupboards and the bin storage area and/or the collection point. The nominated collection point/temporary bin presentation area must be able to accommodate the bins from the property in a manner that each colour of bin can be accessed without shuffling the other colour bins about. Suggest 1-metre-wide aisles be provided between the rows of bins. The position is satisfactory subject to vehicular access – see below, but it must be screened for public amenity and not obstructed by hydrants or other infrastructure. For Council to provide a wheel in / wheel out service to the development, there must be adequate vehicular access, parking and/or manoeuvring for the standard 10.5m HRV waste collection vehicle adjacent to provide service adjacent to the nominated collection point If the council collection vehicle is unable to park adjacent to the temporary bin presentation area the development must be designed to be serviced on-site either at ground level, or via a loading dock. and the development will need to accommodate a 10.5m HRV with 4.5m clearance throughout the path of travel entering and exiting in a forward direction. Please note: Wheel out/wheel in service cannot be provided if there is insufficient parking or layback available for the collection vehicle. 40 Units

Internal Referral Body	Comments
	1 x 1 bed 6 x 2 bed 31 X 3 bed 2 x 4 bed

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

Housing and Productivity Contribution

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

Comment:
The subject site is sited within the Greater Sydney region. The proposed development is for a residential flat building with 40 apartments. Of these 40 apartments, 10 apartments are affordable housing and therefore, are exempt from the Housing and Productivity Contribution Order (HPC). Moreover, the applicant is not charged for the existing dwellings on the site that are being demolished.

Therefore, the applicant is only required to pay contributions pursuant to the HPC for 28 apartments at a contribution amount of $10,812.18 per dwelling. This requirement has been included as a condition of

consent.

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No.1806836M_02 dated 18/02/2026).

Where relevant, the embodied emissions have been quantified in the above BASIX Certificate.

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

SEPP (Housing) 2021

Chapter 2 Affordable housing

Division 1 – In-Fill Affordable Housing

Section 15C – Development to which Division applies	
Standard	**Compliance/Comment**
(1) This division applies to development that includes residential development if:	
(a) the development is permitted with consent under Chapter 3, Part 4 or another environmental planning instrument, and	**Compliant** The site is zoned R3 Medium Density Residential and a residential flat building is permitted with consent on the land. It is also noted the site is located within the Inner Area of the Low and Mid Rise Housing Map.
(b) the affordable housing component is at least 10%, and	**Compliant** The total affordable housing component is 18.7% of the development, 8.6% of which is mandated under the WLEP 2011 and 10.1% of which is elected as affordable housing under this SEPP.
(c) all or part of the development is carried out: (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven local government area—in an accessible area, or (ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone. ***relevant zone*** means the following— (a) Zone E1 Local Centre, (b) Zone MU1 Mixed Use, (c) Zone B1 Neighbourhood Centre, (d) Zone B2 Local Centre, (e) Zone B4 Mixed Use.	**Compliant** The development is within an Accessible Area. The development is within 400m walking distance to a bus stop and within 800m of the MU1 Zone.

Section 16 – Affordable housing requirements for additional floor space ratio	
Standard	**Compliance/Comment**
(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).	**Compliant** In accordance with subsection (2), a 20.2% floor space ratio bonus is added to the maximum floor space ratio of 2.2:1 prescribed by Chapter 6, Part 4, Division 2, 180(2)(a) of the SEPP. Therefore, inclusive of the bonus provision, the maximum floor space ratio is **2.64:1**. A floor space ratio of 1.88:1 is proposed which complies with the standard. As a separate matter, another 8.6% of the floor space is dedicated to Council as affordable housing under the WLEP 2011.
(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows— affordable housing component = additional floor space ratio (as a percentage) ÷ 2	**Compliant** The proposed affordable housing component provided under the SEPP is 10.1% (469m2) of the total proposed gross floor area (4,662m2). Therefore, a floor space ratio bonus of 20.2% is provided to the overall development.
(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).	**Compliant** The maximum permissible building height prescribed by Chapter 6, Part 4, Division 2, 180(2)(a) of the SEPP is 22m. Therefore, inclusive of the 20.2% bonus provision, the maximum allowable building height is **26.4m**. A maximum building height of 24.07m is proposed which complies with the requirement.

Section 17 – Additional floor space ratio for relevant authorities and registered community housing providers	
Standard	**Compliance/Comment**
(1) This section applies to residential development to which this division applies that is carried out: (a) by or on behalf of a relevant authority or registered community housing provider, and (b) on land with a maximum permissible floor space ratio of 2:1 or less.	N/A

(2) The maximum floor space ratio for the development is: (a) the maximum floor space ratio calculated in accordance with section 16, or (b) the maximum floor space ratio calculated in accordance with subsection (3).	N/A
(3) The maximum floor space ratio for subsection (2)(b) is the maximum permissible floor space ratio for the land plus an additional floor space ratio of: (a) if the affordable housing component is at least 50%—0.5:1, or (b) if the affordable housing component is between 20% and 50%—Y:1, where— AH is the affordable housing component. Y is AH/100	N/A
(4) If development to which this section applies uses the maximum floor space ratio under subsection (2)(a), section 16(3) also applies to the development.	N/A

Section 18 – Affordable housing requirements for additional building height	
Standard	**Compliance/Comment**
(1) This section applies to development that includes residential development to which this division applies if the development: (a) includes residential flat buildings or shop top housing, and (b) does not use the additional floor space ratio permitted under section 16.	The proposal uses the additional floor space ratio permitted under section 16 and therefore this section does not apply.
(2) The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3).	N/A
(3) The minimum affordable housing component, which must be at least 10%, is calculated as follows:	N/A

Section 19 – Non-Discretionary Development Standards – the Act, s 4.15	
Standard	**Compliance/Comment**
(a) A minimum site area of 450m².	**Compliant** Site area is 2480m2.

(b) a minimum landscaped area that is the lesser of: (i) 35m2 per dwelling, or (ii) 30% of the site area,	**Compliant** The requirement is 742m2 (30% of the site area) being the lesser of (b)(i) and (ii). A total landscaped area of 992m2 (40%) is proposed.
(c) A deep soil zone on at least 15% of the site area, where: (i) each deep soil zone has minimum dimensions of 3m, and (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,	**N/A** - Pursuant to clause 19(3) this clause does not apply, as Chapter 4 Residential Apartment Development applies to the development.
(d) Living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter.	**N/A** - Pursuant to clause 19(3) this clause does not apply, as Chapter 4 Residential Apartment Development applies to the development.
(e) the following number of parking spaces for dwellings used for affordable housing: (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,	A total of (10) affordable housing units are proposed including those nominated under the SEPP and those dedicated to Council under Clause 6.11 WLEP 2011, of which there are 3 x 3 bedroom, 6 x 2 bedroom and 1 x 1 bedroom unit. A total of 6.4 parking spaces is therefore required to service the affordable housing units. A total of thirty (30) traditional apartments are proposed including 2 x 4 bedroom, 28 x 3 bedroom units. A total of 45 parking spaces is therefore required to service the affordable housing units. When combining both requirements, a total of 52 car parking spaces (rounded up from 51.4 spaces) is required for the development. The development provides 54 resident car parking spaces (excluding car share or wash bays), which complies with this clause.
(f) the following number of parking spaces for dwellings not used for affordable housing: (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,	
(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,	**Complies** - See Chapter 4 discussion below.
(h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces): the minimum floor area specified in the Low Rise Housing Diversity Design Guide,	N/A

(i) if paragraphs (g) and (h) do not apply, the following minimum floor areas: (i) for each dwelling containing 1 bedroom—65m2, (ii) for each dwelling containing 2 bedrooms—90m2, (iii) for each dwelling containing at least 3 bedrooms—115m2 plus 12m2 for each bedroom in addition to 3 bedrooms.	N/A

Section 20 – Design Requirements	
Standard	**Compliance/Comment**
(1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) under this division unless the consent authority has considered the Low Rise Housing Diversity Design Guide, to the extent to which the guide is not inconsistent with this policy.	N/A

(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with: (a) the desirable elements of the character of the local area, or (b) for precincts undergoing transition—the desired future character of the precinct.	**Compliant** The proposed development is located within the Frenchs Forest Road West Neighbourhood precinct as well as within a Low and Mid Rise Housing inner area. The precinct which is undergoing transition anticipates residential flat buildings up to 22m in height, not including additional bonus provisions. As discussed elsewhere in this report, the proposed development generally retains the existing built form of the prior on-site development approved up to four storeys, with the additional proposed three stories resulting in greater spatial separation from the site boundaries and lesser gross floor area, creating a recessive visual appearance from the existing approved floors below and when viewed from the public domain. Furthermore, the proposed development does not attempt to maximise the development potential of the subject site in the context of the bonus provisions for infill affordable housing, with the proposed Floor Space Ratio and Building Height being well below the maximum permitted by Chapter 2 SEPP (Housing). Suitable existing and proposed canopy tree cover is also maintained. The proposal is also considered to be consistent with the character of similar development recently approved in the immediate precinct, thereby appropriately responding to the future character of the locality.

Section 21 – Must be used for Affordable Housing for at least 15 years	
Standard	**Compliance/Comment**

(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development: (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and (b) the affordable housing component will be managed by a registered community housing provider.	**Compliant** A condition is recommended to ensure that the in-fill affordable housing apartments are used for that purpose for 15 years and managed by a community housing provider.

Chapter 4 Design of residential apartment development

Application of Chapter

Clause 144 of State Environmental Planning Policy Housing 2021 (SEPP Housing) stipulates that:

(1) This chapter applies to development only if:
- (a) the development consists of:
  - (i) the erection of a new building,
  - (ii) the substantial redevelopment or the substantial refurbishment of an existing building, or
  - (iii) the conversion of an existing building, and
- (b) the building concerned is at least 3 or more storeys, not including underground car parking storeys, and
- (c) the building contains at least 4 dwellings.

As previously outlined the proposed development is for the erection of a seven storey residential apartment development plus basement car parking for the provisions of 40 apartments. As per the provisions of Clause 144 outlining the application of the policy, the provisions of Chapter 4 SEPP Housing are applicable to the assessment of this application.

As previously outlined within this report Clause 29 of the Environmental Planning and Assessment Regulation 2021 requires the submission of a Design Verification Statement from the qualified designer at lodgement of the development application. This documentation has been submitted with the development application.

Referral to design review panel for development applications

Clause 145 of SEPP Housing requires:

(2) Before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development).

Comment: Northern Beaches Council has an appointed Design and Sustainability Advisory Panel (DSAP). Refer to the DSAP referral comments section within this report.

Determination of development applications and modification applications for residential apartment development

Clause 147 of SEPP Housing requires that:

(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—
(a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,
(b) the Apartment Design Guide,
(c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.

Comment: The below part of the report makes an assessment against the design quality principles contained within Schedule 9 (a) and an assessment is carried out against the ADG below (b).

Overall, the proposal meets the design quality principles of Schedule 9 for the reasons outlined below. The proposal appropriately responds to the design guidelines within the ADG and where strict compliance is not achieved numerical requirements, reasonable alterative solutions are provided to meet the objectives of the ADG.

The consent authority has considered the advice received from the DSAP and the applicant has amended the proposal where necessary to respond to the DSAP advice. Overall, the DSAP was supportive of the proposal subject to minor changes for the consideration of Council / not supportive of the proposal.

Non-discretionary development standards for residential apartment development

Clause 148 of SEPP Housing contain non-discretionary development standards that, if complied with, prevent the consent authority from requiring more onerous standards for the matters (i.e 'must not refuse' standards).

The following are non-discretionary development standards under sub clause (2):

(a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide
(b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,
(c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Comment: As noted in the below assessment, the proposal meets the minimum requirements of the ADH in relation to Part 3J, 4D and 4C. This assessment has not required more onerous standards and does not recommend refusal of any of these reasons.

DESIGN QUALITY PRINCIPLES - Schedule 9

Principle 1: Context and Neighbourhood Character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.
Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent

sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Comment:
The proposed development is located within the Frenchs Forest Road West Neighbourhood precinct under the WDCP 2011, as well as within a Low and Mid Rise Housing inner area. This precinct is undergoing significant transition in height and scale and character, with residential flat buildings up to 22m in height, not including additional bonus provisions.

As discussed elsewhere in this report, the proposed development generally retains the existing built form of the prior development approved up to the four storey level, with the additional three storeys designed to provide greater spatial separation from the site boundaries and lesser gross floor area, creating a recessive and "stepped" visual appearance from the existing approved floors below and when viewed from the public domain.

Furthermore, it is important to note that the proposed development does not seek to maximise the development potential of the subject site in the context of the bonus provisions for infill affordable housing, with the proposed Floor Space Ratio and Building Height being well below the maximum permitted by Chapter 2 SEPP (Housing).

Suitable existing and proposed canopy tree cover is also maintained.

The proposal is also considered to be consistent with the character of similar development recently approved in the immediate precinct, thereby appropriately responding to the evolving and transitioning future character of the locality.

Overall, the development is consistent with Principle 1.

Principle 2: Built Form and Scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.
Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment:

As detailed above, the scale, bulk and height of the proposed development is not anticipated under the desired future character of the Frenchs Forest Precinct based on the WLEP 2011 planning controls, but is anticipated under the Housing SEPP planning controls, which prevail over the LEP, including the additional height and density where affordable housing is incorporated.

The alignment of the built form at the front boundary line, the proportions of the façade elements, and the housing typology are generally consistent with the new developments as approved in this precinct. The articulation and manipulation of building elements (material contrasts, size of windows, use of screens on the upper floors, etc.) contribute to the suitability and appropriateness of the proposed development's built form and scale.

The development is consistent with Principle 2.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.
Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Comment:

The development provides an appropriate level of building density as the FSR standard under the Housing SEPP is complied with. The level of building density proposed is considered appropriate for the site that is located in close proximity to the Frenchs Forest Town Centre and Northern Beaches Hospital.

The development is consistent with Principle 3.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

Comment:

The proposal provides a high level of cross ventilation, solar access, solar panels, deep soil zones and sun shading that promotes building sustainability.

The development is consistent with Principle 4.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.

Comment:

The proposal retains a good number of canopy trees at the site boundaries, which contribute to the character of the area. Replacement planting is proposed within the deep soil areas of the site.

Additionally, the development complies with the landscaped area and deep soil requirements under the Housing SEPP and ADG.

The development is consistent with Principle 5.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.

Comment:

All apartments either have access to a northern, eastern or western aspect to adequate solar access. It is noted that 29 out of the 40 (73%) apartments receive 2 hours of sunlight on June 21 and that 35 out of the /40 (87.5%) apartments are cross ventilated, which is well above the minimum requirements under the ADG. Each apartment has an internal area that is above the minimum requirements under the ADG, which will also afford a high level of amenity to the residents.

The development is sited to generally comply with the ADG building separation requirements for the side and rear boundaries, with there only being minor point incursions which is assessed as being acceptable due to the irregularity in the boundary angles. This will ensure that the privacy of neighbouring properties and residents within the development is appropriately safeguarded.

Overall, Principle 6 is satisfied.

Principle 7: Safety

Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Comment:

The proposal appropriately optimises safety and security for occupants of the development itself and for users of the public domain by way of passive surveillance. Secure access points are also provided into the building and communal open space areas.

The development is consistent with Principle 7.

Principle 8: Housing Diversity and Social Interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living

needs and household budgets.

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.

Comment:

The development provides a mix of apartment typologies, which includes one, two, three and four bedroom apartments. A large area of communal open space at ground level is provided, which will encourage social interaction amongst residents.

The development also provides 10 affordable housing apartments to cater for the needs of low to moderate income earners within the locality.

The development is consistent with Principle 8.

Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Comment:

The proposal incorporates a variety of materials, colours and textures, in addition to modulated wall planes, to provide for an aesthetically pleasing building.

Overall, the development meets Principle 9.

APARTMENT DESIGN GUIDE

Development Control	Criteria / Guideline	Comments
Part 3 Siting the Development		
Site Analysis	**Does the development relate well to its context and is it sited appropriately?**	**Compliant** **As outlined above, the proposal is consistent with the emerging character of development within the precinct.**
Orientation	**Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?**	**Compliant** **As outlined above, the proposal responds well to the streetscape and optimises solar access to the apartments within the development and neighbouring properties.**

<table>
<tr>
<td>Public Domain Interface</td>
<td>Does the development transition well between the private and public domain without compromising safety and security?

Is the amenity of the public domain retained and enhanced?</td>
<td>Compliant

The proposal has a clearly identified building entry and the proposal does not impact upon the use or enjoyment of the public domain.</td>
</tr>
<tr>
<td>Communal and Public Open Space</td>
<td>Appropriate communal open space is to be provided as follows:
1. Communal open space has a minimum area equal to 25% of the site
2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter)</td>
<td>Compliant

25% (620sqm) of communal open space is provided and 68% (457sqm) of which receives a minimum of 2 hours between 9am and 3pm in mid winter.</td>
</tr>
<tr>
<td>Deep Soil Zones</td>
<td>Deep soil zones are to meet the following minimum requirements:
<table>
<tr><th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr>
<tr><td>Less than 650m2</td><td>-</td><td rowspan="4">7%</td></tr>
<tr><td>650m2–1,500m2</td><td>3m</td></tr>
<tr><td>Greater than 1,500m2</td><td>6m</td></tr>
<tr><td>Greater than 1,500m2with significant existing tree cover</td><td>6m</td></tr>
</table>
</td>
<td>Compliant

31% (786sqm) of the site is deep soil landscaping with 6m x 6m dimensions.</td>
</tr>
<tr>
<td>Visual Privacy</td>
<td>Minimum required separation distances from buildings to the side and rear boundaries are as follows:
<table>
<tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr>
<tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr>
<tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr>
<tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr>
</table>
</td>
<td>Generally Compliant - with minor point incursions resulting in minor non-compliance

The development is largely compliant with the building separation requirements, with there being only minor point incursions due to the irregularity of the south-west boundary adjoining No.130 Frenchs Forest Road.

The point incursions on the south-west corners of the</td>
</tr>
</table>

	Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms. ***Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.***	**building at Level 4, 5 and 6 do not give rise to any adverse visual privacy impacts, noting that there are no windows attached to the portion of the building which encroaches the 9m setback area. Existing canopy trees retained including new planting will assist in mitigating privacy impacts.** **It is also noted amended plans were provided during the assessment process which have enhanced the separation distance of the habitable areas and private open space of Level 4, 5 and 6 to the south-west boundary, to result in only a minor point incursion as outlined above. The amendments also enhanced the setback of the proposed POS at Level 4 to achieve a minimum 9m separation to the north.** **In this regard, the development will meet the objectives and intent of Part 3F of the ADG.**
Pedestrian Access and entries	**Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?** **Large sites are to provide pedestrian links for access to streets and connection to destinations.**	**Compliant** **Pedestrian access to the building is accessible and easily identifiable.**
Vehicle Access	**Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?**	**Compliant** **The proposed vehicular crossing is appropriately located and designed to minimise hazards to pedestrians and other vehicles.**
Bicycle and Car Parking	**For development in the following locations:** • **On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or** • **On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a**	**N/A - The development is not located within the referenced locations. Hence, the Housing SEPP car parking requirements under Chapter 2 and the WDCP bike and motorcycle parking rates apply.**

	nominated regional centre The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street. Parking and facilities are provided for other modes of transport. Visual and environmental impacts are minimised.	
Part 4 Designing the Building		
Amenity		
Solar and Daylight Access	To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space: • Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.	Compliant 29/40 (73%) of apartments receive 2 hours of sunlight on June 21.
	• A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.	Compliant 4/40 (10%) of apartments will receive no direct sunlight on June 21.
Natural Ventilation	The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by: • At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	Compliant 35/40% (87.5%) of apartments are cross ventilated
	• Overall depth of a cross-over or cross-through apartment	Compliant

<table>
<tr><td></td><td>must not exceed 18m, measured glass line to glass line.</td><td>The depths of apartments do not exceed 18m.</td></tr>
<tr><td>Ceiling Heights</td><td>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:<table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor

2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table></td><td>Compliant

The prescribed minimum floor to ceiling heights are achieved to habitable and non-habitable rooms.</td></tr>
<tr><td rowspan="3">Apartment Size and Layout</td><td>Apartments are required to have the following minimum internal areas:<table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m2</td></tr><tr><td>1 bedroom</td><td>50m2</td></tr><tr><td>2 bedroom</td><td>70m2</td></tr><tr><td>3 bedroom</td><td>90m2</td></tr></table>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m2each.

A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m2each.</td><td>Compliant

The proposed window schedule to habitable rooms is acceptable in the context of the requirement.</td></tr>
<tr><td>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</td><td></td></tr>
<tr><td>Habitable room depths are limited to</td><td>Compliant</td></tr>
</table>

<table>
<tr><td></td><td>a maximum of 2.5 x the ceiling height.</td><td>Proposed habitable rooms depths are suitably sized in the context of the requirement.</td></tr>
<tr><td></td><td>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</td><td>Compliant

Windows to proposed habitable rooms are suitably incorporated in the context of the requirement.</td></tr>
<tr><td></td><td>Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space).</td><td>Compliant

The proposal complies with this requirement.</td></tr>
<tr><td></td><td>Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.</td><td>Compliant

Proposed bedrooms are considered to provide sufficient wardrobe space.</td></tr>
<tr><td></td><td>Living rooms or combined living/dining rooms have a minimum width of:
• 3.6m for studio and 1 bedroom apartments
• 4m for 2 and 3 bedroom apartments</td><td>Compliant

Proposed living rooms are considered to be suitably dimensioned.</td></tr>
<tr><td></td><td>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</td><td>Compliant

Suitable internal apartment widths are provided in the context of the requirement.</td></tr>
<tr><td>Private Open Space and Balconies</td><td>All apartments are required to have primary balconies as follows:
<table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m2</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m2</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m2</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m2</td><td>2.4m</td></tr></table>The minimum balcony depth to be counted as contributing to the balcony area is 1m</td><td>Compliant

All apartments have generally compliant private open space.</td></tr>
<tr><td></td><td>For apartments at ground level or on</td><td>Compliant</td></tr>
</table>

<table>
<tr><td></td><td>a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2and a minimum depth of 3m.</td><td>All ground floor apartments have compliant private open space.</td></tr>
<tr><td rowspan="2">Common Circulation and Spaces</td><td>The maximum number of apartments off a circulation core on a single level is eight.</td><td>Compliant

No more than eight apartments are located on any level.</td></tr>
<tr><td>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</td><td>N/A</td></tr>
<tr><td>Storage</td><td>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:
<table><tr><th>Dwelling Type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m2</td></tr><tr><td>1 bedroom apartments</td><td>6m2</td></tr><tr><td>2 bedroom apartments</td><td>8m2</td></tr><tr><td>3+ bedroom apartments</td><td>10m2</td></tr></table>
At least 50% of the required storage is to be located within the apartment.</td><td>Compliant

Suitable storage calculations are provided for the apartments.</td></tr>
<tr><td>Acoustic Privacy</td><td>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.</td><td>Compliant

Layout has considered locating bedrooms at least 3m away from noise sources.</td></tr>
<tr><td>Noise and Pollution</td><td>Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.</td><td>Compliant

Layout has considered locating bedrooms at least 3m away from noise sources.</td></tr>
<tr><td colspan="3">Configuration</td></tr>
<tr><td>Apartment Mix</td><td>Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.</td><td>Compliant

The development provides a mix of one, two, three and four bedroom apartments.</td></tr>
<tr><td>Ground Floor Apartments</td><td>Do the ground floor apartments deliver amenity and safety for their</td><td>Compliant</td></tr>
</table>

<table>
<tr><td></td><td>residents?</td><td>The private open space areas of ground floor apartments are protected by fencing and planter boxes.</td></tr>
<tr><td>Facades</td><td>Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.</td><td>Compliant

The proposal incorporates a variety of materials, colours and textures, in addition to modulated wall planes, to provide for an aesthetically pleasing building.</td></tr>
<tr><td>Roof Design</td><td>Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features.
Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.</td><td>Compliant

The flat roof is suitable having regard to the modern appearance of the residential flat building.</td></tr>
<tr><td>Landscape Design</td><td>Was a landscape plan submitted and does it respond well to the existing site conditions and context.</td><td>Compliant

Significant mature trees retained where possible and new replacement planting around site perimeter</td></tr>
<tr><td>Planting on Structures</td><td>When planting on structures the following are recommended as minimum standards for a range of plant sizes:
<table>
<tr><th>Plant type</th><th>Definition</th><th>Soil Volume</th><th>Soil Depth</th><th>Soil Area</th></tr>
<tr><td>Large Trees</td><td>12-18m high, up to 16m crown spread at maturity</td><td>150m3</td><td>1,200 mm</td><td>10m x 10m or equivalent</td></tr>
<tr><td>Medium Trees</td><td>8-12m high, up to 8m crown spread at maturity</td><td>35m3</td><td>1,000 mm</td><td>6m x 6m or equivalent</td></tr>
</table></td><td>Compliant

Suitable soil depths provided for landscape planters and endorsed by Council's Landscape Officer.</td></tr>
</table>

	<table><tr><td>Small trees</td><td>6-8m high, up to 4m crown spread at maturity</td><td>9m3</td><td>800mm</td><td>3.5m x 3.5m or equivalent</td></tr><tr><td>Shrubs</td><td></td><td></td><td>500-600mm</td><td></td></tr><tr><td>Ground Cover</td><td></td><td></td><td>300-450mm</td><td></td></tr><tr><td>Turf</td><td></td><td></td><td>200mm</td><td></td></tr></table>	
Universal Design	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features	Compliant The proposed development contains 20% of apartments incorporating silver level universal design features.
Adaptable Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	N/A
Mixed Use	Can the development be accessed through public transport and does it positively contribute to the public domain? Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.	N/A
Awnings and Signage	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development. Signage must respond to the existing streetscape character and context.	N/A
Performance		
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	Compliant The BASIX commitments are shown on the plans.

Water Management and Conservation	**Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?**	**Compliant** **Council's Water Management team are satisfied and rainwater reuse is provided.**
Waste Management	**Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?**	**Compliant** **Council's Waste Management team are satisfied with the method of waste storage and transfer. A waste management plan has been provided.**
Building Maintenance	**Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?**	**Compliant** **Material selection is robust and sustainability with sun shading is used.**

The following table is an assessment against the criteria of the 'Apartment Design Guide' as required by SEPP Housing.

Chapter 6 Low and Mid Rise Housing, Part 4 - Residential flat buildings and shop top housing

Clause 175 - Development standards—low and mid rise housing inner area	**Comment**
(2) Development consent must not be granted for development for the purposes of residential flat buildings with a building height of up to 22m unless the consent authority is satisfied the building will have 6 storeys or fewer.	**The proposed development is not subject to a maximum building height of 22m as it is given a bonus allowance up to 26.4m under Chapter 2 Affordable Housing. Therefore development consent can be granted in this circumstance.**
(3) Development consent must not be granted for development for the purposes of a building containing shop top housing with a building height of up to 24m unless the consent authority is satisfied the building will have 6 storeys or fewer.	**N/A**
Clause 176 - Development standards—low and mid rise housing outer area	**Comment**
(2) Development consent must not be granted for development for the following purposes if a resulting building will have a building height of up to 17.5m unless the consent authority is satisfied that the building will have 4 storeys or fewer— **(a) residential flat buildings,** **(b) buildings containing shop top housing.**	**N/A**
Clause 177 - Landscaping - residential flat buildings or shop top housing	**Comment**
Before granting development consent to development to which this section applies, the consent authority must consider the Tree Canopy Guide for Low and Mid Rise Housing,	**The site is within the Inner LMR area as per the Town Centres Map and the Tree Canopy Guide has been considered.**

published by the Department in February 2025.	**The guide recommends a minimum tree canopy percentage and deep soil percentage of 20% and 15% respectively. The proposal is considered to achieve this outcome and is endorsed by Council's Landscape Officer.**
Clause 178 - Minimum lot size for residential flat buildings or shop top housing	**Comment**
(2) A requirement specified in another environmental planning instrument or development control plan in relation to the following does not apply to development that meets the standards in section 180(2) or (3)— (a) minimum lot size, (b) minimum lot width.	**Minimum lot size and lot width standards shall not apply to the site.**
Division 2 Non-discretionary development standards—the Act, s 4.15	
Clause 180 - Non-discretionary development standards—residential flat buildings and shop top housing in Zone R3 or R4	**Comment**
(2) The following non-discretionary development standards apply in relation to development on land in a low and mid rise housing inner area:	
(a) a maximum floor space ratio of 2.2:1,	**As discussed under Chapter 2, a 20.2% bonus is provided to the prescribed FSR standard as a result of proposed infill affordable housing. A standard of 2.64:1 therefore applies to the development. The proposed FSR of 1.88:1 complies with the requirement.**
(b) a maximum building height of 22m,	**As discussed under Chapter 2, a 20.2% bonus is provided to the prescribed building height standard as a result of proposed infill affordable housing. A standard of 26.4m therefore applies to the development. The proposed height of 24.07m complies with the requirement.**
(c) for a building containing shop top housing—a maximum building height of 24m.	**N/A**
(3) The following non-discretionary development standards apply in relation to development on land in a low and mid rise housing outer area:	**N/A**
(a) a maximum floor space ratio of 1.5:1,	**N/A**
(b) a maximum building height of 17.5m.	**N/A**

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the

electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

Warringah Local Environmental Plan 2011

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

aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards
There are no principal development standards prescribed by WLEP 2011 which apply to the subject site, as the relevant standards are governed by SEPP (Housing) 2021 as the prevailing instrument.

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
6.11 Affordable housing	Yes
8.1 Definitions	Yes
8.2 Land to which this Part applies	Yes
8.3 Objectives for development in Frenchs Forest Precinct	Yes
8.4 Development control plans	Yes
8.5 Design excellence—Sites F, G and I	Yes
8.6 Minimum site areas—Sites G, H and I	Yes
8.7 Minimum street frontages—Sites G, H and I	Yes
8.10 Power lines—Site G	Yes

Detailed Assessment

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

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

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

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

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

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

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

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

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

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

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

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

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

(f) the likelihood of disturbing relics

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

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

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

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

Accordingly, this assessment finds that the proposal is supported, in this particular circumstance

6.4 Development on sloping land

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

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

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective and therefore, Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

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

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a

geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

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

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions.

Therefore, Council is satisfied that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

6.11 Affordable housing

Clause 6.11 of the WLEP 2011 requires the applicant to dedicate 10% of the total GFA of the building as residential accommodation to Council so that it can be managed as affordable housing in perpetuity. If the 10% threshold is not met, the Council can charge levies to the applicant on a $14,855.91/sqm rate to then go into a fund to be used towards the provision and management of affordable housing in the locality.

The applicant proposes to dedicate five (5) apartments (Apartments 002, 003, 007, 102 and 202) to Council as affordable housing to be used as affordable housing in perpetuity of the development. The total GFA of these apartments is 402m2, which is 8.6% of the total GFA of the development.

As there is a shortfall based on the 10% requirement, a condition has been imposed to require the applicant to pay a monetary contribution of $953,749.40.

With this condition in place, the development will comply with Clause 6.11 of the WLEP 2011.

8.5 Design excellence—Sites F, G and I

In accordance with the provisions of Clause 8.5(2) of WLEP 2011, development consent must not be granted unless the consent authority considers that the development exhibits design excellence.

The matters to be considered when determining whether a development exhibits design excellence are outlined in clause 8.5(3) of WLEP 2011, and are considered as follows:

(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,

Comment:

The proposal is designed, sited and orientated such that it will afford a high level of amenity for future occupants, will be compatible with the desired character of the locality and will maintain adequate levels of amenity for the public domain and surrounding properties. The selected materials and detailing are appropriate for the building typology and surrounding context.

(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,

Comment:

The proposal will promote urban renewal and contribute to the visual quality and amenity of the public domain. Suitable building setbacks have been provided including the retention of substantial canopy trees and the provision of new canopy planting around the curtilage of the building, which will situate the development within an appropriate landscaped setting. The proposed massing, articulation and finishes of the built form respond to the surrounding character and enable a positive outcome for the site.

(c) whether the development detrimentally impacts on view corridors,

Comment:

The proposal will not detrimentally impact upon view corridors, noting that there are no significant views available from surrounding land given the location and surrounding topography which is flat in the vicinity of the site.

(d) how the development addresses the following matters—
(i) the suitability of the land for development,

Comment:

The proposed development is suitable for the site that is located within a Low and Mid Rise Housing Area. The proposal's performance against the relevant built form controls demonstrates that the proposed use, scale and density are consistent with those intended for the site.

(ii) existing and proposed uses and use mix,

Comment:

The proposal is considered to respond to the existing and desired future character of the area. The development provides an appropriate interface to the adjoining R2 zone to the north, MU1 zone to the south and will not unreasonably impact the development potential of the other adjoining R3 zoned properties. It is also noted that despite the R2 zoning to north, the existing northern adjoining site is occupied by an existing boarding house, rather than a low density land use.

The proposal provides adequate spatial separation to the property boundaries to ensure amenity can be maintained for the development once the adjoining land is developed, whilst maintaining reasonable amenity for the existing dwelling house.

(iii) heritage issues and streetscape constraints,

Comment:

There are no identified heritage items or values in the vicinity of the site. The proposal will not give rise to adverse streetscape impacts and mature canopy trees are maintained in the front setback to Gladys Avenue.

(iv) the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

Comment:

The proposal has adequate regard for its relationship with existing and proposed development on adjoining properties. As discussed elsewhere in this report, the proposed additional stories atop the previous approved development are considered to result in a recessive visual appearance when viewed from surrounding properties and the public domain. The proposed front and northern side setbacks provide for a transition between the proposal and the low-density development to the north. This transition ensures an appropriate visual relationship between the proposed medium and existing low density built forms and provides a satisfactory level of amenity to the adjoining property. The siting of the proposal in relation to the western boundary is generous, through the provision of a 12m setback which will maintain the amenity of the existing adjoining developments and minimise any impact upon the future re-development of those R3 zoned properties; sufficient separation is provided to facilitate privacy, solar access and outlook for future developments to the west.

(v) bulk, massing and modulation of buildings,

The proposed bulk, massing and modulation of the development is suitable for the site and its context in that:

- The proposal is provides for a seven storey building which is anticipated by the 26.4m height limit under SEPP Housing (inclusive of bonus provisions). Notwithstanding, the proposed building height of 24.07m sits comfortably below the height limit and does not need seek to maximise the development potential of the site.
- Similarly, the Floor Space Ratio prescribed by SEPP Housing (inclusive of bonus provisions) is 2.64:1. The proposed FSR of 1.88:1 is far below the maximum permitted.
- The central break/indent in the northern façade provides a high level of articulation and visual relief facing the R2 zone.
- The proposal provides a generous 12m setback to the western boundary which ensures future developments to the west will have a high level of amenity.
- The buildings are effectively articulated to reduce the perceived length of their facades, including the front facade which has a stepped building line.
- The proposal has a high level of articulation with wall length broken up by balconies, building indents and variation of materials.

(vi) street frontage heights,

Comment:

The proposal represents a suitable design outcome and streetscape presentation in the context of the existing and desired future character of Gladys Avenue.

(vii) environmental impacts including overshadowing, wind and reflectivity,

Comment:

The development complies with the solar access requirements under the ADG and WDCP. No adverse wind or reflectivity impacts are anticipated. Materials are used that have low reflectivity.

(viii) the achievement of the principles of ecologically sustainable development,

Comment:

The development is consistent with the principles of ecologically sustainable development. The site layout, design facilitates and the exceedance of the ADG solar access and natural ventilation requirements, minimising the need for heating and cooling. The roof area comprises a PV and rainwater is to be re-used for irrigation. EV chargers have been used within the basement parking area. Mature canopy trees are retained around the site perimeter to provide shade.

(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,

Comment:

The proposal makes adequate provision for access, servicing and circulation. A compliant number of bicycle and car parking spaces is provided within the development in accordance with the controls.

(x) the impact on, and proposed improvements to, the public domain,

Comment:

As discussed above, the proposed design will contribute to the visual quality of the public domain and encourage urban renewal in the precinct.

(xi) the quality and integration of landscape design.

Comment:

As detailed within the section of the report relating to the Housing SEPP, the landscape design is appropriate.

In accordance with the provisions of clause 8.5(4) of the WLEP 2011, development consent must not be granted unless a design review panel has reviewed the development, and the consent authority considers the findings of the panel.

On lodgement, the application was referred to Council's DSAP, who were supportive of the development and provided recommendations to enhance the design. The recommendations have been adopted and incorporated into the development where appropriate.

In light of the amendments made with regard to those recommendations of the DSAP, Council is satisfied that the proposed development does exhibit design excellence.

8.6 Minimum site areas—Sites G, H and I

As per clause 178 of Chapter 6, SEPP (Housing) 2021, a requirement specified in another environmental planning instrument or development control plan in relation to minimum lot size, does not apply to development that meets the building height and floor space ratio standards prescribed by clause 180 (2).

Clause 8.6 of WLEP 2011 therefore does not apply in this instance.

8.7 Minimum street frontages—Sites G, H and I

As per clause 178 of Chapter 6, SEPP (Housing) 2021, a requirement specified in another environmental planning instrument or development control plan in relation to minimum lot width, does not apply to

development that meets the building height and floor space ratio standards prescribed by clause 180 (2).

Clause 8.7 of WLEP 2011 therefore does not apply in this instance.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
5.2.3 Building Setbacks	Front setbacks 2. Development with a frontage to Sylvia Place, Bluegum Crescent and Gladys Avenue must be setback a minimum of 6.5m.	6.5m	-	Yes
	Side and rear setbacks 3. Development adjacent to the R2 Low Density Residential and RE1 Public Recreation Zone must provide a minimum setback of 6m from the side or rear property boundary for the first 2 storeys. Development above 2 storeys is to be set back within a 45-degree angle, projected from a height of 2 storeys. Refer to Figure 32.	6m (North) Within (North)	- -	Yes Yes
5.2.4 Street Wall and Upper Floor Setbacks	3. Developing fronting Gladys Avenue shall have the fourth floor set back at least 3m from the street wall. . 4. Despite Requirement 3, any portion of a building within 12m of R2 Low Density Residential zoned land must be no more than 2 storeys. Note: Street wall refers to the built form that addresses the street frontage from the ground level up to the first building setback.	Unit 3.01 not setback 3m 6.7m min. - 9.7m min. (3rd - 5th Floor)	- -	**No** **No**

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	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
D19 Site Consolidation in the R3 and IN1 Zone	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
1 Introduction	Yes	Yes
2 Desired future character	Yes	Yes
5.2 Precinct 05 Frenchs Forest Road West Neighbourhood	No	Yes
6 Parking	Yes	Yes
7 Contamination	Yes	Yes
8 Sustainability	Yes	Yes
9 Water management	Yes	Yes
10 Waste management	Yes	Yes

Detailed Assessment

D6 Access to Sunlight

Adjoining the proposal to the south is a boarding house and a residential dwelling, which front Frenchs Forest Road West.

The boarding house to the south of the site (130 Frenchs Forest Road West) was recently constructed and is occupied. The development has an area of common open space in the rear garden. As demonstrated in the shadow diagrams, a least 3 hours solar access will be maintained to the north facing private open space of the boarding house. The solar access will be experienced during the afternoon period.

The adjoining dwelling house directly to south of the site (128 Frenchs Forest Road West) will experience additional overshadowing as a result of the development. The character of existing and future development in the surrounding vicinity also results in the property having characteristics of an isolated

allotment. Notwithstanding, the proposed building represents a scale of development that is anticipated for the subject site and sits well below the maximum building height and floor space ratio prescribed by SEPP Housing. The proposal also provides spatial separation of 6m (Ground Floor to Level 3) and 9m (Level 4 to Level 6) to the southern boundary which is numerically compliant with ADG provisions. Moreover, the rear open space of No.128 shall retain morning sunlight between 9.00am and 11.00am.

It is also noted that the southern sites were previously provided an uplift in zoning under the Frenchs Forest Town Centre Precinct Plan, before subsequently being mapped within a Low and Mid Rise Housing area, of which a greater density and building height is therefore anticipated. As a result, the application has supplied concept view from sun diagrams (Drawing No.815) towards a future indicative multi-unit development at No.128 Frenchs Forest Road and reflects the ability of future development on the adjoining southern site to receive a compliant amount of sunlight in accordance with the ADG solar access provisions.

The proposal is therefore considered acceptable in this context.

D19 Site Consolidation in the R3 and IN1 Zone

As per Part G9 Frenchs Forest Town Centre of WDCP 2011, Part D19 does not apply to this site.

5.2 Precinct 05 Frenchs Forest Road West Neighbourhood

5.2.4 Street Wall and Upper Floor Setbacks

Compliance with the Control

3. Development fronting Gladys Avenue shall have the fourth floor set back at least 3m from the street wall.
4. Despite Requirement 3, any portion of a building within 12m of R2 Low Density Residential zoned land must be no more than 2 storeys.

Comment:

In relation to Requirement No. 3, the fourth floor (Level 3 Plan) facing Gladys Avenue is not setback 3m from the street wall (6.5m at the ground floor) in relation to Unit 3.01 at the southern end of the front facade. Notwithstanding, as identified in the figure below, the non-compliant portion relates to only a minor portion of the eastern bedroom of Unit 3.01 and to a lesser extent the proposed bathroom. All remaining portions of the development are numerically compliant, including the northern portion of the front facade (Unit 3.07) which far exceeds the requirement.

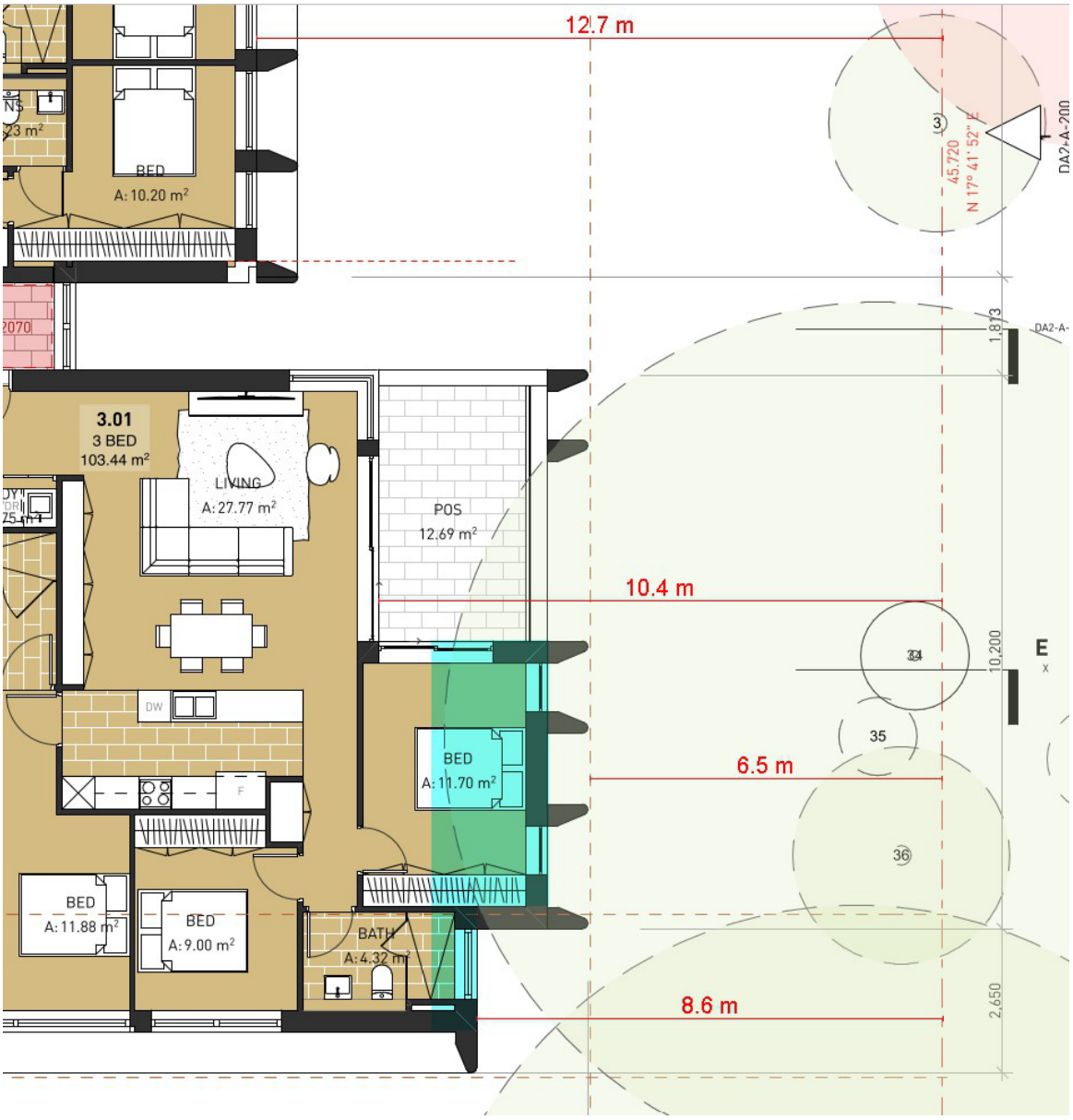


Figure 1 - Extract from plans showing street setbacks to the 4th storey to Gladys Avenue and numerically non-compliant portion

In relation to Requirement No. 4, there are portions of the third, fourth and fifth floors within 12m of the boundary adjoining R2 zoned land to the north. The building is well articulated with varied wall planes and therefore the protruding elements are generally minor in the context of the overall development and length of the northern boundary. The following extracts show those portions of the building:

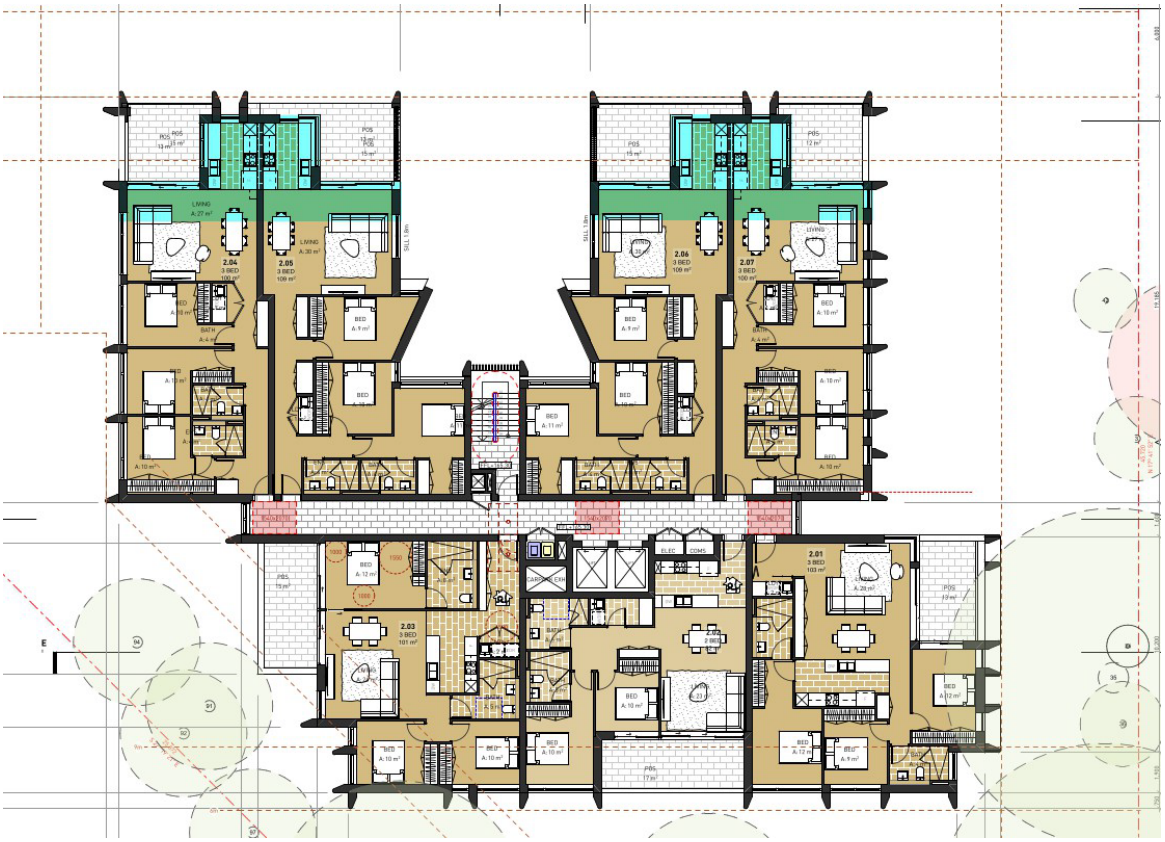


Figure 2 - Extract showing extent of third level within 12m setback

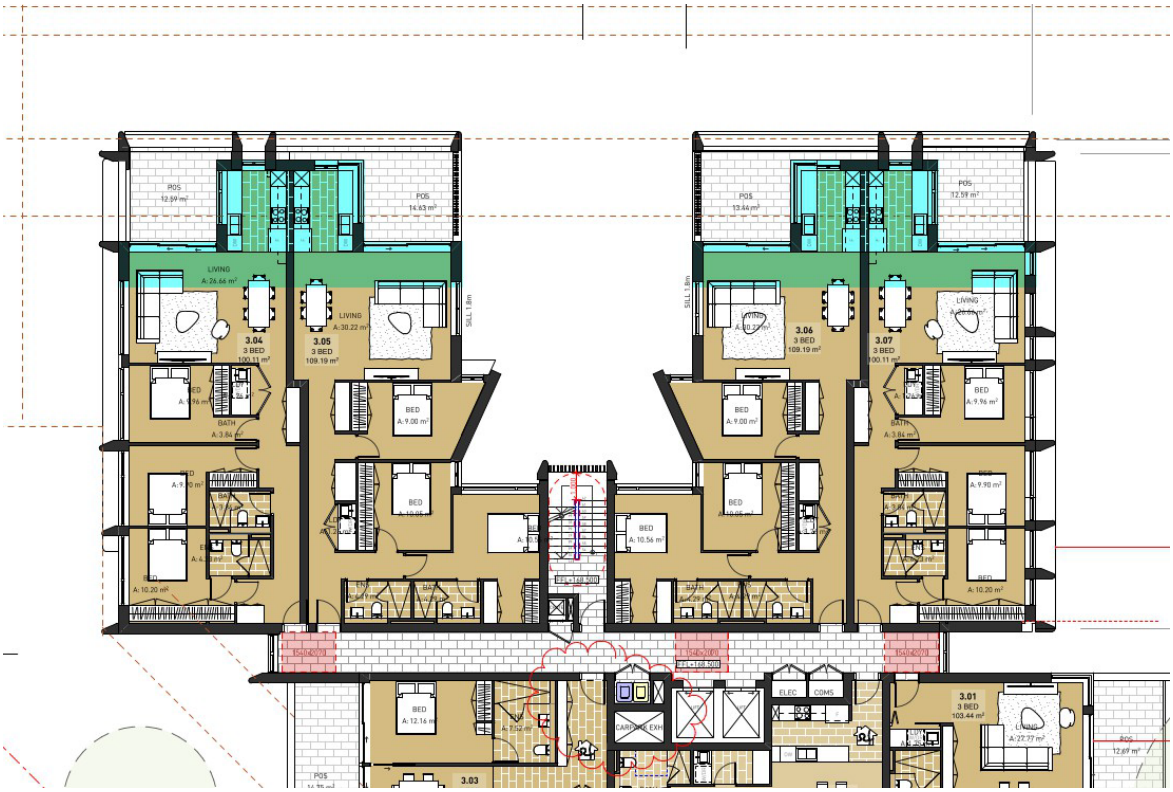


Figure 3 - Extract showing extent of fourth level within 12m setback

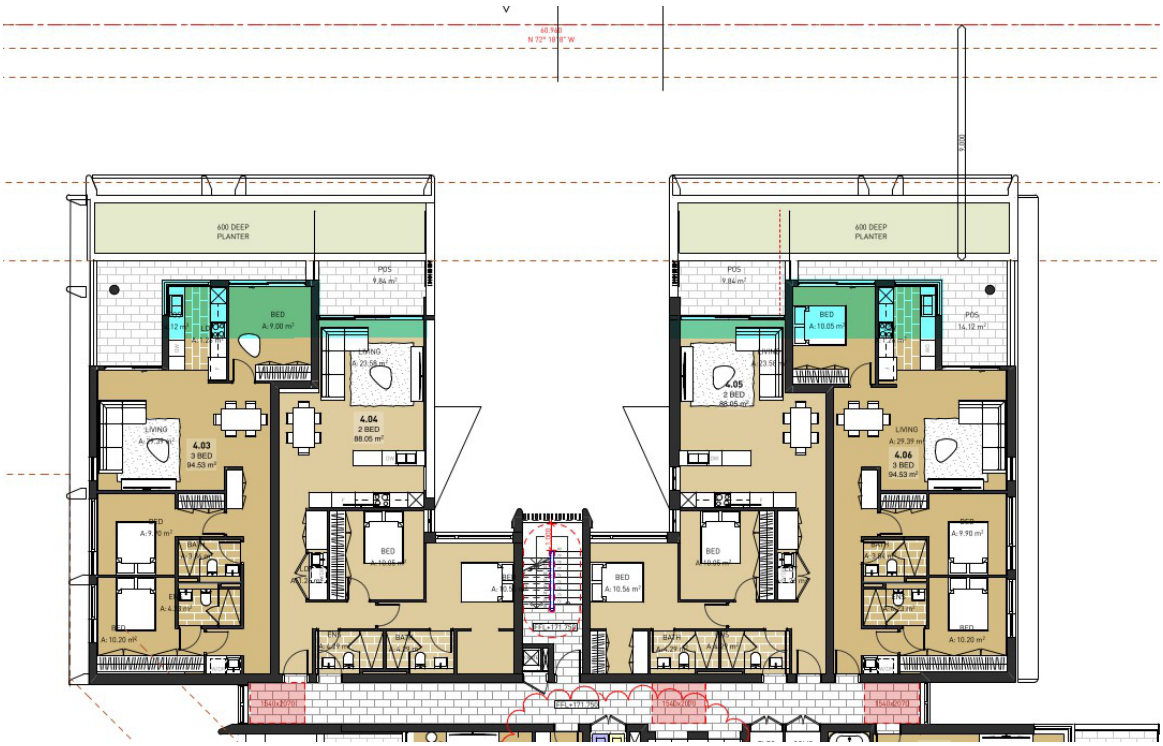


Figure 4 - Extract showing extent of fifth level within 12m setback

Merit Consideration
With regard to the consideration for a variation for Requirement 3 and 4, the development is assessed against the underlying Objectives of the Control as follows:

A. To reduce bulk and scale of buildings, minimise streetscape impacts and provide an appropriate scale transition to adjoining low density residential development.

Comment: The overall proposal is highly articulated and provides reasonable alternative solutions that see large portions of the building setback in excess of the requirements, which are considered to offset the impact of the encroaching portions. Presenting to the street, the building provides generous deep soil areas that allows retention of existing mature trees and allows opportunity for substantial new plantings.

Although the adjoining land to the north is zoned R2 Low Density Residential, the adjoining site to the north has a recently constructed two storey 12 room boarding house that is not a traditional low density building typology or occupation. The next site to the north also consists of a two storey seniors living development. As such, the relationship to these developments is reasonable having regard to the fact they are not traditional low density housing (detached dwelling) that would mean there is a stark contrast between the scale and density of the proposed development and the development immediately to the north.

The bulk and scale has been dealt with through a central building break, a high level of articulation and a stepping of the upper levels to provide an appropriate transition between the zones.

5.2.6 Site consolidation
The proposed development includes the consolidation of two sites into one. The proposed lots are considered to possess suitable dimensions to enable the siting and construction of a compatible development which protects natural site features; addresses the street; minimises impacts on neighbours' amenity including access to sunlight, daylight, privacy and views; provide usable outdoor open space and; provide convenient pedestrian, bicycle, motor vehicle access and parking. The proposal therefore satisfies the objectives of the control.

5.2.7 Materials and finishes
A suitable external finish schedule is submitted with the application which demonstrates a generally subdued natural and dark coastal colour scheme that shall contribute to local character. The proposal therefore satisfies the objectives of the control.

5.2.8 Landscaped area
As discussed elsewhere in this report, the proposed development is subject to non-discretionary development standards outlined within Chapter 2 of SEPP (Housing) 2021, which includes a landscaped area standard of 30% of the site area. The landscaped area provision of the site is therefore governed by the SEPP as the prevailing instrument and complies.

6 Parking

As discussed elsewhere in this report, the proposed development is subject to the provisions of Chapter 2 of SEPP (Housing) 2021, which includes vehicular parking rates as a development standard for both affordable and non-affordable apartment uses. The proposal is therefore governed by the SEPP as the

prevailing instrument and is numerically compliant.

It is also noted that the proposed development demonstrates suitable provision for visitor, car share, motor vehicle and bicycle parking.

Moreover, Council's Traffic Engineer has reviewed the application in the above context and sought design amendments during the assessment period for reconfigurations to the dual basement parking levels. Council's Traffic Engineer does not object to approval of the proposal, subject to recommended conditions of consent.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

CONCLUSION

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

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

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

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

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

PLANNING CONCLUSION

This proposal is for demolition of existing dwellings and construction of a seven storey residential flat building

containing 40 apartments, and has been referred to the NBLPP as it consists of a residential flat building that is at least four storeys and which is to be assessed under Chapter 4 of the Housing SEPP.

The proposal will deliver a total of 10 affordable housing apartments out of the 40 apartments proposed.

No submissions were received during the community notification period.

In response to the issues raised by Council in the Request for Information, including the advice and recommendations from DSAP, the applicant made substantial amendments to the proposal, including reconfigurations and reductions to Levels 4, 5 and 6 to provide a recessive visual presentation from the levels below at the northern elevation, as well as enhanced separation to the northern side and south-west (rear) boundaries. Furthermore, a landscape planter addition above the basement driveway entrance was provided to address referral requirements from Council's Landscape Officer, reconfigurations to the basement parking arrangement in response to referral requirements from Council's Traffic Engineer, an Operational Waste Management Plan provided in response to referral requirements from Council's Waste Officer, as well as additional solar access studies provided in relation to on-site communal open space and future development to the south.

The DSAP were supportive of the development overall, subject to incorporating some relatively minor amendments to further improve internal and external amenity. Amended information provided during the assessment process has generally adopted the DSAP recommendations as detailed in the relevant section of this report.

Of the 10 affordable housing apartments proposed, five of these apartments are 'in-fill affordable housing' apartments within the meaning of Chapter 2, Part 2, Division 1 of the Housing SEPP. As the in-fill affordable housing component is greater than 10% of the entire building's gross floor area, the development benefits from a 20.2% uplift in building height and floor space ratio (FSR) above the baseline standards of 22 metres (m) and 2.2:1 which are the standards that apply under Chapter 6 Low and Mid Rise Housing of SEPP (Housing) 2021. This uplift in building height and density that is permitted pursuant to Section 16 of the Housing SEPP, results in new a height standard of 26.4m and new FSR standard of 2.64:1.

The development is comfortably compliant with all the respective development standards, proposing a maximum building height of 24.07m and floor space ratio 1.88:1.

The proposal results in minor departures from the WDCP 2011 controls in relation to building setbacks presenting to the street and to the R2 zoned land to the north. However, given the contextual relationship to the recently constructed boarding house on that adjoining site which is in the R2 zone, and high level of articulation of the building façades, the variations are supported on merit.

The assessment has considered the merits of the development in accordance with the relevant matters for consideration under Section 4.15(1) of the EP&A Act and concludes that the development is acceptable for the following reasons:

- The development supports the NSW Government's priorities to deliver well-located housing as it will deliver 40 new apartments including 10 affordable housing apartments in an accessible location, being in close proximity to the Frenchs Forest town centre and Northern Beaches Hospital.

- The development is consistent with Council's Local Strategic Planning Statement, which aims to "*Locate seniors housing, social and affordable housing near centres and high-frequency public transport*".

- The bulk and scale of the development provides an appropriate response to Council's local controls having regard to the required podium and tower setbacks, while benefiting from an increase in building height and density as part of the State Government's initiatives to in relation to low and mid rise housing and affordable housing in well-located areas. Despite the expanded development standards granted to the site by Chapter 2 and Chapter 4 of SEPP Housing, the proposal does not seek to maximise the site's development potential and sits well below the maximum permitted height and floor space ratio.

- The recessed visual presentation and reduced gross floor area of the upper floors compared to the lower floors, results in the proposed three-storey uplift to the prior approved development being of an acceptable size scale, whilst also exhibiting design excellence having regard to principles contained within Clause 8.5 of the WLEP 2011.

- The development will provide an appropriate medium density development amongst a high quality landscaped setting which will provide for the housing needs of the community, consistent with the objectives of the R3 Medium Density Residential zone.

- The proposed apartment mix, size and layout satisfies the objectives of the Housing SEPP and ADG and will meet the housing needs of the community.

- The development would deliver positive social and economic impacts through the delivery of 10 affordable housing apartments, the provision of construction jobs and the direction of $25.420 million of capital investment into the Northern Beaches local government area.

- The residual impacts associated with the demolition, construction and operation of the development can be appropriately managed and mitigated by the recommended conditions of consent.

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

REASON FOR DETERMINATION

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2025/1215 for Demolition works, amalgamation of two lots into one and construction of a residential flat building on land at Lot 3 DP 25713, 4 Gladys Avenue, FRENCHS FOREST, Lot 1 DP 25713, 2 Gladys Avenue, FRENCHS FOREST, subject to the conditions printed below:

Terms and Reasons for Conditions

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

DEFERRED COMMENCEMENT CONDITIONS

1. **Stormwater Drainage Easement**
   As the natural fall of the land is towards the rear of the site the disposal of stormwater drainage is to be in accordance with the drainage plan submitted by Hydracor . The applicant must provide Council with evidence that the current stormwater easement running through 45 Bluegum Crescent Frenchs Forest benefits the subject properties (is 2 and 4 Gladys Avenue) on title in order to activate the consent.

   Stormwater drainage plans are to be submitted to Council for written approval detailing disposal of stormwater from the site in accordance with Council's Water Management Policy.

   Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

Evidence required to satisfy these conditions must be submitted to Council (through the NSW Planning Portal) within two (2) years of the date of this consent, or the consent will lapse in accordance with the Environmental Planning and Assessment Regulation.

Applicants must submit a request for operational consent to Council via the NSW Planning Portal and upload all relevant documentation. This can be completed through accessing the relevant portal application ID and navigating to 'Request for Operational Consent' in the Actions dropdown menu.

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

GENERAL CONDITIONS

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

Approved Plans				
Plan Number	**Revision Number**	**Plan Title**	**Drawn By**	**Date of Plan**
001	G	External Finishes	Smith & Tzannes	26/5/2026

010	G	Site Plan	Smith & Tzannes	26/5/2026
021	G	Demolition Plan	Smith & Tzannes	26/5/2026
100	G	Basement C2 Plan	Smith & Tzannes	26/5/2026
101	G	Basement C1 Plan	Smith & Tzannes	26/5/2026
102	G	Ground Floor Plan	Smith & Tzannes	26/5/2026
103	G	Level 1 Plan	Smith & Tzannes	26/5/2026
104	G	Level 2 Plan	Smith & Tzannes	26/5/2026
105	G	Level 3 Plan	Smith & Tzannes	26/5/2026
106	G	Level 4 Plan	Smith & Tzannes	26/5/2026
107	G	Level 5 Plan	Smith & Tzannes	26/5/2026
108	G	Level 6 Plan	Smith & Tzannes	26/5/2026
109	G	Roof Plan	Smith & Tzannes	26/5/2026
200	G	Elevations	Smith & Tzannes	26/5/2026
201	G	Elevations	Smith & Tzannes	26/5/2026
202	G	Elevations	Smith & Tzannes	26/5/2026
203	G	Elevations	Smith & Tzannes	26/5/2026
204	G	Section A	Smith & Tzannes	26/5/2026
205	G	Section B	Smith & Tzannes	26/5/2026
206	G	Section C	Smith & Tzannes	26/5/2026
207	G	Section D	Smith & Tzannes	26/5/2026

Approved Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**
Landscape Plan	D	Paul Scrivener Landscape	18/2/2026
Operational Waste Management Plan	A	Smith & Tzannes	18/2/2026
BASIX Certificate	1806836M_02	Smith & Tzannes	18/2/2026
Stormwater Management Plan	J	Hydracor Consulting Engineers	15/8/2025
Access Report	A	Vista Access	29/7/2025
Traffic and Parking Assessment Report	-	Varga Traffic Planning	28/7/2025
Geotechnical Investigation Report	2	Morrow	15/8/2025
Flora and Fauna Assessment	-	East Coast Ecology	6/6/2024
NCC Report	-	Design Right Consulting	6/8/2025
Arboricultural Impact Assessment	-	Redgum Horticultural	3/8/2025

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

approved plans prevail.

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

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

3. **Compliance with Other Department, Authority or Service Requirements**
The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	9/9/2025

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

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

4. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i) showing the name, address and telephone number of the Principal Certifier for the work, and

(ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

(iii) stating that unauthorised entry to the work site is prohibited.

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

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

(i) in the case of work for which a principal contractor is required to be appointed:

A. the name and licence number of the principal contractor, and

B. the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

A. the name of the owner-builder, and

B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

(i) protect and support the adjoining premises from possible damage from the excavation, and

(ii) where necessary, underpin the adjoining premises to prevent any such damage.

(iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

(iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

5. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.

(c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.

(d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(g) Prior to the release of the Construction Certificate, payment of the following is required:

i) Long Service Levy - Payment should be made to Service NSW (online or in person) or directly to the Long Service Corporation. Payment is not required where the value of the works is less than $250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.

iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.

(h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

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

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

(l) Prior to the commencement of any development onsite for:

i) Building/s that are to be erected

ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

iii) Building/s that are to be demolished

iv) For any work/s that is to be carried out

v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.

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

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

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

(i) Swimming Pools Act 1992

(ii) Swimming Pools Amendment Act 2009

(iii) Swimming Pools Regulation 2018

(iv) Australian Standard AS1926 Swimming Pool Safety

(v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools

(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

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

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

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

FEES / CHARGES / CONTRIBUTIONS

6. **Security Bond**

A bond (determined from cost of works) of $10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

7. **Frenchs Forest Town Centre - Infrastructure Contributions**

Prior to issue of any Construction Certificate or Subdivision Certificate for the construction of the residential flat building (whichever occurs first), the applicant must pay a total development contribution to Council of $1,460,264.00 in accordance with the Frenchs Forest Town Centre Contributions Plan 2023.

The monetary contribution is based on the 40 dwellings in the residential flat building comprising:

- 1 x 1 bedroom dwellings
- 6 x 2 bedroom dwellings
- 33 x 3+ bedroom dwellings (including 2 x 3 bedroom dwellings)

A credit for the existing approved development has been accounted for, namely:

- 2 existing 3-bedroom dwellings on the development site

The monetary contribution will be adjusted at the time of payment in accordance with the provisions of the Frenchs Forest Town Centre Contributions Plan 2023. Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Principal Certifier.

The Applicant may negotiate with Council for the direct provision of other facilities and services, and/or the dedication of land (other than land identified above) in lieu of the monetary contribution above (or any portion of that monetary contribution) through a Planning Agreement between Council and the Applicant in accordance with the Frenchs Forest Town Centre Contributions Plan 2023 and Council’s Planning Agreement Policy (as amended). The Planning Agreement between the Applicant and Council must be finalised, formally signed and in place prior to the payment of the monetary contribution.

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

Reason: To provide for contributions in accordance with the Contribution Plan that enables the

provision of local infrastructure and services commensurate with the increased demand resulting from development in the Frenchs Forest Place.

8. **Agreement to Transfer Affordable Housing Dwellings**
The applicant must enter into a Deed with Council providing for the transfer of title of the affordable housing dwellings identified within this consent to Council, at no cost to Council, prior to the issue of a Construction Certificate.

The Deed is to be generally in accordance with the Housing Transfer Deed template available at Council.

Reason: To ensure the affordable housing is dedicated to Council.

9. **Affordable Housing Contribution - Payment of money in lieu of floor space**
In accordance with the Northern Beaches Affordable Housing Contributions Scheme and Clause 6.11 of *Warringah Local Environmental Plan 2011*, the applicant shall make a monetary contribution to Council for the purpose of providing Affordable Housing.

Monetary contributions are to be paid to Council by unendorsed bank cheque prior to the issue of a Construction Certificate. The procedure for making payment is on Council's website.

The contribution is $953,749.40 based on the in lieu monetary contribution rate of $14,855.91/sqm multiplied by 64.2 sqm (10% of 4,662sqm of total residential gross floor area minus 402sqm (dwellings to be dedicated)).

The contribution amount quoted in this condition is based on contribution rates at the time of determination. If the contribution is paid after the indexation period in which the consent is granted, being March 2026 to February 2027, the contribution amount will be adjusted by reference to the Northern Beaches LGA median sales price - strata ('MDP') (as detailed within the NSW Government Family and Community Services Rent and Sales Report) using the following formula:

Contribution at Time of Payment = C x (MDP2 / MDP1), where:

(i) C is the original contribution amount as shown above;

(ii) MDP2 is the MDP as detailed in the most recently published issue of the NSW and Sales Report as at the time of payment; and

(iii) MDP1 is the MDP contained in the June 2025 quarter of the NSW Family and

In the event that the NSW Government Family and Community Services Rent and Sales Report is no longer in publication as at the date of payment, the contribution amount is to be indexed having regard to an equivalent index as determined by Council.

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

Reason: To ensure affordable housing can be provided.

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

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

Contribution Type	Amount
Housing and Productivity Contribution	$302,741.04
Total:	**$302,741.04**

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

$$\frac{highest\ PPI\ number}{consent\ PPI\ number}$$

where—

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

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

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

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

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

Development	Time by which HPC must be paid
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
Manufactured home estate for which no construction certificate is required	Manufactured home estate for which no construction certificate is required

4. The HPC must be paid using the NSW planning portal (https://pp.planningportal.nsw.gov.au/).

5. If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:
   a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
   b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

   If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 2 at the time of payment.

6. Despite condition 1, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024 exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Reason: Statutory requirement.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

11. **Amended Landscape Plan**

a) Amended Landscape Plan(s) shall be issued to the Certifier prior to the issue of a Construction Certificate to include the following details:
i) coordinate the planting area around the private open space area of Unit 0.06 and update planting as necessary,
ii) include mid-storey planting (5-7m high) in the garden bed in the rear setback that contains the transplanted palms (#29 and #95),
iii) remove reference to turfed areas in the eastern front setback (on drawing 1 of 4) and if Viola is to be used as a path for access to the southern side pedestrian gate, provide a direct route from the gate to the street,
iv) neighbouring trees 57, 60 and 98 shall be shown to be retained.

b) Certification shall be submitted to the Certifier that these amendments have been documented.

Reason: Landscape amenity.

12. **Basement Design Near Trees to be Retained**

a) Basement structural layout plans for the works near existing trees 35, 38, and 78 shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture, and a qualified Structural Engineer, to recommend design and location for the construction works. If deemed necessary by the Arborist a non-destructive tree root investigation may be completed complying with clause 3.3.4 of AS 4970-2009 Protection of trees on development sites to locate critical tree roots and help inform the design.

b) The Arborist shall review, comment, recommend design revision as required and approve the layout, to ensure the design and location of the works will be manageable in terms of tree

protection measures.

c) The Arborist shall submit certification to the Certifier that the design and location of the works are accepted.

d) The agreed structural layout plans shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate.

Reason: Tree protection.

13. **On Slab Landscape Planters**
a) Details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided. Landscape treatment details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, and services connections. The following soil depths are required to support landscaping: 300-450mm for groundcovers; 500-600mm for shrubs; and 800-1200mm for trees.

b) Design certification shall be submitted to the Certifier by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and ensure waterproofing and drainage is installed.

14. **Vehicle Driveway Gradients**
The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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.

15. **No Clearing of Vegetation**
Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

16. **Installation of Nest Boxes**
A minimum of 1 nest box is to be installed in retained trees / throughout the trees within areas of retained native vegetation / on the site. If any additional hollows are identified for removal these will have to be replaced with appropriate artificial hollows for the species being displaced.

Nest boxes must be attached in accordance with industry best practice (e.g. expandable tree sensitive methods).

Written certification of compliance is to be prepared by the Project Ecologist and submitted to the Certifier prior to issue of the Construction Certificate.

Reason: To maintain wildlife habitat.

17. **Amendment of Landscape Plans**
The submitted Landscape Plan is to be amended in accordance with the following:

- Plants are to be selected from the PCT 3259 Sydney Coastal Shale-Sandstone Forest ecological community
- Removal of all exempt species as identified on Council's website: https://www.northernbeaches.nsw.gov.au/environment/trees/exempt-tree-species-list
- Removal of all species identified as weeds on the Northern Beaches Local Priority Weed Management Plan
- Removal of all species identified as weeds under the Biosecurity Act 2015 (i.e. Murraya paniculata)

The Landscape Plan is to be amended by a qualified landscape architect and provided to the Certifier prior to issue of the Construction Certificate.

Reason: To maintain and replace habitat on the site.

18. **On-Site Stormwater Detention Details**
The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Hydracor, drawing number CC230185 C4-C9 Issue J, dated November 2023. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

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

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

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

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

20. **Vehicle Crossings Application**
The Applicant is to submit an application (using form number 4028 available on Council

website) with Council for driveway levels to construct one vehicle crossing 6 metres wide in accordance with Northern Beaches Council Standard Drawing Normal in accordance with Section 138 of the Roads Act 1993.

Note, driveways are to be in plain concrete only.

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

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

Reason: To facilitate suitable vehicular access to private property.

21. **Detailed Design of Stormwater Treatment Measures**
Prior to the issue of the Construction Certificate, a certificate prepared by a qualified Civil Engineer must be submitted to the Certifier. The certificate shall confirm that the stormwater treatment measures have been designed in accordance with:
• The approved stormwater report and plans (CC230185 – HYDRACOR Rev J dated 15.08.25)
• Council's Water Management for Development Policy
Reason: To ensure the protection of the receiving environment through compliance with approved water quality and stormwater management standards.

22. **Affordable Housing - Fittings and Finishes**
The affordable housing dwellings identified within this consent must have internal fittings, finishes and services to the same standard as the other dwellings within the development.

Details of all internal fittings, finishes and services must be submitted to Council, and written confirmation received from Council to the effect that it is satisfied that the proposed internal fittings, finishes and services of the affordable housing dwelling(s) are at the same standard as other dwellings within the development prior to the issue of a Construction Certificate.

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

Reason: To ensure a high standard of affordable housing.

23. **Car Parking Standards**
The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of a construction certificate.

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

24. **Vehicular Swept Paths**
Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The

drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Details demonstrating compliance with this condition must be submitted to the Principal Certifier prior to the issue of the construction Certificate.

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

25. **Construction Traffic Management Plan**
A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to Council via an application for a Permit to Implement Traffic Control. The application form can be accessed via https://www.northernbeaches.nsw.gov.au/council/forms. Approval of the permit application by the Northern Beaches Council Traffic Team is required prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
    - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
    - Demonstrate that direct access from a public space/road is not viable for each stage of works.
    - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
    - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
    - No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
    - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.

- If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
- A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
- A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
    - Compare the post-construction report with the pre-construction report,
    - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
    - Should any damage have occurred, identify remediation actions taken.
    - Be submitted to Council with the Occupation Certificate.

- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.

- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", TfNSW' Manual – "Traffic Control at Work Sites".
All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.
A copy of the approved CTMP must be kept on-site at all times while work is being carried out. The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

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

26. **Removal of Redundant Driveways**
All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Suitably prepared plans shall be submitted to for an approval under and approved by Council prior to the issue of the Construction Certificate. All costs associated with the works shall be borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy.

27. **On-Street Work Zone**
The applicant shall lodge an application for a work zone for the frontage of the site to Council for consideration and approval. The provision of a work zone may require referral to the Northern Beaches Local Transport Forum. Application forms for work zones are available on Council's website. Applications shall be lodged at least 4 weeks prior to work commencing.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.

28. **Submission of Engineering Plans (standard from development engineers).**
The submission is to include four (4) copies of Civil Engineering plans for the design of:

- The indented loading bay as shown on the ground floor plan REV F 25/5/2026 - 23_030 DA2-A-102.
- Signage plan indicating the loading zone restriction to AS1742 and TfNSW requirements.
- Conversion of the existing rolled kerb and gutter to standard kerb and gutter with suitable transitions.
- Provision of a new 2m wide footpath along the site frontage.

These are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Section 138 and/or 139 applications are to be submitted to Council for Local Traffic Committee approval.

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

29. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**
The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

30. **Engagement of Project Ecologist**
A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with the Flora and Fauna Assessment Report (East Coast Ecology, June 2024).

The Project Ecologist must have one of the following memberships / accreditation:

- Practising member of the NSW Ecological Consultants Association (https://www.ecansw.org.au/find-a-consultant/) OR
- Biodiversity Assessment Method Accredited Assessor under the relevant legislation (https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor)

Evidence of engagement of the Project Ecologist is to be provided to the Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

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

At the time of determination the following (but not limited to) Australian Standards applied:

(a) AS2601.2001 - Demolition of Structures**

(b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
(c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
(d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
(e) AS 4970 - 2009 'Protection of trees on development sites'**
(f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
(g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
(h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
(i) AS 2890.5 - 1993 Parking facilities - On-street parking**
(j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
(k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
(l) AS 1428.1 – 2009* Design for access and mobility - General requirements for access – New building work**
(m) AS 1428.2 – 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Principal Certifier to ensure compliance with this condition and that the relevant Australian Standards are adhered to.

The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website.

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

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

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

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

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

33. **External Finishes to Roof**
The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

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

34. **Surrender of Consent**
The applicant shall surrender to Council Development Consent No: DA2023/1751 in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

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

Reason: To prevent inconsistencies between consents applying to the site (ref 4.17 & 4.63 EPAA & cl68 EPA Regulation 2021).

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

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

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

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

36. **Waste and Recycling Requirements**
Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifier prior to the issue of any Construction Certificate.

If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

37. **Project Arborist**
a) A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

b) The Project Arborist shall be in attendance and supervise all works as nominated in the approved Arboricultural Impact Assessment, and in particular:
i) tree protection measures and works specified under sections 14.7, 14.10, 14.13, 16.2, 16.3, 16.4, 16.5, 16.6, 16.7,
ii) all identified hold points and any tree canopy pruning requirements,
iii) any footpath requirement in the road reserve must be constructed under supervision of the Arborist, and any design recommendations from the Arborist incorporated as required.

c) All tree protection measures specified must:
i) be in place before work commences on the site, and
ii) be maintained in good condition during the construction period, and

iii) remain in place for the duration of the construction works.

d) The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS 4970-2025 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

38. **Tree Removal Within the Property**
a) This consent approves the removal of existing trees on the subject site as listed below:
i) prescribed trees - 9, 11, 13, 14, 17, 18, 19, 23, 24, 41, 45, 64, 65, 68, 73, 79, 80, 81, 85, 89, 93,
ii) exempt trees - 5, 6, 7, 8, 10, 12, 15, 16, 20, 21, 25, 26, 27, 31, 39, 40, 43, 44, 46, 47, 48, 49, 50, 51, 52, 53, 61, 62, 63, 66, 67, 69, 70, 71, 72, 76, 77, 82, 83, 84, 86, 87, 88, 90, 92, 95, 96, 101.

b) A qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

39. **Demolition Traffic Management Plan**
As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to Council via an application for a Permit to Implement Traffic Control. The application form can be accessed via https://www.northernbeaches.nsw.gov.au/council/forms. Approval of the permit application by the Northern Beaches Council Traffic Team is required prior to issue of any Construction Certificate.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Include a Traffic Control Plan prepared by an TfNSW accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.

- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", TfNSW' Manual – "Traffic Control at Work Sites".
All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Demolition Traffic Management Plan is submitted.

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

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

Property / Properties: 128 and 130 Frenchs Forest Road West and 6 Gladys Avenue.

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

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

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

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

commencement of any works on site.

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

41. **Sediment and Erosion Controls**
For developments that include more than 2500sqm of disturbance:

A Soil and Water Management plan (SWMP), in accordance with section 2.3 of the Blue Book, must be prepared and certified by a suitably qualified professional.

For sites larger than 250sqm and less than 2500sqm of disturbance:

An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified person in accordance with the following considerations and documents:

- Sites that have slopes exceeding 20% (measured in any direction across the site), and/or where works are within the high-water mark or adjacent to a waterway or watercourses are considered environmentally sensitive areas. These sites require a site-specific ESCP which must be prepared and certified by a suitably qualified professional,
- The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate – Volume 1, 4th Edition (2004)' (the Blue Book), and
- The 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure).

The ESCP must include the following as a minimum:

- Site Boundaries and contours,
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application),
- Location of site access, proposed roads and other impervious areas (e.g. parking area and site facilities),
- Existing and proposed drainage patterns with stormwater discharge points,
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected,
- North point and scale,
- Type of erosion control measures to divert and slow run-off around and within the site.

Environmentally sensitive areas (i.e. Sites that have slopes exceeding 20% and/or where works are within the high-water mark or adjacent to a waterway or watercourses) must also consider:

- Identify and mark any environmentally sensitive areas on and immediately next to the site and how you will protect these, including any appropriate buffer zones (for example, marking them out as 'no-go' areas),
- Details on vegetation you will clear, as well as areas of vegetation you will keep (mark no go areas),
- Detail on soil information and location(s) of problem soil types, especially dispersive soils and potential or actual acid sulfate soils,

- Location of any natural waterways that could receive run-off and how these will be protected these from run-off.

For sites smaller than 250sqm or where the disturbance is less than 50sqm:

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- Diverting uncontaminated run-off around cleared or disturbed areas, and
- Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- Preventing the tracking of sediment by vehicles onto roads, and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- Identifying any environmentally sensitive areas on and immediately next to the site, and demonstrating how these will be protected (for example, by designation as no-go areas).

Details demonstrating compliance with the relevant requirements above are to be submitted to the Certifier, and the measures implemented, prior to the commencement of works.

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

42. **Road Occupancy Licence (ROL) from Roads and Maritime Services [Show / Hide]**
The developer shall apply for a Road Occupancy Licence (ROL) from the TfNSW Transport Management Centre (TMC) prior to commencing work within the classified road reserve or within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified with 'Prepare a Work Zone Traffic Management' accreditation or equivalent. Should the TMP require a reduction of the speed limit, a Direction to Restrict will also be required from the TMC.

Reason: To inform the relevant Roads Authority of proposed disruption to traffic flows.

DURING BUILDING WORK

43. **Protection of Existing Street Trees**
a) All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree(s) fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS 4970-2025 Protection of trees on development sites. As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

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

Reason: Street tree protection.

44. **Tree and Vegetation Protection**
a) Existing trees and vegetation shall be retained and protected, including:
i) all trees within the site not approved for removal,
ii) all trees and vegetation located on adjoining properties,
iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:
i) tree protection shall be in accordance with AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2025 Protection of trees on development sites,
ix) the activities listed in section 4.2 of AS 4970-2025 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS 4373-2007 Pruning of amenity trees,
xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) The Principal Certifier must ensure that:
i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as complaint to AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

45. **Pre-clearance Survey - Certified by Project Ecologist**
Any habitat for for native wildlife (including tree hollows) approved for removal is to be inspected for native wildlife by the Project Ecologist prior to its removal. If native wildlife is found within habitat to be removed, the animal is to be safely relocated by the Project Ecologist to a suitable location.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be prepared by the Project Ecologist and provided to the Principal Certifier prior to any Occupation Certificate.

Reason: To protect native wildlife.

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

Reason: To protect native wildlife.

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

Reason: To protect wildlife habitat.

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

Reason: Public safety.

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

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

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

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

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

Reason: To ensure public safety.

52. **Handling of asbestos during demolition**
While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

- Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and disposal of any asbestos material;
- Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
- Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA online reporting tool WasteLocate.

Reason: To ensure that the removal of asbestos is undertaken safely and professionally.

53. **Geotechnical Requirements**
All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

54. **Demolition Works - Asbestos**
Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

55. **Survey Certificate**
A survey certificate prepared by a Registered Surveyor at the following stages of construction:

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

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

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

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

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

56. **Maintenance of Sediment and Erosion Controls**
Erosion and sediment controls must be adequately maintained and monitored at all times, particularly surrounding periods of rain, and shall remain in proper operation until all development activities have been completed and the site is in a state where no substance other than rainwater can enter the stormwater system and waterways.

All sediment control measures must be maintained at, or above, their design capacity.

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log book or inspection test plan (ITP) must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

Details demonstrating compliance must be provided to the Certifier during demolition and building works.

Reason: Protection of the receiving environment and to ensure no substance other than rainwater enters the stormwater system and waterways.

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

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

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

58. **Traffic Control During Road Works**
Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with Transport for NSW and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public Safety.

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

60. **Staff and Contractor Parking**
The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. All Staff and Contractors are to use the basement parking once available. All necessary facilities are to be provided to accommodate this requirement including lighting in the basement, security cameras, etc.

Reason: To ensure minimum impact of construction activity on local parking amenity.

61. **Parking Enclosure**
No parking spaces, or access thereto, shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior consent from Council.

Reason: To ensure accessibility is maintained.

62. **Waste/Recycling Requirements (Waste Plan Submitted)**
During demolition and/or construction the proposal/works shall be generally consistent with the submitted Demolition and Construction Waste Management Plan registered with Council on 29/08/2015 (TRIM 2025/569912)

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

63. **Waste/Recycling Requirements (Materials)**
During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

64. **Landscape Completion**
a) Landscape works are to be implemented in accordance with the approved amended Landscape Plan(s), and inclusive of the following conditions:
i) landscape works are to be contained within the legal property boundaries,
ii) planting shall be installed as indicated on the approved amended Landscape Plan(s) unless otherwise imposed by any conditions,
iii) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of AS2303 – Tree Stock for Landscape Use; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located within garden bed or within a prepared bed

within lawn,
iv) all *Angophora costata*, *Banksia integrifolia*, *Elaeocarpus reticulatus*, *Eucalyptus paniculata*, *Melaleuca quinquenervia* and *Tristaniopsis laurina* 'Luscious' shall be located at least 3.0 metres from buildings or more and at least 1 metre from common boundaries,
v) mass planting shall be installed in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch.

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

Reason: Environmental amenity.

65. **Condition of Retained Vegetation**
a) Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:
i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
ii) extent of damage sustained by vegetation as a result of the construction works,
iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

66. **No Weeds Imported On To The Site**
No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

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

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

67. **Priority Weed Removal and Management**
All Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed using an appropriate control method.

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

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

68. **Stormwater Disposal**
The stormwater drainage and on site detention works shall be certified as compliant with Councils Water Management for Development Policy and the approved drainage plans by the design engineer. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

development.

69. **Certification for the Installation of Stormwater Treatment Measures**
Prior to the issue of the Occupation Certificate, a certificate prepared by a Civil Engineer who is a member of Engineers Australia and listed on the National Engineers Register must be submitted to the Principal Certifier. The certificate shall confirm that:
- The stormwater treatment measures have been installed in accordance with the approved Construction Certificate plans
- All treatment measures are complete, operational, in good condition, and free from sediment or obstruction

Reason: To ensure the protection of the receiving environment through proper installation and functioning of stormwater infrastructure.

70. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures**
A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

71. **Stormwater Treatment Measures Operation and Maintenance Plan**
An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:

a) Work as executed drawings
b) Intent of the stormwater treatment measures including modelled pollutant removal rates
c) Site detail showing catchment for each device
d) Vegetation species list associated with each type of vegetated stormwater treatment measure
e) Impervious area restrictions to maintain the water balance for the site
f) Funding arrangements for the maintenance of all stormwater treatment measures
g) Identification of maintenance and management responsibilities
h) Maintenance and emergency contact information

2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
   a) Activity description, and duration and frequency of visits

   Additionally for vegetated devices:
   b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
   c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure

3. Maintenance schedule and procedure - ongoing
   a) Activity description, and duration and frequency of visits
   b) Routine maintenance requirements
   c) Work Health and Safety requirements
   d) Waste management and disposal
   e) Traffic control (if required)
   f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
   g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

72. **Works as Executed Drawings - Stormwater Treatment Measures**
Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

73. **Affordable Housing - Dedication of Dwellings**
The affordable housing dwellings (shown hatched on Plan 23_030 DA2-A-810, Rev G dated 26/05/2026 and listed below (including car space) must be dedicated to Northern Beaches Council within 28 days of the later of:

1. the registration of any subdivision of the development creating separate title for the affordable housing dwellings; and,
2. the issue of an Occupation Certificate for those dwellings as outlined below:
   a. list units, car spaces, and adaptable units, gross floor area of each unit

Unit	Car Space	Gross Floor Area (m2)
0.02	1 car space per unit to be allocated	82
0.03	1 car space per unit to be allocated	101
0.07	1 car space per unit to be allocated	55
1.02	1 car space per unit to be allocated	82
2.02	1 car space per unit to be allocated	82
	Total	**402**

Reason: To ensure the affordable housing is provided in accordance with clause 6.11 of *Warringah Local Environmental Plan 2011*.

74. **Affordable Housing - Fittings and Finishes**
Prior to the issue of an Occupation Certificate, written confirmation must be received from Council to the effect that Council is satisfied that the proposed internal fittings, finishes and services are at the same standard as other dwellings within the development.

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

Reason: To ensure a high standard of affordable housing.

75. **Signage and Linemarking – External**
A plan demonstrating the proposed signage and line marking within Council's Public Domain shall be prepared by a suitably qualified person and submitted to and approved by the Local Traffic Committee prior to the issue of an Occupation Certificate.

Note: The applicant is advised that the plan will require approval by the local Traffic Committee if the proposal requires change in existing parking conditions and hence, adequate time should be allowed for this process

Reason: To ensure consistent parking amenity.

76. **Signage and Linemarking – Implementation**
The applicant is to install all signage and linemarking, as per any Roads Act approval. These works are to be completed prior to the issue of an Occupation Certificate.

Reason: To ensure compliance with the Road Act.

77. **Signage and Linemarking - Internal**
A plan demonstrating appropriate wayfinding signage for cyclists is to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: to maintain cyclist safety.

78. **Disabled Parking Spaces**
Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

79. **Shared Zone Bollard**
A bollard is to be provided at the shared zone between disabled spaces in accordance to Australian Standards AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

80. **Convex Mirror at Ramps**
One (1) convex mirror is to be installed and maintained at the curved ramp leading from first floor to the second floor. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To minimise vehicular conflicts at ramps.

81. **Geotechnical Certification Prior to Occupation Certificate**
A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in Condition 1 of this consent.
Written certification is to be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

82. **Car Share Parking**
(a) A minimum of 6 car parking spaces for the exclusive use of Car Share scheme vehicles are to be provided.
(b) The spaces must be retained as common property of the Owners Corporation of the site, and

not sold or leased to an individual owner/occupier at any time.
(c) The spaces must be made available to Car Share operators without a fee or charge.
(d) The spaces must be sign posted for use only by Car Share vehicles and well lit.
(e) The spaces must be publicly accessible at all times.
(f) The Car Share spaces are to be available at the same time that the car park commences operation.

Written evidence demonstrating that offers of Car Share spaces have been made to providers together with the outcome of the offers or a letter of commitment to the service must be submitted to Council.

Letters of commitment must demonstrate the operator's intentions and methods of management of the car share spaces.

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

83. **Stacked Parking Spaces (Residential)**
Stacked parking spaces are to be assigned as the same residential unit which blocks in the parking spaces.

Reason: To minimize conflicts regarding parking areas.

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

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

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

85. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**
The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link:
https://files-preprod-d9.northernbeaches.nsw.gov.au/nbc-prod-files/media/files/2023-12/guide-for-submitting-legal-documents.pdf?1756256223

The form for the application can be found on Council's website using the following link:
https://applications.northernbeaches.nsw.gov.au/T1PRProd/WebApps/eProperty/P1/eSubmit/Tr=WC.WEBGUEST&f=%24P1.ESB.TERMS.VIW&ReturnUrl=%2fT1PRProd%2fWebApps%2fe

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by

Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered

86. **Operational Waste Management for Ongoing Use from Occupation**
Developer to provide all and any equipment required for operational waste management on occupation. Operational waste management plan to be updated to include the expanded development ie: 6 floors. Building manager to move bins to temporary holding bay the evening prior to collection and to return to individual floors and waste storage room the evening after collection has occurred. Waste and both recycling streams to be ollected weekly (plus food organics when available) and vegetation to be collected fortnightly. Parking to be available for Council's 10.5m HRV at kerbside within 6.5m of the temporary collection area.

Reason: To ensure safe, efficient collection of waste and to protect the amenity of the streetscape.

87. **Garbage and Recycling Facilities**
All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.
Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Doors to all waste storage rooms/areas must be a minimum of 1.2m wide, open outwards and able to be latched in an open position.

Waste rooms shall be clear of any steps or columns or other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

88. **Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)**
The units within the development are to be numbered in accordance with NSW Address Policy and User Manual.

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website Unit Numbering for Multi-Unit Developments Form

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with any Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access.

89. **Waste Disposal Verification Statement**
On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within 14 days of completion of the demolition work.

Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

90. **Sydney Water**
A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <http://www.sydneywater.com.au> then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

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

91. **In-Fill Affordable Housing Components**
Prior to the issue of any Occupation Certificate, the applicant must provide to the Certifier and Council evidence that the in-fill affordable housing component is complete and ready for occupation. In this regard, the following is required:

(a) A restriction has been registered against the title of the site on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, requiring:
(i) Apartments 0.06, 1.03, 3.02, 4.04, and 4.05 within the development to be used for the

purposes of affordable housing for a minimum of 15 years from the date of the issue of the Occupation Certificate, as defined by the Environmental Planning and Assessment Act 1979 and State Environmental Planning Policy (Housing) 2021; and
(ii) The above-mentioned apartments are to be managed by a registered community housing provider.

(b) An agreement with a registered community housing provider for the management of the affordable housing has been given to the Registrar of Community Housing, including the name of the registered community housing provider.

Reason: Compliance with State Environmental Planning Policy (Housing) 2021.

92. **Waste and Recycling Facilities Certificate of Compliance**
The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

93. **Waste/Recycling Compliance Documentation**
Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

94. **Positive Covenant for Council and Contractor Indemnity**
A positive covenant shall be created on the title of the land prior to the issue of an Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

95. **Authorisation of Legal Documentation Required for Waste Services**
The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of an Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. A Compliance Certificate, issued by the Certifying Authority, shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

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

96. **Landscape Maintenance**
a) If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components.

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

c) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan(s) and any conditions of consent.

d) A maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

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

Reason: To maintain local environmental amenity.

97. **Compliance with Ecologist's Recommendations – Ongoing**
All impact mitigation measures specified in the approved Flora and Fauna Assessment Report/Biodiversity Development Assessment Report are to be implemented at the appropriate stage of development.

Successful establishment/initiation of ongoing biodiversity measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

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

Reason: To protect wildlife habitat.

99. **Control of Domestic Dogs/Cats**
Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife and habitat.

100. **Maintenance of Stormwater Treatment Measures - Major**
Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.
Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

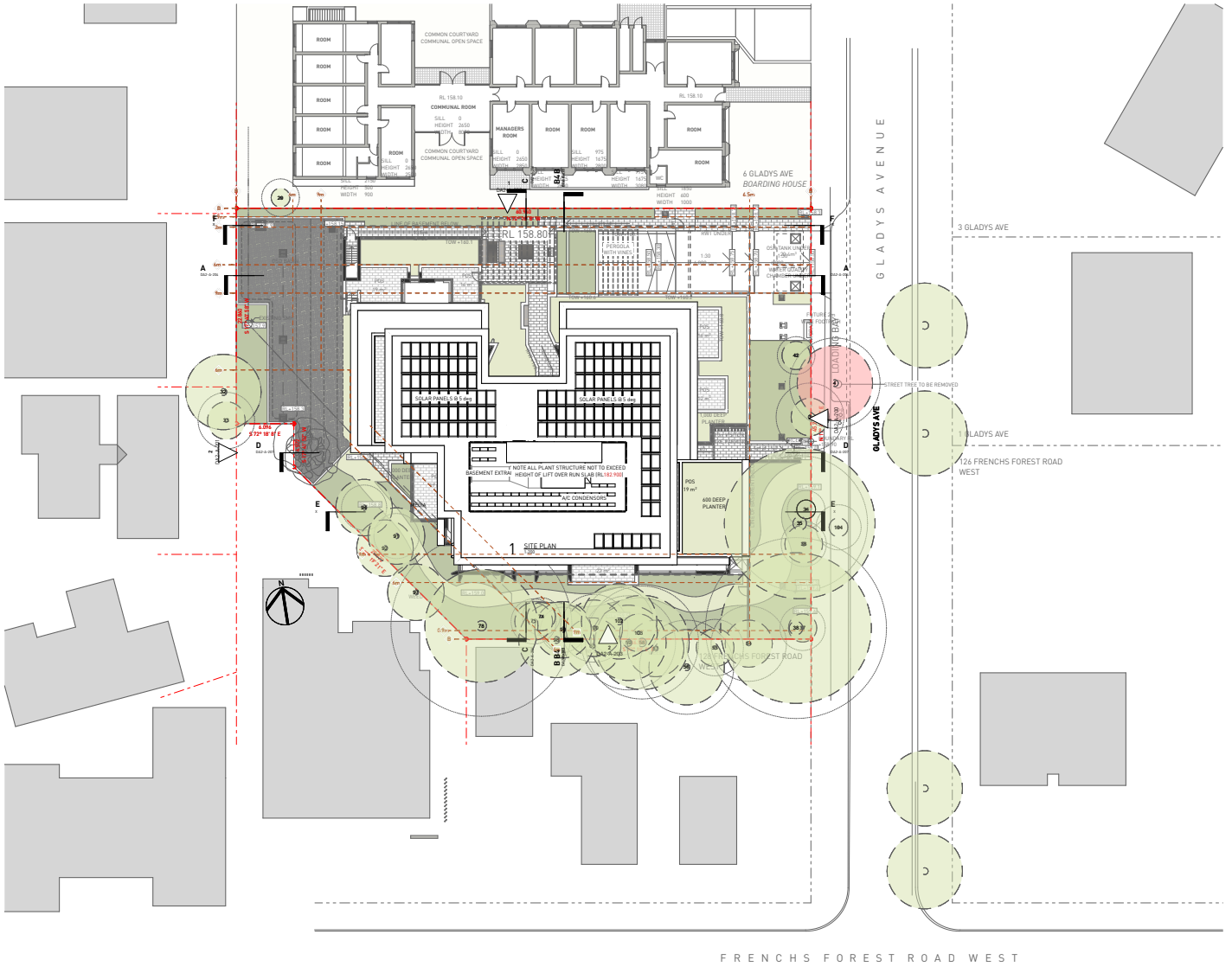
Reason: Protection of the receiving environment.

101. **Landscaping adjoining vehicular access**
The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1,140mm

Reason: To maintain unobstructed sight distance for motorists.

102. **Geotechnical Recommendations**
Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.



NOTES

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NOTES REGARDING DEVELOPMENT APPLICATION DRAWINGS

Minor changes to form and configuration may be required when drawings are subsequently prepared for construction purposes after the grant of development consent.

The design is not in a form suitable for use in connection with building work.

LEGEND

- SITE BOUNDARY LINE
- SITE SETBACK. DISTANCE AS INDICATED
- EXISTING TREE TO BE RETAINED
- TREE PROTECTION ZONE OF RETAINED TREE
- LANDSCAPING - PLANT BED
- LANDSCAPING - LAWN
- LANDSCAPING - PAVING
- LANDSCAPING - PROPOSED PLANTING - SEE LANDSCAPE FOR DETAILS
- LANDSCAPING - PROPOSED PLANTING - SEE LANDSCAPE FOR DETAILS
- LANDSCAPING - PROPOSED PLANTING - SEE LANDSCAPE FOR DETAILS
- WMP - PROPOSED BIN PRESENTATION
- EXISTING SEWER MAN HOLE
- EXISTING SEWER LINE

Refer to the DD-A-001 for further explanations & abbreviations

VERSION
FOR APPROVAL
REV G 26-05-2026 MODEL 23_030 5455 Model 2-4 Gladys

DOCUMENT
SITE PLAN

STAGE
DEVELOPMENT APPLICATION 2

PROJECT
GLADYS APARTMENTS

2-4 GLADYS AVENUE
FRENCHS FOREST

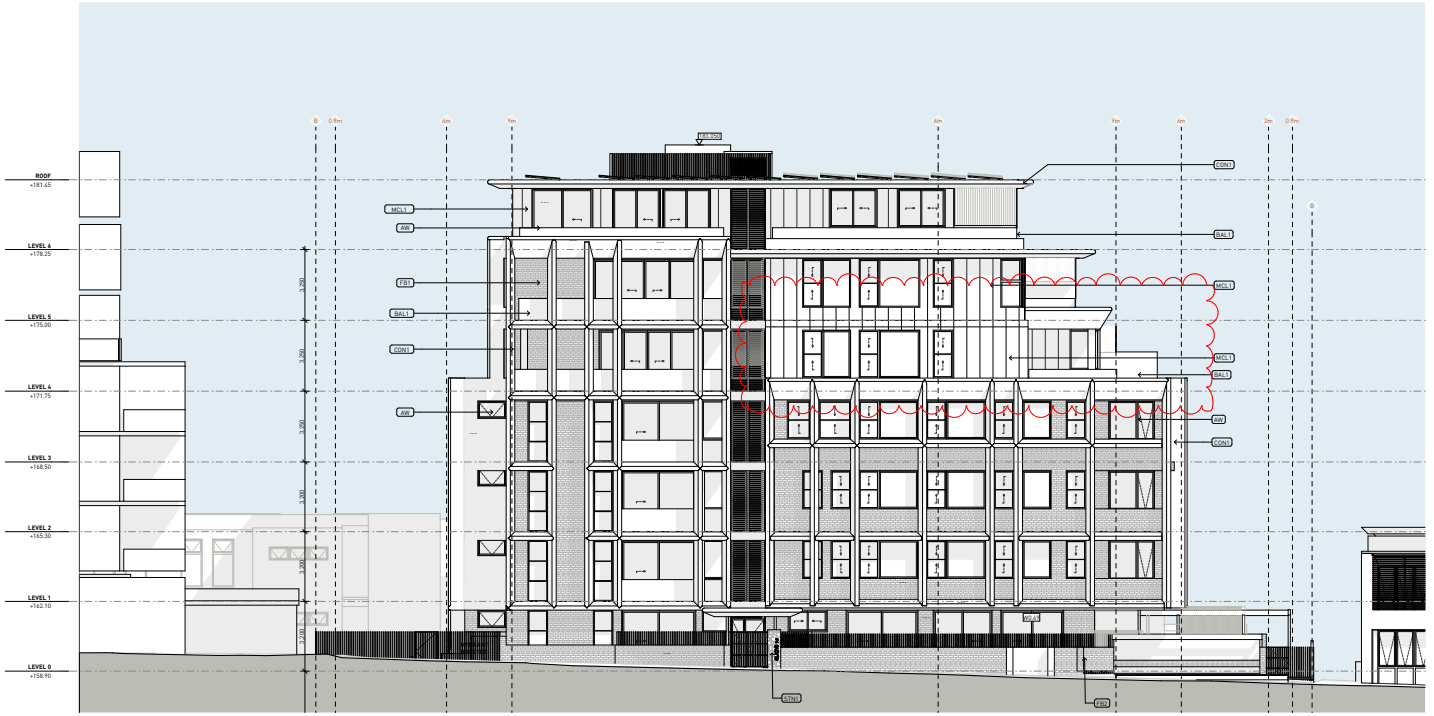
Paul Burns; Gladys Group Pty Ltd

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith ARN 7024

SMITH & TZANNES

23_030 DA2-A-010

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1 EASTERN ELEVATION (STREET)
1:100

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LEGEND

- BOUNDARY LINE
- SETBACK LINE WITH DISTANCE INDICATED
- WINDOW NUMBER
- MAX HEIGHT LINE (13m)
- NATURAL GROUND LEVEL (REMAINING)
- NATURAL GROUND LEVEL (PREVIOUSLY)
- VECHILE CLEARANCE
- FILL AS PER LANDSCAPE SPECIFICATIONS
- STRATA-VAULT SOIL SYSTEM UNDER PAVERS AS PER LANDSCAPE SPECIFICATIONS

Existing & proposed flora not shown for clarity
Refer to the DD-A-001 for further explanations & abbriviations

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DOCUMENT
ELEVATIONS

STAGE
DEVELOPMENT APPLICATION 2

PROJECT
GLADYS APARTMENTS

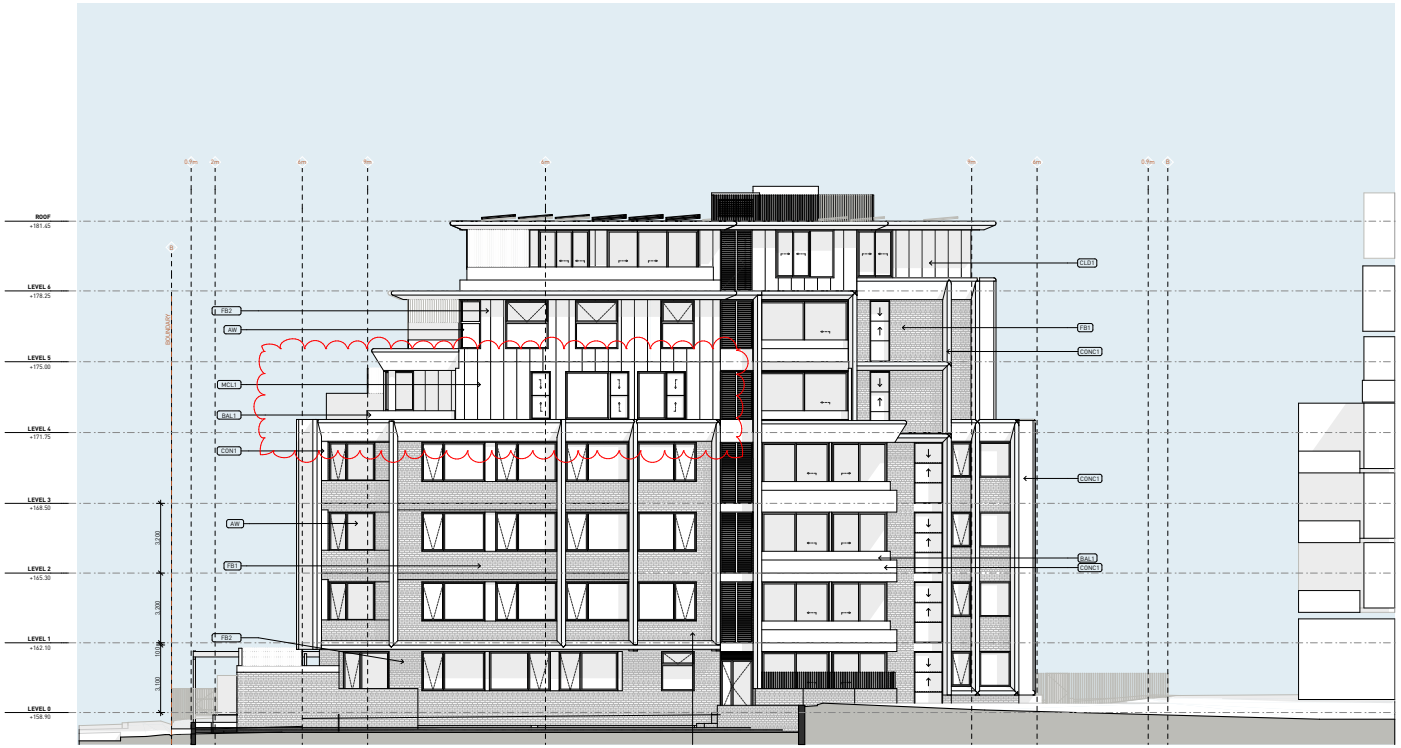
2-4 GLADYS AVENUE
FRENCHS FOREST

Paul Burns; Gladys Group Pty Ltd

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith ARN 7024

SMITH & TZANNES

23_030 DA2-A-200



2 WESTERN ELEVATION
1:100

NOTES

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LEGEND

- BOUNDARY LINE
- 6.5m SETBACK LINE WITH DISTANCE INDICATED
- W(level) # WINDOW NUMBER
- MAX HEIGHT LINE (13m)
- NATURAL GROUND LEVEL (REMAINING)
- NATURAL GROUND LEVEL (PREVIOUSLY)
- VECHILE CLEARANCE
- FILL AS PER LANDSCAPE SPECIFICATIONS
- STRATA-VAULT SOIL SYSTEM UNDER PAVERS AS PER LANDSCAPE SPECIFICATIONS

Existing & proposed flora not shown for clarity
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DOCUMENT
ELEVATIONS

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GLADYS APARTMENTS

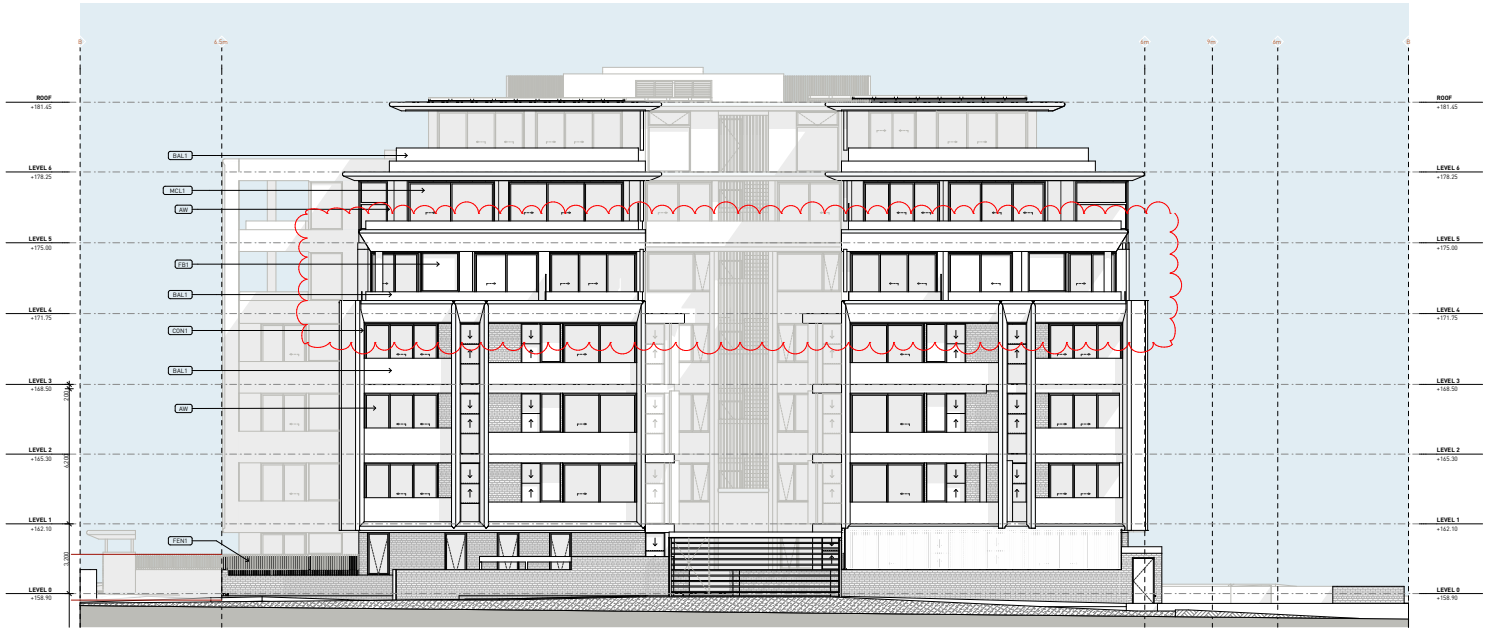
2-4 GLADYS AVENUE
FRENCHS FOREST

Paul Burns; Gladys Group Pty Ltd

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith ARN 7024

SMITH & TZANNES

23_030 DA2-A-201



1 NORTHERN ELEVATION
1:100

NOTES

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The design is not in a form suitable for use in connection with building work.

LEGEND

- BOUNDARY LINE
- 4.5m SETBACK LINE WITH DISTANCE INDICATED
- W Level 4 WINDOW NUMBER
- MAX HEIGHT LINE (13m)
- NATURAL GROUND LEVEL (REMAINING)
- NATURAL GROUND LEVEL (PREVIOUSLY)
- VECHILE CLEARANCE
- FILL AS PER LANDSCAPE SPECIFICATIONS
- STRATA-VAULT SOIL SYSTEM UNDER PAVERS AS PER LANDSCAPE SPECIFICATIONS

Existing & proposed flora not shown for clarity
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2-4 GLADYS AVENUE
FRENCHS FOREST

Paul Burns; Gladys Group Pty Ltd

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith ARN 7024

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23_030 DA2-A-202



2 SOUTHERN ELEVATION

NOTES

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LEGEND

- BOUNDARY LINE
- 6.5m SETBACK LINE WITH DISTANCE INDICATED
- W[level]_# WINDOW NUMBER
- MAX HEIGHT LINE (13m)
- NATURAL GROUND LEVEL (REMAINING)
- NATURAL GROUND LEVEL (PREVIOUSLY)
- VECHILE CLEARANCE
- FILL AS PER LANDSCAPE SPECIFICATIONS
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P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith ARN 7024

SMITH & TZANNES

23_030 DA2-A-203

Design + Sustainability Advisory Panel Meeting Report – 26 September 2025

3 – DA2025/1215 – 2- 4 Gladys Avenue FRENCHS FOREST

PANEL COMMENT AND RECOMMENDATIONS

General

The Panel has previously reviewed a DA for a residential flat building on this amalgamated site under approved DA2023/1751 (4 stories and 28 apartments).

The current application is for a 7-storey residential flat building containing 40 apartments, in the form of a wholly separate application of substantially greater height, scale and density.

Strategic context, urban context: surrounding area character

The subject site is zoned R3 Medium Density, is adjoined by land in the R3 zone to the east and west, MU1 Mixed Use zone to the south, and R1 Low Density Residential to the north.

The site is less than 400m walking distance from the Frenchs Forest Precinct, therefore the site is located within a 'low and mid-rise Housing' area within the meaning of *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) and medium density development typologies such as residential flat buildings are permitted on the site pursuant to the Housing SEPP.

The Housing SEPP has introduced greater height and FSR provisions than currently allowed for under the LEP and DCP. This increases the impact of developments such as this one particularly with regard to overshadowing, bulk, scale and character in relation to the surrounding area. From a design perspective the Panel is sympathetic to many of the concerns that are raised but it is also mindful that the Housing SEPP is responding to a severe housing shortage in NSW – which also demands urgent attention. The Panel seeks to balance NSW demands for increased housing density (and height) with the overall design and amenity objectives of the ADG. Consideration is also given to ensuring that proposed new apartment buildings show a considered attempt to respond thoughtfully to surrounding local character (existing and future). In this regard the Panel considers that the subject application delivers a generally positive response to the above-mentioned constraints and opportunities of the site, with the exception of the proposed interface to the northern boundary

Recommendations

1. Revise the interface to the northern boundary as recommended below.

Scale, built form and articulation

It is noted that DA2023/1751 for a 4-storey building is approved with a 6m setback from the northern boundary. This is a change of zone to an R2 zone where the Apartment Design Guide recommends an additional 3m setback in addition to a 6m setback from the property boundary. It is also noted that a 2-storey boarding house is currently under construction on the adjoining site, with a setback to first floor windows of approximately 4m. The proposed development has the lowest 4 storeys set back 6m from the northern boundary and the private open space for apartments on the fifth storey extending to the parapet of the 4th storey below. The ADG design criteria for building separation does not permit the private open space on a fifth storey to extend to the parapet below (Figure 3F.3). This is particularly relevant on this site, where first floor windows of a boarding house are close to the boundary between the properties. A landscape separation is proposed, however at this intensity of development trees are insufficient to retain privacy and amenity.

northern beaches council

Recommendations

2. Repeat the Level 5 plan (6th storey plan) be repeated on Level 4 (the 5th storey) so that private open spaces are set back from the 4th storey parapet below and the scale of the overall built form is reduced when viewed from Gladys Avenue. This will create a one-step built form above Level 4 and avoid a "wedding cake" built form. The stepped form on the northern end of the side will be similar to the stepped form on the southern end of the site, with a consistent 4-storey scale at the lower levels.

Access, vehicular movement and car parking

The central access that is clear and easy to navigate is supported. Consideration should be given for widening it in places, such as in front of the lift, to assist with furniture removals and to articulate and alleviate the gun barrel effect.
The scale of this development and the number of apartments and height of building have increased substantially since the previous approval. The provision of one lift for this increased number of apartments and height of building is insufficient for those times when the lift breaks down or needs maintenance.
The location of the visitor's bike parking is commended.

Recommendations

3. Ensure that sufficient space is provided outside the lifts, particularly at ground floor level, for furniture removal, amenity and the avoidance of an excessively long and straight corridor.
4. Provide a second lift core.

Landscape

The Landscape plan is generally supported, with the following recommendations.

The Level 4 private open spaces currently have acoustic and visual privacy issues, with respect to their corresponding interfaces that allow direct viewing.

A similar issue exists between the communal BBQ area at ground level and the entry driveway ramp. Effective screening is required here both through planting and architectural screening.

Recommendations

5. Re-plan Level 4 open spaces and adjoining apartments to resolve current privacy issues.
6. Provide effective screening at the BBQ area and the entry driveway ramp.

Amenity

Apartments are generally thoughtfully laid out given the U-shaped building envelope. However, Apartment 0.06 has an inefficient layout, with excessive entry circulation space.
The western bedroom in Apartment 0.06 does not have a window.

Recommendations

7. Re-design Apartment 0.06 to reduce entry circulation space.
8. Provide a splayed window to the western bedroom and avoid privacy issues with the pedestrian path outside.

Façade treatment/Aesthetics

The approach to the façade and aesthetics is commended. Careful detailing of the GRC cladding will be required to ensure its elegant intent is maintained.

Recommendations

9. Ensure that the intended built outcome of the GRC cladding is achieved through careful detailing.

Sustainability

The proposal contains a number of good initiatives such as a centralised heat pump hot water system, solar panels on the roof and ample bike parking.

However, the BASIX certificate nominates 6 Star clothes dryers, which are heat pump dryers and there is no air conditioning. Once the air conditioning is included, and if the 6 Star dryers cannot be accommodated, the BASIX energy requirement may not be met.

Recommendations

10. Check the design of the laundries to ensure they can accommodate the nominated dryer – this type of dryer cannot be wall mounted.
11. Include air conditioning on the BASIX certificate if it is being provided.
12. Increase the amount of PV.
13. Input all individual heating and cooling loads for each apartment into the BASIX certificate so that it can be demonstrated that the project meets minimum BASIX thermal comfort requirements for ALL apartments.
14. Review the design to ensure acoustic privacy between adjacent apartments.

PANEL CONCLUSION

The Panel is supportive of the proposal in general, subject to the recommendations noted above. Amended plans depicting the Panel's recommendations should be submitted to Council staff for evaluation. The proposal does not need to return to the Panel.