AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

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

WEDNESDAY 5 AUGUST 2026

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

Adam Richardson
Acting 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.

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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 APOLOGIES AND DECLARATIONS OF INTEREST

Nil

2 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF THE NORTHERN BEACHES LOCAL PLANNING PANEL MEETING HELD ON 1 JULY 2026

RECOMMENDATION

The Panel notes that the Minutes of the Northern Beaches Local Planning Panel Meeting held on 1 July 2026 were adopted by the Chairperson and have been posted on Council's website.

3 CATEGORY 3 APPLICATIONS

Nil

4 PUBLIC MEETING ITEMS

ITEM 4.1 DA2026/0555 - 14 GEELONG ROAD CROMER - DEMOLITION WORKS AND CONSTRUCTION OF A GROUP HOME

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2026/0555 for Demolition works and construction of a group home development at Lot 10 DP 222848, 14 Geelong Road CROMER subject to the conditions set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [**4.1.1** - 37 pages] 2. Site Plans & Elevations [**4.1.2** - 2 pages]

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2026/0555

Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 10 DP 222848, 14 Geelong Road CROMER NSW 2099
Proposed Development:	Demolition works and construction of a group home development
Zoning:	Warringah LEP2011 - 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:	All In Together Housing Ltd

Application Lodged:	05/05/2026
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	20/05/2026 to 03/06/2026
Advertised:	20/05/2026
Submissions Received:	34
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	$ 1,750,000.00

EXECUTIVE SUMMARY

This Development Application seeks consent for demolition of the existing dwelling house and garage, and construction of a single storey permanent group home for four residents and one carer.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) because it received more than 10 submissions during the notification period (34).

The group home is permissible with consent on the subject site under both *Warringah Local Environmental Plan 2011* and *State Environmental Planning Policy (Housing) 2021*. The group home will be occupied by residents who qualify for Specialist Disability Accommodation under the National Disability

Insurance Scheme (NDIS).

In accordance with Council's Community Participation Plan, the application was publicly notified for a period of 14 days. As noted, the application received submissions from 34 individual parties, each in objection to the proposed development. The submissions raised concerns including traffic generation and parking impacts, environmental impacts with respect to sewage and flooding, excessive scale, character of the locality, lack of community consultation. These matters have been addressed in detail and do not warrant amendment to the design or refusal of the application.

The proposed group home is generally compliant with the applicable built form controls, with the exception of minor encroachments into the front boundary setback area, which are assessed as being acceptable on merit, as detailed in the relevant section of this report.

This report concludes with a recommendation that the NBLPP grant **approval** to the application, subject to standard conditions of consent.

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for demolition of the existing dwelling house and ancillary structures, and construction of a single-storey permanent group home.

The proposal comprises the following:

- Floorplans:
    - Five bedrooms with ensuite and walk-in robe, for occupation by 4 residents and 1 carer
    - Media room with storage
    - Bathroom
    - Open-plan kitchen, living, and dining room
    - Combined mud room and laundry
    - Linen and storage cupboards

- External works:
    - Rear yard terrace
    - In-ground trampoline
    - New driveway to a double carport
    - Landscaping works
    - Front fencing and gates
    - Ancillary services, including bin storage and letterboxes

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 Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - D13 Front Fences and Front Walls

SITE DESCRIPTION

Property Description:	Lot 10 DP 222848 , 14 Geelong Road CROMER NSW 2099
Detailed Site Description:	The subject site consists of one allotment located on the western side of Geelong Road, Cromer. The site is irregular in shape with a frontage of 23.935 metres along Geelong Road and a maximum depth of 39.545 metres. The site has a surveyed area of 765.5m². The site is located within the R2 Low Density Residential zone and accommodates a single storey detached dwelling house and a detached double garage. The site slopes gently from south to north and contains one tree and other landscaped areas. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by single and two storey detached residential dwellings, dual occupancies and secondary dwellings, and an existing group home at 6 Geelong Road. Across the road to the south-east is Geelong Reserve.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site. The land has been used for residential purposes for an extended period of time.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	See detailed assessment under "DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS" below.
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. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to stormwater management plans. Sufficient plans were received on 16 June 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 (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. The proposed land use provides a level of benefit to the community by provision of housing for people with a disability or people who are socially disadvantaged. (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 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. As above, the proposed land use provides a level of public benefit by provision of housing for people with a disability or people who are socially disadvantaged.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Northern Beaches Local Environmental Plan (Draft LEP)

Definition(s):

Group home (permanent) *or* ***permanent group home*** *means a building or place used as permanent household accommodation for people with a disability or people who are socially disadvantaged, and may include the following—*
(a) multiple private rooms or suites of rooms, whether within a single building or multiple buildings,
(b) shared or individual facilities for occupants,
(c) shared or individual facilities for staff,
(d) communal spaces,
but does not include development to which State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5 applies.

Land Use Zone: R2 Low Density Residential

Permissible or Prohibited: Permissible

Additional Permitted used for particular land – Refer to Schedule 1: Not applicable

A detailed assessment against the proposed numerical provisions and development standards has not been undertaken as part of this report. However, broad consideration has been given to the Draft LEP, and the proposal is consistent with its relevant aims and objectives.

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 20/05/2026 to 03/06/2026 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 process council is in receipt of 34 submission/s from:

Name:	Address:
Ms Robyn McBeth Condrick	42 Carawa Road CROMER NSW 2099
Simon Christopher Spicer	18 Geelong Road CROMER NSW 2099
Mr John Woods	Address Unknown
Shawn Turner	Address Unknown
Peter Gee	Address Unknown
Prue Ryn	Address Unknown
Shane Turnbull	Address Unknown
Andy Grey	Address Unknown
George Flynn	Address Unknown
Clair Cumberland	Address Unknown
Adam Nielsen	Address Unknown
Mr David Brendon Lyons Mrs Janelle Maree Lyons	1 Geelong Road CROMER NSW 2099
Mr Antonio Giardino	38 Wabash Avenue CROMER NSW 2099
Mr Robert Ernest Paul	9 Geelong Road CROMER NSW 2099
Mr David John Salter	3 Geelong Road CROMER NSW 2099
Micheal Fribence	Address Unknown
Jon Jennings	Address Unknown
Mr Brian Albert Stelling	4 A Geelong Road CROMER NSW 2099
Mr Brad Andrew Morris Mrs Nicole Alice Morris	2 Geelong Road CROMER NSW 2099
Robert Pierce	Address Unknown
Jodi Lea Jankovski	1 / 781 Pittwater Road DEE WHY NSW 2099
Josh Coburg	Address Unknown
Mr Pece Jankovski	4 Geelong Road CROMER NSW 2099
Vince Griffith	Address Unknown
Mrs Susan Luisa Alagich	7 Geelong Road CROMER NSW 2099
Robert Willis	Address Unknown
Peter Bainbrige	Address Unknown
Darren Rourke	Address Unknown
Neil Scrivens	Address Unknown
Peter Halibrand	Address Unknown
Richard Rashleigh	Address Unknown
Mr Steven Peter Raynes-Greenow	44 Carawa Road CROMER NSW 2099
Ms Emma Jane Mackay	48 Carawa Road CROMER NSW 2099

Name:	Address:
Ms Tara Leanne Williams	8 Geelong Road CROMER NSW 2099

Submissions raised the following concerns in relation to the proposed development:

Traffic and Parking

The submissions raised concern that the proposed development:

- *Will result in unsafe vehicular movements, including with respect to emergency access, disabled access, and the nearby school, and that the vehicle movements will result in unreasonable road damage, and*
- *Does not include sufficient on-site parking and will result in overflow to on-street parking.*

Comment:
The proposed development is for a small-scale domestic style group home for four residents and one carer. The traffic generation is not expected to be materially different to a five-bedroom house in a similar domestic setting. As such, no further investigation into the traffic generation arising from the development is necessary. Given the limited number of parking spaces for the development, and the nature of the development, it is not expected to be a materially different number of vehicle movements to a standard dwelling house. As such, it is not expected that the proposed development will result in unsafe vehicular movements. Further, it is noted that Geelong Road terminates in a cul-de-sac, and not a through road along which pedestrians and vehicles travel, unless it is the start or end of their journey, thereby lessening the busyness of the street and the potential risk of traffic conflict.

The proposed development includes a new driveway from Geelong Road, which can be used for the purpose of emergency vehicle access if and when necessary.

The application is accompanied by an NDIS Specialist Disability Accommodation Design Certificate and National Construction Code Report, each prepared by a suitably qualified professional, which demonstrates sufficient disabled access has been provided.

Appendix 1 Car Parking Requirements of the Warringah Development Control Plan 2011 (WDCP 2011) does not specify a minimum number of on-site parking spaces for the purpose of a Group Home. Instead, it notes that comparisons must be drawn with developments for a similar purpose. Assessment of the adequacy of parking is made in the section of this report relating to Clause C3 Parking Facilities of the WDCP 2011. The proposal involves the provision of two car parking spaces within the proposed double carport (including one accessible parking space), and there is sufficient area to park an additional two cars on the driveway, if necessary. Therefore, adequate on-site parking is provided to support the group home development.

These matters do not warrant amendment or refusal of the application.

Environmental Impacts

The submissions raised concern that the proposed development will result in unreasonable impacts to sewage and flooding.

Comment:
The existing sewer main along a portion of the front of the site is noted. No change to existing sewer infrastructure is proposed or required by the proposed development. However, a condition is included in

the recommendation of this report requiring the Applicant to establish whether the proposed development will affect any Sydney Water assets (which includes the sewer main), and to demonstrate the works are in compliance with Sydney Water requirements.

The subject site is not classified as flood-prone land. The application is supported by stormwater management plans prepared by a suitably qualified professional. Councils Development Engineering team have reviewed the plans and are satisfied that the disposal of stormwater from the development is in accordance with Council's Water Management for Development Policy.

These matters do not warrant refusal of the application.

Character and Scale

The submissions raised concern that the proposed development is out of character, and should not be allowed as it is excessive in its operation, particularly when considered in conjunction with the nearby existing group home at 6 Geelong Road, and nearby seniors housing.

Comment:
The subject site is in the R2 Low Density Residential zone, within which group homes are permissible with consent. The proposed development is for a small-scale single storey group home involving four residents and one carer, and based on its size, scale and intensity, is not expected to be materially different to a five-bedroom dwelling-house.

The existence of other group homes or alternative residential development types in the locality (dual occupancies and secondary dwellings) does not preclude an application for (and approval of) another group home.

Notwithstanding this, conditions of consent have been included in the recommendation of this report relating to preparation of an operational plan of management, ongoing operation of the group home, and limitation of deliveries and collections, to ensure the amenity of the surrounding dwellings is retained.

These matters do not warrant refusal of the application.

Community Consultation

The submissions raised concern that the proposed development was not subject to sufficient community consultation.

Comment:
In accordance with the CPP, the development application was publicly notified as follows:

- Notification from 20 May to 3 June 2026, including letters to owners and occupiers of surrounding properties, and
- Placement of signs on the site frontage during the notification period.

This matter does not warrant any additional community consultation or refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	**Conditions Provided** The application seeks consent for: Demolition works and construction of a group home. The Landscape Plans prepared by Selena Hannan are noted. The site contains one existing tree, which is to be retained. The Landscape Plans indicate planting of a range of trees, shrubs and ground covers across the site, including a new canopy tree to the front yard. No objections are raised regarding landscape issues subject to conditions.

Internal Referral Body	Comments
NECC (Development Engineering)	**Conditions Provided** Updated Comments (19 June 2026): The amended stormwater plans have addressed the previous issues raised and are acceptable. A review of the plans indicates that the proposed detention tank dimensions and locations may conflict with proposed windows shown on the architectural plans which is to be reviewed by Planning. The proposal meets the objectives of the DCP controls, subject to conditions as recommended. Assessing Officer's Comment: The relocation of the water tanks is noted to be immediately outside some of the proposed windows, and also results in a conflict with the south-eastern side gate. A condition of consent has been included in the recommendation of this report to address the conflict between the south-eastern side gate by way of amended plans prior to the issue of the construction certificate. No concern is raised with respect to the proximity of the tanks to the windows, as the windows in question are: • Window W13: A south-facing ensuite window - that is, a non-habitable room use, • Window W14: A south-facing bedroom window set 1.1 metres from the tank, which is greater separation than would be provided between a standard house and a side boundary fence. Original Comments (15 June 2026): The proposal includes the demolition of the existing dwelling and construction of a group home with a double garage. The submitted stormwater plans have included OSD however the method used is not in accordance with Council's Water Management for Development Policy for the type of development. In this regard, the applicant must provide a design in accordance with Section 9.3.2.5 Full Computation Methods including a copy of the 'Drains' model results. The proposed driveway crossing is acceptable using Council's Normal High profile. Additional information is required for stormwater in accordance with clause C4 of the DCP.

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.

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 proposed development is for a group home, which is not a form of medium or high-density residential development. As such no Housing and Productivity Contribution applies and no condition has been imposed.

SEPP (Housing) 2021

Part 2 Group Homes

Clause		Comment
66A No subdivision of group homes	Despite the provisions of another environmental planning instrument, development consent must not be granted to the subdivision of group homes.	No subdivision is proposed.

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 4 – Remediation of Land

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

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	Max. 8.5m	Max.4.9m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	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 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 subject site is classified as Area A Landslip Risk, which does not require a geotechnical assessment. The development is acceptable with respect to 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 application has been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. 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 application has been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. 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
B1 Wall height	Max. 7.2m	Max. 4.5mm	-	Yes
B3 Side Boundary Envelope	4m	N: Within envelope	-	Yes
		S: Within envelope	-	Yes
B5 Side Boundary Setbacks	Min. 900mm	N: Min. 1m	-	Yes
		S: Min. 1.5m	-	Yes

B7 Front Boundary Setbacks	Min. 6.5m	Min. 4.2m	35.38%	**No**
B9 Rear Boundary Setbacks	Min. 6m	Min. 6m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	Min. 40% (306.24m2)	40.4% (309.1m2)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	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
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	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

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

The proposed development includes encroachments into the 6.5-metre front setback area, as follows:

- Group home main building: Minimum 4.2 metres from the boundary
- Carport: Minimum 5.8 metres from the boundary

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 portions of the development that encroach upon the front boundary setback area are minor in nature, being corner elements of the group home main building and carport. The group home and carport are otherwise well set back from the boundary. The encroachments occur due to the alignment of the built form parallel to the side boundaries, as opposed to the front boundary, which is a logical design response for the site.

The development is otherwise compliant with the applicable built form controls, indicating that it is not of unreasonable size, bulk and scale, nor visual impact on the streetscape.

The encroaching portions (and the remainder of the development) do not result in any unreasonable amenity outcome, including with respect to views, solar access, visual privacy, or noise.

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

C3 Parking Facilities

Appendix 1 - Car Parking Requirements of the WDCP 2011 does not specify a minimum number of on-site parking spaces for the purpose of a group home. Instead, it notes that comparisons must be drawn with other developments for a similar purpose.

In that regard, comparison is drawn to the existing group home at 6 Geelong Road, which is located four properties south of the subject site, which has a larger footprint (also single storey), but the number of rooms is unknown. This group home does not provide any formal on-site parking in the form of a garage or carport, but does include a long driveway upon which two cars could comfortably park in a tandem configuration.

Further, comparison is drawn to Schedule 2 of the *State Environmental Planning Policy (Housing) 2021*, which provides the standards for development of a group home under a complying development certificate. Schedule 2 Section 17 provides at least two off-street car parking spaces must be provided on the site on which a group home is erected. It is noted that there is no specification of the maximum scale of group home for which this number of parking spaces is appropriate, which indicates there is no such maximum.

Given the above comparisons, it is a reasonable conclusion to draw that two parking spaces is sufficient in supporting a group home. The proposed development provides two car parking spaces within the proposed double carport (including one accessible parking space), and there is sufficient area to park an additional two cars on the driveway, if necessary.

Acceptable on-site parking spaces are provided to support the group home development.

D13 Front Fences and Front Walls

This control requires that fences located within the street setback area are to be compatible with, and complementary to, the existing streetscape character.

The proposed development includes a new front fence to Geelong Road, to a maximum height of 2.0m. The existing streetscape along Geelong Road is a mix of no fencing, low fencing, high fencing, and high hedging.

Given the nature of the use as a group home for people with disabilities or who are socially disadvantaged, the height of the fence is generally acceptable, in order to provide safety and security for the occupants. Further, the fencing is designed so as not to be of unreasonable visual intrusion by way of mixed materials, partial openness, staggered height and setbacks, and softening with vegetation and landscaping.

The proposal satisfies the provisions of this control.

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 $17,500 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $1,750,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;

- 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 development application seeks consent for demolition of the existing dwelling house and garage, and construction of a permanent group home for four residents and one carer.

The development application is referred to the Northern Beaches Local Planning Panel (NBLPP) because it received more than 10 submissions during the notification period (34).

The resident submissions raised concern with the following:

- Traffic generation and parking impacts
- Environmental impacts with respect to sewage and flooding
- Excessive scale
- Character of the locality
- Lack of community consultation.

Within this assessment report, detailed consideration has been given to the concerns raised in the submissions. The assessment demonstrates that the concerns raised do not warrant amendment or refusal of the application.

The proposed group home is compliant with the applicable built form controls, other than with respect to minor encroachments into the front boundary setback area, which has been demonstrated to be acceptable on merit.

The assessment concludes with a full set of recommended conditions of consent, which are standard in nature.

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**.

REASONS 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 DA2026/0555 for Demolition works and construction of a group home development on land at Lot 10 DP 222848, 14 Geelong Road, CROMER, 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**
DA-00	01	Cover Sheet	Gartner Trovato Architects	Undated
DA-01	01	Site Plan	Gartner Trovato Architects	29 April 2026
DA-02	01	Ground Floor Plan	Gartner Trovato Architects	29 April 2026
DA-03	01	Elevations	Gartner Trovato Architects	29 April 2026
DA-04	01	Sections + Street View Elevation	Gartner Trovato Architects	29 April 2026
DA-05	01	Ramps + Driveway Sections	Gartner Trovato Architects	29 April 2026
LP01-A	A	Landscape Plan	Selena Hannan Landscape Design	29 April 2026
STORM-1/B	B	Stormwater Management Plan	Taylor Consulting	15 June 2026
STORM-2/B	B	Stormwater Management Details	Taylor Consulting	15 June 2026

Approved Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**
NCC Compliance Report	1	Southern Cross Building Consultants	1 April 2026

NDIS Specialist Disability Accommodation Design Certificate	-	Michael Chalouhi	17 April 2026
Waste Management Report	-	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.

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	13 May 2026

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

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

3. **Approved Land Use**
Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a group home (permanent) or permanent group home, in accordance with the Dictionary of the *Warringah Local Environmental Plan 2011*, as follows:

Group home (permanent) *or* ***permanent group home*** *means a building or place used as permanent household accommodation for people with a disability or people who are socially disadvantaged, and may include the following—*
(a) multiple private rooms or suites of rooms, whether within a single building or multiple buildings,
(b) shared or individual facilities for occupants,
(c) shared or individual facilities for staff,
(d) communal spaces,
but does not include development to which State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5 applies.

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

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

4. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i) showing the name, address and telephone number of the Principal Certifier for the work, and

(ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

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

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

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

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

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

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

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

A. the name of the owner-builder, and

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

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

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

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

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

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

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

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

Reason: Legislative requirement.

5. **General Requirements**

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

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

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

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

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

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

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

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

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

i) Long Service Levy - Payment should be made to Service NSW (online or in person) or 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. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of $17,500.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of $1,750,000.00.

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

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

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

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

7. **Security Bond**

A bond (determined from cost of works) of $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

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 Taylor Consulting, drawing number STORM-1/B and 2/B, dated 15/06/2026.

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.

The drainage plans must address the following:

1. The low level connection between the detention tanks to be a minimum of 100mm diameter.

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

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

9. **Vehicle Crossings Application**
The Applicant is to submit an application (using form number 4028 available on Council website) with Council for driveway levels to construct one vehicle crossing 3 metres wide at the kerb to 4 metres wide at the boundary along frontage of site in Geelong Road in accordance with Northern Beaches Council's Standard Normal Profile and in accordance with Section 138 of the Roads Act 1993.

Driveways are to be in plain concrete only.

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

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

Reason: To facilitate suitable vehicular access to private property.

10. **Operational Plan of Management**
An Operational Plan of Management is to be prepared, and is to include the following matters:

- The maximum number of residents (4) and carer (1) occupying the group home at any one time.
- Nomination of a contact person for the operation and management of the group home, including name and phone number.
- Maintain a register of any complaints and how the issues raised by the complainant were addressed. The register is to be made available to an authorised Council officer upon request.
- Deliveries, maintenance and any external cleaning contractors for the group home are to be carried out within business hours.

Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure orderly operation of the group home.

11. **Amendments to the Approved Plans**
The following amendments are to be made to the approved plans:

- The approved architectural plans are to be updated in accordance with the rainwater tanks shown on the approved stormwater plans. In particular, the south-western side gate is to be relocated so as not to conflict with the approved rainwater tanks

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

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

12. **Boundary Identification Survey**
The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on a boundary identification survey, prepared by a Registered

Surveyor, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

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

13. **Services and Fire Hydrant Enclosure**
Prior to the issue of a Construction Certificate for works above ground level, Council's Executive Manager, Development Assessment is to be provided with plans to their satisfaction demonstrating that all services (gas meter, water meter, fire hydrant and sprinkler booster valves, and the like) are enclosed in a manner that compliments the building, do not visually dominate the streetscape, and are in accordance with the requirements of the BCA.

An updated landscape plan is also to be provided to reflect the changes resulting from the fire hydrant and sprinkler booster detailed design.

Reason: To ensure essential services are appropriately screened.

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

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

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

15. **External Finishes to Roof**
The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 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.

16. **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

17. **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.

DURING BUILDING WORK

18. **Protection of Existing Street Trees**

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 AS4970-2025 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.

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.

19. **Tree and Vegetation Protection**

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

i) all trees within the site,

ii) all trees and vegetation located on adjoining properties,

iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

i) tree protection shall be in accordance with AS4970-2025 Protection of trees on development sites,

ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,

iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,

iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,

vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,

vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,

viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2025 Protection of trees on development sites,

ix) the activities listed in section 4.2 of AS4970-2025 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 AS4373-2007 Pruning of amenity trees,

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

The Principal Certifier must ensure that:

c) The arboricultural works listed in a) and b) are undertaken and complaint to AS4970-2025 Protection of trees on development sites.

Reason: Tree and vegetation protection.

20. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees

required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works.

In this regard all protected trees shall not exhibit:

i) a general decline in health and vigour,

ii) damaged, crushed or dying roots due to poor pruning techniques,

iii) more than 10% loss or dieback of roots, branches and foliage,

iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,

v) yellowing of foliage or a thinning of the canopy untypical of its species,

vi) an increase in the amount of deadwood not associated with normal growth,

vii) an increase in kino or gum exudation,

viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,

ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

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

Reason: Protection of trees.

21. **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.

22. **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.

23. **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.

24. **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.

25. **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.

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

27. **Landscape Completion**
Landscape works are to be implemented in accordance with the Landscape Plan Dwg No LP01-A dated 29.04.2026 prepared by Selena Hannan Landscape Design, and inclusive of the following conditions:

a) landscape works are to be contained within the legal property boundaries,

b) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; generally selected from Northern Beaches Council's Native Plant Species Guide, or Council's Tree Guide; to achieve at least (insert) metres height at maturity; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and located either within garden bed or within a prepared bed within lawn,

c) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plans,

d) 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,

Prior to the issue of an Occupation Certificate, details (from a qualified landscape architect, landscape designer or 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.

28. **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 as to user 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 Certifier to the issue of an Occupation Certificate.

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

29. **House Number**
The house number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

30. **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.

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

31. **Landscape Maintenance**
If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan(s) and any conditions of consent.

The approved landscape area shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity.

32. **Deliveries and Collections**
Deliveries to and collections from the site (other than for the purpose of the movements of the residents, carer(s), and any visitors) are to be carried out between 7:00am and 7:00pm Monday to Friday, excluding public holidays only, to minimise noise.

Reason: To minimise noise to residential receivers.

33. **Ongoing Operation**
The group home is to operate and be managed in accordance with the Operational Plan of Management and the *Protection of the Environment Operations Act 1997*.

Reason: To ensure operation in accordance with this consent and maintain the amenity of the surrounding area.

1
D.P.567640

No:-
BRICK COTTAGE
METAL ROOF

9
D.P.222848

No.16
RENDERED &
CLAD COTTAGE
METAL ROOF

CLAD GARAGE
TILE ROOF

PREVAILING NORTH EAST WINDS

S S E E C C A R A L O S

9am 10am 11am 12 1pm 2pm 3pm

MN

MID-WINTER

MID-WINTER SUNSET

TN

N

EXISTING HOME TO BE DEMOLISHED

BOUNDARY 29.47M
90°19'30"

IN GROUND TRAMPOLINE

1.532

6.000

RAISED 1.20M ABOVE NGL

DRIVEWAY

EXISTING DRIVEWAY

RAISED 1.20M ABOVE NGL

RAISED 1.20M ABOVE NGL

WASTE STORAGE

EXISTING MELALEUCA 10 H

GEELONG ROAD

LETTER BOX

BOUNDARY 11.14M
90°19'30"

6.00M
FRONT SETBACK

MATERIAL STORAGE

RAISED 1.20M ABOVE NGL

99.51.00
INVERT LIP CATCHDRAIN

BOX GUTTER

EXISTING BOTTLE BRUSH 7 H

RW TANK (BELOW)

RW TANK (BELOW)

3.000

3.150

3.150

3.000

14 GEELONG RD
LOT 10 DP 222848
PROPOSED NEW CLASS 3 BUILDING

SITE AREA: 756.5m²

BOUNDARY 39.34M
270°19'30"

EXISTING HOME TO BE DEMOLISHED

WEATHERBOARD
GARAGE/ STUDIO
TILE ROOF

PREVAILING SOUTHERLY WINDS

No.:-
1&2 STOREY
WEATHERBOARD
HOUSE
METAL ROOF

2
D.P.567640

No.12
WEATHERBOARD
COTTAGE
TILE ROOF

11
D.P.222848

SITE PLAN
SCALE: 1:100

GARTNERTROVATO
ARCHITECTS
A PITTWATER PLACE
L1/13 10 PITTWATER ROAD
PO BOX 1102
MONA VALE, NSW 2103
P +61 2 9979 4411
F +61 2 9979 4422
E GTA@GT-COM.AU

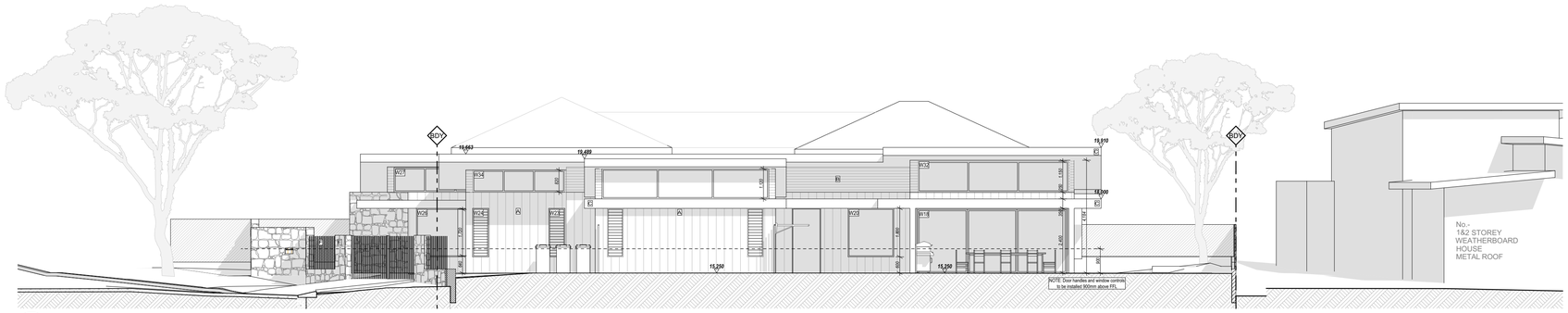
Issue Date	Rev	Description	Drawn	Checked
29/04/2026	01	Issue For DA	LH	LT

PLOT DATE: 29/04/2026

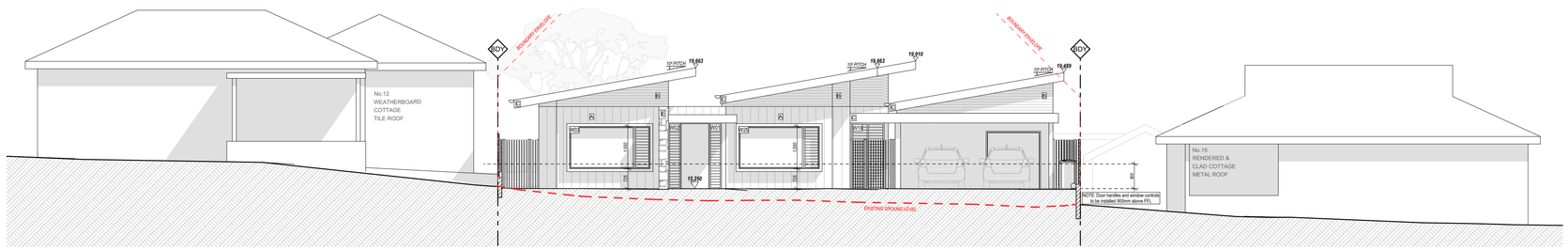
PROJECT
SDA HOME
NEW CLASS 3 BUILDING
14 GEELONG RD, CROMER, SYDNEY NSW
LOTS 10 DP 222848
FOR ALL IN TOGETHER HOUSING

DRAWING TITLE
SITE PLAN/SITE ANALYSIS

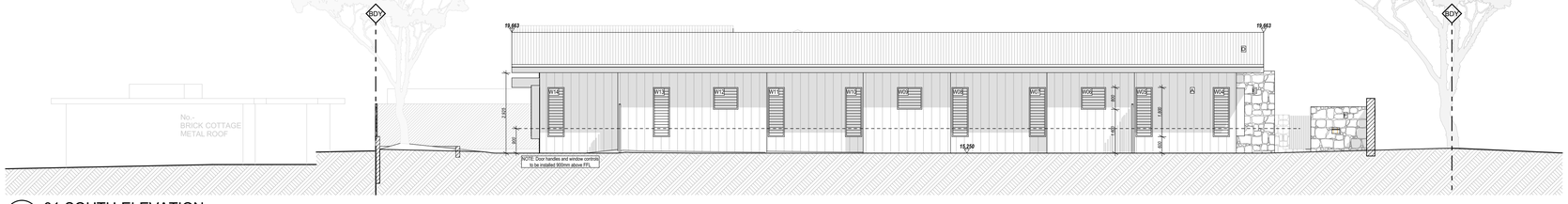
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1:100 @ A1	LT / LH	29/04/2026
PROJECT NO.	DRAWING NO.	REVISION
2532	DA-01	01



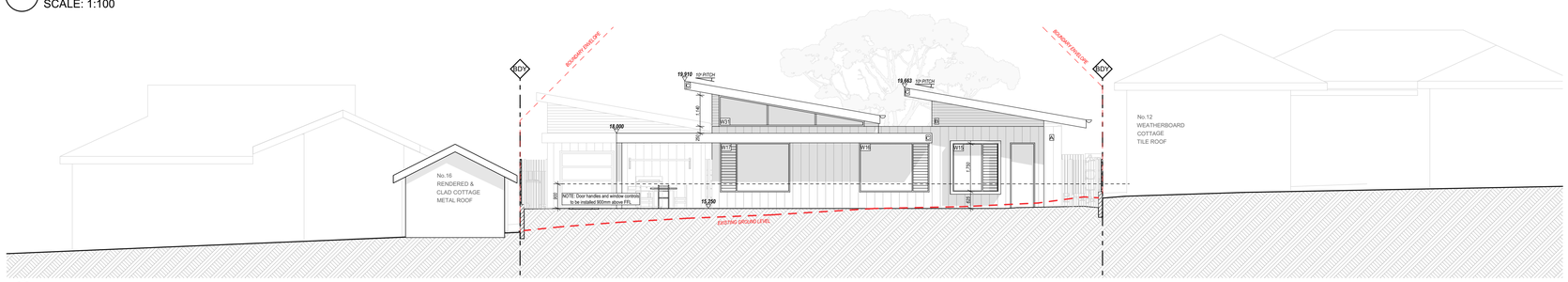
01 NORTH ELEVATION
SCALE: 1:100



EAST ELEVATION
SCALE: 1:100



01 SOUTH ELEVATION
SCALE: 1:100



WEST ELEVATION
SCALE: 1:100

EXTERNAL FINISHES

NOTE: FINISHES AND IMAGES SHOWN ARE INDICATIVE OF DESIGN INTENT ONLY

CLADDING



A MAIN DARK CLADDING
FIBER CEMENT CLADDING
PAINT FINISH



B LIGHT GREY CLADDING
FIBER CEMENT CLADDING
PAINT FINISH

PAINT



C MAIN DARK PAINT

ROOF



D METAL ROOF
COLORBOND
MEDIUM COLOUR FINISH

STONE



E FEATURE STONE
SANDSTONE CLADDING

OTHER



F VERTICAL BATTEN FIRE

GARTNERTROVATO
ARCHITECTS
A PITTWATER PLACE
L1/13 10 PARK STREET
PO BOX 1132
MONA VALE, NSW 2103
P +61 2 9979 4411
F +61 2 9979 4422
E gta@gt-arch.au

PLOT DATE: 29/04/2026

Issue Date	Rev	Description	Drawn	Checked
29/04/2026	01	Issue For DA	LH	LT

PROJECT
SDA HOME
NEW CLASS 3 BUILDING
14 GEELONG RD, CROMER, SYDNEY NSW
LOTS 10 DP 222848
FOR ALL IN TOGETHER HOUSING

DRAWING TITLE
ELEVATIONS

SCALE	DRAWN BY	DATE
1:100 @ A1	LT / LH	29/04/2026
PROJECT NO.	DRAWING NO.	REVISION
2532	DA-03	01

ITEM 4.2 DA2026/0201 - 206 MCCARRS CREEK ROAD CHURCH POINT - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING GARAGE AND A SWIMMING POOL

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2026/0201 for Demolition works and construction of a dwelling house including garage and a swimming pool at Lot 15 DP 875022 and Lot LIC 680172, 206 McCarrs Creek Road CHURCH POINT for the reasons for refusal set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [**4.2.1** - 37 pages] 2. Site Plans & Elevations [**4.2.2** - 5 pages] 3. Clause 4.6 [**4.2.3** - 27 pages]

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2026/0201

Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 15 DP 875022, 206 McCarrs Creek Road CHURCH POINT NSW 2105 Lot LIC 680172, 206 McCarrs Creek Road CHURCH POINT NSW 2105
Proposed Development:	Demolition works and construction of a dwelling house including garage and a swimming pool
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Glenn Wightwick

Application Lodged:	24/02/2026
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	03/06/2026 to 17/06/2026
Advertised:	Not Advertised
Submissions Received:	15
Clause 4.6 Variation:	7.8 Limited development on foreshore area
Recommendation:	Refusal

Estimated Cost of Works:	$ 1,800,000.00

EXECUTIVE SUMMARY

This development application seeks consent for demolition works and the construction of a dwelling house and swimming pool.

The application is referred to the Northern Beaches Local Planning Panel (**NBLPP**) because a portion of the proposed development is located within the foreshore building area, resulting in a contravention of the non-numerical development standard under Clause 7.8 of the *Pittwater Local Environmental Plan*

2014 (**PLEP 2014**).

A total of 15 submissions were received during the assessment of the application, nine (9) of which were received within the prescribed notification periods, including one submission in support. The matters raised are addressed in detail in this report and broadly relate to:

- Flooding
- Insufficient information
- Vegetation removal and habitat loss
- Overdevelopment within the foreshore area
- Consistency with zone objectives
- Stormwater quality
- Coastal impacts
- Erosion and sediment runoff
- Excavation
- Previous consent
- Owner's consent
- Public interest

Several of the concerns raised in submissions are substantiated through the assessment and contribute to the recommendation for refusal.

The assessment has concluded that the proposal, in its current form, cannot be supported due primarily to insufficient information relating to key planning and environmental matters. As a result, the application fails to demonstrate compliance with relevant provisions of the *Pittwater LEP 2014*, *Pittwater 21 Development Control Plan*, and *State Environmental Planning Policy (Resilience and Hazards) 2021*.

The proposed variation to the foreshore building line under Clause 7.8 of the PLEP 2014 arises from the siting of the dwelling and associated structures, including the terrace, pool deck, retaining walls and driveway, seaward of the foreshore building line, where such structures are not expressly identified as permissible encroachments under the clause. While the applicant's Clause 4.6 written request identifies a number of site-specific constraints that have influenced the design and location of development within the foreshore area, It is not considered that the request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary, nor that there are sufficient environmental planning grounds to justify the contravention. In particular, insufficient information has been provided to enable a comprehensive assessment of the potential flood-related impacts associated with the location of the proposed works within the foreshore area.

Additional concerns relate to flood planning and vehicular access. The information submitted does not adequately address these matters, and accordingly the application cannot be supported in its current form.

This report concludes with a recommendation that the NBLPP **refuse** the development application for the reasons set out at the end of this report.

PROPOSED DEVELOPMENT IN DETAIL

Development application for the construction of a new dwelling. The works comprise:

- Demolition of existing structures.
- One to two storey dwelling house, including, three bedrooms, three bathrooms, living areas, studio and an attached double garage.
- In-ground swimming pool with associated decking.
- Driveway access from road reserve with a single hardstand space.

- Associated landscaping works, including the removal of 13 trees.

AMENDED APPLICATION
Following a preliminary assessment of the application, Council issued a Request for Information (RFI) to the applicant on 1 April 2026, outlining concerns with the proposal.

These concerns related to the characterisation of development, permissibility, foreshore building line (FBL), privacy, flooding and other referral issues.

To address these concerns, the applicant submitted amended plans on 18 May 2026.

The application include the following changes:
- Recharacterisation of the proposal from alterations and additions to a new development.
- Relocate dwelling house 2.0 metres landward.
- Submission of updated technical reports to reflect the revised proposal

Community Participation Plan

Due to the recharacterisation of the development, formal re-notification was required. Notification was undertaken in accordance with the Northern Beaches Community Participation Plan, ensuring that affected and adjoining landowners were provided the opportunity to comment on the amended proposal.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living
Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards
Pittwater Local Environmental Plan 2014 - 5.21 Flood planning
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
Pittwater Local Environmental Plan 2014 - 7.10 Essential services

Pittwater 21 Development Control Plan - A4.4 Church Point and Bayview Locality
Pittwater 21 Development Control Plan - B3.11 Flood Prone Land
Pittwater 21 Development Control Plan - B6.1 Access driveways and Works on the Public Road Reserve
Pittwater 21 Development Control Plan - B6.2 Internal Driveways
Pittwater 21 Development Control Plan - D4.6 Side and rear building line
Pittwater 21 Development Control Plan - D4.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 15 DP 875022 , 206 McCarrs Creek Road CHURCH POINT NSW 2105 Lot LIC 680172 , 206 McCarrs Creek Road CHURCH POINT NSW 2105
Detailed Site Description:	The subject site consists of one (1) allotment located western side of McCarrs Creek Road. The subject site is legally identified as Lot 15 in Deposited Plan 875022, No. 206 McCarrs Creek Road, Church Point. The site is irregular in shape with a frontage of 24.25 metres and an average depth of 83.8 3metres. The site has a surveyed area of 1027.0m². The site is located within the C4 Environmental Living zone pursuant to the Pittwater Local Environmental Plan 2014 and accommodates a dilapidated dwelling house, seawall and grassed accessway. The site is accessed via a private road located on the road reserve. The site topography is sloped from east to west by approximately 14.0 metres. The site consists of an open maintained lawn area with various trees and retaining walls. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by residential dwelling houses of various architectural designs situated in a landscaped setting. Ancillary development includes waterway structures. The subject site adjoins Cicada Glen Creek.

Map:



SITE HISTORY

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

PLM2024/0098
Pre-lodgement meeting for the construction of a two storey dwelling, jetty, driveway and landscaping. The comments were largely in reference to the proposed dwelling house. The comments in reference to the required documents for the waterway structures were included under the application.

DA2025/0783
Development application for demolition works and the construction of a new seawall including a timber jetty, a pontoon and associated works approved under staff delegation on 5 September 2025.

Current Application - DA2026/0201

The application was lodged on 24 February 2026.

The application was formally notified in accordance with Council's Community Participation Plan (CPP) for two separate fourteen (14) day periods: 6 March 2026 to 20 March 2026 and 3 June 2026 to 17 June 2026. A total of 15 submissions were received during the assessment of the application, nine (9) of which were received within the prescribed notification periods.

The following matters were raised with the applicant through a Request for Further Information (RFI) letter dated 1 April 2026:

- characterisation of the development,
- permissibility,
- foreshore building line (FBL),
- privacy,
- flooding, and
- other referral issues.

Additional information was received from the applicant on 18 May 2026 addressing the above matters. Due to the recharacterisation of the development, formal re-notification was required and was undertaken until 17 June 2026. Notification was carried out in accordance with the Northern Beaches Community Participation Plan, providing affected and adjoining landowners with the opportunity to comment on the amended proposal.

On 1 June 2026, Council's Development Engineer completed their initial review of the amended application and requested additional information regarding the driveway and works within the road reserve. These matters were referred to the applicant.

On 4 June 2026, Council's Flood Engineer reviewed the amended material and confirmed that unresolved flooding matters remained. These matters were also referred to the applicant.

On 21 June 2026 and 26 June 2026, the applicant submitted updated driveway and stormwater plans, together with a revised flood report. This information was circulated to the relevant Council referral officers for further review.

On 2 July 2026, Council's Flood Engineer confirmed that the revised flood report did not resolve the previously identified flooding issues.

On 3 July 2026, Council's Development Engineer confirmed that the revised information did not resolve the outstanding engineering issues.

On 6 July 2026, Council wrote to the applicant advising that no further information would be accepted and that the assessment would be finalised based on the information currently before Council.

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	See detailed assessment under “DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS” below.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(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 would be addressed via a condition of consent were the application recommended for approval. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in the form of amended plans and supporting documentation to address numerous planning and referral related issues raised by Council. Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. These matters would be addressed via a condition of consent were the application recommended for approval. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. These matters would be addressed via a condition of consent were the application recommended for approval. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). These matters would be addressed via a condition of consent were the application recommended for approval.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	Insufficient information has been provided to enable a proper assessment of the proposed development and its likely impacts. Accordingly, the consent authority cannot be satisfied that the development would not result in unacceptable impacts or that it is in the public interest. The proposal is therefore contrary to the public interest.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Northern Beaches Local Environmental Plan (Draft LEP)

Definition(s): Dwelling house

Land Use Zone: Zone C4 Environmental Living

Permissible or Prohibited: Permissible

Additional Permitted used for particular land – Refer to Schedule 1: Not applicable

A detailed assessment against the proposed numerical provisions and development standards has not been undertaken as part of this report. However, broad consideration has been given to the Draft LEP, and the proposal is consistent with its relevant aims and objectives.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

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

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Planning Services, dated 25 August 2025) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. Were the application recommended for approval, a condition would be included requiring compliance with the relevant requirements of this report.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 03/06/2026 to 17/06/2026 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 process council is in receipt of 15 submission/s from:

Name:	Address:
Withheld	CHURCH POINT NSW 2105
Withheld	TERREY HILLS NSW 2084
Withheld	CHURCH POINT NSW 2105
Withheld	CHURCH POINT NSW 2105
Withheld	CHURCH POINT NSW 2105
Ms Frances Louisa Colley	1 Loombah Street BILGOLA PLATEAU NSW 2107
Withheld	NEWPORT NSW 2106
Ms Jennifer Nathalie Cuthbertson	4 Coonanga Road AVALON BEACH NSW 2107

Name:	Address:
Mr Gary Owen Bowtell	204 McCarrs Creek Road CHURCH POINT NSW 2105
Mr Peter Anthony Blanchard Mrs Edna May Blanchard	230 McCarrs Creek Road CHURCH POINT NSW 2105
Ms Diane Jayne Dromgold	221 McCarrs Creek Road CHURCH POINT NSW 2105
Withheld	CHURCH POINT NSW 2105
Mrs Margaret Gladys Woods	42 A Elimatta Road MONA VALE NSW 2103
Withheld	CHURCH POINT NSW 2105
Adrian Theseira	46 Garden Street NORTH NARRABEEN NSW 2101

The following issues were raised in the submissions:

- ***Flooding***

  The submissions raised concerns that the proposal is supported by flood information that is considered unclear or inconsistent. In addition, it is considered that the proposal may adversely alter flood behaviour and increase flood impacts on adjoining properties, including overland stormwater flows.

  Comment:

  As detailed in this report, insufficient information has been provided to enable a proper assessment of the potential flood impacts arising from the proposed development. Consequently, the consent authority cannot be satisfied that the proposal is suitable for the site or would not result in unacceptable flood-related impacts.

  This matter is considered to warrant the refusal of the application.

- ***Insufficient information***

  The submissions raised concerns that the proposal does not include sufficient or reliable supporting documentation to demonstrate the applicant's intended design outcome or confirm that neighbouring properties will not be adversely affected.

  Comment:

  This report concludes that insufficient information has been provided to enable a comprehensive assessment of the application, particularly in relation to flood impacts and the adequacy of vehicular access. In the absence of this information, the consent authority cannot be satisfied that the development is suitable for the site or would not result in unacceptable environmental or safety impacts.

  This matter is considered to warrant the refusal of the application.

- ***Vegetation removal and habitat loss***

  The submissions raised concerns that the proposal results in unnecessary vegetation removal, which will create wider irreversible environmental impacts.

  Comment:

  Council's Natural Environment teams (Landscape and Biodiversity) raised no objections to the proposed development. Accordingly, Council can be satisfied that the development will not result in any unacceptable adverse impacts on the condition, ecological value, or significance of the flora and fauna present on the site. Furthermore, the proposal incorporates appropriate measures to avoid, minimise, and mitigate potential environmental impacts arising from the development.

  This matter does not warrant refusal of the application.

- ***Overdevelopment in the foreshore***

  The submissions raised concerns that the proposal constitutes overdevelopment of a constrained foreshore site and is excessive in scale and out of character.

  Comment:

  As assessed in this report, the height, bulk and scale of the proposal responds appropriately to the controls and is compatible with surrounding development along the foreshore. The proposed DCP variations have been assessed against the relevant controls and are found to be acceptable. Overall, the built form is of an acceptable design when considering the site constraints and the surrounding built form.

  This matter does not warrant refusal of the application.

- ***Contrary to zone objectives***

  The submissions raised concerns that the proposal is inconsistent with the intended character and environmental objectives of the C4 Environmental Living zone.

  Comment:

  Insufficient information has been provided to demonstrate that the proposal provides for low-impact residential development, particularly in relation to flood planning and vehicular access issues. Therefore, the proposed development is inconsistent with the underlying objectives of the C4 Environmental Living zone.

  This matter is considered to warrant the refusal of the application.

- ***Stormwater quality***

  The submissions raised concerns that the proposal does not adequately address stormwater quality.

  Comment:

Council's Water Management Officer has reviewed the proposal with regard to stormwater quality and raises no objection to the development. Should the application be recommended for approval, or the Panel be minded to approve the application, appropriate conditions of consent relating to stormwater management would be imposed.

This matter does not warrant refusal of the application.

- ***Coastal impacts***

The submissions raised concerns that the proposal will impact on coastal processes.

Comment:

Council's Coastal Officer has reviewed the proposal with regard to coastal impacts and raises no objection to the development. Should the application be recommended for approval, or the Panel be minded to approve the application, appropriate conditions of consent relating to mitigating coastal impacts would be imposed.

This matter does not warrant refusal of the application.

- ***Erosion and sediment run-off***

The submissions raised concerns that the proposal will increase erosion, soil instability and silt runoff.

Comment:

Should the application be recommended for approval, or the Panel be minded to approve the application, appropriate conditions of consent relating to erosion and sediment control would be imposed.

This matter does not warrant refusal of the application.

- ***Excavation***

The submissions raised concerns that the proposal will create structural and excavation impacts on adjoining properties.

Comment:

The application has been supported by a geotechnical assessment which provides information on the site's subsurface condition and demonstrates that the proposed excavation is acceptable, subject to compliance with the recommendations made in the report. Should the application be recommended for approval, or the Panel be minded to approve the application, appropriate conditions of consent relating to mitigating excavation impacts.

This matter does not warrant the refusal of this application.

- ***Previous consent***

The submissions raised concerns that are associated with a previous consent.

Comment:

These matters are unrelated to the subject proposal and therefore do not constitute relevant considerations under section 4.15 of the *Environmental Planning and Assessment Act 1979*.

This matter does not warrant the refusal of this application.

- ***Owners consent***

The submissions raised concerns that the proposal does not include sufficient owners consent for the application.

Comment:

The application was accompanied by the requisite owner's consent at the time of lodgement, thereby satisfying the statutory requirements of the *Environmental Planning and Assessment Act 1979*. Consistent with the decision in *Rothwell Boys Pty Ltd v Coffs Harbour City Council [2012*] NSWLEC 19, the validity of an application is assessed at the time of lodgement and, once proper owner's consent has been provided, it is generally effective for the purpose of progressing the application. Accordingly, owner's consent cannot be made conditional nor subsequently withdrawn so as to invalidate an application that was validly lodged.

This matter does not warrant the refusal of this application.

- ***Public interest***

The submissions raised concerns that the proposal is not in the public interest.

Comment:

The development is not in the public interest having regard to the matters set out in the submissions to the extent that the concerns raised are consistent with Council's assessment.

This matter is considered to warrant the refusal of the application.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	***Referral completed - conditions recommended.*** **General Comments** This application is seeking consent for alteration and rebuilding of a dwelling including construction of a garage, swimming pool, deck and landscaping. The dwelling at 208 McCarrs Creek Road is located higher than this proposed dwelling. The top of the flue would not be higher than the neighbouring dwelling however based on measurements through Councils mapping system, it would appear the flue can be installed to comply with relevant Australian Standard. **Recommendation** SUPPORTED - subject to conditions

Internal Referral Body	Comments
Landscape Officer	***Referral completed - conditions recommended.*** The application as described in reports and as illustrated on plans is assessed by Landscape Referral against the Pittwater Local Environment Plan (PLEP) clause C4 zone Environmental Living, and the following Pittwater 21 Development Control Plan (PDCP) controls (but not limited to): B4.22 Preservation of Trees and Bushland Vegetation; C1.1 Landscaping; and D4 Church Point and Bayview Locality. The site is located in the C4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment with ecological, scientific or aesthetic values, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the C4 Environmental Living zone. An Arboricultural Impact Assessment (AIA) and Landscape Plans accompany the application and are assessed as part of this Landscape Referral. It is noted that the land is certified Bush fire prone land and may be managed in accordance with the guidelines of Planning for Bushfire Protection. The recommendations of the Bushfire Risk Assessment are noted including management of the land as an asset protection zone. Arboricultural Impact Assessment: The AIA report includes recommendations to remove eleven endemic Cabbage Tree Palms (10, 12 to 18, 20 to 22) and two endemic She Oaks (11 and 23), and these are impacted by the proposed double garage and driveway works. Should the application be approved there is no design alternative to retain any of the trees recommended for removal. Twenty-five trees are identified for retention and tree protection measures shall be imposed as recommended in the AIA report. All trees within adjoining properties shall be protected. Twenty-one endemic trees are retained within the property including: eleven Cabbage Tree Palms identified as tree numbers 2, 3, 5, 8, 19, 24, 27, 34, 35, 36 and 37 (Livistona); two She Oaks (numbered 4 and 9); three Paperbarks (numbered 6 and 30); two Red Bloodwoods (numbered 28 and 31); one Wattle (numbered 29); one Lillypilly (numbered 32); one Eucalypt (numbered 40); and one Coast Banksia (numbered 41). Of these fourteen are high retention value trees (2, 3, 5, 6, 8, 9, 19, 24, 27, 32, 34, 35, 36, 37) such that the retention of these trees satisfies the objectives of (PLEP clause C4 zone Environmental Living, and PDCP controls B4.22 Preservation of Trees and Bushland Vegetation, C1.1 Landscaping, and D4 Church Point and Bayview Locality. The matter regarding tree 17 is dealt with by the adjoining owner providing an email as owners consent, and Landscape Referral raise no objections for removal. Landscape Plans:

Internal Referral Body	Comments
	The submitted Landscape Plans indicates existing trees to be retained as co-ordinated with the AIA report and provide proposals for like-for-like tree replacement, as well as understorey planting, and no concerns are raised. The Landscape Plan and other Plans indicate retaining walling along the southern boundary which, to successfully construct will require over excavation for drainage behind the retaining walling. Consideration to the alignment off the boundary is required to allow for drainage provisions. Should the application be approved, Landscape Referral provide conditions of consent.

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	***Referral completed - conditions recommended.*** Council's Biodiversity Referrals team have assessed the Development Application for compliance against the following applicable controls and provisions: - Pittwater LEP 2014 - 7.6 Biodiversity Protection - SEPP (Resilience & Hazards) 2021 - Coastal Environment Area - Biosecurity Act 2015 The proposed development takes place in a mostly disturbed area of the site but will require tree removal. The Arboricultural Impact Assessment (AIA) (Naturally Trees, September 2025) assessed 44 trees and recommends the removal of 13 of these, all of which are prescribed trees (T10-18, T20-23) and require Council's permission for removal. Condition to remove these trees is granted, on the basis that like-for-like replacement planting is completed. The Landscape Plans (Contour Landscape Architecture, Dec 2025) proposes planting of 33 x *Acmena smithii* cultivars, 11 x *Livistona australis*, and 1 x *Allocasuarina torulosa.* As 2 x *Allocasuarina torulosa* are proposed for removal, it will be conditioned that the planting schedule includes another *Allocasuarina torulosa*, in addition to the other proposed trees, as a like-for-like replacement. The arborist has noted that T13 and T14, both small *Livistona australis* trees, may be able to be transplanted. This is supported. It is also noted that a mature *Casuarina glauca* (T26) was approved for removal under DA2025/0783 and 1 x *Casuarina glauca* has been included in the Landscape Plans for replacement planting. A visit to site by members of the Biodiversity Team found it to be populated by multiple priority and environmental weed species, including *Asparagus virgatus* (Asparagus fern), *Senna pendula* (Senna), *Bidens pilosa* (Biden), *Tradescantia fluminensis* (Trad), *Plectranthus* sp., and *Ochna serrulate* (Ochna). It will be conditioned that priority and environmental weed species be removed from the property, as required by the Biosecurity Act 2015. It will also be conditioned that a pre-clearance survey be undertaken before removal of anything that could constitute habitat. This includes the existing dwelling, which has been vacant for a long time and has open windows and roof spaces. There are no objections in relation to biodiversity, subject to conditions.

Internal Referral Body	Comments
NECC (Coast and Catchments)	***Referral completed - conditions recommended.*** The proposed development is for alteration and rebuilding of a dwelling including construction of a garage, swimming pool, deck and landscaping. The proposed development includes: • Floodproof subfloor area containing pool equipment, water tanks and associated services. • Ground floor area containing open plan kitchen and living room, laundry and powder room. • First floor area containing main bedroom, ensuite, two bedrooms and bathroom. • Construction of a swimming pool and spa within the foreshore area. • Construction of a covered deck partly within the foreshore area. • Construction of a garage, study, rumpus room and bathroom. • Construction of a retaining wall along part of the southern boundary (partly within the foreshore area) and parking area. • Construction of a driveway including a turning area (partly within the foreshore area) and parking area. • Installation of stormwater infrastructure including rainwater tanks. • Installation of a pressure sewerage system. • Landscaping. This application has been assessed in consideration of: • Supplied plans and reports • Pittwater 21 Development Control Plan • Pittwater Local Environmental Plan 2014 • Pittwater Estuary Mapping of Sea Level Rise Impact Study (Cardno 2015) • Coastal Management Act 2016 • State Environmental Planning Policy (Resilience and Hazards) 2021 Coastal Management Act 2016 The subject site is located within the coastal zone and therefore the Coastal Management Act 2016 is applicable to the proposed development. The proposed development is generally consistent with the objects, as set out under section 3 of the Coastal Management Act 2016. 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, 2.11 and 2.12 of the State Environmental Planning Policy (Resilience & Hazards) 2021 apply to the proposed development. On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Emeritus Professor Glenn Wightwick, dated 18 February 2026, and amended Coastal

Internal Referral Body	Comments
	Engineering Risk Assessment Report prepared by Stantec, dated 30 April 2026, the DA satisfies requirements under section 2.10, section 2.11 and 2.12 of the State Environmental Planning Policy (Resilience & Hazards) 2021. Pittwater LEP 2014 and Pittwater 21 DCP Estuarine Risk Management The subject site is identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant section B3.7 Estuarine Hazard Controls in Pittwater 21 DCP will apply to the proposed boat shed at the site. In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of 2.53 m AHD has been adopted by Council for the subject site. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.04 m reduction to the EPL for every 5 m distance from the foreshore edge up to a maximum distance of 40 m. A Coastal Engineering Risk Assessment Report, (carried out by Stantec, dated 30 April 2026) proposes a more conservative EPL of 3.1m AHD. This is acceptable on the basis of standard estuarine risk management consent conditions. On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Emeritus Professor Glenn Wightwick, dated 18 February 2026, and amended Coastal Engineering Risk Assessment Report prepared by Stantec, dated 30 April 2026 the proposed development satisfies requirements under the Pittwater LEP 2014 and Pittwater 21 DCP.

Internal Referral Body	Comments
NECC (Development Engineering)	***Matters for consideration.*** **comments 3/7/26** The previous RFI has only been partially addressed. The submitted design plans do not show the existing levels within the road reserve on the long section, preventing a proper assessment of the proposal and whether the previous concerns have been resolved. Consequently, the application is not supported. **Previous comments** The proposed driveway longsection is to extended into the side road reserve for at least 6m and using Councils standard vehicle crossing profiles from the road reserve across the boundary .The internal driveway grades are to be compliant with AS 2890.1 -Off Street Carparking code. There is seems to be a mis match in levels between the survey levels of the road reserve and the proposed driveway boundary level. The application is not supported.

Internal Referral Body	Comments
NECC (Flooding)	***Matters for consideration.*** The previous comments have not been adequately addressed. The flood study and supporting documentation should be updated to address the following matters: • The report should identify the critical storm duration adopted for each catchment and include the corresponding inflow hydrographs. • A plan showing the Manning's roughness zones and values applied throughout the model should be provided. • Chainage/Station 20 in Figure 8 indicates that the proposed area in front of the garage is at RL 4.00 m AHD. However, the master plan shows this area at RL 4.70 m AHD, with the garage also proposed at RL 4.70 m AHD. This discrepancy creates uncertainty regarding the applicant's intended design levels and should be clarified. • The flood study does not adequately demonstrate how the model has been calibrated or validated against the *McCarrs Creek, Mona Vale and Bayview Flood Study Review (2017)* adopted by Council. • The driveway area in front of the double garage is identified as being affected by flooding. The proposed level is shown as either RL 4.00 m AHD (in the flood model) or RL 4.70 m AHD (on the master plan), while the reported 1% AEP flood level is RL 3.60 m AHD. These levels appear inconsistent and require clarification. • Flood hazard mapping has been provided for the proposed scenario only. Flood hazard maps for both the existing and proposed scenarios should be included. In addition, the velocity maps for both scenarios appear to display the same proposed-development background, resulting in confusion. • The flood hazard maps classify flooding as low, medium, high and very high hazard; however, the assessment does not explain the criteria used to derive these classifications. The hazard mapping should be updated to align with the NSW Flood Risk Management Guidelines. • The afflux map title appears to be incorrect. Furthermore, the mapping indicates significant afflux impacts to downstream properties, with increases exceeding 20 mm in some locations. The flood study should be updated to address the above issues, and the revised flood model should be submitted to Council for review. All figures and maps should also be checked to ensure that titles, annotations, backgrounds and scenario descriptions accurately correspond with the modelled scenarios presented

Internal Referral Body	Comments
NECC (Riparian Lands and Creeks)	***Referral completed - no conditions required.*** Jetty, pontoon and seawall not part of this application.
NECC (Water Management)	***Referral completed - conditions recommended.*** Total rainwater tank volume must meet or exceed the BASIX requirements. No objections.
Parks, reserves, beaches, foreshore	***Referral completed - no conditions required.*** The development site adjoins waterway that is located downslope of the property. All development works must ensure that surface sediment runoff and/or erosion is controlled, managed and contained within the site boundaries and prevented from travelling across the boundary and into the waterway. The proposed development is not detrimental to the prevailing landscape and waterway character when viewed from the adjoining waterway, and as such Parks, Reserves and Foreshores raise no concerns with the development proposal.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	***Supported, subject to conditions.*** The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. Were the application recommended for approval, a condition would be included requiring compliance with the relevant requirements.
Aboriginal Heritage Office	***Supported, subject to conditions.*** No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, the Department of Planning, Industry and Environment (DPIE) and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1824754S dated 03 December 2025).

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

Should the application be approved, a condition of consent would be imposed requiring the development to be carried out in accordance with the commitments and performance standards specified in the approved 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 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:
As discussed elsewhere within this report, insufficient information has been provided to demonstrate that the application will not adverse impact on matters identified within clauses (a) and (b).

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:
As discussed elsewhere within this report, insufficient information has been provided for Council to be satisfied that the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (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:
As discussed elsewhere within this report, insufficient information has been provided to demonstrate that the application will not adverse impact on matters identified within clauses (a), and (b).

Division 5 General
2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

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

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

Conclusion:

As such, it is considered that the application does not comply with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

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

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	No
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	8.1m	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	No
5.21 Flood planning	No
7.1 Acid sulfate soils	Yes
7.2 Earthworks	No
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	No
7.10 Essential services	No

Detailed Assessment

Zone C4 Environmental Living

The underlying objectives of the C4 Environmental Living zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment:
The information submitted is insufficient to demonstrate that the proposal provides for low-impact residential development, particularly in relation to flood planning and access. As a

result, the application cannot be supported and this deficiency constitutes a reason for refusal.

Conclusion:

For the reasons detailed above, the proposal is assessed as **inconsistent** with the objectives of the C4 Environmental Living zone.

4.6 Exceptions to development standards

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

Development standard: Clause 7.8 - Limited development on foreshore area
Requirement: Landward of Foreshore Building Line
Proposed: Dwelling and associated structures (terrace, pool deck, retaining walls and driveway) seaward of the foreshore building line
Percentage of variation: N/A - non numerical standard

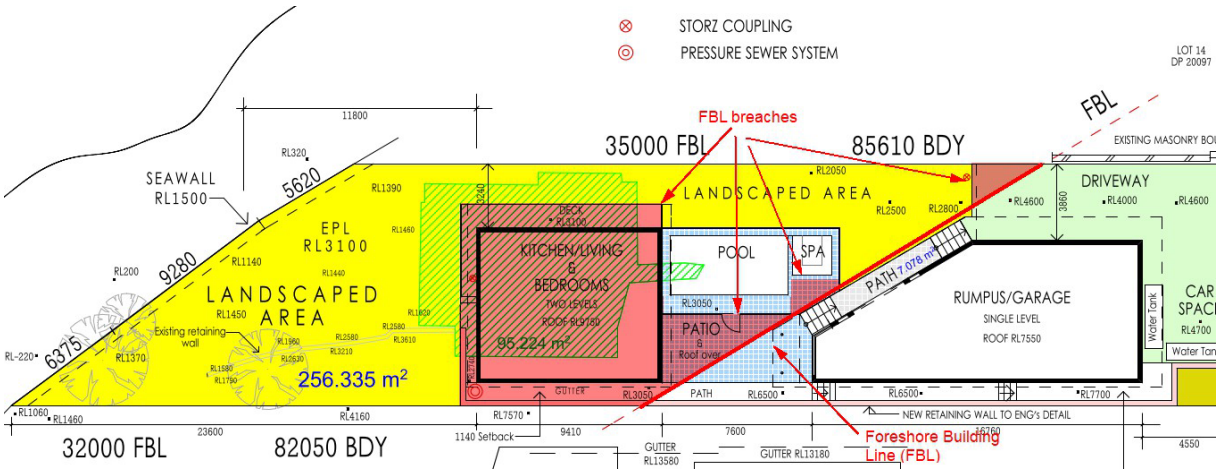


***Figure 1**. Foreshore building line (FBL) diagram. Encroachments highlighted in red.*

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 PLEP 2014 (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 7.8 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 not satisfied that the Applicant has demonstrated that compliance with Clause 7.8 is unreasonable or unnecessary in the circumstances of this application for the following reasons:

- The written request relies on the first limb of *Wehbe v Pittwater Council (2007)*, namely that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.
- However, as discussed throughout this report, the information submitted is insufficient to adequately address flood planning considerations and suitable vehicular access. Consequently, Council is not satisfied that the proposal achieves objective (a) of Clause 7.8, which requires that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.
- In the absence of sufficient information to demonstrate consistency with this objective, Council cannot be satisfied that the development standard is unreasonable or unnecessary in the circumstances of the application. Accordingly, the written request fails to establish adequate grounds to justify the contravention of Clause 7.8.

(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:

Ground No. 1 - Location of the Foreshore Building Line
Ground No. 2 - Constraints of building in a compliant location
Ground No. 3 - Topography of the site
Ground No. 4 - Practical considerations of each breaching element

Comment:

Whilst the applicant's written request identifies a number of site-specific constraints that have influenced the design of the development within the foreshore area, Council does not accept the contention that the proposed encroachments will result in no adverse impacts. In particular, insufficient information has been provided to adequately assess the potential flood-related impacts arising from the works within the foreshore area. Accordingly, Council is not satisfied that the applicant has demonstrated sufficient environmental planning grounds to justify the contravention of Clause 7.8.

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 not satisfied that the matters required to be addressed under Clause 4.6 of the PLEP 2014 have been adequately demonstrated. As such, the proposed departure from the development standard is considered unacceptable, and flexibility to the standard should not be granted in this instance.

5.21 Flood planning

Under this clause, development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

(a) is compatible with the flood function and behaviour on the land, and
(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
(d) incorporates appropriate measures to manage risk to life in the event of a flood, and
(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

Comment:
Council's Floodplain Management team have reviewed the proposed development and advised they cannot support the development, due to potential flood impacts and insufficient information.

Comments from Council's Flood Engineer are provided in full above in section 'Internal Referrals'.

This will form a reason for refusal of the application.

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

(a) the impact of the development on projected changes to flood behaviour as a result of climate change,
(b) the intended design and scale of buildings resulting from the development,
(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,
(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.

Comment:

As outlined above, insufficient information has been provided to enable a proper assessment of the matters identified above.

7.2 Earthworks

The proposal does not satisfactorily demonstrate compliance with Clause 7.2 – Earthworks of the PLEP 2014.

The objective of Clause 7.2 seeks to ensure that earthworks requiring development consent do not have a detrimental impact on environmental functions and processes, neighbouring land uses, cultural or heritage items, or features of the surrounding land.

In accordance with Clause 7.2(3)(a), the consent authority is required to consider the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development.

Insufficient information has been provided to enable a complete and proper assessment of the impacts of the proposed earthworks on flood-affected land, including the potential effects on local drainage patterns and flood behaviour. As a result, the consent authority cannot be satisfied that the proposed earthworks will not adversely affect environmental processes within the locality or that the proposal is consistent with the objectives and requirements of Clause 7.2 of PLEP 2014.

7.10 Essential services

The provision states that development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—
(a) the supply of water,
(b) the supply of electricity,
(c) the disposal and management of sewage,
(d) stormwater drainage or on-site conservation,
(e) suitable vehicular access.

Comment:
In accordance with comments provided by Council's Development Engineer, there is inadequate information to demonstrate that the proposal provides suitable vehicular access.

The proposal does not satisfy this provision.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	>6.5m	N/A	Yes
Rear building line	FBL Applies	Within FBL	N/A	**No**
Side building line	2.5m - North	2.0m - 3.9m	20%	**No**
	1.0m - South	1.1m	N/A	Yes
Building envelope	3.5m from EPL - North	Within envelope	N/A	Yes
	3.5m from EPL - South	Within envelope	N/A	Yes
Landscaped area	60%	52.9% (543.3m^2)	11.8%	**No**

Compliance Assessment

Clause	**Compliance with Requirements**	**Consistency Aims/Objectives**
A1.7 Considerations before consent is granted	Yes	Yes
A4.4 Church Point and Bayview Locality	No	No
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B3.11 Flood Prone Land	No	No
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	No	No
B6.2 Internal Driveways	No	No
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D4.1 Character as viewed from a public place	Yes	Yes
D4.3 Building colours and materials	Yes	Yes
D4.5 Front building line	Yes	Yes
D4.6 Side and rear building line	No	Yes
D4.8 Building envelope	Yes	Yes
D4.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D4.12 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D4.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D4.14 Scenic Protection Category One Areas	Yes	Yes
D15.15 Waterfront development	Yes	Yes

Detailed Assessment

A4.4 Church Point and Bayview Locality

Clause A4.4 – Church Point and Bayview Locality of the Pittwater 21 Development Control Plan requires development to be supported by adequate infrastructure, including sensitively designed driveways and parking areas, and to be designed to minimise exposure to hazards. As discussed throughout this assessment report, Council's Development Engineering and Flooding Engineering officers have reviewed the proposal in relation to access and flood risk. Notwithstanding this review, insufficient information has been provided to adequately assess the impacts of the proposed development in respect of these matters. Accordingly, it has not been demonstrated that the proposal satisfies the objectives of the locality statement and the development is therefore considered inconsistent with Clause A4.4.

B3.11 Flood Prone Land

Council's Floodplain Management team have reviewed the proposed development and advised they cannot support the development, due to potential flood impacts and insufficient information

A summary of main non-compliances with the DCP control is:

- *The flood study does not adequately demonstrate how the model has been calibrated or validated against the McCarrs Creek, Mona Vale and Bayview Flood Study Review (2017) adopted by Council.*
- *The driveway area in front of the double garage is identified as being affected by flooding. The proposed level is shown as either RL 4.00 m AHD (in the flood model) or RL 4.70 m AHD (on the master plan), while the reported 1% AEP flood level is RL 3.60 m AHD. These levels appear inconsistent and require clarification.*

Comments from Council's Flood Engineer are provided in full above in section 'Internal Referrals'

This will form a reason for refusal of the application.

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

Council's Development Engineer has reviewed the development application and has found that insufficient information has been provided with regard to the proposed driveway crossover located within the road reserve.

B6.2 Internal Driveways

This control provides the requirements for new driveways. Council's Development Engineer has reviewed the development application and has found that insufficient information has been provided with regard to the proposed access driveway levels/profile.

D4.6 Side and rear building line

Description of non-compliance

The controls requires development to have minimum setbacks of 2.5 metres to one side, and 1 metre to the other side boundary. For the purposes of this assessment the 2.5 metre setback is applied to the northern boundary.

The proposed first floor balcony is set back 2.0 metres from the northern side boundary.

The proposal complies with the southern side boundary setback control.

Comment:

The outcomes of the control are:

- *To achieve the desired future character of the Locality. (S)*
- *The bulk and scale of the built form is minimised. (En, S)*
- *Equitable preservation of views and vistas to and/or from public/private places. (S)*
- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*
- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*
- *Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*
- *Flexibility in the siting of buildings and access. (En, S)*
- *Vegetation is retained and enhanced to visually reduce the built form. (En)*
- *To ensure a landscaped buffer between commercial and residential zones is established.*

The proposed balcony is elevated above ground level and does not necessitate the removal of any vegetation. It is not considered excessive in terms of bulk or scale and is not expected to result in any loss of views. Although the balcony is oriented towards the side boundary, any privacy impacts are considered negligible, as the adjoining land comprises Crown land and the nearest area of private open space is located a substantial distance away.

The development is consistent with the outcomes of the control and is acceptable on merit in this regard.

D4.10 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

The control requires a minimum of 60% of the site area to be landscaped.

The proposal provides 52.9% (543.3m^2) of the site as landscaped area, which represents a variation of 11.8%.

The variations provision of the Control allows for impervious pathways less than 1m in width to be included as part of the landscaped area, as well as up to 6% of the site area provided such is allocated to outdoor recreational purposes. Upon application of such provisions, the landscaped area equates to 59.6%.

Comment:

The outcomes of the control are:

- *Achieve the desired future character of the Locality. (S)*
- *The bulk and scale of the built form is minimised. (En, S)*
- *A reasonable level of amenity and solar access is provided and maintained. (En, S)*
- *Vegetation is retained and enhanced to visually reduce the built form. (En)*
- *Conservation of natural vegetation and biodiversity. (En)*
- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)*
- *To preserve and enhance the rural and bushland character of the area. (En, S)*
- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.(En, S)*

The proposal achieves the intended outcomes of the landscaped area control by reinforcing the future character of the locality and preserving its landscaped setting. The bulk and scale of the built form are moderated through retention of vegetation and maximisation of soft landscaped areas, which assist in visually reducing the development and maintaining residential amenity and solar access. Overall, the development preserves and enhances the character of the area while achieving acceptable environmental and visual outcomes.

The development is consistent with the outcomes of the control and is acceptable on merit in this regard.

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 $18,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $1,800,000.

CONCLUSION

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

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

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

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

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

Council is not satisfied that the Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify variation of the development standard contained within Clause 7.8 Limited development on foreshore area 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

The application has been assessed against the relevant provisions of the Pittwater Local Environmental Plan 2014, Pittwater 21 Development Control Plan and State Environmental Planning Policy (Resilience and Hazards) 2021. The assessment concludes that insufficient information has been provided to enable a proper

assessment of the flood-related impacts of the proposal and whether suitable vehicular access can be provided.

In addition, Council is not satisfied that the Clause 4.6 written request has adequately demonstrated that compliance with Clause 7.8 of PLEP 2014 is unreasonable or unnecessary, nor that there are sufficient environmental planning grounds to justify the contravention. In particular, insufficient information has been provided to enable an adequate assessment of the flood-related impacts associated with the proposed works within the foreshore area.

Consequently, the proposal cannot be supported in its current form and this report recommends that the Northern Beaches Local Planning Panel refuse the development application for the reasons outlined in this report.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council , as the consent authority REFUSE Development Consent to Development Application No DA2026/0201 for the Demolition works and construction of a dwelling house including garage and a swimming pool on land at Lot 15 DP 875022,206 McCarrs Creek Road, CHURCH POINT, Lot LIC 680172,206 McCarrs Creek Road, CHURCH POINT, for the reasons outlined as follows:

1. **Clause 4.6 Limited development on foreshore area Variation**
   a) Clause 4.6 Variation to Development Standards
   Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause 4.6 Exceptions to Development Standards of the Pittwater Local Environmental Plan 2014.

   Particulars:

   The applicant's written request under Clause 4.6 of PLEP 2014 has not adequately demonstrated that compliance with the standard is unreasonable or unnecessary, that there are sufficient environmental planning grounds to justify the contraventions.

   b) Inconsistency with Clause 7.8 Limited development on foreshore area
   Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause 7.8 Limited development on foreshore area development standard of the Pittwater Local Environmental Plan 2014.

   Particulars:

   The proposal is inconsistent with the Clause 7.8 Limited development on foreshore area of Pittwater Local Environmental Plan 2014 Development Standard.

2. **Aims of the Pittwater Local Environmental Plan 2014**
   Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Pittwater Local Environmental Plan 2014.

3. **Inconsistent with Zone C4 Environmental Living Objectives**

   Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the underlying objectives of the C4 Environmental Living zone of the Pittwater Local Environmental Plan 2014.

   Particulars:

   i) Insufficient information has been provided to demonstrate that the proposal provides for low-impact residential development, particularly in relation to flood planning and vehicular access issues.

4. **Flooding**
Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Section 2.10 Development on land within the coastal environment area and 2.11 Development on land within the coastal use area of the State Environmental Planning Policy (Resilience and Hazards) 2021, Clause 5.21 Flood planning and Clause 7.2 Earthworks of the Pittwater Local Environmental Plan 2014 and Clause B3.11 Flood Prone Land of the Pittwater 21 Development Control Plan.

Particulars:

i) Insufficient information has been provided to enable a proper assessment of the impacts of the proposed development on flood-affected land, including the potential effects on local drainage patterns and flood behaviour.

5. **Access**
Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause 7.10 Essential services of the Pittwater Local Environmental Plan 2014 and Clause B6.1 Access driveways and Works on the Public Road Reserve and B6.2 Internal Driveways of the Pittwater 21 Development Control Plan.

Particulars:

i) Insufficient information has been submitted to ensure that the proposal provides suitable vehicular access.

6. **Desired Future Character**
Pursuant to Section 4.15(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause A4.4 Church Point and Bayview Locality of the Pittwater 21 Development Control Plan.

Particulars:

i) Insufficient information has been provided to adequately assess the impacts of the proposed development in respect of access and flood risk matters and is therefore inconsistent with the objectives of the Desired Future Character provisions of the Church Point and Bayview Locality.

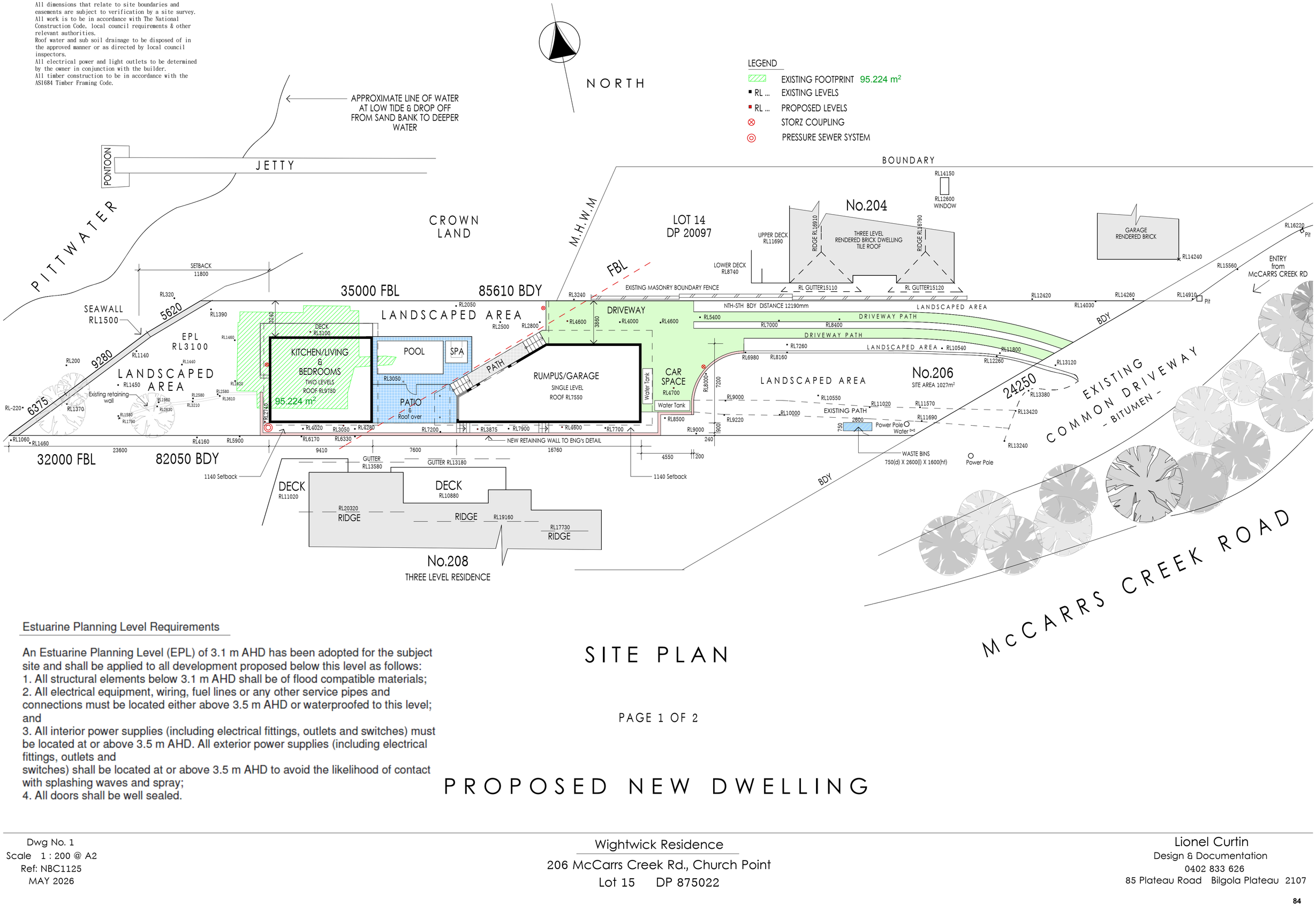
7. **Public Interest**
Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Particulars:

i) The development is not in the public interest having regard to the matters set out in the submissions to the extent that the concerns raised are consistent with Council's assessment.

NOTES

Builder to check all dimensions on site prior to construction.
All dimensions that relate to site boundaries and easements are subject to verification by a site survey.
All work is to be in accordance with The National Construction Code, local council requirements & other relevant authorities.
Roof water and sub soil drainage to be disposed of in the approved manner or as directed by local council inspectors.
All electrical power and light outlets to be determined by the owner in conjunction with the builder.
All timber construction to be in accordance with the AS1684 Timber Framing Code.



Estuarine Planning Level Requirements

An Estuarine Planning Level (EPL) of 3.1 m AHD has been adopted for the subject site and shall be applied to all development proposed below this level as follows:
1. All structural elements below 3.1 m AHD shall be of flood compatible materials;
2. All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 3.5 m AHD or waterproofed to this level; and
3. All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 3.5 m AHD. All exterior power supplies (including electrical fittings, outlets and
switches) shall be located at or above 3.5 m AHD to avoid the likelihood of contact with splashing waves and spray;
4. All doors shall be well sealed.

SITE PLAN

PAGE 1 OF 2

PROPOSED NEW DWELLING

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Ref: NBC1125
MAY 2026

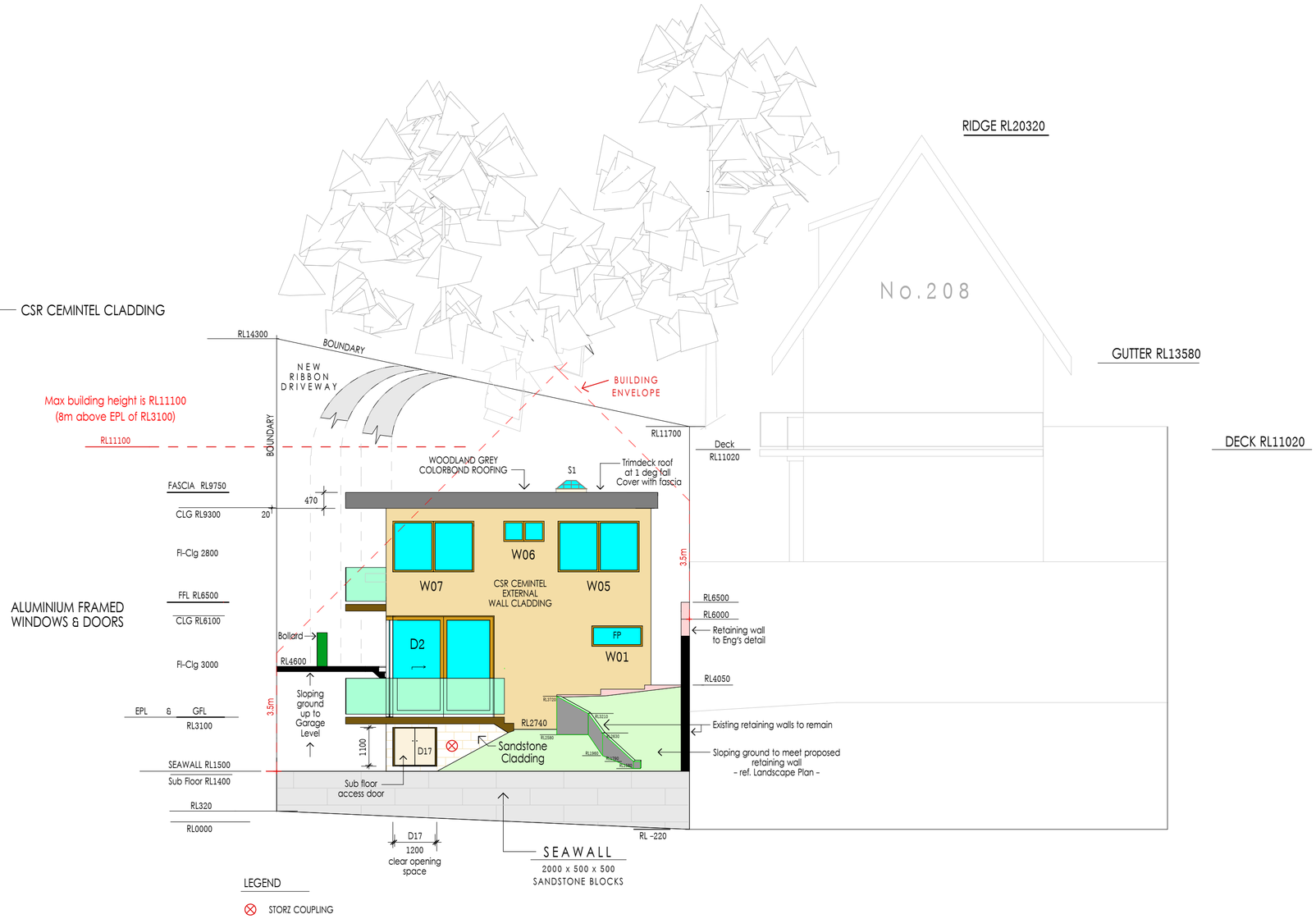
Wightwick Residence
206 McCarrs Creek Rd., Church Point
Lot 15 DP 875022

Lionel Curtin
Design & Documentation
0402 833 626
85 Plateau Road Bilgola Plateau 2107

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switches) shall be located at or above 3.5 m AHD to avoid the likelihood of contact with splashing waves and spray;
4. All doors shall be well sealed.

WEST ELEVATION

PROPOSED NEW DWELLING

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Ref: NBC1125
MAY 2026

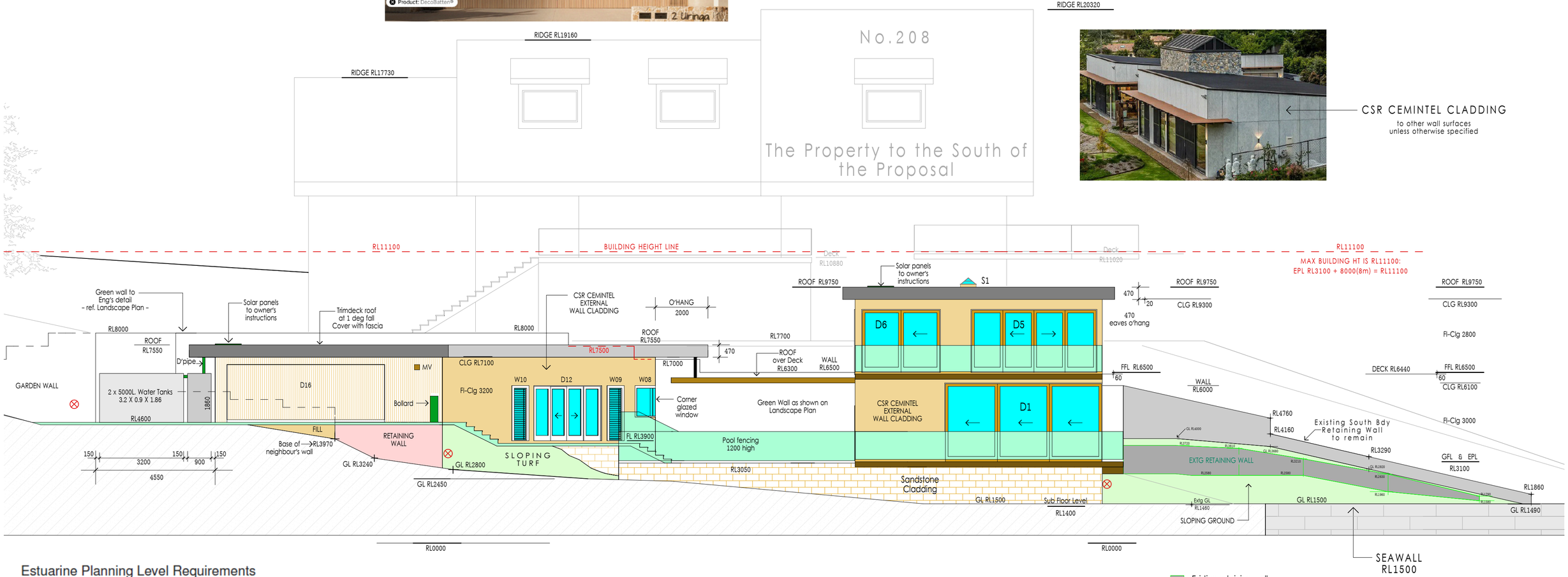
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Existing retaining walls to remain

STORZ COUPLING

Estuarine Planning Level Requirements

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switches) shall be located at or above 3.5 m AHD to avoid the likelihood of contact with splashing waves and spray;
4. All doors shall be well sealed.

NORTH ELEVATION

PROPOSED NEW DWELLING

Dwg No. 7
Scale 1 : 100 @ A2
Ref: NBC1125
MAY 2026

Wightwick Residence
206 McCarrs Creek Rd., Church Point
Lot 15 DP 875022

Lionel Curtin
Design & Documentation
0402 833 626
85 Plateau Road Bilgola Plateau 2107

NOTES

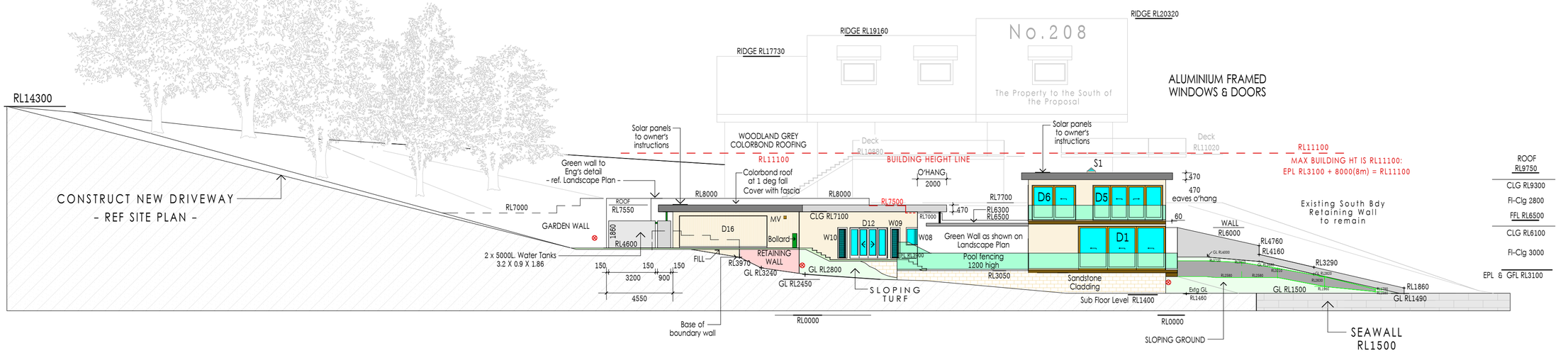
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All timber construction to be in accordance with the AS1684 Timber Framing Code.

FLUSH MOUNT GARAGE DOOR. CLADDING TO COVER NTH ELEV OF GARAGE WALL





CSR CEMINTEL CLADDING
to other wall surfaces
unless otherwise specified



Existing retaining walls to remain

STORZ COUPLING

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NORTH ELEVATION

PROPOSED NEW DWELLING

Dwg No. 8
Scale 1 : 200 @ A2
Ref: NBC1125
MAY 2026

Wightwick Residence
206 McCarrs Creek Rd., Church Point
Lot 15 DP 875022

Lionel Curtin
Design & Documentation
0402 833 626
85 Plateau Road Bilgola Plateau 2107

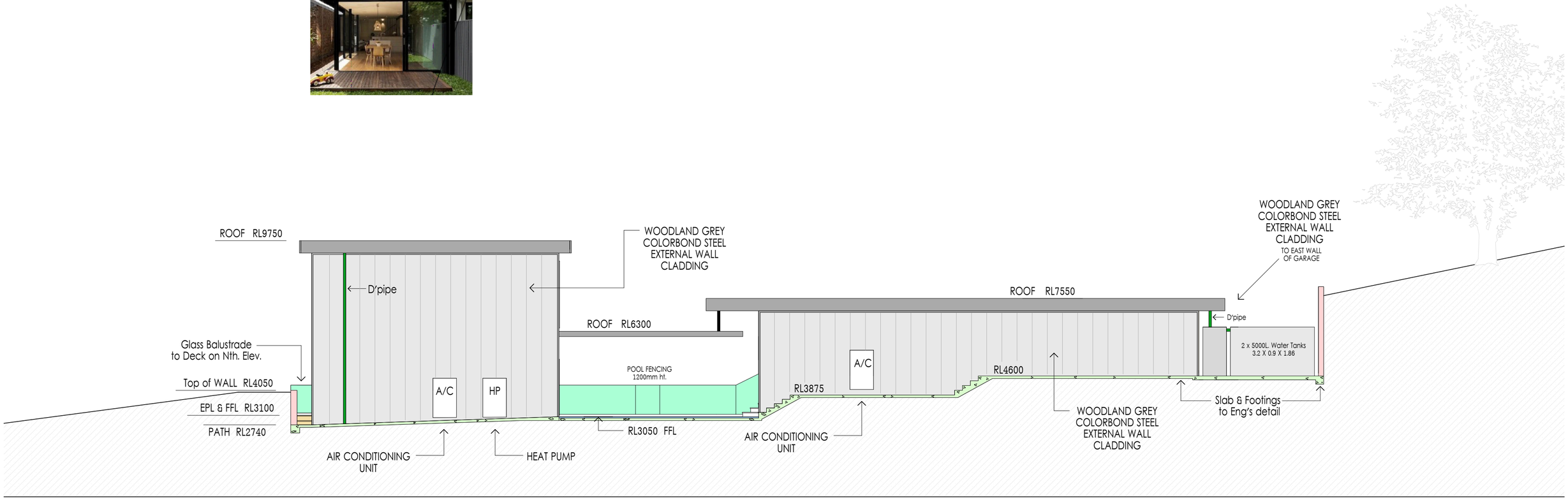
NOTES

Builder to check all dimensions on site prior to construction.
All dimensions that relate to site boundaries and easements are subject to verification by a site survey.
All work is to be in accordance with The National Construction Code, local council requirements & other relevant authorities.
Roof water and sub soil drainage to be disposed of in the approved manner or as directed by local council inspectors.
All electrical power and light outlets to be determined by the owner in conjunction with the builder.
All timber construction to be in accordance with the AS1684 Timber Framing Code.



WOODLAND GREY COLORBOND STEEL EXTERNAL WALL CLADDING

TO SOUTH WALL AND EAST WALL OF GARAGE



Estuarine Planning Level Requirements

An Estuarine Planning Level (EPL) of 3.1 m AHD has been adopted for the subject site and shall be applied to all development proposed below this level as follows:
1. All structural elements below 3.1 m AHD shall be of flood compatible materials;
2. All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 3.5 m AHD or waterproofed to this level; and
3. All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 3.5 m AHD. All exterior power supplies (including electrical fittings, outlets and
switches) shall be located at or above 3.5 m AHD to avoid the likelihood of contact with splashing waves and spray;
4. All doors shall be well sealed.

SOUTH ELEVATION

PROPOSED NEW DWELLING

Dwg No. 9
Scale 1 : 100 @ A2
Ref: NBC1125
MAY 2026

Wightwick Residence
206 McCarrs Creek Rd., Church Point
Lot 15 DP 875022

Lionel Curtin
Design & Documentation
0402 833 626
85 Plateau Road Bilgola Plateau 2107

BLACKWATTLE
PLANNING

Clause 4.6 Request for variation
PITTWATER LEP 2014

LIMITED DEVELOPMENT ON
FORESHORE AREA
for the rebuilding of a dwelling and
construction of a swimming pool at

206 McCarrs Creek Road
Church Point

Content

1.0 Introduction

2.0 Pittwater Local Environmental Plan 2014

3.0 Variation to Clause 7.8 Limited Development on Foreshore Area

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1.0 Introduction

This Clause 4.6 Request for Variation to the Limited Development on Foreshore Area development standard under Pittwater Local Environmental Plan 2014 (PLEP 2014) is prepared on a without prejudice basis by Blackwattle Planning in support of a Development Application for the rebuilding of a dwelling and construction of a swimming pool at 206 McCarrs Creek Road Church Point submitted to Northern Beaches Council.

It is provided on a precautionary and without prejudice basis, as our primary position is that the development is compliant with Clause 7.8(2)(a).

We maintain that an extension or alteration of the rebuilt building is permitted by Clause 7.8(2)(a), so long as the footprint does not move closer to MHWM. In relation to the proposed dwelling footprint and the footprint of most of the retaining wall proposed adjacent to the southern boundary, the footprint has moved away from MHWM but is the same, and therefore complies with Clause 7.8(2)(a)

Notwithstanding our primary position outlined above, and in light of the opposing position Council has expressed in both its Pre lodgement advice and recent request for further information, we provide this written request seeking to justify what Council may consider to be a variation to Clause 7.8 Limited Development on Foreshore Area development standard in PLEP 2014.

We provide this Clause 4.6 request only on a without prejudice basis so that provision of the Clause 4.6 request should not prejudice our primary position that the development complies with Clause 7.8(2)(a).

The works proposed are detailed in the architectural plans prepared by Lionel Curtin dated 20 December 2025.

2.0 Pittwater LEP 2014

No. 206 McCarrs Creek Road Church Point (the site) falls within the area to which PLEP 2014 applies. The site has water frontage to McCarrs Creek at its western boundary and contains an existing dwelling which has fallen into a state of disrepair. The site is known legally as Lot 15 in DP 875022, and has an area of 1027sqm. The site is accessed from McCarrs Creek Road via driveway serving a number of properties within the road reserve.

Under **Clause 2.2** of PLEP 2014, the site is zoned C4 Environmental Living as shown in Figure 1 below. The proposal to rebuild a dwelling and swimming pool is permissible with consent in the C4 Zone.

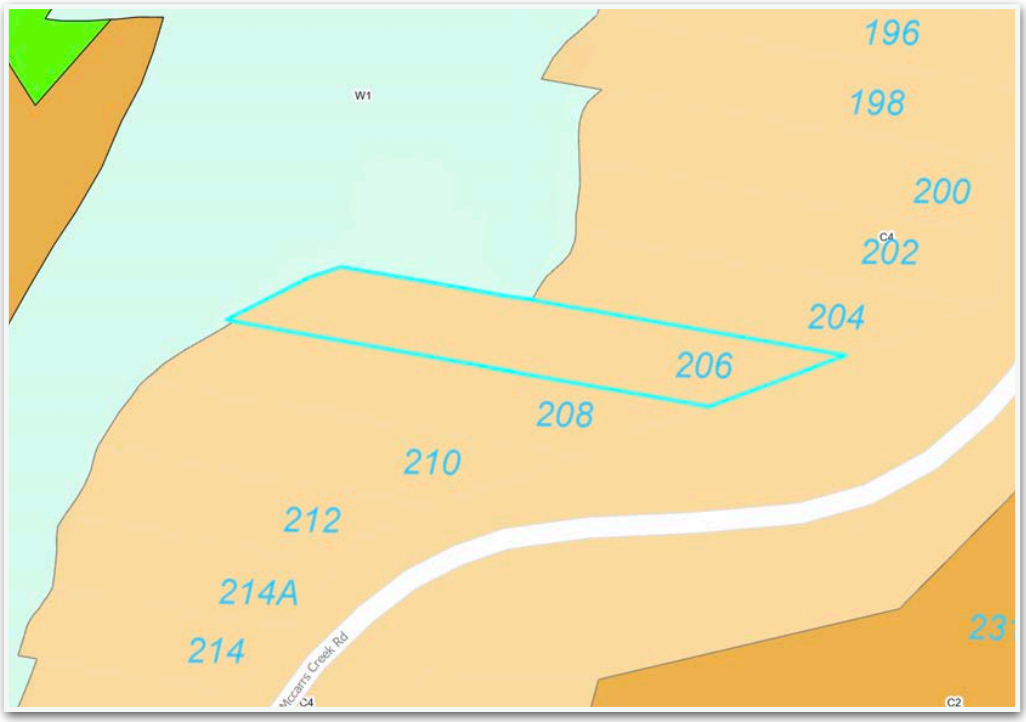


Figure 1: The site outlined blue within zone C4 Environmental Living,
Source: Northern Beaches Online Mapping

Clause 7.8 of PLEP 2014 restricts development on the site in the foreshore area in accordance with the Land below the Foreshore Building Line Map (at Figure 2 below). Clause 7.8 is a development standard.

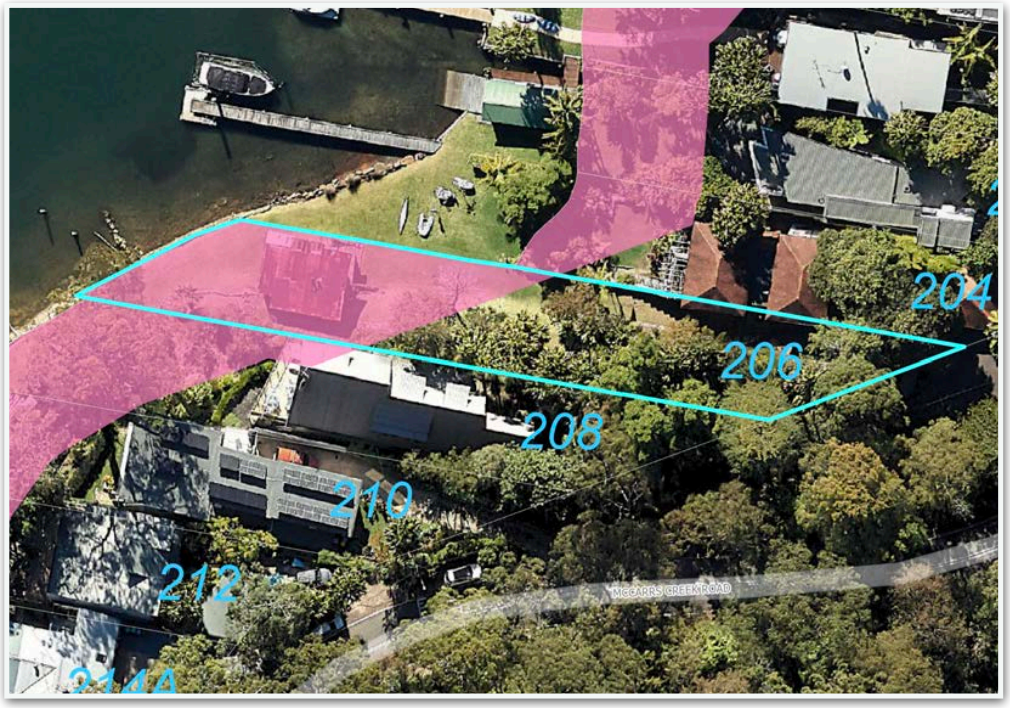


Figure 2: The site, with the Land below the Foreshore Building Line in pink
Source: Northern Beaches Online Mapping

Clause 4.6 of PLEP 2014 enables the consent authority to grant consent to development even though the development does not comply with a development standard. The purpose of the Clause is to allow flexibility in the application of certain development standards which may in turn result in better outcomes.

3.0 Variation to Clause 7.8 Limited Development on Foreshore Area

PLEP 2014 defines the foreshore area as follows:

> ***foreshore area*** *means the land between the foreshore building line and the mean high water mark of the nearest natural waterbody shown on the Foreshore Building Line Map.*

The foreshore building line (FBL) traverses the centre of the site. The whole of the existing dwelling on the site is located seaward of the foreshore building line, within the foreshore area, as shown in the below excerpt from the site survey.

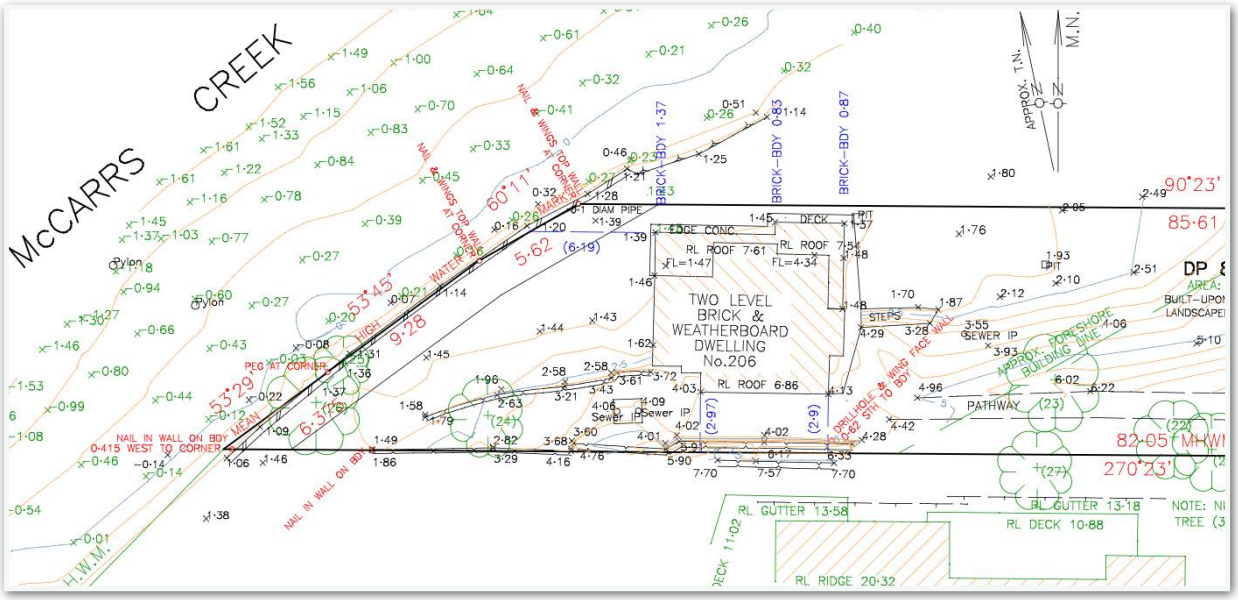


Figure 3: The existing dwelling located wholly below the Foreshore Building Line as defined by survey **Source:** Detailed Surveys

Clause 7.8 requires the following:

> *(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes—*
>
> *(a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
>
> *(b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*
>
> *…*

Following the consideration of legal advice which closely examines the language and intent of Clause 7.8, it is apparent that the proposed rebuilding of the existing building within the foreshore area in an altered location is compliant with the requirements of Clause 7.8(2)(a).

In arriving at this position, we have examined Council's interpretation of what is meant by a building "extending into the foreshore area", and what we consider the phrase means in the broader context of Clause 7.8.

It is important to identify that Clause 7.8 contemplates, in addition to the *rebuilding* of a building, the actions of *extension* and *alteration.* Relying on the ordinary meaning of these words, it follows that the rebuilding of a building that is larger and of different design to the existing building, is permitted.

On this basis alone, the rebuilding of the existing building at 206 McCarrs Creek Road would be permitted under Clause 7.8(2)(a) in a larger or different form.

Council has previously expressed an alternate view within its Pre lodgement advice asserting that the phrase within Clause 7.8(2)(a) '*will not result in the footprint of the building extending further into the foreshore area'*, means:

> *"that the development must be built over the existing footprint and cannot extend further to the north, east, south or west."*

A building within that foreshore area, expressly, may be extended. This must, as a matter of logic and simple practicality, involve a larger footprint area within the foreshore area, which Council says cannot be done in any direction. Council's approach would have the effect of prohibiting the very thing that the clause expressly permits.

Whilst we maintain our position that a larger building than existing is permitted, if what Council contends is precluded is a further extension into the foreshore "area" it is not unreasonable to consider that what may not be extended is the "area" of the footprint, noting too that a footprint has itself an area.

There is nothing in the words of the clause however to suggest that the footprint area, if it were to remain the same, could not be relocated. In those circumstances, the footprint area is not extended, it is simply moved.

Additionally, Council's interpretation of the phrase does not withstand closer scrutiny of the words used in Clause 7.8. We believe that the restriction applies to an extension of a footprint further into the foreshore area ie. **closer to MHWM, and not against an increased footprint.**

We maintain that a larger footprint is indeed permitted by Clause 7.8(2)(a) for the reasons outlined above, so long as such a footprint does not move closer to MHWM. In relation to the proposed dwelling footprint and the footprint of most of the retaining wall proposed adjacent to the southern boundary, the footprint has moved but is the same, and therefore complies with Clause 7.8(2)(a)

Notwithstanding our primary position outlined above, and in light of the opposing position Council has expressed in both its Pre lodgement advice and recent request for further information, we provide the written request outlined in this document seeking to justify what Council may consider to be a variation to Clause 7.8 Limited Development on Foreshore Area development standard in PLEP 2014.

We provide this Clause 4.6 request only on a without prejudice basis so that provision of the Clause 4.6 Request should not prejudice our primary position that the rebuilding and altering of the existing building as proposed complies with Clause 7.8(2)(a).

The variation to the development standard (Clause 7.8(2)(a)) has four components:

- A small part of the proposed footprint of the rebuilt dwelling falls outside the existing footprint as a result of the minor shift in location; and,
- A portion of the covered swimming pool/access deck below the FBL (20sqm); and,
- A portion of the retaining wall proposed on and adjacent to the southern boundary below the FBL; and,
- A small section of the driveway below the FBL (3.8sqm).

It is noted that the swimming pool is also below the FBL however this is a permitted purpose within the foreshore area under Clause 7.8(2)(b). The FBL is not a numerical control. The extent of variation to the FBL is detailed below, including as outlined in blue on the following images:

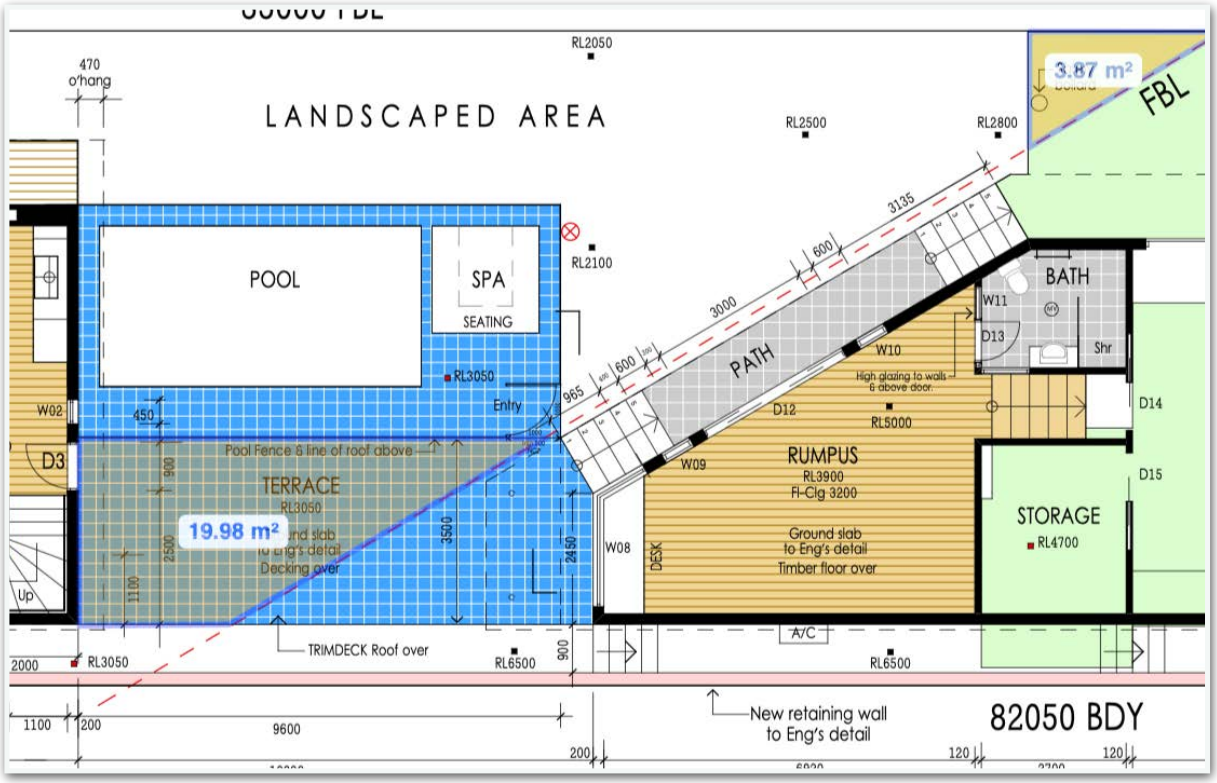


Figure 4: Variation relating to terrace and driveway **Source:** Lionel Curtin **Annotation:** Blackwattle PlanningDwelling footprint

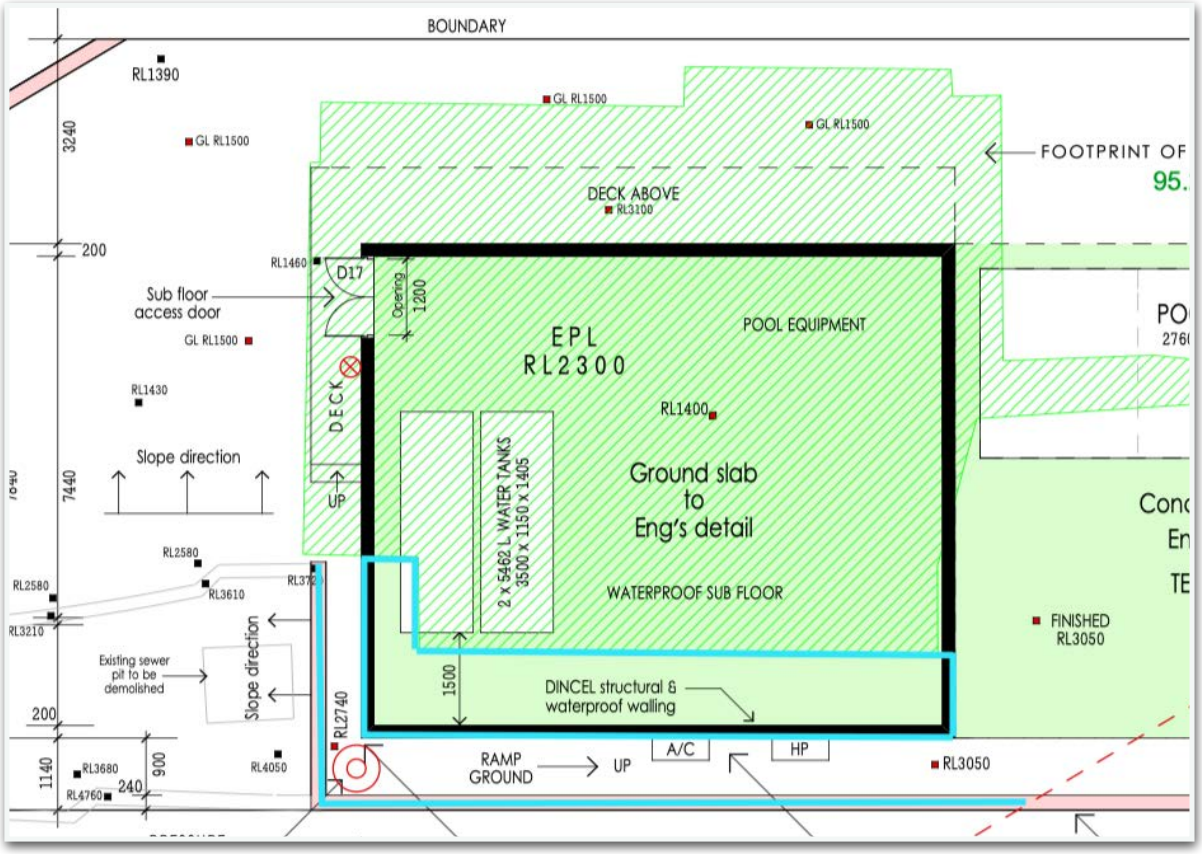


Figure 4: Variation relating to dwelling footprint and retaining wall **Source:** Lionel Curtin **Annotation:** Blackwattle Planning

The proposed development is for the rebuilding of an existing dwelling which is wholly within the foreshore area. The footprint of the proposed dwelling will be the same in area as the existing footprint. When measuring the footprint of the existing dwelling, the area includes all eaves and balconies.

The footprint of the rebuilt dwelling has been shifted slightly to the south compared to existing. This is because the altered location results in a better outcome when considering environmental and amenity considerations.

The vast majority of the rebuilt dwelling will be located on or behind (landward of) the western alignment of the existing dwelling footprint. A small portion of the rebuilt dwelling will however be positioned further into the foreshore area beyond the existing line of footprint to the south, and to the south west. On the northern side, the rebuilt structure will be well inside the northern extremity of the existing building.

The relocation of the dwelling footprint, albeit that it remains the same footprint area, represents a variation to the development standard.

Covered pool/access deck

A portion of the covered pool deck adjacent to the swimming pool is also considered a variation to the development standard as this occupies land below the foreshore building line. This covered deck area also serves as the entrance to the dwelling and connects the new garage and rumpus to the main dwelling floor space.

Retaining wall to southern boundary

A new retaining wall is proposed along the southern boundary, and extending for a short distance to the north. Currently an existing retaining wall supports the substantial cut in the landform on this boundary. As the new retaining wall has a slightly different footprint to the existing retaining wall, it also comprises a variation to the development standard.

A small portion of the driveway

The north western corner of the proposed driveway extends seaward of the FBL. The area of the breach is 4sqm. This small portion of the driveway facilitates turning of vehicles into the garage.

4.0 Clause 4.6 Exceptions to Development standards

The objectives of Clause 4.6 are set out in subclause (1) 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.*

Decisions of the NSW Land and Environment Court have established that Clause 4.6(1) is not an operational clause.

Clause 4.6(2) is the enabling clause that permits development consent to be granted to a development that contravenes a development standard imposed by PLEP 2014. As the Limited Development on Foreshore Area is a development standard and is not expressly excluded from the operation of the clause, a variation may be granted, subject to the remaining subclauses of Clause 4.6 being satisfied.

4.1 Clause 4.6(3) of PLEP 2014 provides that:

> *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.*

This written request addresses these requirements in turn, having regard for relevant key decisions of the NSW Land and Environment Court that have informed the approach to the application of Clause 4.6.

4.2 Clause 4.6(3)(a) demonstrating that *compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

The decision in *Wehbe v Pittwater Council 2007* establishes five ways that an applicant may commonly demonstrate that this clause is achieved. The decision also establishes that it may be sufficient to establish only one way.

The first of those pathways is to demonstrate that *the objectives of the development standard are achieved notwithstanding non-compliance with the standard.* This request relies on this pathway.

The objectives of the Limited Development on Foreshore Area development standard are set out below, together with a discussion of how the objectives are met by the proposal, notwithstanding the variation to the standard.

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

Comment: The proposed works are generally no closer to Mean High Water Mark (MHWM) than the existing structures, and in some areas the works are relocated to be further away. Overall, the structures that will replace the existing dwelling range from between 5.5m - 13m from MHWM, measured perpendicular to MHWM.

The land above MHWM is generally 1.2-1.5m higher than the inter-tidal area and is retained by a sea wall. The land retained by the sea wall includes the footprint of the existing dwelling and its curtilage. The curtilage is predominantly a levelled mowed lawn area which has been kept in this manner for a significant length of time. At the southern boundary is a retaining wall which supports the original excavation of the land to form the building platform of the existing dwelling.

Two trees located adjacent to the sea wall in the south western corner of the site are approved for removal under a recently approved DA. One additional tree is located adjacent to the southern boundary, and this will be retained under the proposal. Apart from these, no other canopy or plantings are located below the FBL.

Due to this highly modified foreshore environment, foreshore processes that would normally occur under natural conditions are non-existent on the site. The significance of the foreshore area is somewhat reduced as a result. Nonetheless, measures are proposed to ensure that during construction and for the life of the development, sediment, overland flows, and the disposal of stormwater on the site occur without adverse impact upon the waterway and intertidal zone.

With respect to the significance and amenity of the area, we note the development achieves the objective in the following way:

- The proposed development will improve the visual amenity of the foreshore area by replacing a dilapidated structure with a dwelling offering greater amenity to both the occupants and neighbours. The increased setback of the replacement footprint from the northern boundary creates additional spatial separation between the dwelling and the water way, and opens view corridors for the neighbouring dwellings to the north.

- Replacement tree planting at a rate of 1:1 will regenerate and renew canopy on the site, making a positive contribution to both the visual and ecological significance of the land, and introducing to the foreshore area a currently non-existent landscaped context.

- The proposed replacement dwelling is designed to limit structure within the foreshore area to that commensurate with the existing dwelling, and is to be sited generally in the same location, albeit that location is moved further away from the waterway, such that there will be no adverse impact upon the significance or amenity of the foreshore area by the introduction of structures of excessive scale or bulk.

- The foreshore area of Cicada Glen Creek south of the site is characterised by dwellings constructed close to MHWM due to the steep and highly vegetated land adjoining McCarrs Creek Road. Dwellings are generally constructed over varying and multiple levels and are of diverse architectural expression.

- To the south of the site, dwellings have a similar setback to the waterway as the existing and proposed dwelling on 206 McCarrs Creek Road, despite the anomalous foreshore building line. The alignment The rebuild of the existing dwelling will be consistent with this character, and the improved canopy and landscaping outcome will restore a balance of vegetation and structures to the site consistent with that achieved elsewhere in the locality.

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

Comment: No public access is currently available along the foreshore of the site. The proposed development provides no impediment to current levels of access to the waterway and improves the relationship of the site with the adjoining crown land which is part of McCarrs Creek Reserve.

4.2.3

In addition to the stated objectives of the Development Standard, Clause 7.8 contains other provisions which must be met in order for Council to grant consent. These provisions are responded to below:

> *(3) Development consent must not be granted under this clause unless the consent authority is satisfied that—*
>
> *(a) the development will contribute to achieving the objectives for the zone in which the land is located, and*

An assessment of the development against the objectives of the C4 Zone is provided further in this statement.

> *(b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*

The question of compatibility with the surrounding area requires an examination of the type of development in the immediate and wider locality. In general, development along this stretch of McCarrs Creek road, as viewed from the waterway, can be described in the following way

- Dwellings of predominantly three levels of contemporary design and with ancillary and waterfront structures located between the dwelling and the waterway;

- The setback of dwellings from the waterway is highly variable due to a range of physical characteristics of the land and water way including a highly undulating shoreline, the steep and changing topography of the land, the curvilinear alignment of

McCarrs Creek Road, the need for vehicular access, the value and density of canopy and vegetation, and the historical and operational needs for access to the waterway. The location of the existing dwelling on the site is a clear example of the intersection of many of these characteristics.

- Dwellings that are closer to the waterway are generally of lower scale, including some two storey development

This description of the character and variable pattern of development is shown in the images below:

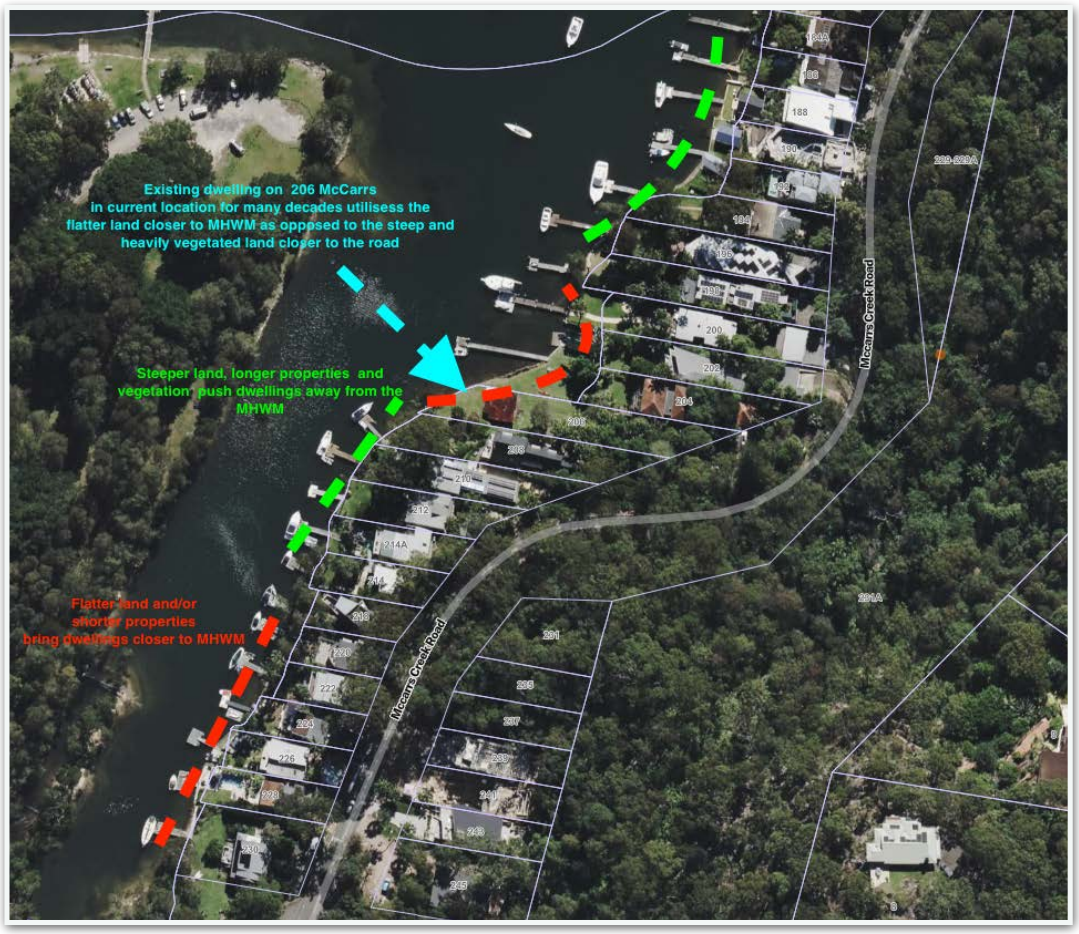


Figure 5: The variable pattern of dwellings with changing distance of dwellings from the waterway dictated by a range of physical factors demonstrated above
Source: SDT Explorer **Annotation:** Blackwattle Planning



Figure 6: Two and three storey dwellings located closer to the water on flatter land
Source: Applicant

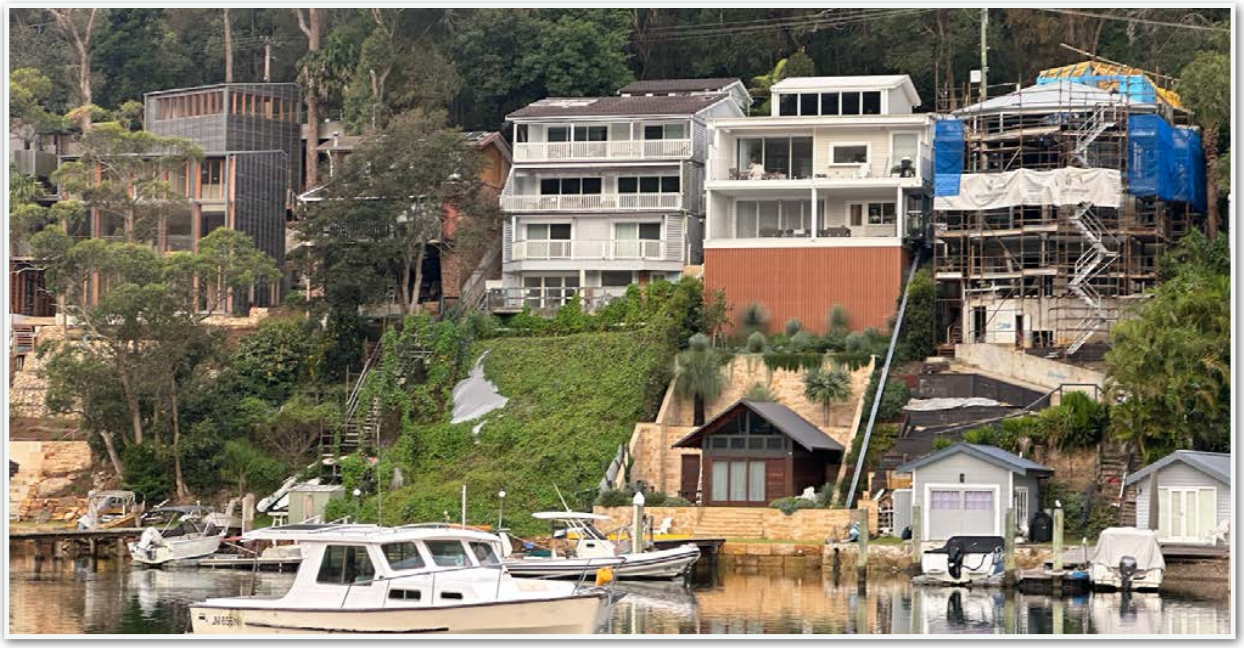


Figure 7: Contemporary design and three storey development is the predominant character of dwellings. On steeper foreshore land, dwellings are located further away from MHWM and closer to the road.**Source:** Applicant

The replacement dwelling will be a significant improvement in visual appearance compared to the existing structure. Overall, the increased setbacks to the foreshore area will bring about greater compatibility with the spatial separation of buildings from the waterway along this part of Cicada Glen Creek.

The rebuilt dwelling, as amended, sets back 2.9m from the alignment of the existing dwelling and aligns consistently with structures on adjoining land to the immediate south, as demonstrated in the excerpt from the site plan below:

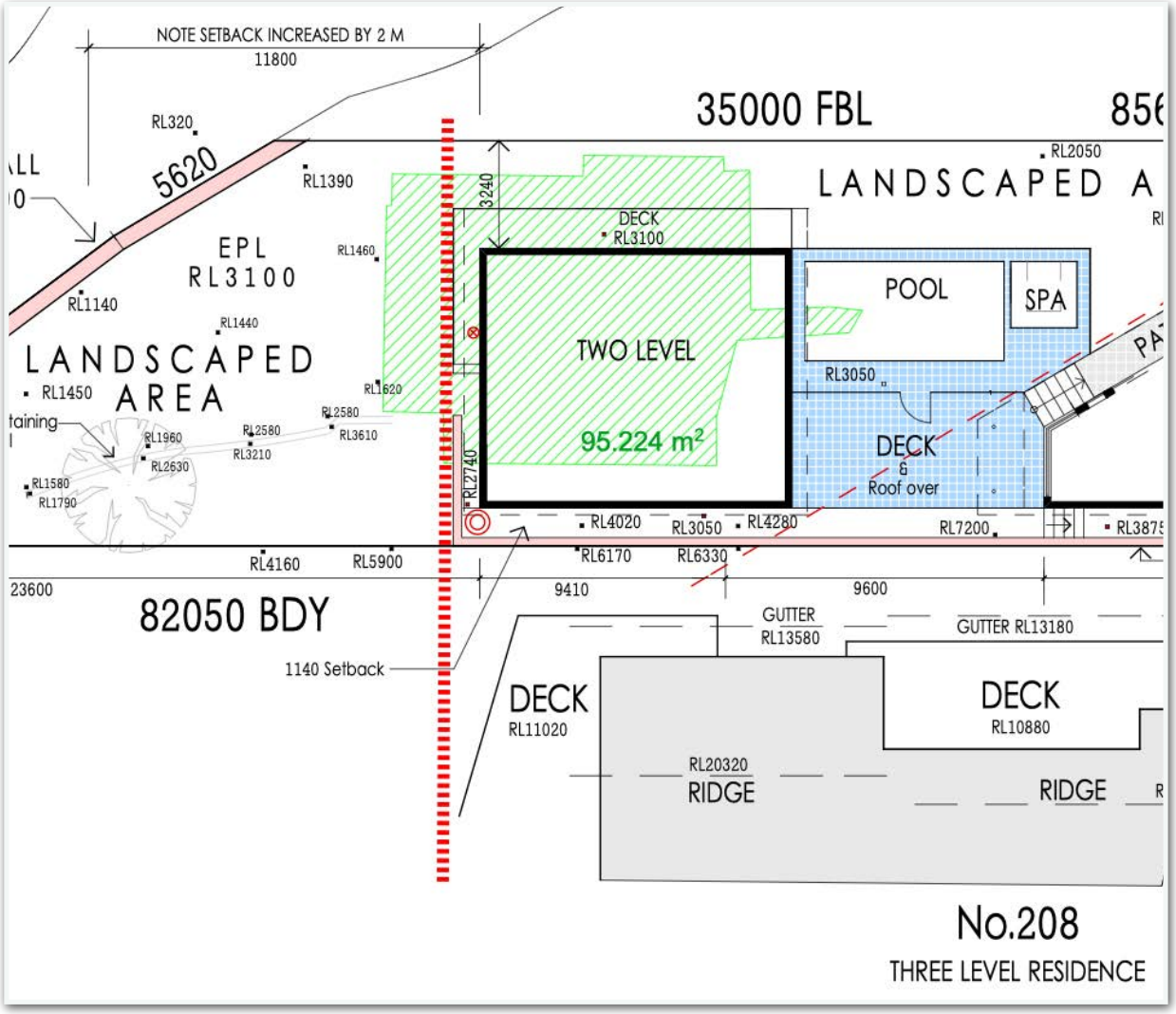


Figure 8: Amended siting of the rebuilt dwelling aligns with the location of the dwelling immediately to the south **Source:** Lionel Curtin **Annotation:** Blackwattle Planning

The dwelling over two levels and of contemporary design is an appropriate response to the surrounding character, and is set significantly lower in the landscape than its southern neighbour. By moving the dwelling substantially west and east, the smaller dwelling tucks into the elevated levels of the land to the south, and integrates more closely with the view of development from the water.

The existing dwelling is a contributing factor in the pattern of development in the locality noting the utilisation of flatter and less vegetated land closer to the water. It cannot be ignored as part of the character of the area, and a replacement dwelling is compatible with this pattern of development, noting the contemporary design, increased setbacks from the waterway, and limited 2 storey scale. Monatages provided of existing and proposed development below demonstrate this point.





(c) the development will not cause environmental harm such as—

(i) pollution or siltation of the waterway, or

Appropriate pollution and sedimentation controls will be employed during construction, and the residential use of the site is such that no ongoing pollution or siltation of the waterway is anticipated.

(ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or

The intertidal area below Mean High Water Mark will not be impacted by the proposed development. The replacement structure will have an improved relationship with surrounding residential development and an overall benefit upon the immediate flora and fauna habitats on site through the significant near increase in landscaping and vegetation. No change to marine habitat or intertidal areas will occur given the height above and distance from MHWM of the proposed works.

(iii) an adverse effect on drainage patterns, or

No impact is anticipated as a result of the proposed works upon the drainage or disposal of stormwater on the site. A stormwater management plan is prepared in accordance with Council's Water Management for development policy to support the proposed development.

(iv) the removal or disturbance of remnant riparian vegetation, and

No net loss of or adverse impact upon remnant riparian vegetation is proposed. Under the guidance of an arborist, trees on the site outside the building footprint can be safely retained and protected during construction. Replacement planting and a substantially improved landscaped outcome is proposed.

(d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and

No increase in intensity of use is proposed, and the waterfront property will remain occupied by a single dwelling. No conflict with the users of the waterway is anticipated. No other open space area adjoins the site.

(e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and

The proposed structures in the foreshore area are designed to ensure that, in general terms, access to the foreshore remains as existing. No public access to the foreshore is available landward of MHWM. The proposed development ensures that access is provided to the foreshore on the site and that such access is not compromised should circumstances on adjoining sites change in the future.

(f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and

As the proposed rebuilt dwelling will be generally in the location of the existing dwelling, and of similar scale, the aesthetic significance of the land will be maintained. The replanting of trees on the site will ensure that the natural significance of the land is maintained, and also enhanced with additional planting. We are not aware of any particular historic, scientific, or cultural significance of the land. Nonetheless, any such values would be maintained given the location of development similar to existing. The natural and aesthetic significance of the land and waterway will be maintained.

(g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and

The aesthetic appearance of the land and waterway will be improved by the removal of the existing dilapidated structure. The rebuilding of the dwelling will deliver a contemporary design of appropriate scale that sets back from the waterway and from the view corridors of neighbouring properties such that a positive outcome in relation to amenity is achieved.

(h) sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change, have been considered.

An estuarine risk management report and flooding report accompanies the application and concludes that the risks of the proposed development being adversely affected by estuarine processes or flooding can be suitably mitigated. The development is at an acceptably low risk of being adversely affected by estuarine processes and flooding provided that the measures outlined in each report are adopted

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

(a) continuous public access to and along the foreshore through or adjacent to the proposed development,

Both the existing and proposed development of the site are on privately held land and no public access to and along the foreshore from the site is available. Access to the intertidal area is available at low tide, and the proposed development does not obstruct such access.

(b) public access to link with existing or proposed open space,

The proposed development will not change the access arrangement to the adjoining Crown land to the north. As the land adjoining this Crown Land to the south (subject site, and to the north is privately held, no continual access to the foreshore above Mean High Water Mark is existing or proposed.

(c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,

The site is not publicly accessible, however adjoining land below mean high water mark is accessible by the public from the waterway and no legal instruments are required for this to be maintained.

(d) public access to be located above mean high water mark,

The existing site circumstances are such that no physical access above mean high water mark is possible, although it is noted that the land above mean high water mark is privately held and as is the case for the majority of waterfront land, public access is not a legal right under the current title.

(e) the reinforcing of the foreshore character and respect for existing environmental conditions.

The character of the existing foreshore area will be maintained as a predominantly open landscaped area above a sea wall which protects the land from erosion. Considerable improvement is proposed with provision of quality landscaping. As previously discussed, dwellings to the south of the site are similarly located in relation to the distance to the water and the proposed single dwelling is of a scale and bulk that is not inconsistent with these dwellings, and much smaller than many.

As outlined previously in this document, the location of both the existing and proposed dwelling is consistent with the manner in which dwellings are sited in this stretch of Cicada Glen Creek having consideration to all the constraints of the land. The variability of setbacks to the foreshore is itself an important element of the foreshore character, and the proposed new dwelling maintains a compatibility, particularly when considering the modest scale of its structure.

4.2.7 Conclusion under Clause 4.6 (3)(a)

Having regard to the consistency of the proposed development with the objectives of the Limited Development on Foreshore Area development standard, compliance with the standard is found to be unreasonable and unnecessary in the circumstances.

4.3 Clause 4.6(3)(b) demonstrating that *there are sufficient environmental planning grounds to justify contravening the standard*

Clause 4.6(3)(b) requires that *sufficient environmental planning grounds* be demonstrated to justify contravening the development standard. As established in relevant caselaw, the sufficient grounds must relate to the circumstances of the proposed development and focus on the relevant aspect of the development that contravenes the standard.

The environmental planning grounds that justify the exceedance of the development standard are as follows:

Ground No. 1 - Location of the Foreshore Building Line

The mapping of the FBL occurs on this site in a manner that severely and unreasonably restricts development, particularly when taking account of other constraints such as canopy and topography. The foreshore area takes up approximately 42% of the total site. The remaining land area is moderately to heavily vegetated, and falls over 12m from east to west. Substantial cross fall over the majority of the length of the site also makes a compliant outcome challenging. The land most conducive to building with minimal impact is located in the foreshore area.

The location of the FBL appears to be influenced heavily by the location of dwellings on adjoining lands. The location of dwellings on adjoining properties to the north are significantly further from the waterway due to the reclaimed land immediately to their west which forms part of McCarrs Creek Reserve (Crown Land).
The disproportionate amount of land included in the foreshore area for the subject site compared to nearby properties is shown on the map below, where land below the FBL is shaded pink.

Land immediately adjoining the northern boundary of the subject site at the western end is crown land (reclaimed land) and forms part of Mc Carrs Creek Reserve. This adjoining land is zoned W1 Recreation waterways. The unusual relationship of the subject site to the development on adjoining land is shown in the below images:

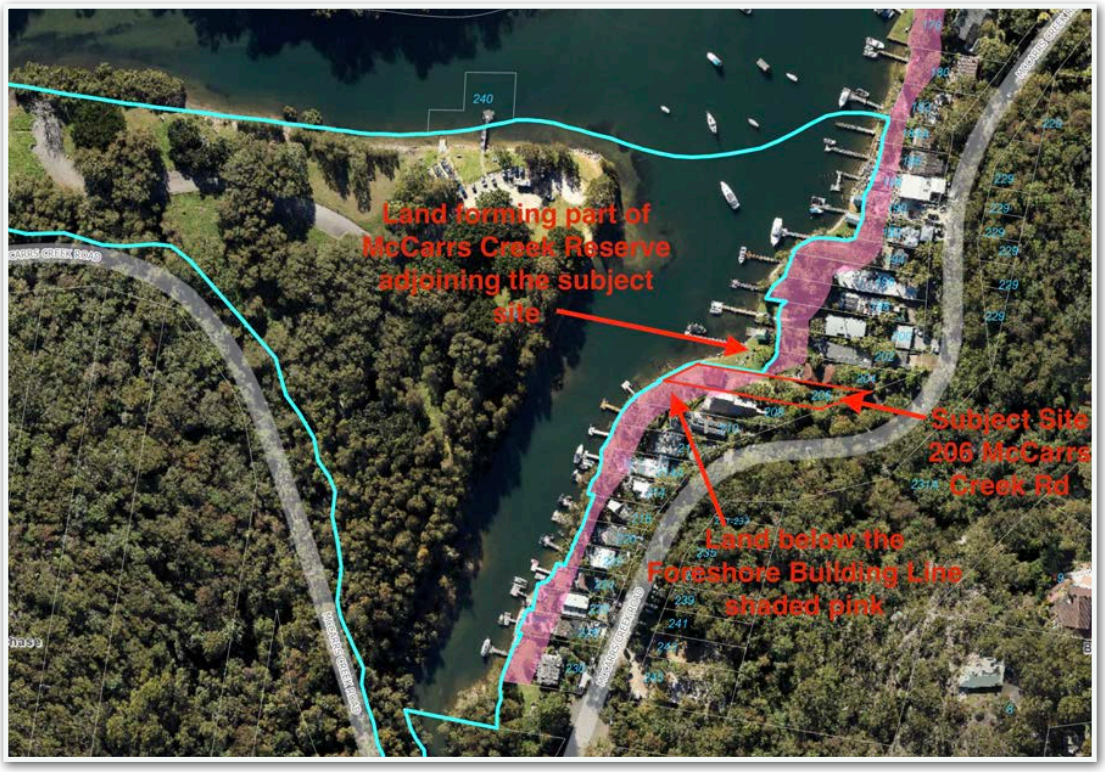


Figure 10: Land below the FBL extends significantly eastward on the site because existing properties to the north do not have waterfront western boundaries.
Source: Northern Beaches Online Mapping **Annotation:** Blackwattle Planning



Figure 11: Land adjoining the site to the north Zoned W1
Source: NSW Planning portal

Arising from these circumstances is a foreshore building line that attempts to draw a straight line between existing structures and does not take into account the circumstances of the reserved land. The location of the existing dwelling on the subject site is more spatially consistent with properties directly to the south.

The end result is that the FBL cuts the subject site nearly in half leaving available for a compliant development only that part of the site that is heavily constrained. Overall the site is therefore substantially prejudiced in its development potential by the location of the FBL.

Allowing the variation to the FBL noting the above circumstances is consistent with the Objects of the Act, including in particular Object (b) which seeks to *facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.*

Ground No. 2 - Constraints of building in a compliant location

Tree retention

The proposed works which vary the development standard are located in the area of least impact on the site with respect to tree loss, whilst still minimising the extent of development proposed within the foreshore area.

The arborist report submitted with the application assesses the impact of 44 trees, 42 of which are on the site. Outcomes for the development of the site in light of the arboreal assessment can be summarised as follows:

- Of the 42 trees on the site, three are located in the foreshore area and two of those are already approved for removal. The one remaining tree within the foreshore area is able to be retained under the proposal; and

- 39 trees are located on that part of the land where development can be undertaken without breaching the FBL. Most of these trees are considered by the arborist to be 'Trees worthy of being a constraint'; and,

- 13 trees are proposed for removal, largely as a result of the proposed garage and vehicle access. An alternative location for or configuration of the garage and access to it would likely result in greater tree loss and/or a larger variation to the development standard; and,

- The rebuilding of the existing dwelling over a slightly modified footprint results in no impact on any tree.

Allowing the variation to the FBL noting the above circumstances is consistent with the Objects of the Act, including in particular Object (e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*

Ground No. 3 - Topography of the site

The site is burdened by steep land falling in part to the north and west. The prior development of a dwelling on the land included excavation of the western portion of the site to achieve acceptable levels for building. This results in a large retaining wall forming the southern boundary and a grassy and relatively flat curtilage surrounds the existing dwelling and extends towards the waterway, west and north.

When considering topography and the need to minimise excavation, the location of the existing dwelling and land in its immediate vicinity is considered the optimal area for development of the site. Works such as those proposed, which minimise earthworks and reduce the need for disposal of soil despite the non-compliance with the FBL, make a positive contribution to the overall sustainability of the development of land.

Allowing the variation to the FBL noting the above circumstances is consistent with the Objects of the Act, including in particular Object (b) which seeks to *facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.*

Ground No. 4 - Practical considerations of each breaching element

Works proposed that vary the FBL are needed on a practical level to support the orderly development of the site. This is demonstrated for each element as follows:

1. Dwelling Footprint

The change in location of the dwelling footprint, despite being new work within the foreshore area, is effectively the relocation of works from the northern side of the site to the southern side of the site. This has been proposed because it is an improved location in relation to providing greater setbacks to the waterway and for increased views and amenity for the northern neighbour. It would be possible to rebuild the dwelling in the exact footprint to fit existing dwelling, however this would lose the opportunity for a better outcome on the site.

The shift in the footprint that brings about the variation is consistent with Object (c) of the EP & A Act which seeks *to promote the orderly and economic use and development of land*

2. Swimming pool/Access deck

The terrace adjoining the swimming pool serves 2 functions: a deck area for the enjoyment of the swimming pool, and the primary pedestrian entrance to the dwelling. The location of the existing dwelling so far forward of the FBL, together with the topography of the site, results in a need for a structure to bridge the gap between the FBL and the dwelling.

To the extent that the terrace area serves as an ancillary component of the swimming pool, the structure is ancillary to a permitted use in the Foreshore Area.

Overall, the covered terrace performs the dual practical functions of accessing and using the swimming pool and the dwelling, and to this extent it is considered to be necessary to achieve Object (c) of the Act, ie, *to promote the orderly and economic use and development of land.*

3. Retaining wall

The new and replaced retaining wall on the southern boundary is needed to stabilise the land appropriately for the proposed dwelling. This occurs primarily as a result of the previous excavation of the land, is also needed to ensure retention of the neighbouring land to the south. The work proposed generally replicates the form and extent of the existing retaining wall, and allows the ongoing use of the land for residential purposes consistent with Object (h) of the Act, *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.*

4. Driveway

The small area (3.8sqm) of driveway that breaches the FBL is required to facilitate turning of vehicles into and out of the garage, which in turn permits vehicle access in a forward direction. Relocating the garage to bring about compliance in relation to this small portion of driveway would result in greater excavation and tree loss as described in

Grounds No. 2 and 3. The resulting impact of compliance could not be justified given the minor magnitude of the variation relating to this component and noting the absence of impact of the additional 3.8sqm of hardstand on any adjoining or other amenity.

4.3.1 Conclusion under Clause 4.6(3)(b)

We believe the above environmental planning grounds are sufficient to justify the exceedance of the Limited Development on Foreshore Area development standard in these specific circumstances. Overall, the above grounds, together with an absence of impact demonstrates sufficient environmental planning grounds to justify the variation of the standard as proposed.

4.4 **Clause 4.6(4) The consent authority must keep a record of its assessment carried out under subclause (3).**

This is a matter for the Consent Authority

4.5 **Clause 4.6(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.

Not Applicable. No subdivision is proposed.

4.6 **Clause 4.6(8)**

(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.

Not Applicable.

4.7 Consistency with objectives of the C4 Environmental Living Zone

The objectives of this zone and the manner in which the objectives are achieved by the proposed development are as follows:

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

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

Comment: The site has significant aesthetic value in the visual catchment of Cicada Glen Creek and the waterfront location. The development maintains a predominantly open foreshore area, to be significantly improved with landscaping. By limiting the development within the foreshore area to the envelope of the existing dwelling and some minor additional functional structures, the development maintains and improves upon the aesthetic values of the waterfront land and has no unreasonable or adverse impact upon the environmental values of the site.

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

Comment: The proposed development remains a single dwelling and the intensity of use will not change. The development is designed and located to minimise impact and it is demonstrated that alternative locations for development on the site would have significantly more adverse impacts on the environment and for neighbours, despite being more compliant.

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

Comment: The proposed development minimises its impact upon canopy and vegetation on site, and results in a net increase in landscaping which will enhance the riparian and foreshore vegetation and will assist in supporting local fauna.

5.0 Conclusion

This document demonstrates that the required tests contained in Clause 4.6 have been met by the proposed development. In particular, that:

- Compliance with the Limited Development on Foreshore Area development standard is unreasonable and unnecessary in the circumstances of the case given that the objectives of Clause 7.8 Limited Development on Foreshore Area have been met; and,

- Sufficient environmental planning grounds have been demonstrated to justify the contravention of the development standard; and,

In these circumstances the consent authority can be satisfied that it is appropriate to apply the flexibility permitted under Clause 4.6 of PLEP 2014 to vary the Limited Development on Foreshore Area development standard of PLEP 2014 to the extent proposed.

Anna Williams
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ITEM 4.3 REV2026/0003 - 316 HUDSON PARADE CLAREVILLE - REVIEW OF DETERMINATION OF APPLICATION DA2025/0581 FOR CONSTRUCTION OF A SWIMMING POOL

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is the council and is a review of a determination or decision made by a local planning panel.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. REV2026/0003 for Review of Determination of Application DA2025/0581 for construction of a swimming pool at Lot 1 and Lot 2 DP 827733 and Lot LIC 639625, 316 Hudson Parade CLAREVILLE subject to the conditions set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [**4.3.1** - 70 pages] 2. Site Plans & Elevations [**4.3.2** - 2 pages]

northern beaches council

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	REV2026/0003

Responsible Officer:	James Corry (Consultant Town Planner – GAT & Associates)
Land to be developed (Address):	Lot 1 DP 827733, 316 Hudson Parade CLAREVILLE NSW 2107 Lot 2 DP 827733, 316 Hudson Parade CLAREVILLE NSW 2107 Lot LIC 639625, 316 Hudson Parade CLAREVILLE NSW 2107
Proposed Development:	Review of Determination of Application DA2025/0581 for construction of a swimming pool
Zoning:	C4 Environmental Living C2 Environmental Conservation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Baxter & Jacobson Architects Pty Ltd

Application Lodged:	05/04/2026
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	23/04/2026 to 21/05/2026
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	$275,000.00

EXECUTIVE SUMMARY

Council is in receipt of a Review of Determination application which requests the review of DA2025/0581. The aforementioned DA sought the construction of a swimming pool within the rear yard of the subject site, and was refused by the Northern Beaches Local Planning Panel (NBLPP) on 03/12/2025.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as the application is subject to the Council Related Development Application Policy due to a conflict of interest arising from Council being the landowner of Lot 2 DP 827733 (foreshore accessway), which is leased to the landowner of Lot 1 DP 827733 (the main allotment). No works are proposed at Lot 2; however, the site, being 316 Hudson Parade, includes Lot 2, and the application has been lodged to include both allotments. As the NBLPP made the original decision in relation to the DA, it must review the determination.

DA2025/0581 was refused by the NBLPP for several reasons, which are outlined and addressed on Page 18 of this report. Subject to the matters raised within this report, it is considered that the proposal has sufficiently addressed the reasons for refusal, and is now worthy of approval, subject to conditions of consent.

This review application has been made under Section 8.2(1)(a) of the Environmental Planning and Assessment Act (the Act) 1979. Under Section 8.3(2) of the Act, a review cannot be made after the period within which an appeal may be made to the Court has expired, if no appeal was made. This review application was submitted on 5 April 2026, being within the 6-month appeal period.

It is noted that the Act has recently been amended under the Environmental Planning and Assessment Amendment (Planning System Reforms) Act 2025. This amendment included changes to how Section 8.2 review applications are carried out. Previously, a Section 8.2 review had to be made and determined before the expiry of the appeal period. This timeframe was removed as per the above amendment; there is no legislative requirement on when a Section 8.2 application needs to be determined by.

The application has been assessed in accordance with the Conflict of Interest Management Strategy dated 24 February 2025 prepared specifically for this application, including public exhibition for 28 days. The application was exhibited from 23/04/2026 until 21/05/2026; one (1) submission was received, which is considered within this report.

Following a preliminary assessment of this application, it was found to be unsatisfactory in its current state to warrant a recommendation for approval. Following this assessment, a request for additional information (RFI) was issued to the applicant on 29/05/2026 outlining concerns such as:

- *Extent of demolition works.*
- *Proposed works within the Foreshore Area.*
- BASIX certificate.
- *Landscape area.*
- *Tree impact.*
- *Documentation.*
- *Landscape referral.*

A response was received by the applicant on 17/06/2026, which suitably addressed the above issues to a level where the application is able to be recommended for approval, subject to conditions of consent.

Following a detailed assessment of the proposal, pursuant to Section 8.4 of The Act, it is requested that the NBLPP change the determination of DA2025/0581 to an approval.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks a review of the refusal of DA2025/0581 for the construction of a swimming pool.

The original application under DA2025/0581 sought the following works:

- *Demolition of the existing swimming pool.*
- *Construction of a new swimming pool with a shallow portion at the eastern end, then with stairs transitioning to the deeper portion to the west. The pool will have an infinity edge at the western end, with water overflowing into a catchment area. The pool has the following dimensions:*
    - *Total length = 15.17m (including coping and infinity edge overflow catchment area)*
    - *Total width at widest point = 12.35m (including overflow catchment area)*
    - *Total height at western end as viewed from the western elevation/foreshore = 3.19m (including lower plant room)*

- *Construction of a new plant room underneath the western overhanging end of the pool to store the heat pump and pool filter equipment. Entry to the plant room is on the southern elevation on the lower level of the site beyond the existing large retaining wall which runs along the western side of the site. Ventilation louvres also provided on northern and southern elevations.*
- *Relocation of the existing waterslide to provide the exit point within the deeper portion of the new pool.*
- *Construction of a new glass pool fence surrounding the pool area, including the retention of a portion of the existing fence along the southern side of the pool area.*
- *Introduction of additional landscaped area in current paved areas to the eastern side of the pool.*
- *Landscaping along the western elevation of the pool and plant room with Ficus pumila vines.*

The proposed review application generally seeks the same works, albeit the proposed pool has been amended to resolve issues raised within the refusal of DA2025/0581. The proposed works can now be summarised as:

- *Demolition of the existing swimming pool.*
- *Construction of a new swimming pool with a pool stair entry at the south-eastern corner, transitioning into the shallow portion at the southern end, then progressing to the deeper portion to the north. The pool will have an infinity edge at the western end, with water overflowing into a catchment/spillway area. The pool has the following dimensions:*
    - *Total length = 8.02m (including pool stairs and infinity edge overflow catchment area)*
    - *Total width at widest point = 16m (including overflow catchment/spillway area)*
    - *Total height at western end above existing retaining wall = 500mm.*
- *Construction of a new plant room attached to the southern side of the pool, and underneath existing ground level.*
- *Construction of a new glass pool fence surrounding the pool area, including the retention of a portion of the existing fence along the southern side of the pool area.*
- *Landscaping along the western elevation of the pool and plant room with Ficus pumila vines.*

The changes to the pool can be visualised in Figures 1 and 2 below:

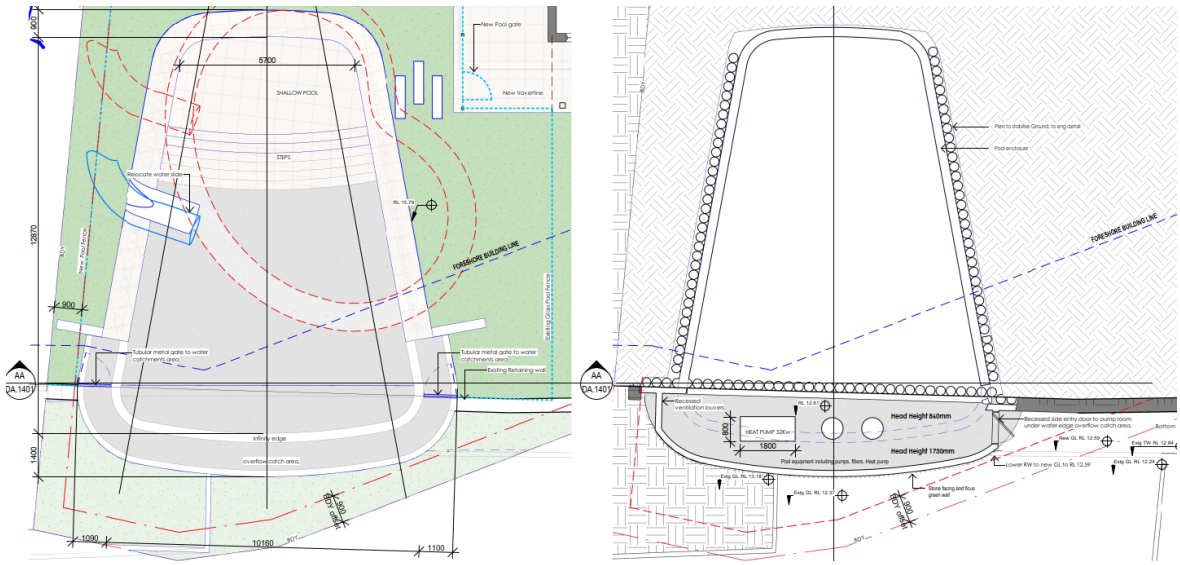


Figure 1: Refused swimming pool layout from DA2025/0581 (Source: DA.1211 of the architectural plans prepared by Baxter & Jacobson Architects).

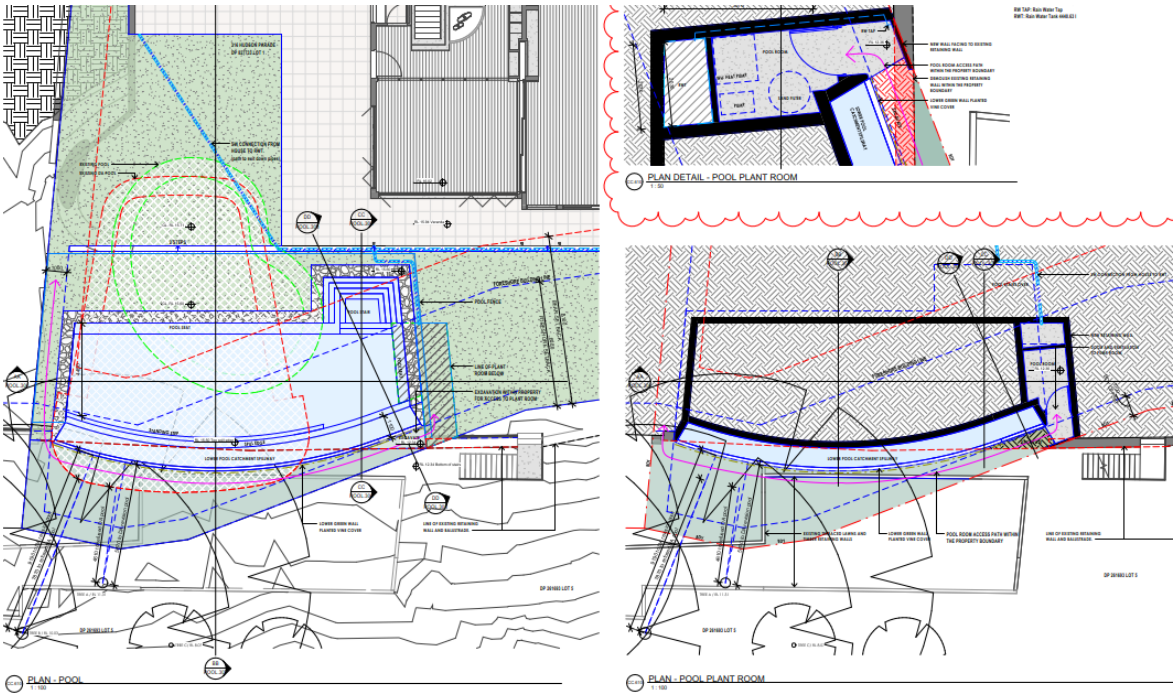


Figure 2: Revised swimming pool layout as part of this review application (Source: Pool.112 of the architectural plans prepared by Baxter & Jacobson Architects).

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Environmental Planning and Assessment Act 1979 (Section 8.2 review)
Biodiversity Conservation Act 2016
Pittwater Local Environmental Plan 2014 – C4 Environmental Living Zone Objectives
Pittwater Local Environmental Plan 2014 – Clause 7.8 Limited development on foreshore area
Pittwater 21 Development Control Plan – A4.3 Bilgola Locality
Pittwater 21 Development Control Plan – C1.1 Landscaping
Pittwater 21 Development Control Plan – C1.25 Plant, Equipment Boxes and Lift Over-Run

Pittwater 21 Development Control Plan – D3.11 Landscaped Area – Environmentally Sensitive Land
Pittwater 21 Development Control Plan – D3.15 Scenic Protection Category One Areas

SITE DESCRIPTION

Property Description:	316 Hudson Parade, Clareville (Lot 1 DP 827733, Lot 2 DP 827733, and Lot LIC 639625)
Detailed Site Description:	The subject site consists of two allotments located on the western side of Hudson Parade, and backs onto the Pittwater to the west. While the site has a frontage to Hudson Parade, due to the varying topography of the area, pedestrian and vehicle access is not possible from this frontage; as such, the site is accessed via a driveway that traverses through the front setback areas of No. 318 and 320 Hudson Parade before entering the subject site. The site is irregular in shape. Lot 1, being the primary residence allotment, has a frontage to Hudson Parade of 20.6m, an irregular southern boundary to No. 318 Hudson Parade (including splay) of 55.78m, an irregular western boundary to the Pittwater of 45.97m, and a northern side boundary to No. 314 Hudson Parade of 49.68m. Lot 1 has a total area of 1,902m^2. The site area of Lot 1 is only relevant to this application given that site area, as defined by the PLEP 2014, excludes any land where the land use is not permitted. As a swimming pool is not permitted within the C2 zone, which encompasses Lot 2, it cannot be included in any site area calculations for the site. Lot 2, being the allotment owned by Council and leased to the owner of the subject site, is also highly irregular, and generally follows a set of timber stairs that traverse down the topography of the foreshore area towards the Pittwater. It is noted that development works on Lot 2 are currently underway in accordance with DA2020/1762 for construction of a boatshed, ramp, slipway, jetty, and steps. The site is located within the C4 Environmental Living zone under PLEP 2014 and accommodates a split-level, brick dwelling, detached double garage, and in-ground swimming pool positioned at the northwestern corner of the site. It is noted that this dwelling is currently undergoing construction works in accordance with a development consent issued under DA2020/1590. The site has a steep topography, as the land steps down towards the Pittwater. Lot 1 has a high point along its Hudson Parade frontage of RL 29.83m, and a low point along its western boundary with the Pittwater of RL 11.50m for a fall of 18.33m. However, it is noted that the levels of the site are currently designed to step down in segments, rather than a gentle slope. This is evident in the rear yard, where the swimming pool is proposed, which has a consistent RL of between RL 16.19m and RL 15.22m. Lot 2, however, has a more severe slope; it has a high point of RL 12.38, and a low point of RL 0.36m. The site is well maintained in terms of vegetation, with any specific vegetation occurring along the eastern boundary within the setback to Hudson Parade, and along the northern boundary setback to No. 314 Hudson Parade. The remainder of the site, which contains usable

	areas for residential purposes, is void of any significant planting, other than groundcover. There are no identified encumbrances, such as easements, right-of-ways or restrictions over the development site. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is generally low-density land use in nature, and can be described as follows: • To the north is No. 314 Hudson Parade, which contains a split-level brick dwelling. It is noted that the owner of the subject site also owns this property. • To the east is Hudson Parade, which is a two-way dead-end street that provides access to the site. On the opposite side of Hudson Parade, on its high side, are a pair of properties at No. 315 and 317 Hudson Parade, which contain dwelling houses. • To the south is No. 318 Hudson Parade, which contains a split dwelling house that steps down to the Pittwater. • To the west is between the site and the Pittwater, is a foreshore area owned by Northern Beaches Council that slopes down to the Pittwater (Lot 5 in DP 261693). This area also includes Lot 2, which is leased to the owner of the subject site.

Site identification Map:

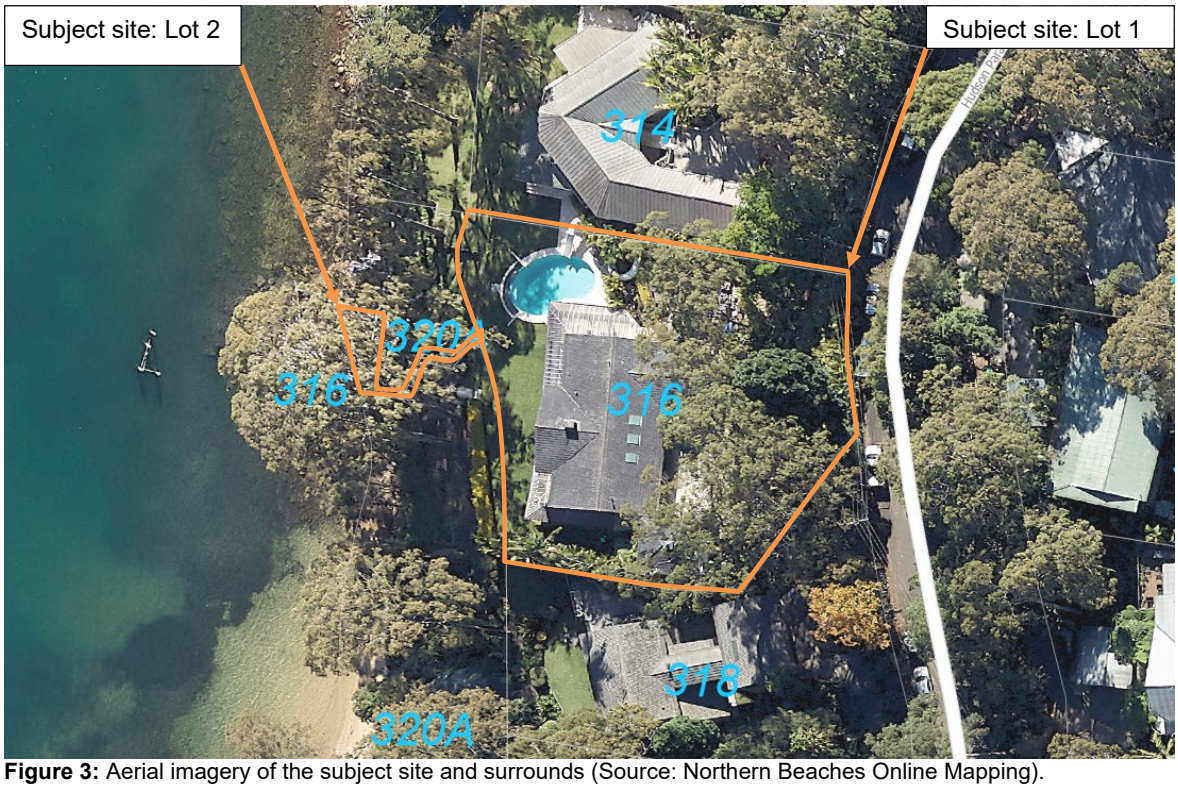


Figure 3: Aerial imagery of the subject site and surrounds (Source: Northern Beaches Online Mapping).

Images of the subject site and surrounds:



Figure 4: View of the subject site from Hudson Parade (Source: GAT & Associates).



Figure 5: View of the existing swimming pool and dwelling as viewed from the rear boundary of the subject site (Source: GAT & Associates).



Figure 6: View of the stairs leading down to the waterway, which forms part of Lot 2 of DP 827733 (Source: GAT & Associates).



Figure 7: View of the existing vine-covered retaining wall which contains the existing rear yard, and swimming pool (Source: GAT & Associates).



Figure 8: View of the subject site from the bottom of the foreshore area next to the Pittwater (Source: GAT & Associates).



Figure 9: View of the properties on the eastern side of Hudson Parade on the opposite side from the subject site (Source: GAT & Associates).



Figure 10: View of the garage associated with No. 318 Hudson Parade, which borders the site to the south (Source: GAT & Associates).



Figure 11: View of the existing pool within the rear yard of the subject site, with No. 314 Hudson Parade in the background, which borders the site to the north (Source: GAT & Associates).

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 recent or relevant applications for this site.

2 April 1984	BA 924/84: approved an upper floor extension to the existing garage for use as a workshop. Conditions restricted the use/adaption of the upper floor to habitable accommodation.
17 August 2016	Tree removal application T0348/16 was approved.
15 November 2016	Tree removal application T0481/16 was approved.
15 November 2016	Complying Development Certificate No. CDC0202/16 was approved for repairs and restoration of existing marine structures. Note: This consent (twice modified since its original approval) was surrendered on 26 April 2020.
4 May 2021	Development Application DA2020/1591 for alterations and additions to the existing dwelling was approved. The development comprised approved substantial demolition, excavation and construction works to create 4 bedroom, plus office dwelling on the site, including a new upper-level master bedroom suite. These works have commenced.
13 October 2021	Review of Determination REV2021/0020 was approved for the review of the consent issued for DA2020/1591 (original DA approved on 4 May 2021). Condition 10, which regarded amendments to the approved plans, was sought to be deleted.
4 April 2022	Development Application No. DA2020/1762 was approved for the construction of a boatshed, ramp and slipway. These works have commenced.
14 April 2023	Modification application Mod2022/0643 to modify REV2021/0020 was approved. The s4.55(1A) modification sought modifications to the approved plans in relation to room layouts, window and door openings, and minor roof alterations.
12 March 2024	Modification application Mod2023/0554 to modify DA2020/1762 was approved. The s4.55(1A) modification sought to modify administrative conditions regarding the issue of the construction certificate.
24 April 2024	Construction Certificate CC2024/0444 was issued for alterations and additions to a dwelling house and garage.
25 May 2024	Notification of Commencement Principal Certifier was issued for alterations and additions to a dwelling house and garage.
28 November 2024	Construction Certificate CC2024/1302 was issued for demolition works and construction of boat shed, ramp, slipway, jetty and steps.
28 May 2025	Notification of Commencement Principal Certifier was issued for demolition works and construction of boat shed, ramp, slipway, jetty and steps.
3 December 2025	Development Application DA2025/0580 was approved for demolition works and construction of a dwelling house. It is noted that the issuing of this consent required the partial and voluntary surrender of the consent issued under DA2020/1591 for works not completed prior to the issuing of the construction certificate.
3 December 2025	Development Application DA2025/0581 was refused by the NBLPP. This consent forms this review application.

Application history:

5 April 2026	Application lodged with Council.
23 April 2026 – 21 May 2026	Application notified to neighbouring properties and the public in accordance with Northern Beaches Community Participation Plan. One (1) submission received.

29 May 2026	An RFI was issued to the applicant outlining reasons which prevented the application in its current state from being supported. The reasons raised included: • *Extent of demolition works.* • *Proposed works within the Foreshore Area.* • BASIX certificate. • *Landscape area.* • *Tree impact.* • *Documentation.* • *Landscape referral.*
17 June 2026	The applicant submitted a suite of additional documents in response to the RFI. The above issues were addressed in the following manner: • The applicant clarified that the waterslide is not proposed to be removed and will be removed in a separate application. • Further justification was provided, including identifying the location of the examples of similar pools provided within the SEE. Importantly, the applicant has ensured that the infinity edge of the pool does not protrude past the existing retaining wall that faces the Pittwater. This ensures that while the pool extends into the foreshore building area, it is of a similar scale of structures and walls currently visible from the Pittwater, and does not detract from the amenity of the area. In addition, the location of the plant room within the foreshore building area is considered acceptable given its contents are ancillary to the operation of the swimming pool. • The inconsistencies between the BASIX certificate and plans have been resolved, given a suitable rainwater tank is not identified on the plans. • While a variation to the required landscaped area is proposed, the development is considered acceptable. A suite of landscape area drawings has been provided to outline that the proposed amount of landscaping is no less than a previous DA that has commenced on site for alterations and additions to a dwelling house under DA 2020/1591. • A suitable amended arborist report has been submitted which confirms all trees on Council adjoining land can be retained. • A suitable suite of required documents has now been submitted. • A suitable condition of consent has been included in this recommendation to ensure that the structures visible from the Pittwater are appropriately screened.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

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	Refer below.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	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 as described earlier in this report. 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 Pittwater 21 Development Control Plan section in this report. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the 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 '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.

Draft Environmental Planning Instrument:

Draft Northern Beaches Local Environmental Plan (Draft LEP)

Council has exhibited a draft Local Environmental Plan, which aims to combine the three current LEPs that currently apply over the Northern Beaches LGA. The new LEP is on public exhibition from 20 July 2026 until 30 August 2026.

The following key points are made with reference to the new LEP.

Land Use Zone: C4 Environmental Living

Permissible or Prohibited: Dwelling Houses remain permissible.

Additional Permitted uses for particular land – Refer to Schedule 1: Not applicable.

A detailed assessment against the proposed numerical provisions and development standards has not been undertaken as part of this report. However, broad consideration has been given to the Draft LEP, and the proposal is consistent with its relevant aims and objectives.

EXISTING USE RIGHTS

Not relevant to this application.

BUSHFIRE PRONE LAND

Not relevant to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Northern Beaches Community Participation Plan.

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

Name:	Address:
Mr Samuel Wallrock	318 Hudson Parade CLAREVILLE NSW 2107

The following issues were raised in the submissions:

- *Location of the swimming pool within the Foreshore Building Area.*

The above issues are addressed as follows:

Location of the swimming pool within the Foreshore Building Area.

Response: The subject submission raised concern about the location of the swimming pool over the foreshore building line, and outlined that due to this, it should not be allowed. While development in

foreshore areas are more heavily regulated under the PLEP 2014, it does not strictly prohibit swimming pool development because it is simply within the foreshore area. More specifically, Clause 7.8 – Limited Development on Foreshore Area of the PLEP 2014 controls development which is proposed within the foreshore area. Clause 7.8 permits development such as swimming pools (and any ancillary development linked to the development of a swimming pool) within the foreshore area, given that it achieves several matters of consideration outlined within Clause 7.8(3) of the PLEP 2014. The considerations of this clause are discussed elsewhere within this report; however, it is considered that the proposed development and its location within the foreshore area development within the site is appropriate.

No further matters of concern were raised by any submissions to this application.

REFERRALS

Internal Referral Body	Comments
Aboriginal Heritage Officer	***Supported. Subject to conditions.*** *Reference is made to the proposed development at the above location and to Aboriginal cultural heritage.* *The current development area has been subject to previous disturbance, reducing the likelihood of intact, unrecorded Aboriginal objects being present is considered low.* *The proposed activity is considered consistent with the principles of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (2010), made under the National Parks and Wildlife Act 1974 (NSW). As such, no further Aboriginal heritage assessment or Aboriginal Heritage Impact Permit (AHIP) is required for the proposal development.* Conditions have been recommended which are included in the draft consent.
Landscape	***Supported. Subject to conditions.*** *Council's Landscape Referral section has assessed the application against the Pittwater Local Environment Plan (PLEP), and the following Pittwater 21 DCP controls (but not limited to):* • *B4.22 Preservation of Trees and Bushland Vegetation* • *C1.1 Landscaping* • *D3 Bilgola Locality* *Additional Information Comment 25/06/2026:* *The amended reports and plans are noted.* *The updated Arboricultural Impact Assessment has identified an area where ground protection is required and where existing levels should be retained. Some level changes may be required in this area and as such a Project Arborist shall be engaged to supervise the works.* *A Landscape Plan is now included in the application. The landscape proposal is generally supported, and all proposed planting shall be installed in accordance with the requirements outlined in the conditions of consent.*

Internal Referral Body	Comments
	<u>Original Comment:</u> *The Arboricultural Impact Assessment outlines that no detrimental impacts to the assessed trees are foreseen. All trees and vegetation to be retained shall be protected in accordance with the conditions of consent.* *The existing C2 Environmental Conservation Reserve land downslope of the property presents a natural foreshore landscape character, and it is noted from the submitted plans that the swimming pool walling presents to the foreshore as a 2.5 metre wall (approximately). PDCP Section D3.15 states "Screen planting shall be located between structures and boundaries facing waterways" and as such should the application be approved screen planting is required between the pool walling and the boundary to reduce the bulk and scale of the pool structure.* *The proposal is therefore supported.* Conditions have been recommended which are included in the draft consent.
Natural Environment – Biodiversity	***Supported. Subject to conditions.*** *The comments in this referral relate to the following applicable controls and provisions:* • *NSW Biodiversity Conservation Act 2016* • *NSW Biodiversity Conservation Regulation 2017* • *Pittwater LEP Clause 7.6 Biodiversity Protection* • *Pittwater DCP Clause B4.7 Pittwater Spotted Gum Forest Endangered Ecological Community* • *SEPP (Resilience and Hazards) 2021 - Coastal Environment Area* *Portions of the site are identified on the Department of Climate Change, Energy, the Environment and Water (DCCEEW) Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act 2016, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR).* *However, the submitted plans and documentation indicate that the proposed works are located outside of the BV Map area and therefore will not trigger entry into the BOS.The proposed development would take place in previously disturbed areas of the site and will not require the removal of any prescribed vegetation. The proposal is unlikely to impact upon native flora and fauna.* *No objections in relation to biodiversity subject to conditions.* *The proposal is therefore supported.* Conditions have been recommended which are included in the draft consent.
Natural Environment – Coastal	***Supported. Subject to conditions.*** The application is for the review of the determination of application DA2025/0581 for the construction of a swimming pool as described in reports

Internal Referral Body	Comments
	and illustrated on plans. The coastal referral response and conditions of consent for DA2025/0581 remain applicable. The proposal is therefore supported. **Referral comments from DA2025/0581.** *This application was assessed in consideration of:* • *Supplied plans and reports;* • *Coastal Management Act 2016;* • *State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.10, 2.11 & 2.12);* • *Relevant LEP and DCP clauses.* *Coastal Management Act 2016.* *The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.* *State Environmental Planning Policy (Resilience & Hazards) 2021* *The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.* *Comment:* *On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Watermark Planning dated May 2025, the DA satisfies the requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H.* *As such, it is considered that the application is generally consistent with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.* *Pittwater LEP 2014 and Pittwater 21 DCP* *Estuarine Risk Management* *The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.* *In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.63m AHD would apply at the subject site. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.06m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m.*

Internal Referral Body	Comments
	On internal assessment, the ground floor level for the proposed pool is above the applicable EPL for the site. The proposed development is therefore able to satisfy the relevant estuarine risk management requirements of P21 DCP. *The proposal is therefore supported.* Conditions have been recommended which are included in the draft consent.
Natural Environment – Riparian	***Supported. Subject to conditions.*** *The Catchment Team has reviewed the proposal and raises no objection to the proposed development from a riparian management perspective.* *The proposal is therefore supported.* Conditions have been recommended which are included in the draft consent.
Parks, Reserves and Foreshores	***Supported. Subject to conditions.*** *The property adjoins a public reserve downslope. No physical encroachments over the site boundaries are permitted, and structures and built elements are not permitted beyond the site boundaries. All development works must ensure that surface sediment runoff and/or erosion is controlled, managed and contained within the site boundaries. Screen planting as conditioned by Landscape Referral will help to soften the bulk and scale of the built form when viewed from public land.* *The proposal is therefore supported.* Conditions have been recommended which are included in the draft consent.
Property and Commercial Development	***Supported. No conditions required.*** *The proposal is for the construction of a swimming pool wholly on the applicant's property at Lot 1 DP 827733. Property has no comment to make regarding the subject application.* *The proposal is therefore supported.*

External Referral Body	Comments
Ausgrid	**Advice issued -** satisfactory subject to conditions.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

In this regard, whilst all provisions of each Environmental Planning Instrument (SEPPs, REPs and LEPs), Development Control 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 against which the proposal is considered to be acceptable.

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

- ***Environmental Planning and Assessment Act 1979***

This application is a review application of the determination made under DA2025/0581, as allowed by 8.2(1)(a) of the Act. The review application was made within the 6-month timeframe as required under 8.3(2) of the Act.

As per Section 8.3(3) of the Act, the applicant has included amendments to the original application; however, it is considered that the amendments ensure that the application is substantially the same development as that proposed under DA2025/0581. While the layout and location of the swimming pool have altered, the overall intention and scale of the application are generally the same as what was originally proposed.

With regard to Section 8.3(5) of the Act, it is noted that as the original application of DA2025/0581 was determined by the Local Planning Panel, as such, the review is also to be determined by the Local Planning Panel. Notwithstanding this, a conflict of interest continues to occur within this review application as the subject site includes land that is owned by the Council. As a result, the application is required to be assessed by an external consultant, and is to be determined by the Local Planning Panel.

In respect of Section 8.4(1) of the Act, and for the reasons outlined within this report, it is recommended that the NBLPP change the determination to approval, subject to conditions of consent.

To provide reassurance that the applicant has suitably addressed the reasons for refusal, a response to each reason for refusal from DA2025/0581 is outlined below. The response from the applicant within their Statement of Environmental Effects (SEE) is also included for clarity.

Reasons for Refusal:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.8 Limited development on the foreshore of the Pittwater Local Environmental Plan 2014.

Particulars

a) The scale and appearance of the proposed development is unsympathetic to the waterway and adjacent foreshore and will be incompatible with the surrounding area (Clause (3)(b)).

b) The development adversely impacts on the natural significance of the land upon which the development is to be carried out as recognised by the C4 zoning of the land (Clause (3)(f)).

c) The development does not reinforce the foreshore character and respect existing environmental conditions (Clause (4)(e)).

Applicant's Comment:

The proposed swimming pool is located within the foreshore area and swimming pools, including pool plant and associated retaining walls, are permitted in the mapped area by clause 7.8(2). We reference the advice provided by Ian Hemmings SC regarding pool plant, which is provided as an appendix to this report.

The revised swimming pool design minimises the height and appearance of the pool from the waterway, by locating it at the existing ground level on the eastern portion of the site and proposing a curved spill edge and sandstone retaining wall to the west. The revised proposal is 560mm lower than existing pool and 190mm lower than the original development application. The volume of the proposed pool has been reduced to 141KL which is less than the 150KL of the previous proposal.

The curved design integrates seamlessly into the existing foreshore contours and new landscaping will ensure compatibility with the surrounding environment, as illustrated in the 3D image below.

The curved spill edge and retaining wall proposes a maximum height of 500mm above the existing ground level and will present with a lesser height than the existing swimming pool. The new pool is 560mm lower than the existing. It is also set back from the west, between 0.7 and 1.3m compared to the previous application.

The view of the pool that is visible, is to a stone-clad wall. The lower wall is further hidden through the planting of creeper vines Ficus Pumila.

The structure is minimal and of far lesser impact than many pools and other structures that are built fronting Pittwater, as illustrated in the photographs below. The existing structures, in the immediate area, are considered to have a far greater impact than what is proposed.

The view of the upper wall that is visible is sandstone clad with an overflow trickle of water from the 'infinity edge' of the pool. The lower wall contains the spillway catchment and will be vine covered stone wall that integrates with the adjoining vine covered walls. There will be no reflective glass balustrade along the pool 'infinity' edge.

We consider the design as proposed remains consistent with other swimming pools on Pittwater and allows for a sympathetic presentation to the foreshore and waterway.

Response:

This assessment agrees with the applicant that the proposed swimming pool and pool plant room are permitted within the foreshore area. Clause 7.8 of the PLEP 2014 clearly permits a swimming pool forward of the foreshore building line, subject to consideration of further subclauses as considered further in this assessment. While a plant room is not specifically referred to in Section 8.2 of the PLEP 2014, it is considered ancillary to the use of the swimming pool, and therefore also permitted. The plant room contains heat pumps, filters, and a rainwater tank (as required by the BASIX certificate); it is considered that this equipment is ancillary to the use of the pool, and therefore permitted within the foreshore area. The applicant's position is also supplemented by advice prepared by SC Ian Hemmings.

With regard to Clause 7.8(3b), the applicant has included several examples of swimming pools and retaining walls that front the Pittwater. These examples show that it is not an uncommon design response to include a swimming pool within the foreshore area.

With regard to Clause 7.8(3f), amendments have been made, including reducing the size and height of the swimming pool; however, it is noted that the originally proposed pool was mainly located outside the foreshore area, and the proposal now presents the majority of the swimming pool within the foreshore area. Consideration can be made for the provision of a swimming pool and associated plant room within the foreshore area; however, it must meet the relevant requirements required under Clause 7.8 (3 + 4) of the PLEP 2014. Figures 12 and 13 illustrate a comparison between the bulk and scale of the swimming pool, as it protrudes from the existing landform.

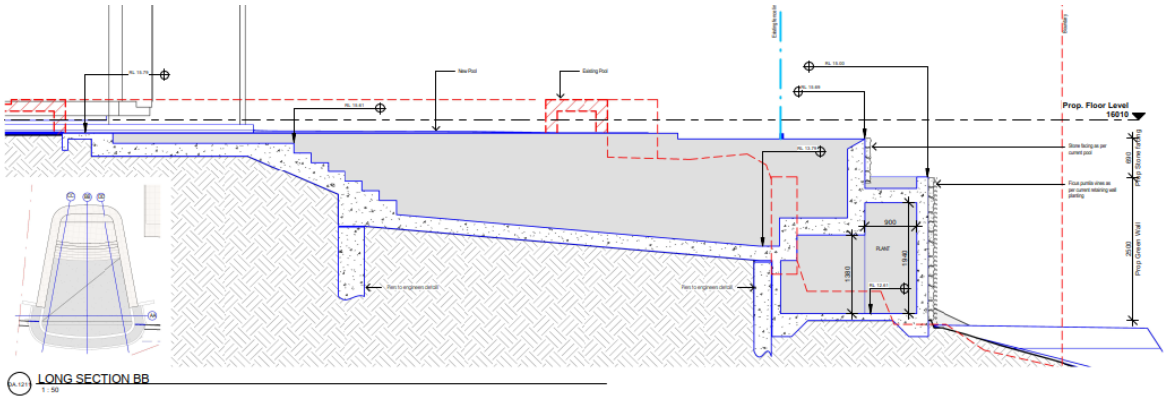


***Figure 12** – Extract of the previous swimming pool scheme as refused under DA2025/0581 (Source: Drawing No. DA.1401 of the Architectural Plans prepared by Baxter Jacobson, REV 5, Dated 03/11/2025).*

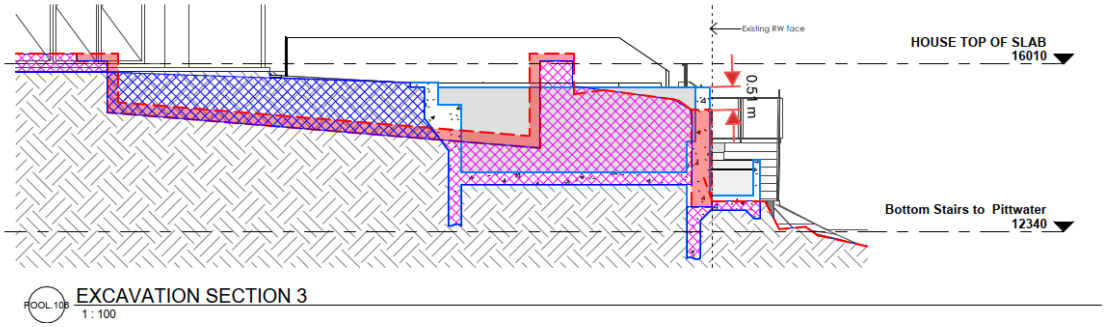


***Figure 13** – Extract of the proposed swimming pool scheme (Source: Drawing No. Pool.107 of the Architectural Plans prepared by Baxter Jacobson, REV 9, Dated 26/05/2026).*

The above shows that the pool is now more considerate of the existing landform, and exhibits a much lower bulk and scale.

The majority of the swimming pool is located within an area of the site that has had its landform previously altered, as is evident through a large vine-covered retaining wall facing the Pittwater. Due to this, no concern is raised about the location of the pool in this area. In addition, further detailing has been provided by the applicant to confirm that the infinity edge of the pool does not extend past the existing edge of the large retaining wall, which currently separates the rear yard from the transition down to the Pittwater. This is considered an appropriate outcome for the site.

2) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development has not satisfied the requirements of State Environmental Planning Policy (Sustainable Buildings) 2021, Chapter 2 – Standards for residential development – BASIX. The submitted plans do not accurately reflect the required commitments outlined within the BASIX Certificate.

Applicant's Comment:

A compliant BASIX Certificate is provided to reflect the updated plans. The location of the stormwater tank, under the dwelling is indicated on the plans.

Response:

This reason has been resolved. The location of a rainwater tank that matches the requirement of the submitted BASIX certificate is identified on the architectural plans.

3) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is not consistent with the aims and objectives of the C4 Environmental Living Zone of the Pittwater Local Environmental Plan 2014.

a) The proposal does not provide low-impact residential development, due to the bulk and scale of the proposed development.

b) The development is not of a low density or scale that is integrated with the landform and landscape.

Applicant's Comment:

As described above, the proposed swimming pool and associated structures propose a maximum height approximately 500mm above the existing ground level and will present with a lesser height than the existing swimming pool. We note that is 560mm lower than the existing pool and the previous original Development Application.

The pool is well screened from public view by distance and existing vegetation. The structure is minimal and of far lesser impact than many pools and other structures that are built, ancillary to residential dwellings, fronting Pittwater, as illustrated above.

The revised swimming pool design reduces overall bulk and visual exposure to the waterway by locating the structure at existing natural ground level on the eastern portion of the site. The inclusion of a curved spill edge and a sandstone retaining wall on the western side assists in managing level transitions and ensures the pool form remains consistent with the site's established landform.

The curved alignment corresponds with the foreshore's natural contours, resulting in a layout that follows rather than alters the existing topography. Existing bushland landscape on the hillside will provide additional visual filtering and support a high level of environmental integration, maintaining compatibility with the surrounding foreshore setting.

In addition, the revised design has reduced hard surfaces resulting in increased soft landscaping on site. As a result, a total landscaped area (considering the dwelling changes approved through DA2025/0580) of 1033.67m2 or 54.24%, comprising of 919.33m2 (48.24m2) soft landscaping and 114.34m2 permitted as a part of the 6% variation.

This results in an increase in landscaped area of 10.43m2 from that proposed in the final set of plans for DA2025/0581.

This results in an increase in landscaped area of 30.42m2 from approved DA2020/1591 which had substantial commencement.

The proposed variation is appropriate for the site, as the modified design will result in an improved landscape area to that approved by DA2020/1591 which provided consent for a landscaped area of 888.9m2 or 46.7%.

The pool is setback further from Pittwater and existing trees which were the subject of an arborists report. Additionally, we note that whilst not numerically included in the landscape area calculation, the site practically also includes the area of lot 2, DP827722, which is leased by the owner. This area is primality green space, as the substantial foreshore surrounding the site. Consideration of these areas, and the impact of the immediate bushland, increases the overall apparent landscaped area of the site.

Response:

As discussed in conjunction with reason (1) above, the swimming pool has been amended to be reduced in height and overall size. The location of the pool is considered appropriate as it relates to the previously altered landform of the rear yard. The infinity edge of the pool does not extend past the existing retaining wall, and only extends 500mm above its maximum height; however, still lower than the existing glass balustrade. The appearance of the pool from the Pittwater is considered acceptable when considering these reasons.

With regard to the integration with the landscape character of the site, the location of the proposed pool is void of any significant landscaping. The proposal will continue to vary the landscape requirement of the Pittwater Development Control Plan (PDCP 21) 2021; however, this is deemed acceptable as the variation is generally consistent with past approvals on the site and is capable of achieving the landscape setting intended by the controls and zoning of the land.

4) Pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2021, the application contains fundamental procedural defects:

a) The proposal includes the relocation of the existing waterslide, which will include works within the neighbouring allotment (314 Hudson Parade). The proposal has been incorrectly made as it does not include 314 Hudson Parade as part of the subject site undergoing works.

b) The proposal does not demonstrate the necessary legal right or owner's consent to carry out works on the adjoining site. This omission breaches Clause 49(2)(a) of the EP&A Regulation 2021.

Applicant's Comment:

The revised design proposes works entirely within the subject site. The waterslide will be removed. The removal of the existing waterslide is not part of this application, noting the applicant owns both 314 and 316 Hudson Parade and owners consent is provided for this demolition work.

Response:

This reason is resolved as the slide will be retained and removed as part of future applications, as clarified by the applicant within the RFI submission.

5) Pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 the development is contrary to Section 1.3 Objects for the following reasons:

a) The proposal does not facilitate ecologically sustainable development in accordance with 1.3(b) as it demonstrates inconsistencies with the aims of the C4 zone, the Pittwater Foreshore Area of the Bilgola Locality within PDCP 21 and the landscaped area provisions of PDCP 21. The development does not allow for low-impact development which integrates with the landform and landscape.

b) The proposal does not demonstrate good design and amenity of the built environment in accordance with 1.3(g). The bulk and scale of the proposed development is too great and inconsistent with the desired character for the zone and foreshore area.

Applicant's Comment:

The 3D elevations of the revised pool design, clearly demonstrate a very limited view available from the waterfront, with no reflective glazed balustrade presenting to the waterfront. With the inclusion of a curved design, the use of natural stone materials and the planting of vines on the wall, we believe that the pool structure will disappear into the foreshore hillside and will present as a limited and reasonable structure, barely discernible from the waterway.

As described in detail above, the scale of the proposed development is significantly less than other similar development in the immediate locality.

Response:

As discussed in response to Reasons (1) and (4), the revised swimming pool is acceptable in its bulk and scale, and consistent with the landform and landscape area of the locality.

6) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent following provisions within the Pittwater 21 Development Control Plan.

Particulars

a) A4.3 Bilgola Locality – the proposal is contrary to the desired future character statement for the Pittwater Foreshore Area of the Bilgola Locality.

Response:

As discussed further in this report in response to the DCP, the proposal is capable of achieving the desired future character of the area.

b) C1.25 Plant, Equipment Boxes and Lift Over-Run – the proposal includes a large lower- level plant room for pool equipment within the foreshore area which contributes to unnecessary bulk and scale of the development. The plant room can be located elsewhere on the site to minimise bulk and scale.

Applicant's Comment:

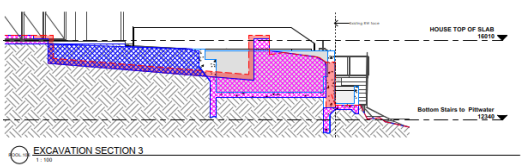
The development proposes a plant room adjoining and part under the pool slab. This location remains highly practical, reducing excavation, minimising noise and ventilation concerns and providing shorter pumping lines and reduced distance between the plant and the pool. The entrance door is recessed and will not be visible from Pittwater.

Legal advice is provided with this application which confirms the proposed plant room is permitted within the foreshore area. A copy of this advice is provided as Appendix 1.

We would argue that the proposed plant room does not contribute bulk and scale as it is located 300mm below ground level and will not be visible from the waterway, confirmed by the 3D images provided in the revised plan set.

Response:

The location of the plant room has been relocated to be behind the existing retaining wall and is acceptable. The plant room is below existing ground level and does not extend past the existing retaining wall at the rear of the subject site. The plant room will not add any unnecessary bulk or scale to the development. Refer to Figure 14 below:



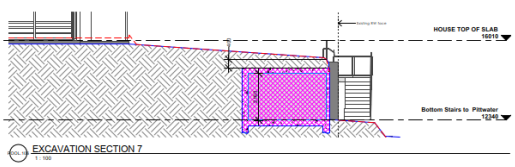


Figure 14 *– Extract of the proposed swimming pool scheme showing the location of the proposed pool and plant room when considering the landform (Source: Drawing No. Pool.107 of the Architectural Plans prepared by Baxter Jacobson, REV 9, Dated 26/05/2026).*

c) D3.7 Side and rear building line – the proposal provides non-compliant side setbacks from the pool (900mm) and the waterslide (nil setback and encroachment within neighbouring allotment), which is inconsistent with the controls and objectives.

Applicant's Comment:

The revised pool design proposes a compliant minimum side setback of 1 metre (north).

Response:

A compliant side setback is proposed.

d) D3.11 Landscaped Area – Environmentally Sensitive Land – the proposal includes a reduction in landscaped area which is already non-complaint. The proposal includes the conversion of large areas of paving to soft landscaping to attempt to offset the large scale of the proposed development, which still falls short of meeting or improving upon the existing landscaped area provision. This demonstrates the excessive scale of the development.

Applicant's Comment:

As described above, the revised design has reduced hard surfaces resulting in increased soft landscaping on site. As a result, a total landscaped area of 1033.67m2 or 54.24%, comprising of 919.33m2 (48.24m2) soft landscaping and 114.34m2 permitted as a part of the 6% variation.

The proposed variation is appropriate for the site, as the modified design will result in an improved landscape area to that approved by DA2020/1591 which provided consent for a landscaped area of 888.9m2 or 46.7%.

Response:

The applicant continues to vary the landscaping requirement of D3.11 of the PDCP 21, with a shortfall of 109.76m^2. Notwithstanding this, the variation is considered acceptable as it is consistent with previous approvals on the site, namely, DA2020/1591, for which construction works have commenced. The new location of the pool and removal of soft landscaping are generally offset by the removal of paving and filling of the existing swimming pool. While a shortfall still occurs, the proposal is considered capable of achieving the outcomes of the landscape control, as discussed in response to the DCP further in this report.

7) Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site has not been demonstrated as suitable for the proposed development.

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

Applicant's Comment:

Accordingly, we believe that all of the Council's concerns set out in the reasons for refusal have been satisfactorily addressed and resolved in the amended plans. We request that Council review the updated plans and support the application as amended.

Response:

For the reasons outlined within this report, it is considered that the proposal achieves these considerations of the Act.

The revised application has suitably addressed the reasons for refusal, and for the reasons further outlined in this report, addresses the suite of considerations required under Section 4.15 of the Act, and therefore is considered acceptable.

- ***Biodiversity Conservation Act 2016***

Pursuant to Section 7.7 of the Biodiversity Conservation Act 2016 (BC Act), a development that is likely to significantly affect threatened species must be accompanied by a biodiversity development assessment report (BDAR).

The site is identified on the Biodiversity Values Map. Refer to Figure 15 below:



Figure 15 *– Biodiversity Values Map (Source: NSW Planning Portal Spatial Viewer)*

The proposed works are limited to the rear of the subject site (Lot 1), and are outside any land identified as containing Biodiversity Values. An Arboricultural Impact Appraisal and Method Statement (AIA) has been prepared by Naturally Trees, and submitted as part of this application. The AIA addresses the impact of the swimming pool on any trees within Council's land to the west, and whether they will be impacted or required to be removed. The AIA concluded that no trees would be impacted by the proposed works subject to tree protection measures. The proposed works have also been supported by Council's landscape and biodiversity officer, in that no impact to the biodiversity areas of the locality will occur.

No further comment in regard to the Biodiversity Conservation Act 2016 is required.

State Environmental Planning Policies (SEPPs)

- ***State Environmental Planning Policy (Biodiversity and Conservation) 2021***

Chapter 2 Vegetation in Non-Rural Areas

Chapter 2 of SEPP (Biodiversity and Conservation) 2021 applies to the proposal as it is land within a non-rural area.

The land on which the swimming pool is proposed is generally void of any substantial vegetation, with the swimming pool located on land containing groundcover. However, land surrounding the site, specifically council land to the west, contains substantial trees which add heavily to the tree canopy of the locality.

An Arboricultural Impact Appraisal and Method Statement (AIA) has been prepared by Naturally Trees, and submitted as part of this application. The AIA address the impact of the swimming pool on any trees within Council's land to the west, and whether they will be impacted or required to be removed. The AIA concluded that no trees would be impacted by the proposed works subject to tree protection measures. The proposed works have also been supported by Council's landscape and biodiversity officer, in that no impact to trees surrounding the site will occur.

No further comment in regard to this chapter is required.

- ***State Environmental Planning Policy (Resilience and Hazards) 2021***

Chapter 2 – Coastal Management

Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021 relates to coastal management. The site is identified as being within the Coastal Environment Area and Coastal Use Area per the maps in Figures 16 and 17 below.



Figure 16: *Coastal Environment Area Map (Source: NSW Planning Portal Spatial Viewer).*

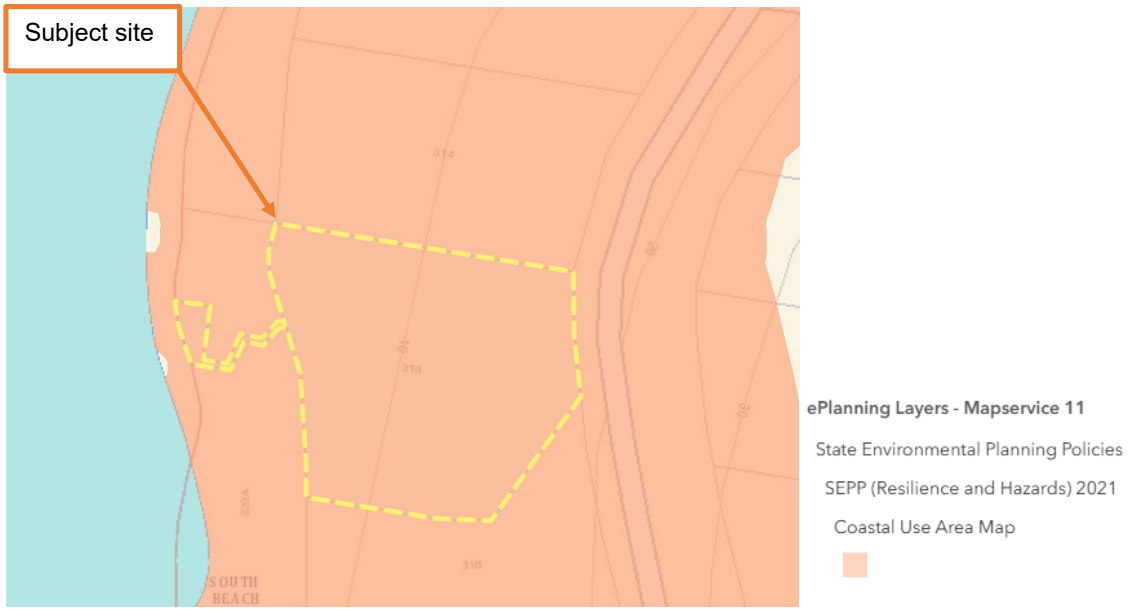


Figure 17: *Coastal Use Area Map (Source: NSW Planning Portal Spatial Viewer)*

Due to the site's location within these mapped areas, the following divisions of Chapter 2 are required to be considered.

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
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,*	The proposed swimming pool is proposed on a previously developed portion of the site, which is evident from the retaining wall that currently contains the rear yard of the site, before the topography steps down to the Pittwater. The swimming pool (with the exception of the spillway) does not extend past this retaining wall, and as such, is unlikely to impact the integrity or resilience of the biophysical, hydrological, and ecological environment. Further to this point, the works do not remove any substantial vegetation that adds to the coastal environment, as supported by the submitted AIA. In addition, a geotechnical report has been prepared by White Geotechnical Group and

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
		submitted with this application. The report confirms no hydrological processes (i.e. subsurface flows) will result from the proposal.
	(b) coastal environmental values and natural coastal processes.	The proposal is considered to protect coastal environmental values, given the proposed location of the swimming pool will not result in the removal of any substantial trees, and is generally consistent with the form of solid retaining walls which are currently on site, and currently face the Pittwater. It is not considered that any coastal processes will be impacted, given that the proposal is supported by Council's Natural Environment – Coastal officer.
	(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,	Not applicable.
	(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	The proposed works will not adversely affect flora and fauna, as discussed previously in this report.
	(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,	The proposed works will not impact existing public open space, or access to the foreshore.
	(f) Aboriginal cultural heritage, practices and places,	The proposal has been supported by Council's Aboriginal Heritage Officer, who is satisfied that it is unlikely that there will be any impact to Aboriginal cultural heritage, practices and places.
	(g) the use of the surf zone.	N/A.
	(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 subclause (1), or*	The development has been designed to avoid impact on the ecological area of the locality. This has been achieved through suitable buffers and setbacks.

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
	(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	Noted.
	(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.	Noted.
	(3) This section does not apply to land within the Foreshores and Waterways area within the meaning of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6.	Noted. Does not apply.
2.11 Development on land within the coastal use area	*(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—* *(a) has considered whether the proposed development is likely to cause an adverse impact on the following—* *(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*	No impact on any public foreshore connection will occur as a result of the development.
	(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	The proposed development creates no overshadowing of the coastal area. Furthermore, no wind funnelling or loss of public views will occur.
	(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	The proposed development has been designed to add to the visual amenity and scenic qualities of the coast, through utilising naturally sympathetic materials and finishes.
	(iv) Aboriginal cultural heritage, practices and places,	The proposal has been supported by Council's Aboriginal Heritage Officer, who is satisfied that it is unlikely that there will be any impact to Aboriginal cultural heritage, practices and places.
	(v) cultural and built environment heritage, and	No cultural or built environment heritage is present on the site or in the vicinity.
	(b) is satisfied that— *(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*	The development has been designed to avoid impact on the ecological area of the locality, which is achieved through suitable buffers and setbacks.
	(ii) if that impact cannot be reasonably avoided—the development is designed,	Noted.

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
	sited and will be managed to minimise that impact, or *(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and* *(2) This section does not apply to land within the Foreshores and Waterways area within the meaning of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6.*	Noted. Noted. Does not apply.
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.*	The proposed development does not notably alter the site in such a way as to increase the risk of any coastal hazards on the site itself or adjoining land.
2.13 Development in coastal zone generally—coastal management programs to be considered	*Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.*	No known coastal management program applies to the land.

The relevant provisions of Chapter 2 have been addressed. No further assessment is required.

Chapter 4 Remediation of Land

The provisions of Chapter 4 of SEPP (Resilience and Hazards) 2021 have been considered in the assessment of the DA. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated and, if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

In this regard it is considered that the site poses no risk of contamination, given the historical use of the land for residential uses, and the lack of any potentially contaminating land uses within proximity to the site, 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.

- ***State Environmental Planning Policy (Sustainable Buildings) 2021***

A BASIX certificate has been submitted in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2021* and the Sustainable Buildings SEPP.

This shows compliance with the required water, thermal and energy provisions under the relevant provisions.

- ***State Environmental Planning Policy (Transport and Infrastructure) 2021***

Chapter 2 Infrastructure

The provisions of Chapter 2 of SEPP (Transport and Infrastructure) 2021 have been considered in the development application assessment, as outlined in the table below:

SECTION	COMMENT
Section 2.48 Determination of development applications—other development	
• This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following— (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower… (b) development carried out— (i) … (ii) … (iii) within 5m of an exposed overhead electricity power line,	Overhead electricity power lines are located within 5m of the development site. A referral to Ausgrid was undertaken as part of the assessment. Ausgrid does not object to the proposal.

The proposal is satisfactory with regard to all the provisions of Chapter 2, as discussed above.

- ***Pittwater Local Environmental Plan (PLEP) 2014***

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

Compliance Assessment

Clause	Compliance with Requirements
Clause 2.7 Demolition	Yes
Clause 4.3 Height	Yes
Clause 5.10 Heritage Conservation	Yes
Clause 5.23 Public Bushland	Yes
Clause 7.1 Acid Sulfate Soils	Yes
Clause 7.2 Earthworks	Yes
Clause 7.6 Biodiversity	Yes
Clause 7.7 Geotechnical Hazards	Yes
Clause 7.8 Limited Development on Foreshore Area	Yes

Detailed Assessment
Further comments on certain clauses are provided below.

Zoning and Permissibility

The subject site has two zonings, being:

- C4 – Environmental Living (contained to Lot 1)
- C2 – Environmental Conservation (contained to Lot 2)

Refer to the zoning map below.

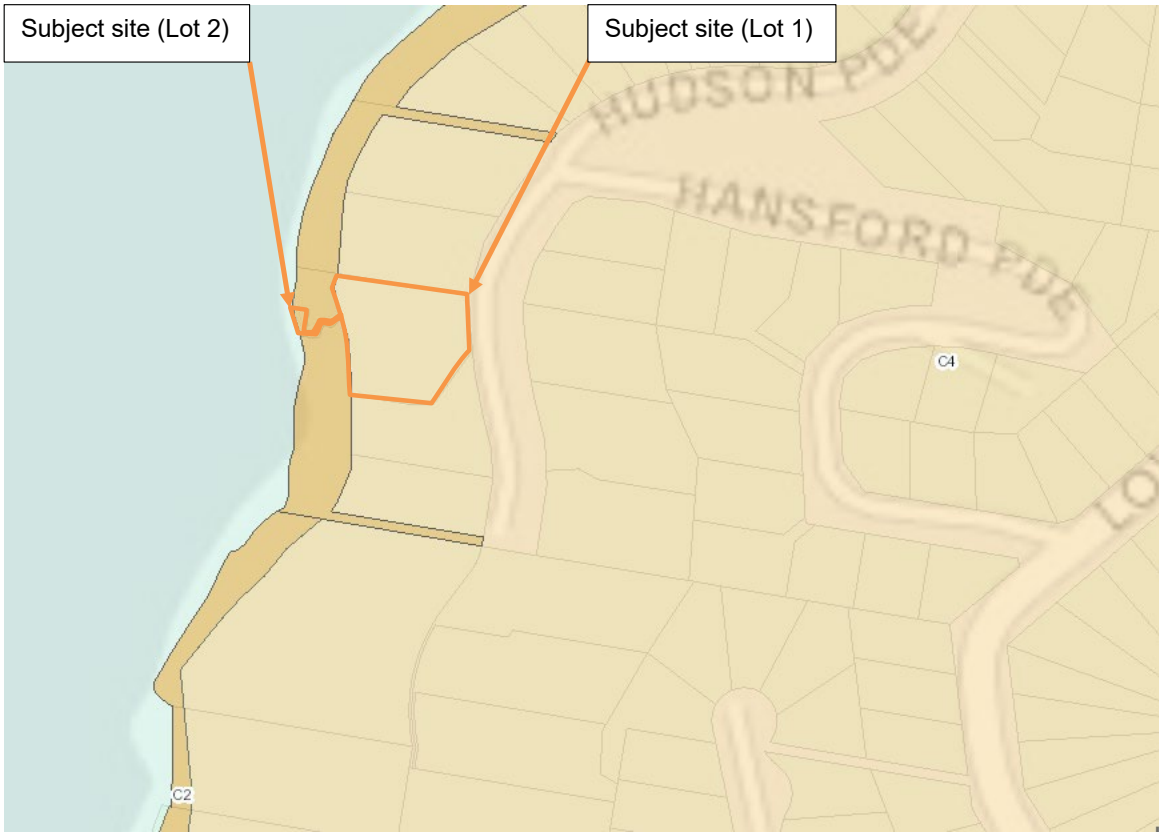


***Figure 18** – Land Zoning Map (Source: NSW Planning Portal Digital EPI Viewer)*

All works are restricted to Lot 1 of DP 827733, which is zoned C4. Dwelling houses are listed as being permissible with consent within the zone, and the proposed swimming pool and associated plant room are considered ancillary to the primary use of the site as a dwelling house.

The refusal of DA2025/0581 outlined that the proposal failed to address key objectives of both zones. It is considered that the objectives of the relevant zone (C4 zone) are achieved.

Zone Objectives

This section responds to the objectives of each zone and how the works proposal achieves these objectives.

The objectives of the C4 Environmental Living zone are as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

The following can be said about the zone objectives:

- It is considered that the proposal provides for a low-impact residential development, given that the swimming pool occurs over an already developed portion of the site, which is contained by a large retaining wall that faces the Pittwater. The proposal has been revised from the original scheme under DA2025/0581 to ensure that the majority of the bulk of the pool (to the infinity edge) does not extend past the existing retaining wall, so the aesthetic value is generally no different to what currently exists on the site (refer to Figure 19 below). In addition, no ecological or scientific values, as the swimming pool is well separated from any substantial vegetation, which is also supported by Council's landscaping and biodiversity referrals.

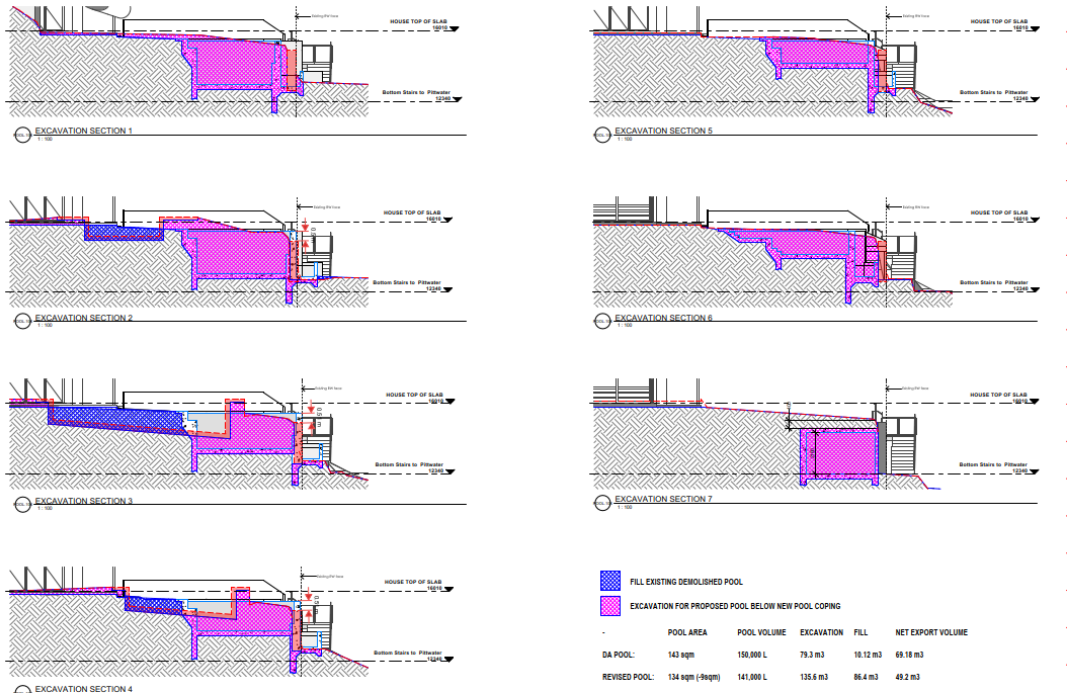


***Figure 19** – Extract of the architectural plans prepared by Baxter and Jacobson (Source: Drawing No. Pool.107 of the Architectural Plans prepared by Baxter Jacobson)*

- It is considered that the development integrates with the landform of the subject site. The majority of the swimming pool is located within an area of the site that has had its landform previously altered, as is evident through a large vine-covered retaining wall facing the Pittwater. Due to this, no concern is raised about the location of the pool in this area. The applicant has further justified the location by providing a series of sections (refer to Figure 19 above) which demonstrate that, at best, the pool will only exceed 500mm above the existing retaining wall for the infinity edge, and 1m above existing ground level for the spillway. As such, the proposed swimming pool is not dissimilar to the landform currently existing on site, and the additional bulk and scale is not detrimental to the ecological, scientific or aesthetic values of the area.

  In addition, adequate justification in the form of an amended AIA has been provided by the applicant to demonstrate that no impact on landscape values of the site or surrounds will occur.

- The proposed swimming pool is located over a part of the site that is generally void of any substantial vegetation with the exception of groundcover. The proposal will provide additional landscaping (as conditioned) to further enhance the foreshore area of the site.

The proposal is consistent with the objectives of the C4 zone.

Clause 2.7 Demolition

Consent is sought for demolition. Demolition of relevant structures has been identified on the submitted architectural plans.

It is noted that on submission of this review application there was an inconsistency about whether the water slide currently on the site will be removed. The submitted plans noted it to be removed, but the submitted Statement of Environmental Effects stated that it was to be retained. This was queried within the RFI issued to the applicant. The applicant later confirmed that the water slide is to be retained, and removed under a separate application.

Clause 4.3 – Height of Building

The subject site is prescribed a maximum building height of 8.5m. Refer to Figure 20 below.

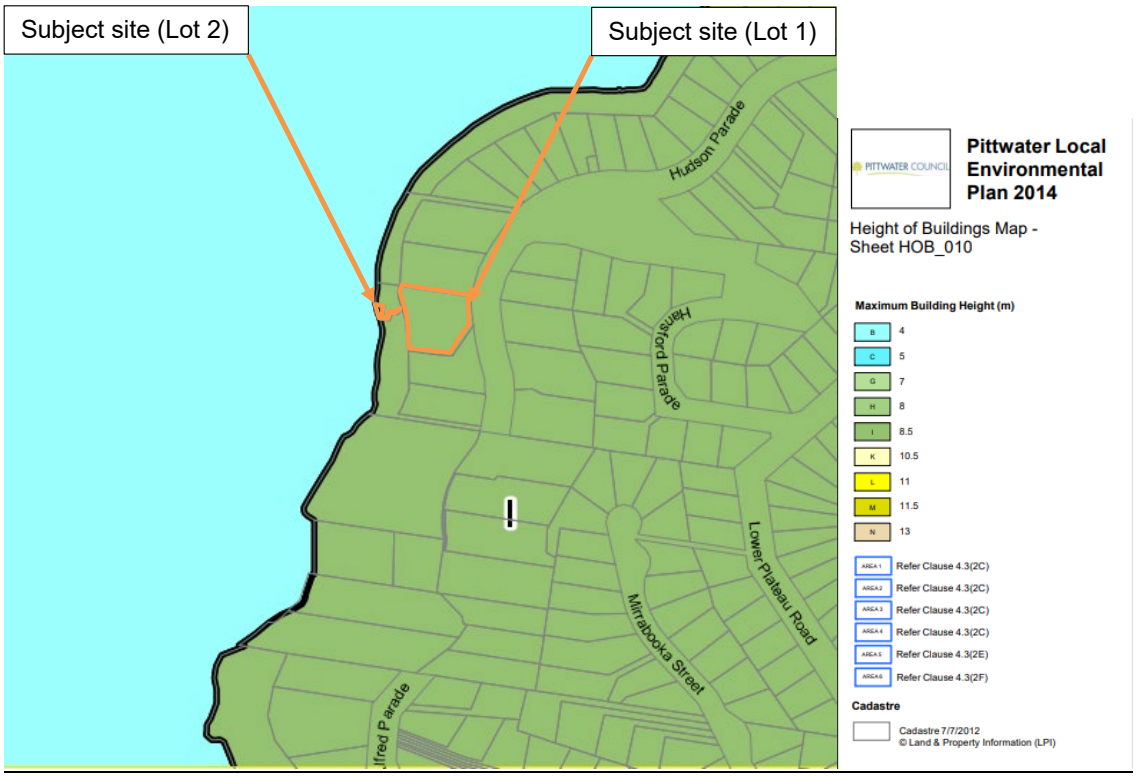


***Figure 20** – Height of Building Map (Source: NSW Legislation)*

In accordance with the sections provided within the submitted architectural plans prepared by Baxter and Jacobson, the proposed swimming pool results in a maximum height of 1.88m above existing ground level.

The proposal complies with the maximum height of building development standard of the PLEP 2014.

Clause 5.10 Heritage Conservation

The subject site is not listed as a heritage item, nor is it within a heritage conservation area (refer to Figure 21 below). The site is also not located within proximity to any listed heritage items.

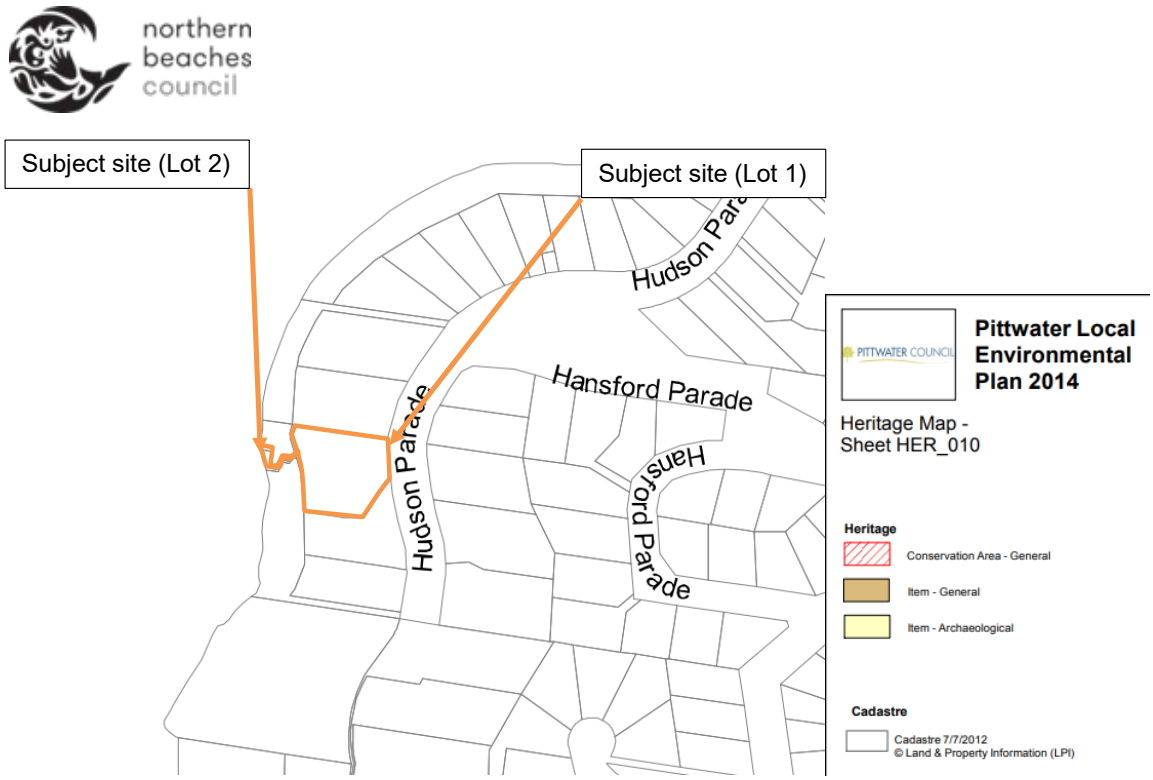


***Figure 21** – Heritage Map (Source: NSW Legislation)*

No heritage impacts are foreseen. In addition, the application has been supported by a referral to the Council's Aboriginal Heritage officer, subject to conditions of consent.

Clause 5.10 of the PLEP 2014 has been addressed.

Clause 5.23 Public Bushland

This clause outlines that development that will disturb, or is reasonably likely to disturb, public bushland is permitted with consent; however, the following need to be considered when granting consent to development that will or is likely to disturb public bushland.

(3) Development consent must not be granted to development that will disturb, or is reasonably likely to disturb, public bushland unless the consent authority is satisfied of the following—
- *(a) the disturbance of the bushland is essential for a purpose in the public interest,*
- *(b) there is no reasonable alternative to the disturbance,*
- *(c) the development minimises the amount of bushland to be disturbed,*
- *(d) the development includes measures to remediate the disturbed bushland.*

(7) In deciding whether to grant development consent to development on land adjoining public bushland, the consent authority must consider the following—
- *(a) the need to retain public bushland adjoining the site of the development,*
- *(b) the likely effect of the development on public bushland, including the following—*
  - *(i) the erosion of soil,*
  - *(ii) the siltation of streams and waterways,*
  - *(iii) the spread of weeds and non-native plants within public bushland,*
- *(c) other matters the consent authority considers relevant to the protection and preservation of public bushland.*

Within Clause 5.23, public bushland means the following:

Public bushland means land—
- (a) on which there is vegetation that is—

(i) a remainder of the natural vegetation of the land, or
(ii) representative of the structure and floristics of the natural vegetation of the land, and
(b) that is owned, managed or reserved for open space or environmental conservation by the Council or a public authority.

The site adjoins land zoned C2 – Environmental Conservation, which is owned by Northern Beaches Council, and is therefore classed as public bushland. Additional information has been provided within this review application to outline that no vegetation within the adjoining C2 land, which is owned by Northern Beaches Council, will be impacted by the development. As such, no further consideration of this clause is required.

Clause 7.1 Acid Sulfate Soils

The site is identified as Class 5 acid sulfate soils under PLEP 2014. Refer to Figure 22 below:

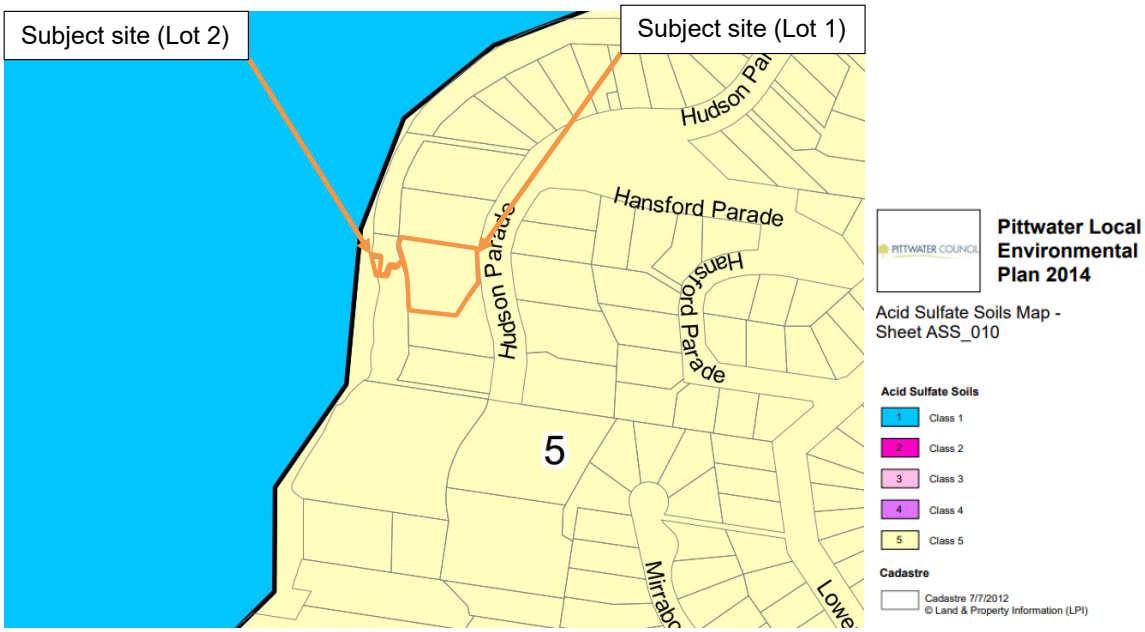


Figure 22 - *Acid Sulfate Soils Map (Source: NSW Legislation)*

The proposed plans do not show excavation exceeding RL 11.84, and as such, the works will not extend below RL 5. In addition, the submitted geotechnical report outlines that groundwater is likely many metres below the proposed works.

This clause is resolved.

Clause 7.2 Earthworks

Excavation works are sought that require development consent under this clause. Subclause (3) outlines that in deciding to grant consent for earthworks, the following matters are to be considered:

(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—
(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
(b) the effect of the development on the likely future use or redevelopment of the land,
(c) the quality of the fill or the soil to be excavated, or both,

(d) the effect of the development on the existing and likely amenity of adjoining properties,
(e) the source of any fill material and the destination of any excavated material,
(f) the likelihood of disturbing relics,
(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,
(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

The consent authority has considered the above; the following comments are made in this regard.

- It is not considered that the proposed earthworks result in potential stormwater drainage and stability issues. The application is submitted with stormwater management plans to ensure no adverse stormwater drainage issues result. With regard to soil stability, the application is supported by a Geotechnical Investigation report prepared by White Geotechnical Group. This report includes recommendations regarding the proposed earthworks associated with the structure, including recommendations for a combination of piles and retaining walls, and also suitable footings to ensure no soil stability issues are created. In addition, the geotechnical investigation was undertaken in accordance with Council's geotechnical risk management policy.
- The proposed earthworks do not impact the future use or redevelopment of the land, as the works are constrained to the subject site, and future development applications can be lodged to alter or remove the pool if desired.
- Due to the location of the site within a predominantly residential area, it is not considered that any poor quality of soil is expected to be encountered. Notwithstanding, draft conditions of consent are imposed to ensure any excavated soil is classified and sent to appropriate disposal locations, in accordance with the Environmental Protection Authority's Waste Classification Guidelines.
- It is not considered that the proposed earthworks will have a disruptive impact on the existing or likely amenity of adjoining properties. Recommendations are included within the submitted geotechnical investigation, such as vibration management, to ensure that no adverse impacts occur. With regard to the resultant structure, a series of sections have been provided within the submitted architectural plans (refer to Figure 19 on Page 34), which demonstrate that the structure will not be excessively located above existing ground level. The key interface with neighbouring properties is to the north and south; as viewed from these interfaces, the maximum height the pool will exceed existing ground is 500mm, which is not considered to adversely impact any amenity of the neighbours.
- A standard condition of consent can be applied to the development to ensure that any fill material is virgin in nature. The destination of excavated material is conditioned to be outlined within a waste management plan, in line with the Environment Protection Authority's Waste Classification Guidelines, as per Council's drafted conditions of consent.
- The proposal has been supported by Council's Aboriginal Heritage Officer; as such, it is concluded that the likelihood of disturbing any relics is low, especially considering that the site has already been developed for residential purposes.
- The subject site is located adjacent to a waterway, being the Pittwater. No adverse impacts are considered likely to occur. The application has been supported by Council's Coastal and Riparian officers who have included conditions of consent to ensure no adverse impacts result.
- Appropriate measures have been outlined in the submitted Geotechnical Investigation report prepared by White Geotechnical Group to ensure that the impacts of development are minimised and mitigated.

The requirements of Clause 7.2 have been suitably addressed.

Clause 7.6 – Biodiversity

This clause applies to land identified as "biodiversity" on the biodiversity map. The entirety of the site is mapped as such; refer to Figure 23.

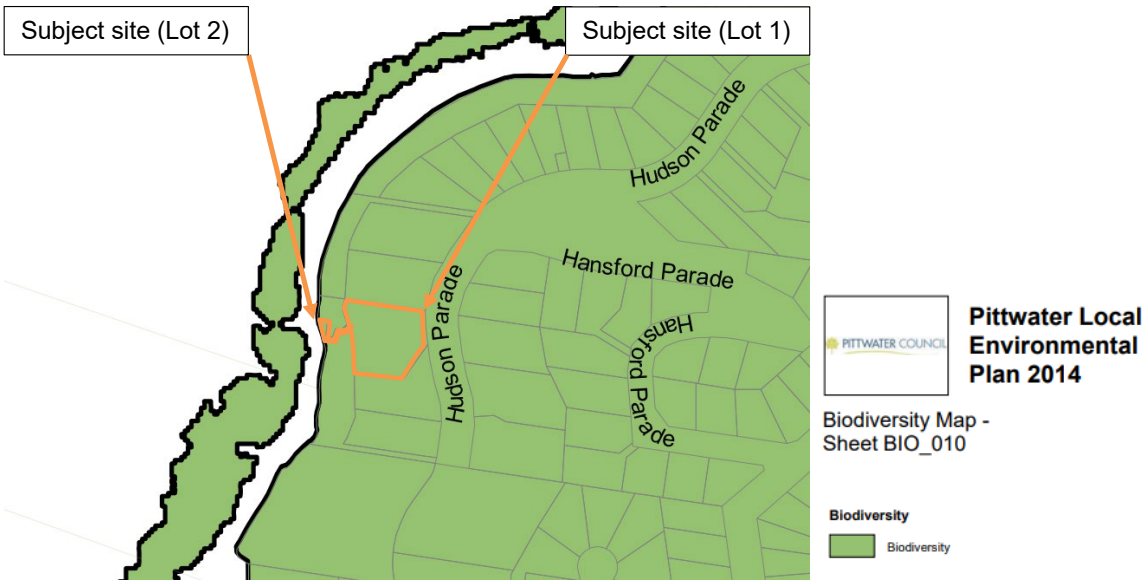


Figure 23 – *Biodiversity Map (Source: NSW Legislation)*

Subclauses (3) and (4) outline that, prior to issuing development consent, the following matters are to be considered:

> *(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider—*
> *(a) whether the development is likely to have—*
> *(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
> *(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
> *(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
> *(iv) any adverse impact on the habitat elements providing connectivity on the land, and*
> *(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*
>
> *(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—*
> *(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
> *(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*
> *(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The land on which the swimming pool is proposed is generally void of any substantial vegetation, with the swimming pool located on land containing groundcover. However, land surrounding the site, specifically council land to the west, contains substantial trees which add heavily to the tree canopy of the locality.

An Arboricultural Impact Appraisal and Method Statement (AIA) has been prepared by Naturally Trees, and submitted as part of this application. The AIA address the impact of the swimming pool on any trees within Council's land to the west, and whether they will be impacted or required to be removed. The AIA concluded that no trees would be impacted by the proposed works subject to tree protection measures. The proposed works have also been supported by Council's landscape and biodiversity officer, in that no impact to trees surrounding the site will occur.

As such, Clause 7.6 of the PLEP 2014 has been suitably addressed.

Clause 7.7 - Geotechnical Hazards

This clause applies to land identified as "Geotechnical Hazard H1". The western portion of the site is mapped as such; refer to Figure 24 below:

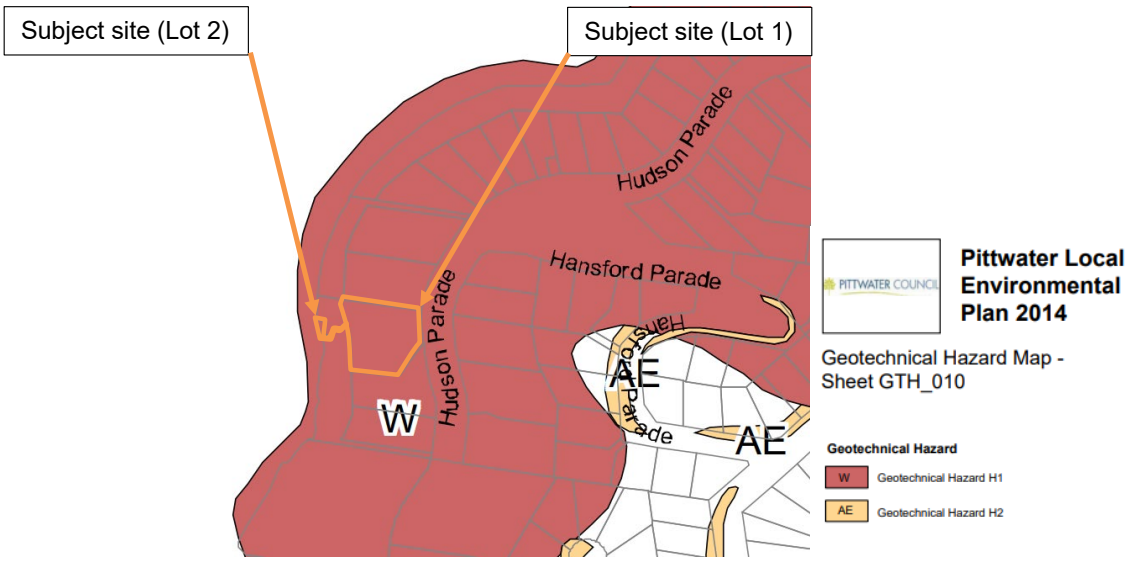


Figure 24 – *Geotechnical Hazard map (Source: NSW Legislation)*

Subclauses (3) and (4) outline that, prior to issuing development consent, the following matters are to be considered:

> *(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks—*
> *(a) site layout, including access,*
> *(b) the development's design and construction methods,*
> *(c) the amount of cut and fill that will be required for the development,*
> *(d) waste water management, stormwater and drainage across the land,*
> *(e) the geotechnical constraints of the site,*
> *(f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*
>
> *(4) Development consent must not be granted to development on land to which this clause applies unless—*
> *(a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and*
> *(b) the consent authority is satisfied that—*

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

The application is supported by a Geotechnical Investigation report prepared by White Geotechnical Group. This report includes recommendations regarding the proposed earthworks associated with the structure, including recommendations for a combination of piles and retaining walls, and also suitable footings to ensure no soil stability issues are created. In addition, the geotechnical investigation was undertaken in accordance with Council's geotechnical risk management policy.

As such, Clause 7.7 of the PLEP 2014 has been addressed.

Clause 7.8 – Limited development on foreshore area

The subject site is located partly within the foreshore area as identified on the foreshore building line map, as outlined in Figure 25 below:

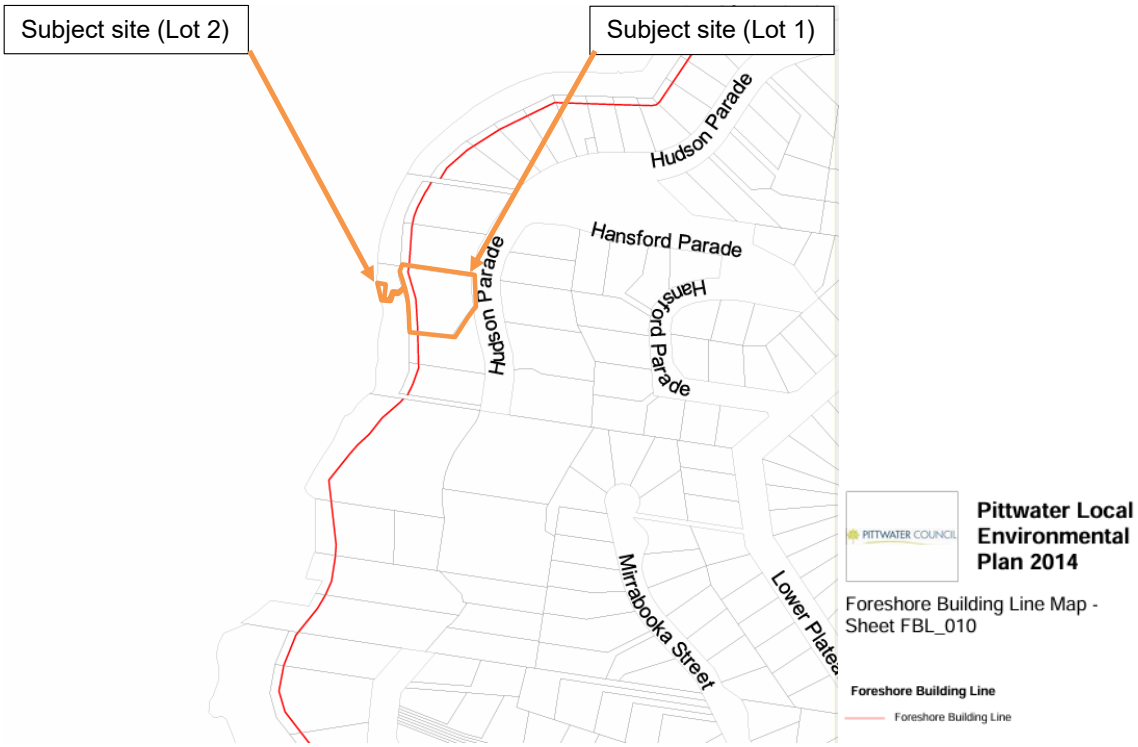


Figure 25 – *Foreshore Building Line Map (Source: NSW Legislation)*

Only certain development is permitted within the foreshore area, as outlined within subclause (2) below:

"(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes—
(a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,

(b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).”

The proposal of a swimming pool is classed as development that is permitted within the foreshore area. While the proposal also includes a plant room, which is not noted as being permitted, the use of the plant room is ancillary to the use of the swimming pool, given it includes equipment required for the function of the swimming pool.

While the swimming pool and plant room are permitted in the foreshore area, the consent authority must also be satisfied that the design, and location of the proposal are acceptable with regard to the considerations outlined in subclauses (3) and (4), which are discussed in detail below:

(3) Development consent must not be granted under this clause unless the consent authority is satisfied that—

(a) the development will contribute to achieving the objectives for the zone in which the land is located, and

(b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and

(c) the development will not cause environmental harm such as—

(i) pollution or siltation of the waterway, or

(ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or

(iii) an adverse effect on drainage patterns, or

(iv) the removal or disturbance of remnant riparian vegetation, and

(d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and

(e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and

(f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and

(g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and

(h) sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change, have been considered.

The matters of subclause (3) are addressed in the following manner:

- The proposal has achieved the objectives of the zone that the site is located in as discussed previously within this report.
- The appearance of the swimming pool from both the waterway and adjacent foreshore area is considered acceptable for the following reasons:
    - The majority of the bulk of the swimming pool, being above the spillway (its infinity edge), is either inline or behind an existing retaining wall. This can be visualised in the multiple cross sections provided by the applicant within Drawing No. Pool.107 of the architectural plans, which is extracted within Figure 19 on Page 34 of this report. The only portion above the existing retaining wall is for a maximum of 500mm, which is also lower than the existing glass balustrade located above the retaining wall. The inclusion of the swimming pool will maintain an appearance of structures as viewed from the waterway and foreshore area. In addition, as argued by the applicant within their submission, the proposal is not out of character with other swimming pools within the locality, which also protrude within the foreshore area, and are visible from the waterway.
    - A photomontage, which compares the existing appearance vs proposed appearance of the site, has been submitted by the applicant. Refer to Figures 26 and 27.



Figure 26 – *Existing appearance of the subject site as viewed from the Pittwater (Source: Response to RFI letter prepared by Watermark Planning dated 16 June 2026)*



Figure 27 – *Proposed appearance of the subject site as viewed from the Pittwater (Source: Statement of Environmental Effects prepared by Watermark Planning dated March 2026)*

The above photomontages demonstrate that the proposed swimming pool will not create an adverse appearance from the waterway. The use of natural materials (natural stone) and the infinity edge will create the appearance of a natural feature within the foreshore area. The lower spillway will be covered in vines similar to the existing retaining wall. In addition, screen landscaping will be conditioned in front of the pool to further buffer the structure from the waterway.

- No adverse environmental harm will occur as a result of this proposal as outlined within this report, and the referral responses received.
- No conflict will occur between the development and people using the waterway given that the proposal is contained within the boundaries of the site.
- Any opportunities for public access to the foreshore are not disrupted by the proposal.
- For the reasons outlined within this report, the historic, scientific, cultural, social, archaeological, natural and aesthetic significance of the land will not be disrupted by the proposal.
- Sea level rise, coastal erosion, and change is flooding patterns have been considered by referrals discussed elsewhere within this report.

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

(a) continuous public access to and along the foreshore through or adjacent to the proposed development,

(b) public access to link with existing or proposed open space,

(c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,

(d) public access to be located above mean high water mark,

(e) the reinforcing of the foreshore character and respect for existing environmental conditions.

The matters of subclause (4) are addressed in the following manner:

- Public access to the foreshore area is not disrupted by the proposal, considering that the proposal is contained within the boundaries of the subject site.

The provisions of Clause 7.8 of the PLEP 2014 have been achieved by this application.

Pittwater 21 Development Control Plan

Compliance Assessment

The relevant parts of the DCP that apply to the development application are:

- Section B General Controls
- Section C Development Type Controls
- Section D Locality Specific Development Controls

The relevant sections are addressed within the table below, and further comments are provided below the table where required.

Clause	Compliance with Requirements	Comment
Section B General Controls		
B1 Heritage		
B1.4 Aboriginal Heritage Significance	Yes	The application has been supported by a referral to the Council's Aboriginal Heritage officer, subject to conditions of consent.
B3 Hazard Controls		
B3.1 Landslip Hazard	Yes	Refer to discussion under Clause 7.7 of the PLEP 2014. The application is supported by a Geotechnical Investigation report prepared by White Geotechnical Group. This report was undertaken in accordance with Council's geotechnical risk management policy.
B3.6 Contaminated Lands and Potentially Contaminated Land	Yes	Refer to the discussion under SEPP (Resilience and Hazards) 2021.
B3.7 Estuarine Hazard - Low density residential	Yes	The site is located on the Estuarine hazard map on Northern Beaches online mapping. Council's natural environmental – coastal referral supports the application with regard to Estuarine Hazard.
B4 Controls Relating to the Natural Environment		
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Council's Natural Environment – biodiversity referral supports the application with consideration of this section.
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Refer to discussion under SEPP (Biodiversity and Conservation) 2021 and Clause 7.6 of the PLEP 2014. No removal of significant vegetation is proposed as part of this application.
B5 Water Management		
B5.13 Development on Waterfront Land	Yes	The relevant referrals of the Council support the application with respect to development on waterfront land.

Clause	Compliance with Requirements	Comment
B5.15 Stormwater	Yes	The application is submitted with stormwater management plans to ensure no adverse stormwater drainage issues result.
B8 Site Works Management		
B8.1 Construction and Demolition – Excavation and Landfill	Yes	Refer to discussion under Clause 7.7 of the PLEP 2014. The applicant proposes excavation greater than the provisions of this control. The report is supported by a geotechnical report prepared by White Geotechnical Group. It also includes the geotechnical risk management policy forms as required to be filled out under the Geotechnical Risk Management Policy for Pittwater. Standard conditions of consent will be applied to any consent.
B8.3 Construction and Demolition - Waste Minimisation	Yes	A Waste Management Plan has been submitted.
B8.6 Construction and Demolition - Traffic Management Plan	Yes	The net export volume is noted as 49.2m^3, being under the 100m^3 threshold. No Construction Traffic Management Plan is required.
Section C Development Type Controls		
C1 Design Criteria for Residential Development		
C1.1 Landscaping	Yes	The proposed development complies with the controls of this section.
C1.2 Safety and Security	Yes	The proposal is acceptable in regard to the principles of CPTED.
C1.3 View Sharing	Yes	Due to the location of the swimming pool and its general integration with the current landform of the site, it is not considered that any adverse view impacts will result from the proposal.
C1.4 Solar Access	Yes	Due to the orientation of the subject site and location of the swimming pool, with consideration of neighbouring areas, no adverse impacts are considered.
C1.5 Visual Privacy	Yes	No concerns are raised with regard to visual privacy due to the location of the swimming pool and its general integration with the current landform of the site.
C1.6 Acoustic Privacy	Yes	All plant equipment associated with the swimming pool is located within the plant room, and no noise impacts are considered.

Clause	Compliance with Requirements	Comment
		The swimming pool is also located in the rear yard of the subject site, within the private open space area. The area of private open space is consistent with those areas on neighbouring properties, and as such, no noise impacts to any sensitive areas of neighbouring properties are considered.
C1.7 Private Open Space	Yes	Notwithstanding the increase in size of the swimming pool compared to the existing one, the subject site continues to comply with the minimum 80m^2 requirement.
C1.12 Waste and Recycling Facilities	Yes	A waste management plan has been submitted with this proposal, and is supported.
C1.17 Swimming Pool Safety	Yes	The requirements of this section are achieved through suitable conditions of consent.
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	As discussed within the response to the reasons for refusal of DA2025/0581, the location of the plant room is considered acceptable, and will not impact the amenity of the locality or neighbouring area.
Section D Locality Specific Development Controls		
D3 Bilgola Locality		
D3.1 Character as viewed from a public place	Yes	Conditions will be imposed as part of any consent to ensure that suitable landscape screening occurs to the swimming pool structure, when viewed from the Pittwater. Refer to comment below.
D3.2 Scenic Protection	Yes	Refer to comment below.
D3.3 Building Colours and Materials	Yes	Suitable materials and finishes are proposed.
D3.7 Side and rear building line	Yes	Refer to comment below.
D3.11 Landscaped Area - Environmentally Sensitive Land	No	Refer to comment below.
D3.15 Scenic Protection Category One Areas	Yes	Refer to comment below.

Detailed Assessment:

D3.1 Character as viewed from a public place
Relevant Controls:

- Landscaping is to be integrated with the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation.

Response: The Natural Environment – Landscape officer has included a condition of consent that vegetation is planted in front of the swimming pool to screen it from the public domain. This will ensure

that the visual impact, which is considered acceptable in response to Clause 7.8 of the PLEP 2014, is further reduced, and to further integrate the development and site with the landscape setting of the area.

This Section of the DCP is achieved by the development.

D3.2 Scenic Protection
Relevant Controls:

- *Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.*

Response: The applicant has given photomontages to demonstrate how the proposal will look from the waterway, refer to Figures 26 and 27 on Page 43. Due to the location of existing retaining walls, it is not considered that the proposal will be inconsistent with the character of development on the foreshore area, and will, therefore, be of minimal visual impact.

This Section of the DCP is achieved by the development.

D3.7 Side and rear building line
Controls:

- The minimum side and rear building line for built structures including pools and parking structures, other than driveways, fences and retaining walls, shall be in accordance with the table in the DCP.
    - 2.5 at least to one side; 1.0 for other side
    - 6.5 rear (other than where the foreshore building line applies).

Response: The proposed pool achieves a setback greater than 2.5m to the southern boundary. The proposed pool achieves a 1m setback to the northern boundary. The 6.5m rear setback does not apply as a foreshore building line applies. Refer to the comments made within the LEP section of this report regarding works in the foreshore area.

D3.11 Landscaped Area - Environmentally Sensitive Land
Relevant Controls:

- *The total landscaped area on land zoned R2 Low Density Residential, R3 Medium Density Residential or E4 Environmental Living shall be 60% of the site area.*
    - *Impervious areas less than 1 metre in width (e.g. pathways and the like);*
    - *For single dwellings on land zoned R2 Low Density Residential, R3 Medium Density Residential or E4 Environmental Living, up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)).*

Response: The applicant continues to vary the landscaping requirement of D3.11 of the PDCP 21, with a shortfall of 109.76m^2. Notwithstanding this, the variation is considered acceptable as it is consistent with previous approvals on the site, namely, DA2020/1591, for which construction works have commenced. The new location of the pool and removal of soft landscaping are generally offset by the removal of paving and filling of the existing swimming pool. While a shortfall still occurs, the proposal is considered capable of achieving the outcomes of the landscape control, as addressed below. The following calculations are outlined below to show how the proposal relates to previous applications on the site, and how it is no less than that approved under an application that is currently being constructed.

- Required landscaping:
    - 1,902m^2/60% = 1,141.20m^2. (A variation of 6% (114.12m^2) of the site area is allowed if this area is paved and used for private open space).

- Existing/being constructed under DA2020/1591:
  - 999.62m^2 or 52.56% (including 6% hard paved variation).

- Approved under DA2025/0580:
  - 1086m^2 or 57.09% (including 6% hard paved variation).

- Refused DA2025/0581:
  - 1024m^2 or 53.84% (including 6% hard paved variation).

- Proposed under this review application:
  - 1033.47m^2 or 54.33% (including 6% hard paved variation).

The variation is no less than what is currently existing/being constructed on the subject and as such is considered appropriate.

Notwithstanding the above, where a numerical standard of a DCP is not achieved, the Act allows flexibility where the objectives of that control are achieved. Refer to discussion below:

The objectives of this control state:

- *Achieve the desired future character of the Locality.*
- *The bulk and scale of the built form is minimised.*
- *A reasonable level of amenity and solar access is provided and maintained.*
- *Vegetation is retained and enhanced to visually reduce the built form.*
- *Conservation of natural vegetation and biodiversity.*
- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*
- *To preserve and enhance the rural and bushland character of the area.*
- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*

The objectives are achieved in the following manner.

- For the reasons outlined within this report, the proposed swimming pool is sympathetically integrated into the existing landform. The swimming pool is proposed in a location of the site where the landform has been previously altered, as evident by the existing retaining wall. The majority of the swimming pool, with the exception of the spillway, is located behind or in line with the existing retaining wall. With consideration of this, the status quo of structures as viewed from the Pittwater is retained. This ensures that the bulk and scale of the built form is minimised as much as possible. The location of the pool does not prevent any significant areas of plantings being achieved in the rear yard, noting that the majority of the rear yard is currently groundcover.
- The proposal does not impact the amenity of any neighbour, given that the majority of the swimming pool is below existing ground level, with the maximum exceedance only being 500mm, which occurs at a non-trafficable area of the pool. No visual privacy impacts or solar access impacts are considered to occur.
- As outlined within this report, the proposed works do not result in the removal of any substantial vegetation or natural vegetation or areas of biodiversity, and the only vegetation removed is groundcover and existing vine cover on the retaining wall. The proposal retains suitable areas for enhanced vegetation at all boundaries of the site, as conditioned, and shown in the submitted landscape plan.
- Suitable stormwater plans have been provided to ensure a suitable stormwater, and erosion and sediment control outcome is achieved.

- The proposal does not impact the bushland character of the area given that the swimming pool is proposed in an area of the site, which has already been disturbed.
- Suitable drainage will continue to occur to the site; the majority of the site remains soft landscaping, and a suitable stormwater system has been proposed. In addition, part of the non-landscape area includes the swimming pool; it is considered that the water element of the pool will assist in minimising urban runoff, as the water that falls into the pool will drain into Council's system, where required.

The variation to the minimum landscaping requirement of the PDCP 21 is acceptable.

D3.15 Scenic Protection Category One Areas
Relevant Controls:

- *Screen planting shall be located between structures and boundaries facing waterways.*
- *Canopy trees are required between dwellings and boundaries facing waterways and waterfront reserves.*
- *Development is to minimise the impact on existing significant vegetation.*
- *The applicant shall demonstrate the retention and regeneration of existing native vegetation outside of the immediate area required to carry out the development.*
- *The development is to incorporate measures for planting and maintenance of native vegetation within those areas which are already cleared, and which are not required to be cleared to allow for the development.*
- *The siting, building form, orientation and scale of the development shall not compromise the visual integrity of the site by removal of canopy trees along ridges and upper slopes.*
- *The development must incorporate the use of unobtrusive and non-reflective materials and the colours of exterior surfaces shall help blend structures into the natural environment.*
- *Applicants are to demonstrate that proposed colours and materials will be dark and earthy.*

Response:
The controls are achieved in the following manner:

- The Natural Environment – Landscape officer has included a condition of consent that vegetation is planted in front of the swimming pool to screen it from the public domain. This will ensure that the visual impact, which is considered acceptable in response to Clause 7.8 of the PLEP 2014, is further reduced, and to further integrate the development and site with the landscape setting of the area.
- No loss of canopy trees or significant vegetation in any manner between the dwelling and the waterway is proposed. Existing area for canopy trees remains to be planted if desired.
- Retention of native vegetation outside the development footprint is proposed.
- The proposed colours and materials are considered appropriate for this area, and include dark and earthy tones.

The above controls are achieved.

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 $2,750 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $275,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan 2014;
- Pittwater 21 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 review application is referred to the NBLPP in accordance with Council's referral criteria, as it involves development on a site that contains Council land. In addition, this application is a review of a decision made by the NBLPP.

The application is a review of a determination under Division 8.2 Reviews of the Environmental Planning and Assessment Act 1979. The application suitably addresses all required matters under this division as outlined within this assessment report.

The proposed development was notified in accordance with the Northern Beaches Community Participation Plan (CPP) for twenty-eight (28) days. One (1) submission was received, which has been addressed within this assessment report.

The revised proposal, as submitted in this review application of DA2025/0581, has addressed the reasons for refusal of the original 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 decision to refuse the DA should therefore be altered to an approval, subject to the conditions attached to this report.

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 Local Planning Panel, as the consent authority, Review of the Determination of Application DA2025/0581 and grant development consent to REV2026/0003 for the Construction of a swimming pool at No. 316 Hudson Parade, CLAREVILLE, 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**	**Plan Title**	**Drawn By**	**Date**
POOL.000	8	Cover Page	Baxter & Jacobson	10.03.2026
POOL.001	8	BASIX	Baxter & Jacobson	10.03.2026
POOL.002	9	Location Plan	Baxter & Jacobson	15.06.2026
POOL.106	9	Excavation Plan	Baxter & Jacobson	15.06.2026
POOL.107	9	Excavation Sections	Baxter & Jacobson	15.06.2026
POOL.112	9	Pool Plan	Baxter & Jacobson	15.06.2026
POOL.201	8	West Elevation & Pool Materials	Baxter & Jacobson	15.06.2026
POOL.306	8	Pool Sections	Baxter & Jacobson	10.03.2026
POOL.307	8	Pool Sections	Baxter & Jacobson	10.03.2026
POOL.308	8	Pool Sections	Baxter & Jacobson	10.03.2026
POOL.901	8	Pool 3D	Baxter & Jacobson	10.03.2026

Approved Reports and Documentation			
Document Title	**Version**	**Prepared By**	**Date**

Landscape Plan (Ref: 230200)	G	Dapple Design	12.06.2026
Waste Management Plan	-	-	-
Stormwater Plans (Ref: 2022H0290)	1	Partridge	28.10.2025
Arboricultural Impact Appraisal and Method Statement	B	Naturally Trees	06.06.2026
BASIX Certificate (Ref: A1792763_02)	-	Sustainable Thermal Solutions	02.03.2026
Geotechnical Investigation (Ref: J5467B)	-	White Geotechnical Group	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 with the approved plans and a condition of this consent, the condition prevails.

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	21.04.2026

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. **All work to be contained within the subject site**
All work, including stormwater management, shall be fully contained within the legal boundaries of the subject site.

Reason: To ensure compliance with the relevant Local Environmental Plan.

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

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

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
   (i) in the case of work for which a principal contractor is required to be appointed:
      A. the name and licence number of the principal contractor, and
      B. the name of the insurer by which the work is insured under Part 6 of that Act,
   (ii) in the case of work to be done by an owner-builder:
      A. the name of the owner-builder, and
      B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

5. **General Requirements**

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

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

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

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

(c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the

issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

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

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

(f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than $25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

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

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

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

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

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

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

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

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

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
   (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

   Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
   (i) Swimming Pools Act 1992
   (ii) Swimming Pools Amendment Act 2009

(iii) Swimming Pools Regulation 2018
(iv) Australian Standard AS1926 Swimming Pool Safety
(v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

6. **Policy Controls**
Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of $2,750.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended). The monetary contribution is based on a development cost of $275,000.00.

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

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

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

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

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

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8. **No Clearing of Vegetation**
Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate. Details demonstrating compliance are to be submitted to the Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation.

9. **Stormwater Disposal**
The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil or Hydraulic Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) , indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments.

Stormwater shall be conveyed from the site to a suitably designed level spreader located within the site.

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

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

10. **Geotechnical Report Recommendations have been incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards are to be incorporated into the construction plans as identified in the following reports:

Geotechnical Investigation Report, Ref J5467B, prepared by White Geotechnical Group, dated 24/03/2026

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

11. **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", RMS' Manual – "Traffic Control at Work Sites".

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

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

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

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

12. **Boundary Identification Survey**
The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on a boundary identification survey, prepared by a Registered Surveyor, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

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

13. **Compliance with standards (Demolition):**

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 Council prior to the commencement of demolition works.

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

14. **Compliance with Standards**

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

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

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

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

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

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

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

16. **Erosion and Sediment Control Plan**
An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004).

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

Reason: To protect the receiving environment.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

17. **Works on Land Owned or Managed By Council**
No encroachments are to be carried out on Land owned or managed by Council.

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.), and landscaping works on Land owned or managed by Council.

Reason: To protect the land owned or managed by Council.

18. **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.

Due to heavy traffic congestion throughout the area, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

The DTMP must:-

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

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

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

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

19. **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.

No. 314 Hudson Parade, Clareville
No. 318 Hudson Parade, Clareville

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.

20. **Installation and Maintenance of Sediment and Erosion Control**
Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

21. **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 section 4 Tree Protection Statement and Appendix 9 Tree Management Plan.
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.

DURING BUILDING WORK

22. **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.

23. **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.

24. **Stockpiling materials**
During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of according to local regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

25. **Pollution Control**
All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required in accordance to local regulations.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not leave the construction site.

26. **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.

27. **Installation and Maintenance of Sediment and Erosion Controls**
Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: To protect the receiving environment.

28. **No Access Through Land Owned or Managed by Council**
Site access is not approved for delivery of materials nor construction of the development through adjacent land owned or managed by Council, without the written approval of Council.

Reason: Public safety, landscape amenity and tree protection.

29. **Storage of Materials on Land Owned or Managed by Council Prohibited**
The dumping or storage of building materials, spoil, vegetation, green waste or any other material in land owned or managed by Council is prohibited.

Reason: Public safety and environmental protection.

30. **Protection of Council's Public Assets**
Any damage to Council's public assets shall be made good by the applicant, and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Existing trees shall be protected in accordance with AS4970-2025 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Reason: To protect and/or restore any damaged public asset.

31. **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.

32. **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.

33. **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.

34. **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.

35. **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.

36. **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.

37. **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.

38. **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.

39. **Aboriginal Heritage**
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.

Construction and Tradesperson Induction Requirements
To avoid inadvertent harm, it is recommended that all contractors and tradespersons working on site are made aware of Aboriginal heritage obligations prior to the commencement of works.

This induction should include:
- Awareness that all Aboriginal objects are protected under the National Parks and Wildlife Act 1974 (NSW)
- Identification of Aboriginal heritage-sensitive areas within or adjacent to the site (including foreshore areas and sandstone features)
- Clear instructions that no materials, equipment, vehicles, or spoil are to be stored or placed within heritage-sensitive areas
- Advice that inadvertent impacts, including disturbance through access, stockpiling, or vehicle movement, may constitute harm under the Act.

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.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

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

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

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

41. **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.

42. **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.

43. **Required Screen Planting**
a) Screen planting shall be installed in accordance with the following:
i) planted on the western side of the pool structure which faces the waterway, from the northern end to at least 1 metre from the entry area to the pool room at the southern end of the pool structure,
ii) the selected planting is to comprise of species capable of attaining a height to RL15.50 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) screen planting shall be wholly contained within the property boundary,
v) 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.

44. **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 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.

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.

45. **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 in the approved 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.

46. **Stormwater Disposal**
The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

47. **Post-Construction Dilapidation Report**
Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:
- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

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

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

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

48. **Geotechnical Certification Prior to Occupation Certificate**
The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

49. **Swimming Pool Requirements**
The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:
(i) Swimming Pools Act 1992;
(ii) Swimming Pools Amendment Act 2009;
(iii) Swimming Pools Regulation 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

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

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life.

50. **Environmental Reports Certification**
Written certification from a suitably qualified person(s) shall submit to the Principal Certifier and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

(a) BASIX Certificate, Ref A1792763_02, prepared by Sustainable Thermal Solutions Dated 02/03/2026
(b) Geotechnical Report, Ref J5467B, prepared by White Geotechnical Group, dated 24/03/2026
(c) Waste Management Plan
(d) Arboricultural Impact Appraisal and Method Statement, Revision B, prepared by Naturally Trees, dated 06/06/2026

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

Reason: To ensure compliance with standards.

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

51. **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.

52. **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.

53. **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 habitable room within any other residential premise as defined under the Building Code of Australia, Protection of the Environment Operations Act 1997 and its statutory instruments as well as any relevant Environmental Protection Authority guidelines.

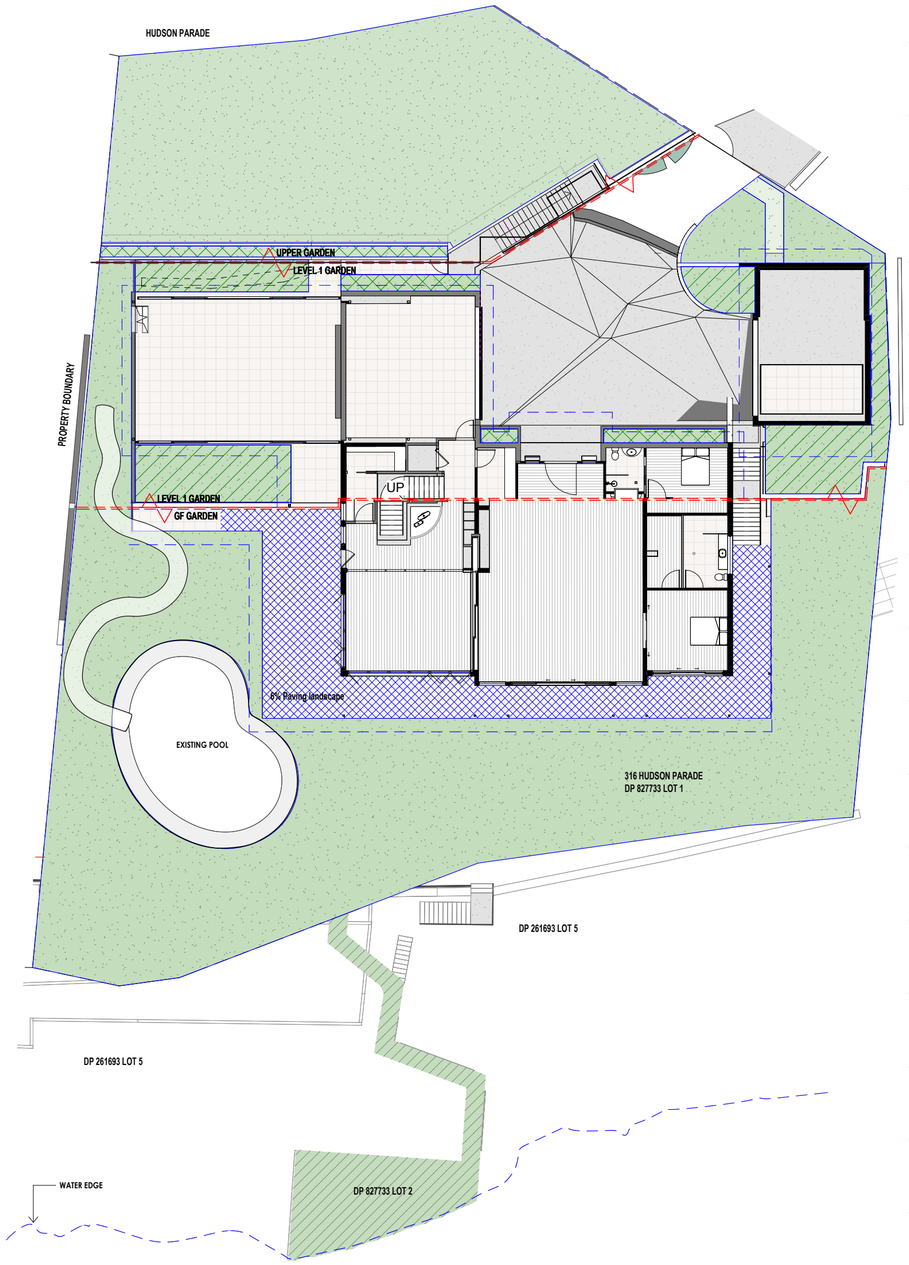
Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

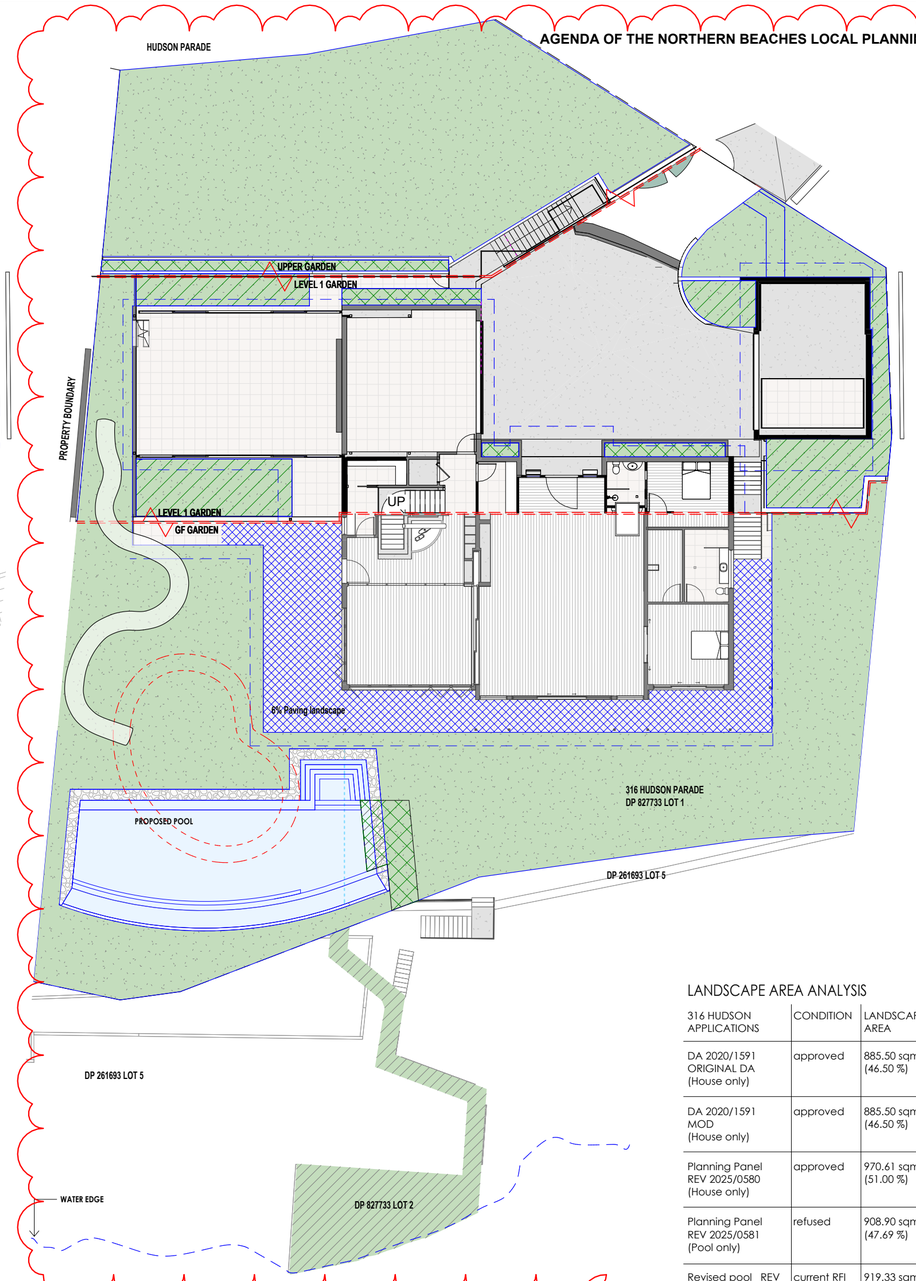
FINAL DECLARATION



Consultant Name:
James Corry
Consultant Town Planner
GAT & Associates.

In submitting this report to Council, I declare that I do not have a conflict of interest in making this recommendation.





Landscape Area

600-800 Depth landscape

300-500 Depth landscape

LANDSCAPE AREA ANALYSIS

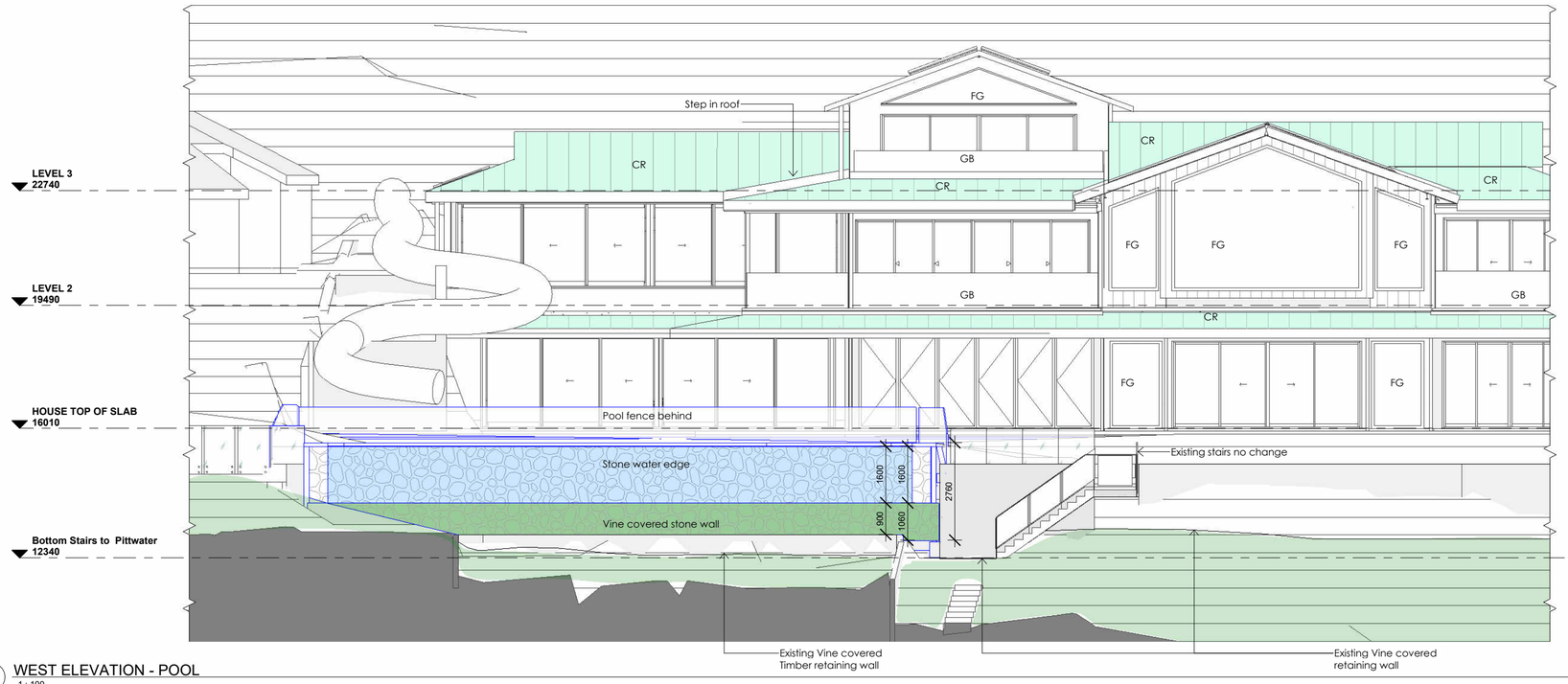
316 HUDSON APPLICATIONS	CONDITION	LANDSCAPE AREA	SHORTFALL	IF 6% PAVED COUNTED	SHORTFALL
DA 2020/1591 ORIGINAL DA (House only)	approved	885.50 sqm (46.50 %)	-255.70 sqm	999.62 sqm (52.50%)	-141.58 sqm
DA 2020/1591 MOD (House only)	approved	885.50 sqm (46.50 %)	-255.70 sqm	999.62 sqm (52.50%)	-141.58 sqm
Planning Panel REV 2025/0580 (House only)	approved	970.61 sqm (51.00 %)	-170.59 sqm	1092.73 sqm (57.00 %) was not included	-56.47 sqm
Planning Panel REV 2025/0581 (Pool only)	refused	908.90 sqm (47.69 %)	-234.53 sqm	1023.02 sqm (53.69 %) was not included	-120.41 sqm
Revised pool REV 2025/0581 (Revised pool with approved House)	current RFI	919.33 sqm (48.24 %)	-221.87 sqm	1033.02 sqm (54.24 %) to be assesed	-107.75 sqm

General Notes:
*Any discrepancies to be brought to Architects attention
*Use figure dimensions in preference to scaling
*Only scale under direction from architect
*Builder to examine site and verify conditions and dimensions
*Do not commence work until all Council approvals
*Client is granted conditional license to use the drawings
*Transfer of the Liscence is prohibited
*Architect reserves the right to terminate the liscense
*Electronic data transfer should be scanned for viruses before use
*Any use of electronic data transfer, whether intended or not by the recipient of electronicdata, by its direct or indirect use, is not the liability of the Architect
*Refer to hard copies for accuracy of electronic data
*Copyright reserved by the Architect

Issue	Date	Amendment
9	15-06-26	RFI 26.05.26
8	10-03-26	POOL DA REVISION
7	07-12-25	Planning Panel REV 2
6	05-12-25	Planning Panel REV

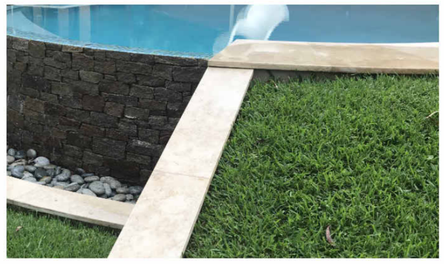
BAXTER & JACOBSON ARCHITECTS
SYDNEY MANLY, NSW AUSTRALIA
BYRON BAY NSW AUSTRALIA
Nominated Architects
D Jacobson #4259 & M Baxter #4831
PHONE +612 9977 7648
EMAIL mark@bja.net.au
WEB www.bja.net.au

Job No	346-02 POOL
Client	TONY WALLS
Address	316 Hudson Parade Clareville
Drawn	TT
Checked	MB
Scale	1 : 200
Design Stage	DA REVISION
Title	REV2026/0003 PROPOSED SITE COVER
No	POOL.105
Issue	-
	15/06/2026 3:57:40 PM



WEST ELEVATION - POOL
1 : 100

POOL MATERIALS



WATER EDGE AS PER EXISTIGN STONE WALL
POOL TILES AND EDGE AS PER EXISTING



VINE COVERED WALL AS PER EXISTING

General Notes:
*Any discrepancies to be brought to Architects attention
*Use figure dimensions in preference to scaling
*Do not scale drawings for construction
*Builder to examine site and verify conditions and dimensions
*This drawing remains the property of the Architect
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8	10-03-26	POOL DA REVISION	
Issue	Date	Amendment	

BAXTER & JACOBSON ARCHITECTS
SYDNEY MANLY, NSW AUSTRALIA
BYRON BAY NSW AUSTRALIA
Nominated Architects
D Jacobson #4259 & M Baxter #4831
PHONE +612 9977 7648
EMAIL mark@bja.net.au
WEB www.bja.net.au

Job No	346-02 POOL	Drawn	TT	Design Stage	No
Client	TONY WALLS	Checked	MB	DA REVISION	**POOL.201**
Address	316 Hudson Parade Clareville	Scale	**1 : 100**	Title **WEST ELEVATION & POOL MATERIALS**	Issue -

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ITEM 4.4 DA2026/0310 - CARRINGTON PARADE CURL CURL - ALTERATIONS AND ADDITIONS TO SOUTH CURL CURL SURF LIFE SAVING CLUB

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is the council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2026/0310 for Alterations and additions to South Curl Curl Surf Life Saving Club at Lot 7356 DP 1167221, Carrington Parade CURL CURL NSW 2096 subject to the conditions set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [**4.4.1** - 64 pages] 2. Site Plans & Elevations [**4.4.2** - 2 pages]

northern beaches council

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2026/0310

Responsible Officer:	Annabelle Ambrogio – Consultant Planner (CPS)
Land to be developed (Address):	Lot 7356 DP 1167221 Carrington Parade CURL CURL NSW 2096
Proposed Development:	Alterations and additions to South Curl Curl Surf Life Saving Club
Zoning:	RE1 Public Recreation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Local Planning Panel
Land and Environment Court Action:	No
Applicant:	South Curl Curl Surf Life Saving Club Inc

Application Lodged:	17/03/2026
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Community facility
Notified:	09/04/2026 to 07/05/2026
Advertised:	No
Submissions Received:	75 unique (95 total) - Support = 65 unique (77 total) - Object = 10 unique (18 total)
Clause 4.6 Variation:	No
Recommendation:	Approval

Estimated Cost of Works:	$794,334

EXECUTIVE SUMMARY

This application (DA2026/0310) seeks development consent for alterations and additions to the South Curl Curl Surf Life Saving Club ('SCC SLSC'), comprising the creation of a new rescue patrol and nippers training room, the expansion of the strength and conditioning facility and other minor associated works.

The application has been assessed in accordance with the Conflict of Interest Management Strategy dated 31 March 2026 prepared specifically for this application, in accordance with the Council-related Development Applications Policy. As such, the application has been assessed by an external consultant planner. The application is referred to the Northern Beaches Local Planning Panel ('NBLPP') for determination, due to a conflict of interest arising from Council being the land manager of the site. In addition, the application is also required to be determined by the NBLPP as it is classified as a contentious development, receiving 10 unique submissions by way of objection.

The proposal was publicly exhibited for a period of 28 days and received 75 unique submissions, with 65 in support and 10 in objection. It is noted that additional submissions were received, however, these are not

counted as unique submissions in accordance with the Northern Beaches Community Participation Plan ('NBCPP'), which states that all submissions received from the same person or from members of the same dwelling are to be considered as a single submission. For reference, the total number of submissions received (i.e. including multiple from a single person or a single household) was 95, with 77 in support and 18 in objection.

Various objectors raised concerns regarding loss of views toward the ocean because of the additions. As a result, inspections were carried out on 1 July 2026 by Council and the external planner at three affected properties which were able to provide access to determine the extent of view impact. A full view loss assessment having regard to the Planning Principle established by the Land and Environment Court ('LEC') in *Tenacity Consulting v Warringah Council (2004)* NSWLEC 140 *('Tenacity')* has been provided within this assessment report. Although the proposed development will introduce low-to-moderate impacts to existing ocean views, the assessment deems these impacts reasonable because the properties preserve good coastal sightlines.

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

PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks consent for alterations and additions to the SCC SLSC, with all works contained within the existing footprint of the SCC SLSC building. The works comprise the following:

- Rescue Patrol and Nippers Training Room – Located on the ground (street) level within the existing open terrace footprint. The works involve:
    - Demolition of the open terrace, including railings.
    - Demolition of stairs, windows and doors between the terrace and the boat shed to the south.
    - Construction of a new room at RL 9.73 with a floor area of 102.5m^2 and a skillion roof with a pitch of 2° and ridge height of RL 13.20.
    - Accessible bathroom within the southwestern corner of the room.
    - Filling windows and doors to boat shed to create a solid wall between the rooms.
    - Minor expansion to the access ramp to the entrance of the new room to facilitate a wider entry landing. New bin storage area between ramp and room, with access gate installed in handrail.

- Expansion of the Strength Conditioning Facility and Wellbeing Room – Located on the lower ground (beach) level within the existing northern access stairs and landing. The works involve:
    - Demolition of the northern access stairs between the street and lower beach area and demolition of a portion of the southern wall of the existing room.
    - Ground (street) level – New concrete slab to expand the members terrace area in the location of the removed stairs. Additional terrace area of 8.8m^2 with a new pergola roof with a 5° pitch and post above new area and concrete wall on western side to enclose the area from the street.
    - Lower ground (beach) level – Enclosing the western rear of the previous stair space and creating additional floor space for the gym room at same level as existing (RL 7.02).
    - New wall and door entrance from the eastern beach side to restrict access into the gym and filling the existing window to the first aid room to the south.
    - Removal of existing roller shutter on eastern beach side and replace with new wall and window to match existing finishes.
    - Creation of vertical ventilation void for the female toilet required due to the enclosure and removal of the previous open stairs.

All colours, finishes and materials are to match the existing finishes of the building. The proposed roof of the training room sits at RL 13.20 which is 3.68m below the ridge height of the taller adjoining function hall component of the building (RL 16.88) and is more reflective of the lower roof height of the adjoining boat shed and caretaker rooms to the south (RL 12.66).

New stormwater drainage is also to be installed to support the new additions, with drainage directed to existing discharge points at the Carrington Parade kerb.

Although the accompanying Plan of Management (POM) seeks operating hours of 6:00 am to 10:00 pm daily, the training room will be used less frequently and is unlikely to operate across the entire approved window. Operating hours and conditions for other rooms and uses within the building (i.e. function hall, gym, café, etc) remain unchanged by this application from their original approvals.

Refer to **Figure 1** to **Figure 4** below for extracts of the plans.

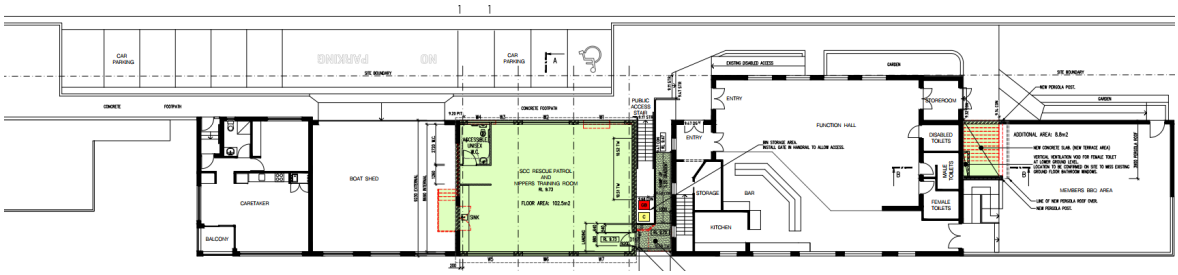


Figure 1 Proposed ground (street) level floor plan. Proposed works shown in colour.
Source: Michael Airey, 05.02.2026.

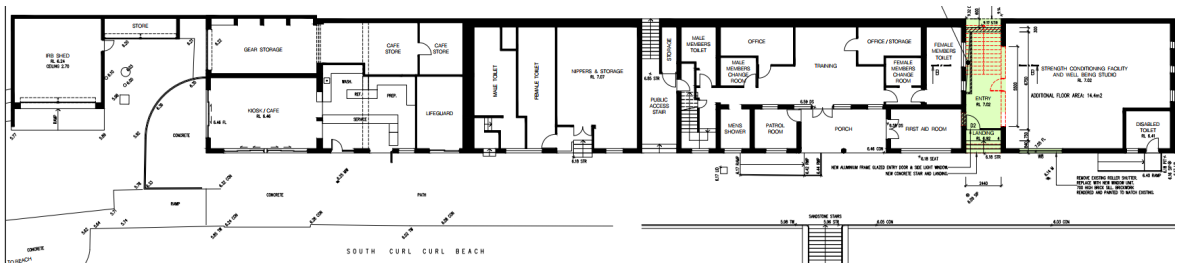


Figure 2 Proposed lower ground (beach) level floor plan. Proposed works shown in colour.
Source: Michael Airey, 05.02.2026.

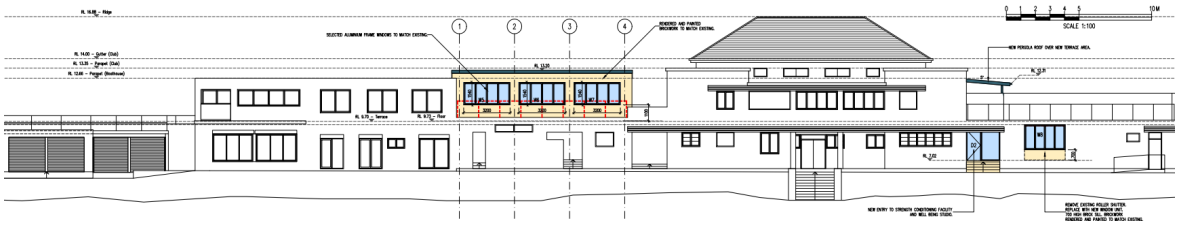


Figure 3 Proposed eastern (beach side) elevation. Proposed works shown in colour.
Source: Michael Airey, 05.02.2026.

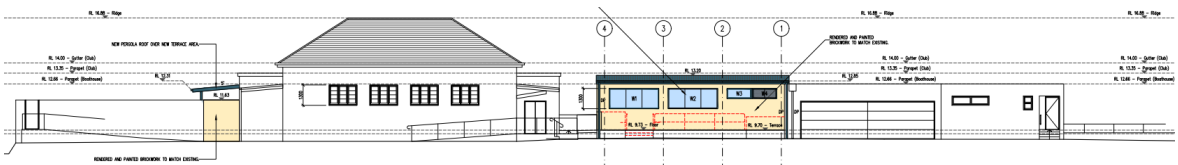


Figure 4 Proposed western (street side) elevation. Proposed works shown in colour.
Source: Michael Airey, 05.02.2026.

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 – Clause 5.10 Heritage Conservation
Warringah Local Environmental Plan 2011 – Clause 5.21 Flood Planning
Warringah Development Control Plan 2011 – D6 Access to Sunlight
Warringah Development Control Plan 2011 – D7 Views

SITE DESCRIPTION

Property Description:	Lot 7356 DP 1167221 Carrington Parade CURL CURL NSW 2096
Detailed Site Description:	The subject site consists of one (1) large irregularly shaped allotment which encompasses over 4 hectares of public reserves along Curl Curl Beach and around the Curl Curl Lagoon (refer to **Figure 12**). This assessment specifically refers to the portion of the allotment which contains the South Curl Curl Surf Life Saving Club ('SCC SLSC'), located within the southern portion of the lot (refer to **Figure 13**). This portion is referred to as 'the site'. The SCC SLSC is located on the eastern side of Carrington Parade, being situated between the beach and foreshore to the east and Carrington Parade to the west. The site is located within the RE1 Public Recreation zone in accordance with the Warringah Local Environmental Plan 2011 ('WLEP 2011'). The site comprises a part one and two storey building used by the SCC SLSC. The upper level is at grade with Carrington Parade and presents to the street and western properties as a one storey building, whilst the lower ground level is constructed more relative to the lower level of the beach side. The building incorporates elements that comprise a hipped tile roof form, along with other portions that have flat roofs. There are also elements which are only one storey and allow sections of the upper level to act as flat open terrace spaces. The building includes various spaces, detailed as follows:

	Ground Level (street level), areas listed north to south: • Members BBQ terrace area. • Function hall, including kitchen, bar, storerooms and bathrooms. • Open terrace area. • Boat shed. • Caretaker's rooms. Lower Ground Level (beach level), areas listed north to south: • Strength conditioning facility and wellbeing studio, including disabled bathroom. • Access stairs through to the street. • Training and patrol rooms, including offices and members' change rooms and bathrooms. • Second public access stairs through to the street. • Nippers and storage room, with adjacent public toilets and lifeguard room. • Café, including service, preparation and storerooms along with indoor and outdoor seating space. • Boat shed and storerooms within a detached component.
Detailed Description of Adjoining/Surrounding Development:	The land to the south of the SLSC building within the same allotment includes a public carpark which is used by those utilising the SLSC facilities, the beach and other surrounding recreational areas. Additional parking spaces are also provided adjacent to the western side of the SLSC building adjoining Carrington Parade. The eastern side of the SLSC building between the beach is a wide concrete walkway that connects the pathways to the north and south of the building along the beachfront. The north of the SLSC building comprises vegetation and a raised metal pathway. Surrounding development on the western side of Carrington Parade is characterised by residential development of low to medium scale. Directly opposite the SCC SLSC building includes three to four storey apartment buildings, along with Stewart House which presents to the street as a two-storey brick building and is identified as a local heritage item.



Figure 5 Facing east towards the SCC SLSC building from the opposite side of Carrington Parade. Central open terrace is the location of the proposed training room addition.
Source: CPS site inspection, 04.06.2026.



Figure 6 Facing south towards the open terrace and boat shed from the existing ramp access to the terrace.
Source: CPS site inspection, 04.06.2026.



Figure 7 Facing the eastern elevation of the SCC SLSC building from the beachside walkway between the eastern side of the building and the beach. Glass fencing is the current open terrace area proposed for the training room addition.
Source: CPS site inspection, 04.06.2026.



Figure 8 Facing east towards the existing northern set of access stairs from the Carrington Parade side. Stairs to be removed and this section enclosed to expand the lower strength and conditioning room and the upper northern member's terrace.
Source: CPS site inspection, 04.06.2026.



Figure 9 Facing the eastern side of the SCC SLSC building towards the northern end containing the strength and conditioning room and the northern access stairs. Removal of the access stairs, expansion of the strength and conditioning room and changes to the roller door opening proposed.
Source: CPS site inspection, 04.06.2026.



Figure 10 Facing northwest towards the SCC SLSC building from the swim club and rockpool area to the southeast.
Source: CPS site inspection, 04.06.2026.



Figure 11 Facing west from the open terrace towards development on the opposite side of Carrington Parade.
Source: CPS site inspection, 04.06.2026.



Figure 12 Aerial image, site outlined in blue, SCC SLSC portion shown in red box.
Source: Northern Beaches Mapping.

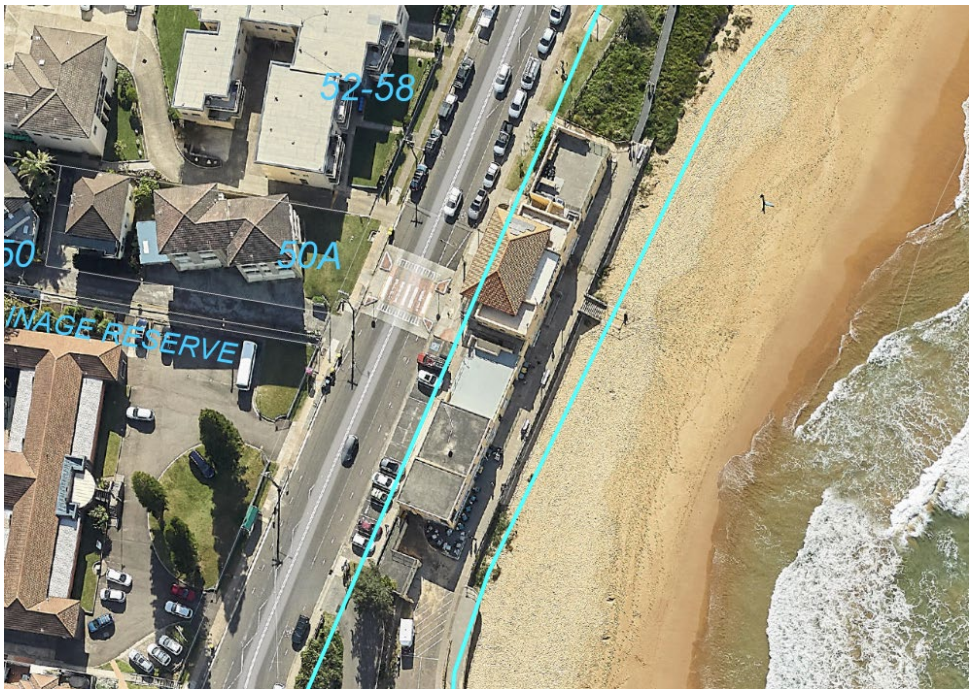


Figure 13 Aerial image of the SCC SLSC portion of the site.
Source: Northern Beaches Mapping.

SITE HISTORY

The land has been used for recreational purposes for an extended period. A search of Council's records has revealed the following relevant history for the surf life saving club portion of the site:

Date	Application
5 July 2023	Development Application DA2023/0128 was approved for alterations and additions to South Curl Curl Surf Life Saving Club to provide a store room.
3 July 2024	Development Application DA2024/0375 was approved for the use of premises as a café. The café was approved for a portion of the lower ground floor of the surf club building.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

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	See detailed assessment under "DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS" below..

Section 4.15 'Matters for Consideration'	Comments
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 regulations	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 clause is not relevant to this application. 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 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 clause is not relevant to this application. 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 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 'Matters for Consideration'	Comments
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.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Draft Northern Beaches Local Environmental Plan (Draft LEP)

Definition(s): Community Facility

Land Use Zone: The whole allotment is currently zoned RE1 Public Recreation under WLEP 2011. Majority of the site remains zoned RE1 under the Draft LEP, however some portions have been proposed to be rezoned to C2 Environmental Conservation. The SCC SLSC building site remains zoned as RE1 under the Draft LEP. Refer to **Figure 14**.

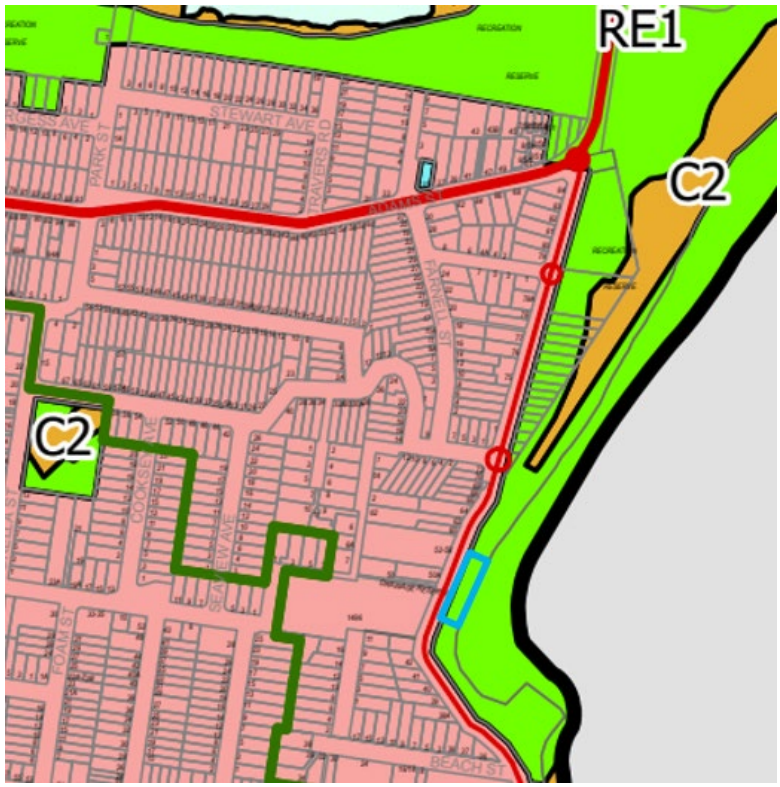


Figure 14 Extract of Land Zoning Map from the Draft LEP. The location of the SCC SLSC building is shown as a blue box. Source: Northern Beaches Council, 2026.

Permissible or Prohibited: Permitted with consent (no change from existing WLEP 2011).

Additional Permitted used for particular land – Refer to Schedule 1: Not applicable.

A detailed assessment against the proposed numerical provisions and development standards has not been undertaken as part of this report. However, broad consideration has been given to the Draft LEP, and the proposal is consistent with its relevant aims and objectives.

EXISTING USE RIGHTS

Existing use rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bushfire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Northern Beaches Community Participation Plan ('NBCPP').

The proposal was exhibited between 9 April 2026 to 7 May 2026.

As a result of the public exhibition process council is in receipt of 75 unique (95 total) submission/s from:

Name:	Address:
Madison and Todd Alexis	1/50A Carrington Parade CURL CURL NSW 2096
Benjamin Alexis	2/50A Carrington Parade CURL CURL NSW 2096
Mr David Alldis	3 Park Street CURL CURL NSW 2096
Mr Peter Allen	113 Soldiers Avenue FRESHWATER NSW 2096
Mr Samuel Allen and Ms Vanessa Viterbo	54 Carrington Parade CURL CURL NSW 2096
Mr Matthew Ashcroft	8 Gilles Crescent BEACON HILL NSW 2100
Mr Nigel Barber	22 Elimatta Road MONA VALE NSW 2103
Mr Jonathan Beavon	16 Rowena Road NARRAWEENA NSW 2099
Mr Bernard Bernard	10/702 Pacific Highway KILLARA NSW 2071
Mr Michael and Miss Nicola Berry	24 Gardere Avenue CURL CURL NSW 2096
Mr Stephen Birch	33 Upper Clifford Avenue FAIRLIGHT NSW 2094
Mr Peter Brailey	9/61 Wyndora Avenue FRESHWATER NSW 2096
Mr Martin Brannan	2/17 Yarmouth Parade OXLEY VALE NSW 2340
Mrs Zoe Burke	2/44A Consul Road BROOKVALE NSW 2100
Mrs Valerie Burke	*Address withheld* NSW 2100
Mr David, Miss Lara and Mr Matthew Campbell	29 Carrington Parade CURL CURL NSW 2096
Ms Katherine and Ms Cristina Cannon and Mr Graham Smith	71 Brighton Street CURL CURL NSW 2096
Mrs Juliet Cashman	*Unknown address*
Ms Ellie Clubb	*Unknown address* NSW

Name:	Address:
Mr John Colnan	110 Seaforth Crescent SEAFORTH NSW 2092
Mr Liam Cooney	37A Carnarvon Drive FRENCHS FOREST NSW 2086
Mr Tim Cuthbert	10/25-27 Victoria Parade MANLY NSW 2095
Ms Peta DeLisle	2/52 Carrington Parade CURL CURL NSW 2096
Mr Graeme Dominish	3 Ellen Street CURL CURL NSW 2096
Mr Michael and Mr Oscar Donnan	30 Farnell Street CURL CURL NSW 2096
Ms Denise Dredge	5/50A Carrington Parade CURL CURL NSW 2096
Mr Terence Durnin	5/52-58 Carrington Parade CURL CURL NSW 2096
Luca Elder	50A Carrington Parade CURL CURL NSW 2096
Miss Jess English	13 Fermoy Avenue BAYVIEW NSW 2104
Mr Gareth Evans	1/52 Carrington Parade CURL CURL NSW 2096
Mr Andrew Firth	64 Bennett Street CURL CURL NSW 2096
Mr Rohan Gallagher	66 Carrington Parade CURL CURL NSW 2096
Mrs Melinda Garland	12 Gardere Avenue CURL CURL NSW 2096
Mrs Rachael Gaynes	14 Amourin Street NORTH MANLY NSW 2100
Mr Michael and Mr Toby Golden	77A Carrington Parade CURL CURL NSW 2096
Mr Steve Hall	10 Farnell Street CURL CURL NSW 2096
Mrs Kate Hood	1 Manuela Place CURL CURL NSW 2096
Mr Luke Huntley	4 Moore Road FRESHWATER NSW 2096
Leo Iribarren and Denise Montemor	13/52 Carrington Parade CURL CURL NSW 2096
Mr Cody Kearney	5 Grainger Avenue NORTH CURL CURL NSW 2099
Mr David Lavings	326/20 Dale Street BROOKVALE NSW 2100
Mr Zac Lowery	7/21 Cavill Street FRESHWATER NSW 2096
Mr Cameron Mann	76 Pitt Road NORTH CURL CURL NSW 2099
Mr Wade McFarlane	5 Soldiers Avenue FRESHWATER NSW 2096
Mr Zane McGregor	50 Condover Street NORTH BALGOWLAH NSW 2093
Mr Elton and Mr Julian McKay	84A Brighton Street FRESHWATER NSW 2096
Mr Douglas Mears	2 Canara Place FRENCHS FOREST NSW 2096
Mr Matthew Molinia	*Unknown address* NSW
Ms Alison Molloy	10 Brown Street FORESTVILLE NSW 2087
Mr Kevin Mullen	16 Loch Street FRESHWATER NSW 2096
Mr Anthony Mulvey	44 St Johns Road GLEBE NSW 2037
Ms Natalie Neary	*Unknown address* NSW
Ms Sally Neary	8 Baden Powell Avenue BROOKLYN NSW 2083
Ms Tracey Neary	284 Alfred Street CROMER NSW 2099
Mr Luke Nelson	5 Saint Barbaras Avenue MANLY NSW 2095
Mr John Oxley	35 Tristram Road BEACON HILL NSW 2100
Mr Tim Partridge	52 Arthur Street FORESTVILLE NSW 2087
Mr Edward Phelps	*Unknown address* NSW
Mr David Platter	77 Bennett Street CURL CURL NSW 2096
Mr Shahid Rahman	103/2 Delmar Parade DEE WHY NSW 2099
Mr Adam Rowe	21 Wyndora Avenue FRESHWATER NSW 2096

Name:	Address:
Mr Antonio Serianni	*Unknown address* BEACON HILL NSW 2100
Mr Bjorn Shearer and Mrs Michela Verwey	9/52-54 Sydenham Road BROOKVALE NSW 2100
Mr Jordi Skelton	5 Fay Street NORTH CURL CURL NSW 2099
Mr Alastair Slavin	22 Robertson Road NORTH CURL CURL NSW 2099
James Smith	7/50A Carrington Parade CURL CURL NSW 2096
Mrs Linda Stanojevic	26 Curl Curl Parade CURL CURL NSW 2099
Mr Luca Stein	3 Adams Street CURL CURL NSW 2096
Mr Scott Stein	*Unknown address* CURL CURL NSW 2096
Mr Darrin Stoker	128 Harbord Road FRESHWATER NSW 2096
Mr Ben Waller	19 Gore Street GREENWICH NSW 2065
Mr Michael Ward	9 McKillop Road BEACON HILL NSW 2100
Geoff and Anne Wellstead	42 Carrington Parade CURL CURL NSW 2096
Mr John Patrick White	8/105A Woodland Street BALGOWLAH NSW 2093
Barry and Janet Williams	4/50 Carrington Parade CURL CURL NSW 2096

It is important to note that the submissions represent a combination of submissions in support of the development and others opposed to the development. The divide is as follows:

- 75 unique (95 total)
    - Support = 65 unique (77 total)
    - Object = 10 unique (18 total)

Submissions have been tallied in accordance with the NBCPP, which states that all submissions received from the same person or from members of the same dwelling are to be considered as a single submission. For reference, the total number submissions received (i.e. including multiple from a single person or a single household) has also been noted above as the total number.

The following issues were raised in the submissions:

- Loss of views to the ocean
- Loss of public open space and accessibility impacts
- Traffic, parking and safety
- Noise and amenity
- Impacts on scenic amenity due to bulk and scale
- Overshadowing of the beach
- Unnecessary addition to the SCC SLSC building
- Ongoing issues from previous refused DA (DA2006/1149)

The above issues are addressed as follows:

Loss of Views to the Ocean

Submissions raised concerns that the proposal will result in the loss of views to the ocean from nearby apartments. Impacts on property value due to impacted ocean views was also expressed as a concern.

Comment:

All objectors who raised view loss as a concern were contacted during the assessment period and provided the opportunity for Council and the external assessing officer to access their properties to allow for the

extent of view loss to be evaluated. As a result, view loss was assessed from three neighbouring properties. Others who raised this concern and were unable to facilitate access were given the opportunity to submit their own photos, if desired. Such photos were received from one resident.

A full view loss assessment has been provided with the WDCP 2011 section within this report in relation to the inspections conducted and photos received. Reference should be made to that assessment for details. In summary, the extent to which the proposal has impacted upon views experienced by neighbouring apartments has been deemed acceptable.

Impacts regarding property value are not a planning matter.

Loss of Public Open Space and Accessibility Impacts

Submissions raised concerns that the proposal will result in decreased useable public open space due to the infill addition resulting in the removal of the existing open terrace area. Concerns also raised in relation to the removal of an accessible viewing area for those with accessibility requirements. Concerns were also raised regarding the removal of one set of access stairs between the street and lower beach level.

Comment:

The addition will result in the removal of the existing terrace area, however there are numerous other open areas available around the building including the large walkway adjoining the beach on the lower level, along with various locations within the expansive public reserves along the entire Curl Curl beachfront and headlands. These areas allow for numerous large spaces for public usage and cater to community amenity. The majority of these locations allow for accessible access, with various ramps and pathways installed. Additionally, the development does not restrict the ability for the adjoining public pathway along Carrington Parade to be used which allows for access to surrounding pathways and ramps. There are ample accessible beach viewing spaces available and the removal of the existing terrace area is acceptable.

In relation to the removal of the one set of access stairs to accommodate the gym expansion, this is considered acceptable due to the various other means of access from the street to the lower level. These include a similar set of access stairs 20m south of these stairs within the SCC SLSC building footprint which is located between the function hall and proposed training room. Additionally, ramp access is provided further north and south of the building which allows for accessible routes to the lower level of the SCC SLSC building and surrounding beachfront areas.

Traffic, Parking and Safety

Submissions raised concerns that the proposal will result in increased traffic congestion, decrease parking availability and safety concerns.

Comment:

The SCC SLSC is surrounded by numerous parking areas, including multiple public beachfront carparks and street parking along Carrington Parade and surrounding streets. These areas are all accessible from the SCC SLSC building by pathways. Numerous accessible parking spaces are also provided throughout these locations. These parking areas include:

- Parking bays adjacent to the SCC SLSC building on Carrington Parade.
- South Curl Curl Beach parking area (immediately south of the SCC SLSC building).
- South Curl Curl Headland parking area (further southeast adjacent to the rockpool and swim club building).
- Mid Curl Curl parking area (further north, comprises many parking spaces).
- Street parking available on both sides of Carrington Parade with additional parking on surrounding streets.

- Additional parking bays provided further south on Carrington Parade.

The proposed addition presents a relatively small increase in GFA to the building of 116.9m^2, which is unlikely to result in any significant traffic issues or increased parking demand. Any additional cars can be accommodated within the existing surrounding public parking areas. Furthermore, the training room is to be used by existing members, nippers and patrollers as a weather-safe indoor space and is not expected to generate any dramatic increase in club members or visitors. There are not considered to be any adverse safety impacts that will arise because of the additions due to the minimal increases to traffic and parking demand. All surrounding pathways and roads are to remain as existing.

Noise and Amenity

Submissions raised concerns that the proposal will result in increased noise and impacts on neighbouring amenity.

Comment:

The works present relatively small increases in internal spaces that are not sought to be used for large scale events. Social events are to continue to be held in the existing function hall, which is noted as being acoustically treated. The training room is to operate primarily during daylight hours except for early evening training sessions after business hours and no late-night use. The POM restricts opening hours of the training room to between 6am and 10pm, 7 days a week, which ensures there is little risk of sleep disturbance for neighbouring residences. The additions are not anticipated to generate increased servicing or deliveries at the site. Furthermore, conditions of consent have been included which limit usage to the listed hours and ensures noise is appropriately controlled. Additionally, a condition has been included to ensure the POM is amended to include management strategies in relation to noise management and complaints handling.

Impacts on Scenic Amenity due to Bulk and Scale

Submissions raised concerns that the proposal will result in increased bulk and scale that will detract from the scenic amenity of the beach and foreshore area.

Comment:

The training room addition forms an infill component of the SCC SLSC building, enclosing a currently open area and continuing existing walls and roof heights to create a consistent built form that is in character with the existing structure. The roof, being at a 2° pitch and skillion form, assists in minimising the visual impact of the component and allows it to sit at a level more reflective of the flat roof components to the south, rather than the higher hipped roof element over the function hall to the north which has a ridge height 3.68m higher than the proposed addition. The addition respects the existing building in relation to materials and finishes, with matching colours and sympathetic window placements and sizes. The additions are appropriate for and do not dominate the existing building, streetscape or surrounding area. The scenic amenity of the beach and beachfront area is not considered to be adversely impacted.

Overshadowing of the Beach

Submissions raised concerns that the proposal will result in increased overshadowing of the beach.

Comment:

The infill nature of the proposal will result in minor increased overshadowing of the beach within the afternoon hours. However, the extent of overshadowing is deemed acceptable due to the modest scale of the infill development, being contained within the existing footprint and of the same or lesser roof height. Furthermore, the shadowing is contained to a small portion of the Curl Curl beach area, which is not an extensive area given the size of the beach and that it benefits from an expansive foreshore area from South

Curl Curl to North Curl Curl of approximately 1km, the majority of which can be enjoyed with unobstructed sunlight.

Unnecessary Addition to the SCC SLSC Building

Submissions raised concerns that the training room presents an unnecessary extension to the SCC SLSC building that is not required and that any extensions would be better at the nearby swim club building further south.

Comment:

The extent of the use of the building and whether additional space is necessary is not a matter for planning assessment. However, numerous details outlining the requirements of the SCC SLSC and their operational needs for the space have been provided within the supporting documentation (SEE, POM and statement from the club) demonstrating that additions are needed and will be utilised accordingly. The room is to be used for various purposes, including the following:

- An enclosed area safe from weather conditions (sun, wind, rain) which allows for increased visual patrol of the beach and the surf conditions for patrollers from an elevated position.
- An enclosed area for children's nippers and special needs rippers programs to be held when weather restricts outdoor activities. The existing function room is noted as not being large enough to accommodate all children in these circumstances.
- Space for the provision of CPR, First Aid and Surf Awareness sessions to be held for the public.

The site is considered an appropriate location for the proposed expansion, being reflective of the existing form and scale of the building and supporting the existing SLSC uses. The room is to be used for SLSC purposes and would not be an inappropriate extension for the swim club.

Ongoing issues from previous refused DA (DA2006/1149)

Concerns were raised that the development is too similar to the previously refused application which proposed similar works. The previous reasons for refusal have not been adequately addressed.

Comment:

The current design is not identical to the previously refused application and is acceptable in relation to the following reasons that were previously raised as concerns:

- Bulk and scale – The previous application sought a much larger expansion, with all upper areas of the building to be enclosed, including the members terrace at the northern end and an additional portion at the southern end adjacent to the caretakers rooms above the detached shed and storage building. This resulted in a long and uninterrupted built form with an expansive unbroken building length. The proposal seeks to infill only the central terrace, with the additional areas at the north and south remaining open. This creates a less bulky built form that responds appropriately to the context and locality.
- Loss of accessibility, public space and views – Numerous upgrades have been made to Curl Curl Beach in recent years in relation to accessibility. New pathways and ramps have been built which promote and ensure accessibility is available. Various open spaces with views to the beach are available within surrounding areas that can be accessed by all.
- Impacts on amenity and character – The proposal is sympathetic to the existing building and does not present a dominating-built form, sitting well below the existing ridge height of the function hall portion of the building. Amenity impacts can be managed by the POM and conditions of consent.
- Overshadowing of the beach – The development does not result in excessive overshadowing of the beach. Curl Curl benefits from a large expansive beach with ample unshaded areas available.

The proposed western elevation of DA2006/1149 and the proposed western elevation of the subject DA are shown in **Figure 15** and **Figure 16** below.



Figure 15 Extract of proposed western elevation from DA2006/1149.
Source: DA2006/1149 Architectural Plans.

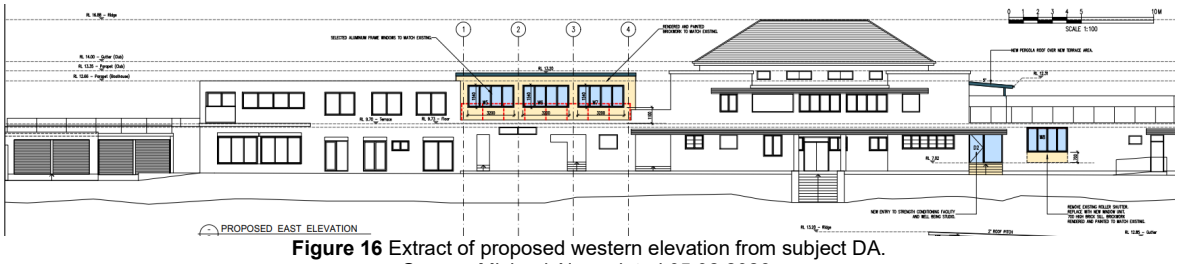


Figure 16 Extract of proposed western elevation from subject DA.
Source: Michael Airey, dated 05.02.2026.

Support for the proposal

Numerous submissions outlined their support for the proposal.

Comment:

The support of residents is noted.

REFERRALS

Internal Referral Body	Comments
Building Assessment	***Received 25 March 2026*** ***Supported – no conditions*** **Officer comments** The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no concerns with the application. *Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Modified Construction Certificate stage.* The proposal is therefore supported.
Engineering	***Received 24 June 2026*** ***Supported – subject to conditions*** The applicant seeks approval for alterations and extensions to the existing buildings. The submitted Stormwater Management Plan has been reviewed

<table>
<tr><th>Internal Referral Body</th><th>Comments</th></tr>
<tr><td></td><td>and is considered satisfactory. Accordingly, no objection is raised from a Development Engineering perspective, subject to the recommended conditions of consent.

The proposal is therefore supported.</td></tr>
<tr><td>Heritage</td><td>Received 19 June 2026
Supported – no conditions

Discussion of reason for referral
This application has been referred to Heritage as the subject site is within the vicinity of a heritage item, being;
20220 - Building known as 'Stewart House' – 45 Carrington Parade, Curl Curl.

Details of heritage items affected
<u>Statement of Significance</u>
A representative example of the institutional buildings which were erected in the area to provide health & welfare services associated with the sea. Socially important due to the role that it has played in public health & child welfare since 1930.

<u>Physical Description</u>
Elevated face brick building of symmetrical design & central entrance. Tiled hipped roof with stepped parapet centrally located above entrance pavilion. Projecting bays at either end. Flat roofed (enclosed) verandahs with terracotta shingle skirts. Circular driveway at front. Central stairway to entrance. Flagpole.

Other relevant heritage listings
<table>
<tr><td>SEPP (Biodiversity and Conservation) 2021</td><td>No</td></tr>
<tr><td>Australian Heritage Register</td><td>No</td></tr>
<tr><td>NSW State Heritage Register</td><td>No</td></tr>
<tr><td>National Trust of Aust (NSW) Register</td><td>No</td></tr>
<tr><td>RAIA Register of 20th Century Buildings of Significance</td><td>No</td></tr>
<tr><td>Other</td><td>No</td></tr>
</table>

Consideration of Application
The proposal is for alterations and additions to the existing South Curl Curl Surf Life Saving Club building. The proposed works pertain to a single storey addition located over an existing terrace fronting Carrington Parade which is to be used as a rescue patrol and nippers training room, and the enclosure of an access stair located towards the north of the site. The subject site is not a heritage item, however it is located opposite the heritage listed Stewart House. Heritage is satisfied that the proposed additions to the subject site are of a minor nature which do not substantially increase the height, bulk and scale of the building structure or footprint. Further to this, Heritage notes that there is considerable physical separation between the heritage item and subject site which is separated by Carrington Parade. The large setback of the Stewart House building from the roadway provides a further physical buffer between the works and the heritage item. Heritage is satisfied that the works will bear no</td></tr>
</table>

Internal Referral Body	Comments
	adverse impact to the heritage item nor its significance. Heritage can support this proposal and does not require conditions. Consider against the provisions of CL5.10 of WLEP. Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No The proposal is therefore supported.
Natural Environment – Biodiversity	***Received 26 March 2026*** ***Supported – subject to conditions*** **Officer comments** The comments in this referral relate to the following applicable controls and provisions: • Warringah DCP – Clause E2 Prescribed Vegetation • Warringah DCP – Clause E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat • Warringah DCP – Clause E4 Wildlife Corridors • Warringah DCP – Clause E5 Native Vegetation • Warringah DCP – Clause E6 Retaining Unique Environmental Features • SEPP (Resilience and Hazards) 2021 – Coastal Environment Area The proposed development will take place within an existing developed area. No native vegetation or trees are proposed for removal. As such, impacts to flora and fauna and nearby biodiversity values is considered unlikely. No objections in relation to biodiversity, subject to conditions. The proposal is therefore supported.
Natural Environment – Coastal	***Received 4 May 2026*** ***Supported – no conditions*** **Officer comments** **General Comments** The application has been assessed in consideration of the Coastal Management Act 2016 and State Environmental Planning Policy (Resilience & Hazards) 2021. This referral has focused on the impact of the proposal on coastal processes and hazards. The assessment of compliance with controls applying to visual amenity, scenic qualities or aesthetic appearance of the foreshore or surrounding coastal environment will be undertaken by the development assessment officer assessing this development application. **Coastal Management Act 2016** The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. Comment:

Internal Referral Body	Comments
	On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Urbis dated February 2026 the proposal does generally comply with the objectives of the Coastal Management Act 2016 with respect to matters related to coastal processes and hazards. As such it is considered that the application is generally consistent with the objects of the Coastal Management Act 2016. This referral has not assessed the compliance of the proposal, for any potential impact on the scenic value of the area in accordance with the objectives of Clause 3 (a) of the Coastal Management Act 2016 that relate to scenic impact. Assessment of compliance with Clause 3 (a) of the Coastal Management Act will be undertaken by the development assessment officer assessing this development application. **State Environmental Planning Policy (Resilience & Hazards) 2021** The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA. Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Urbis dated February 2026 the application is generally consistent with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021 with respect to matters related to coastal processes and hazards. This referral has not assessed the compliance of the proposal, against any potential impact on the visual amenity or scenic qualities of the coast in accordance Clauses 2.11 (1) (a) (ii) and 2.11 (1) (a) (iii). Assessment of compliance with these clauses of the State Environmental Planning Policy (Resilience & Hazards) 2021will be undertaken by the development assessment officer assessing this development application. **Warringah Local Environment Plan and Development Control Plan** There are no controls related to coastal hazards or the coastal environment in the Warringah Local Environment Plan or Development Control Plan that apply at this site. The proposal is therefore supported.
Natural Environment – Flood	***Received 27 March 2026*** ***Supported – subject to conditions*** **Officer comments** This proposal is for alterations and additions to an existing surf life saving club. The property is within the low flood risk precinct and partially within the flood fringe during a 1% AEP event. The land use, as noted in the statement of environmental effects, is vulnerable and critical, thus flood-related development controls apply.

Internal Referral Body	Comments
	The proposed works do not increase the footprint of the existing development, nor do they create additional ingress routes for floodwaters into the property. The proposed nippers training room will replace an existing, raised concrete slab, and is set above the FPL for that location. Subject to the following conditions the proposal generally complies with Section E11 of the Warringah DCP and Clause 5.21 of the Warringah LEP. The proposal is therefore supported.
Parks, Reserves and Foreshores	***Received 15 April 2026*** ***Supported – subject to conditions*** **Officer comments** The development site is located within land zoned RE1 Public Recreation that adjoins Flora and Richie Roberts Reserve and South Curl Curl beachfront. The proposed development is for a single storey addition (Rescue Patrol & Nippers Training Room and Performance Strength & Wellbeing Room) to the existing club building over existing building footprint as identified in the Statement of Environmental Effects, and as illustrated on plans. Under part 3.4.1.1 (e) of Coast Environment Area of SEPP (Resilience and Hazards) 2021, the existing public open space and safe access to and along the foreshore and beach for the public, including persons with a disability, is achieved and not impacted by the proposed development. The proposed development is permitted under Warringah LEP 2011 and it is considered that the proposal retains the existing public open space available within Flora and Richie Roberts Reserve and South Curl Curl beachfront, for recreational purposes. Warringah Coastal Lands Plan of Management applies, and identified actions of the Plan of Management are not contravened, and it is considered that the proposal meets the objectives of the identified actions relevant to this Referral including: minimising the loss of open space; maintaining the principle of shared use to benefit the community; and no net loss of general community facilities. The proposed development additions do not contravene the categorisation of the land for general community use under Warringah General Community Use Plan of Management. The existing public access stairs between the beach promenade and Carrington Parade is maintained in the proposal and thus such a public benefit is preserved and this accords with the Curl Curl Beach Landscape Masterplan. It is noted that the existing terrace area over which the Rescue Patrol & Nippers Training Room is proposed is not identified in the Curl Curl Beach Landscape Masterplan as public open space. The proposed development works are contained to the existing footprint of the surf club which holds a lease for use of the land. It is considered that public recreation activities are available within Flora and Richie Roberts Reserve and South Curl Curl beachfront and not impacted by the proposed development,

Internal Referral Body	Comments
	thus Parks, Reserves and Foreshores raise no concerns with the development proposal. The proposal is therefore supported.

External Referral Body	Comments
Ausgrid	***Received 7 April 2026*** ***Supported – subject to conditions*** **This letter is Ausgrid's response under section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021**. Ausgrid consents to the development subject to the following conditions: - The applicant/developer should note the following comments below regarding any proposal within the proximity of existing electrical network assets. **Ausgrid Overhead Powerlines are in the vicinity of the development.** The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase. Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site. The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au. It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost. **New Driveways - Proximity to Existing Poles** Proposed driveways shall be located to maintain a minimum clearance of 1.5m from the nearest face of the pole to any part of the driveway, including the layback, this is to allow room for future pole replacements. Ausgrid should be further consulted for any deviation to this distance. **New or modified connection** To apply to connect or modify a connection for a residential or commercial premises. Ausgrid recommends the proponent to engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details; https://www.ausgrid.com.au/Connections/Get-connected

External Referral Body	Comments
	Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The subject site is designated within the 'Coastal Environment Area' (refer to **Figure 17**) and the ‘Coastal Use Area’ (refer to **Figure 18**). Given these designations, clauses 2.10, 2.11 and 2.12 of the RH SEPP are relevant to this proposal. The Council's Natural Environment (Coastal) officer has assessed the proposal and determined it sufficient to meet the requirements of these clauses. The officer has not recommended any conditions to be included in the consent. In relation to the subclauses regarding the impacts of the development on the visual amenity and scenic qualities of the coast, it is concluded that the proposal is not considered to result in any adverse impacts on these elements, remaining sympathetic to existing development and the coastal environment. As such, the proposal complies with the relevant requirements of Chapter 2.



Figure 17 Extract of Coastal Environment Area Map, blue shading indicates affected land.
Source: NSW Planning Portal Spatial Viewer.

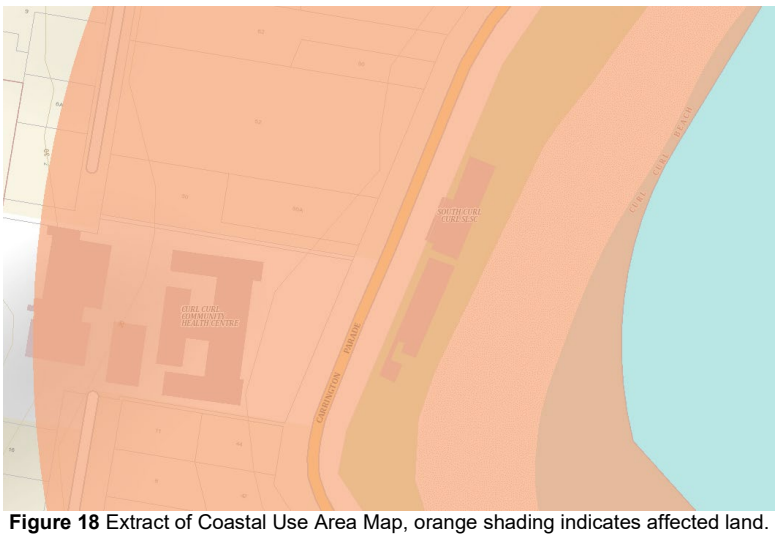


Figure 18 Extract of Coastal Use Area Map, orange shading indicates affected land.
Source: NSW Planning Portal Spatial Viewer.

Chapter 4 – Remediation of Land

Chapter 4 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use. Council records indicated that the subject site has been used for commercial and recreational purposes for a significant period. Council is satisfied that the land is not a site of possible contamination and therefore no further assessment of contamination is required. The land is suitable for ongoing the land use.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 – Infrastructure

Subdivision 2 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 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.

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

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

Development Permissibility:

The site is located within the RE1 Public Recreation zone. Refer to **Figure 19**.



Figure 19 Extract of Land Zoning map, site outlined in blue, SCC SLSC outlined in red. Green zoning represents RE1 Public Recreation zoning, pale red zoning represents R2 Low Density Residential zoning.
Source: Northern Beaches Mapping.

The existing SLSC building is defined as a community facility in accordance with WLEP 2011, as follows:

> ***community facility*** *means a building or place—*
> *(a) owned or controlled by a public authority or non-profit community organisation, and*
> *(b) used for the physical, social, cultural or intellectual development or welfare of the community,*
> *but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.*

As such, the proposal seeks alterations and additions to the existing community facility. Community facilities are permitted with consent within the RE1 zone and therefore the proposed works are permitted.

Principal Development Standards

As the subject site is in the RE1 Public Recreation zone under WLEP 2011, there is no prescribed building height limit or floor space ratio ('FSR') for the site. A qualitative assessment has been provided below.

Height:

The proposed height of the training room measures 3.5 metres to the ridge of the skillion roof from the terrace level (single storey form as viewed from the street side) and measures 7.02m when measured from lower ground level to the skillion roof ridge (two storey form when viewed from the beach side). The building maintains a low profile which sits at a similar height to the boat shed and caretakers room elements adjacent to the south of the room, as well as sitting well below the height of the hipped roof function hall component adjacent to the north, which is 3.68m above the proposed ridge of the addition.

The building continues to present as a one-storey form from the street side and a two-storey form from the beach side, remaining compatible with the character of the area and surrounding development. Therefore, the proposal is consistent with the objectives of Clause 4.3 Height of Buildings, which is applicable to surrounding development, and maintains a height and scale that is compatible with the locality.

Floor Space Ratio:

The development proposes increases to the gross floor area ('GFA') of the SCC SLSC building. The increases total an additional enclosed floor area of 116.9m^2 across the two levels. The new areas are located within portions of the existing building footprint and do not extend beyond this footprint. The additions are considered appropriate for the site and maintain a built form and FSR that is compatible with the surrounding scale of development.

Compliance Assessment

Clause	Compliance with Requirements
2.3 Zone objectives and Land Use Table	Yes
2.7 Demolition requires consent	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Clause 5.10 Heritage conservation

The SCC SLSC building is not identified by heritage mapping, but it is located within proximity of two general heritage items (refer to **Figure 20**), being:

- I129 South Curl Curl Pool (located on the site towards the southeast)
- I128 Stewart House (located opposite the site on the western side of Carrington Parade)



Figure 20 Extract of Heritage Map, SLSC site outlined in red. General heritage items shown shaded brown. Source: Northern Beaches Mapping.

Council's Heritage Referral Officer reviewed the proposal and confirmed the development will not impact the nearby heritage items or their significance. This is due to the physical separation between the sites, as well as the design of the proposal, which respects the existing building form and utilises sympathetic colours and materials. Consequently, the officer confirmed that neither a Conservation Management Plan nor a Heritage Impact Statement is required. The proposed alterations and additions are therefore consistent with the objectives of Clause 5.10.

Clause 5.21 Flood planning

The SCC SLSC building is partially mapped within the low risk flood precinct on the Northern Beaches Flood Hazard Map and within the flood fringe during a 1% AEP event (refer to **Figure 21**).



Figure 21 Extract of Flood Hazard Map, the SCC SLSC building is partially mapped within the low risk precinct.
Source: Northern Beaches Mapping.

The proposal has been reviewed by Council's Flood Engineer, who has confirmed the development is appropriate as the new training room addition will replace an existing raised concrete slab, being set above the flood planning level ('FPL') for the location. Furthermore, these works and the other works proposed are located within the existing footprint of the building and do not increase the footprint of the development or create additional ingress routes for floodwaters into the property. As such, the proposal satisfies the requirements of Clause 5.21, subject to conditions.

Clause 6.1 Acid sulfate soils

The SCC SLSC building is mapped as Class 5 Acid Sulfate Soils (refer to **Figure 22**).



Figure 22 Extract of Acid Sulfate Soils Map, site is located within Class 5 mapped land, shown by the yellow shading.
Source: Northern Beaches Mapping.

The proposal does not require excavation or seek to lower the watertable below 1m AHD. As such, no further assessment under Clause 6.1 is required.

Clause 6.4 Development on sloping land

The SCC SLSC building is mapped as Area A on the Landslip Risk Map (refer to **Figure 23**).



Figure 23 Extract of Landslip Risk Map, site mapped within Area A, shown by the yellow shading. Source: Northern Beaches Mapping.

The proposal does not seek consent for any earthworks and all works are contained within the existing building footprint. The development is not considered to result in any landslide risk, affect the stability of the land, cause significant detrimental impacts in relation to stormwater discharge or affect subsurface flow conditions. As such, the proposal satisfies the requirements and objectives of Clause 6.4.

Warringah Development Control Plan 2011

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C3(A) Bicycle Parking and End of Trip Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	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
D22 Conservation of Energy and Water	Yes	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat	Yes (building outside of mapped area)	Yes (building outside of mapped area)
E4 Wildlife Corridors	Yes (works on existing building footprint, no impacts on vegetation)	Yes (works on existing building footprint)
E5 Native Vegetation	Yes (building outside of mapped area)	Yes (building outside of mapped area)
E6 Retaining Unique Environmental Features	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Risk	Yes	Yes

Detailed Assessment

D6 Access to Sunlight

Control 1 states that development should avoid unreasonable overshadowing of any public open space. The objectives of the control are as follows:

- *To ensure that reasonable access to sunlight is maintained.*
- *To encourage innovative design solutions to improve the urban environment.*
- *To promote passive solar design and the use of solar energy.*

The infill nature of the proposal will result in minor increased overshadowing of the beach within the afternoon hours from the nippers training room component. However, the extent of overshadowing is deemed acceptable due to the modest scale of the infill development, being contained within the existing footprint and of the same or lesser roof height as the other portions of the building. Furthermore, the shadowing is contained to a small portion of the Curl Curl beach area, which is not an extensive area given the size of the beach and that it benefits from an expansive foreshore area from South Curl Curl to North Curl Curl of approximately 1km, the majority of which can be enjoyed with unobstructed sunlight.

As such, it is considered that the level of overshadowing produced by the addition is not unreasonable and the proposal is consistent with the requirements and objectives of the control.

D7 Views

Control 1 states that developments shall provide for the reasonable sharing of views, with the associated note stating that assessments are required to refer to the Planning Principle established by the LEC in in *Tenacity Consulting v Warringah Council (2004)* NSWLEC 140 *('Tenacity')*.

A total of six (6) unique submissions were received from adjoining properties raising concerns regarding loss of ocean views. These properties were:

- 1/50A Carrington Parade, Curl Curl
- 2/50A Carrington Parade, Curl Curl
- 7/50A Carrington Parade, Curl Curl
- Unknown unit number at 50A Carrington Parade, Curl Curl

- 1/52 Carrington Parade, Curl Curl
- 13/52 Carrington Parade, Curl Curl

All objectors who raised view loss as a concern were contacted during the assessment period and provided the opportunity for Council and the external assessing officer to access their properties to allow for the extent of view loss to be evaluated. As a result, view loss was assessed from the following three neighbouring properties:

- 1/50A Carrington Parade, Curl Curl
- 2/50A Carrington Parade, Curl Curl
- 7/50A Carrington Parade, Curl Curl

Others who raised this concern and were unable to facilitate access were given the opportunity to submit their own photos, if desired. Such photos were received from one property:

- 13/52 Carrington Parade, Curl Curl

The location of the above properties is shown in blue on **Figure 24** below and indicated on the streetview image in **Figure 25**.



Figure 24 Aerial image showing the subject site (red outline) in relation to the surrounding sites where submissions raising view loss concerns were received (blue). Training room addition resulting in view impacts shown as a yellow box.
Source: Landchecker, 09.05.2026, markup by CPS.

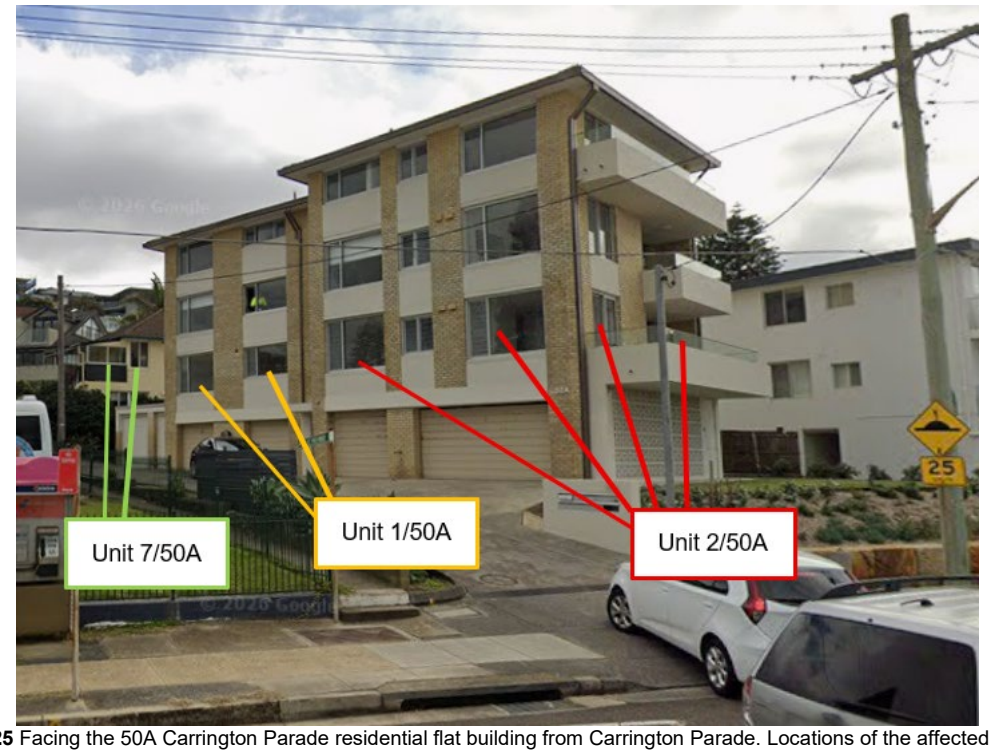


Figure 25 Facing the 50A Carrington Parade residential flat building from Carrington Parade. Locations of the affected units are shown in colour.
Source: Google Street View, markup by CPS.

Views of the Pacific Ocean and South Curl Curl Beach are currently enjoyed at these properties through the open terrace which is proposed to be infilled by a new patrol room and nippers training room addition. A 3D render of the proposed addition is shown below in **Figure 26**. Along with attaining views through the existing terrace openings, the affected properties also obtain varying views of the Pacfic Ocean above the roofline of the SCC SLSC building and to either side of the building towards South Curl Curl to the southeast and North Curl Curl and the North Curl Curl headland to the northeast.

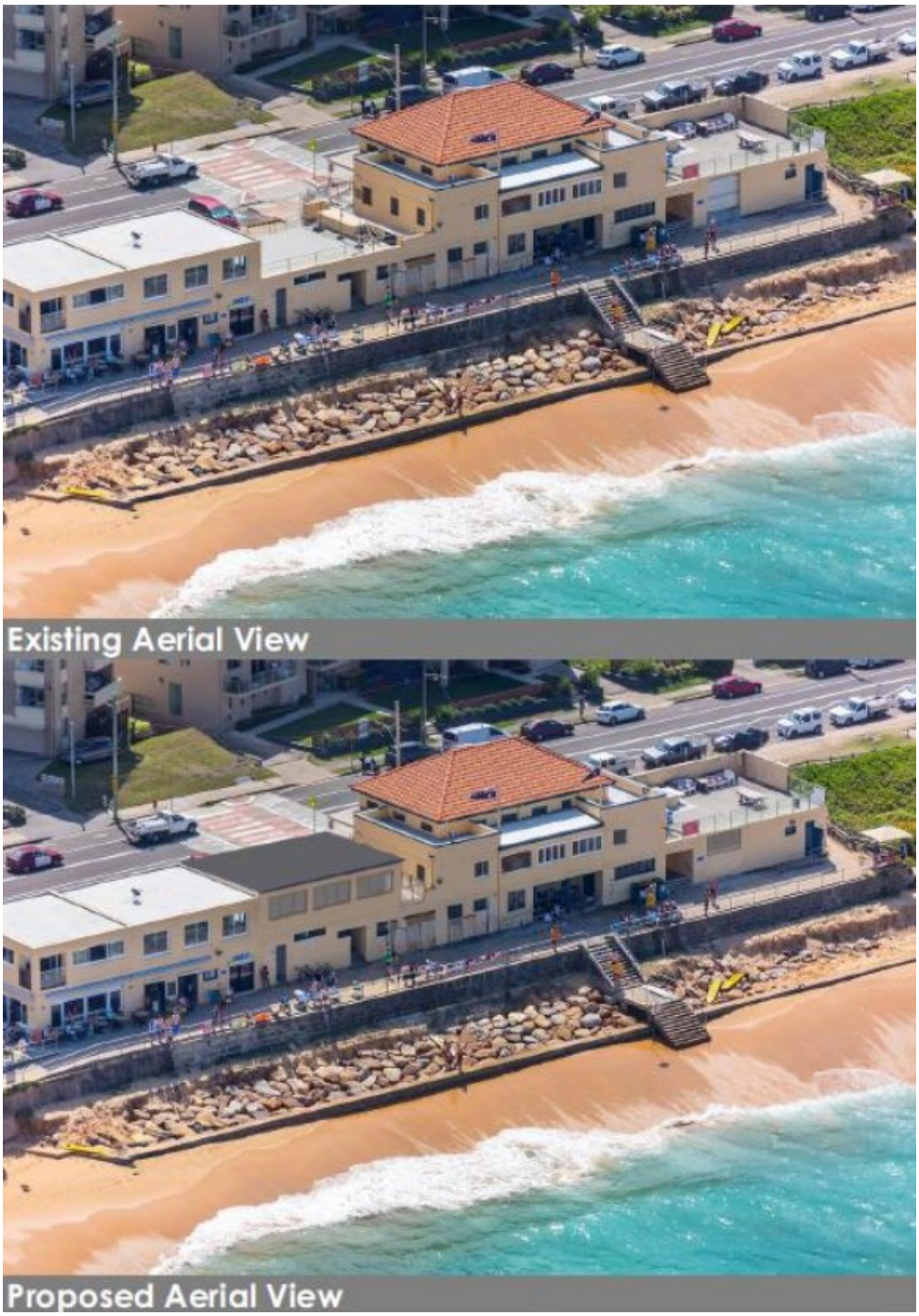


Figure 26 Aerial images of the existing building and the proposed works.
Source: GS Architects.

On 1 July 2026, Council and the external assessing planner attended three of the affected neighbouring properties to determine the extent of view loss experienced at each residence. The proposed extent of works was clearly able to be understood due to the siting and infill nature of the proposal, and height poles were not required to be erected to represent the envelope of the addition.

An assessment of the level of impact against the proposed addition regarding the four-step planning principle established by *Tenacity* has been undertaken below. For reference, the four tests are as follows:

> *The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*
>
> *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.*
>
> *The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*
>
> *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.*

An assessment relating to the four-step process for each of the concerned properties where access and photos were available has been provided below. An assessment against the views attained from public areas has also been provided.

<u>2/50A Carrington Parade, Curl Curl</u>

1. This property is located on the opposite (western) side of Carrington Parade to the SCC SLSC building. Unit 2 is located on Level 1 (the second storey) of the four-storey residential flat building ('RFB') and is contained within the front eastern side of the building, with windows to the ocean on the eastern front and southern side of the building.

   The submission received from the owner indicates the following:

   "Our view of South Curl Curl beach will be completely obstructed with the addition of the room and roof over the viewing platform. We presently look between the surf club and the garage through to the ocean over the viewing platform from 50A Carrington Parade and this view of the ocean would be completely taken. The value of our apartment will be dramatically affected by this potential addition, we even recently extended our balcony to increase our view to South Curl Curl which will prove wasteful if this development goes ahead."

   A second submission received from the owner of both Unit 2 and Unit 1 indicates the following:

"Building the proposed structure on the viewing platform will completely obliterate the ocean views that are enjoyed from 50A Carrington Parade and particularly from Unit 2 between the existing hall to the north and the garage/boat shed to the south. The views enjoyed from other apartments in the building will also be significantly affected."

From the site inspection, and as the photos below indicate, there is no land and water interface visible from the subject site through the terrace opening. There are water views available through the terrace and above portions of the SLSC building, with the portions above the building not being affected by the proposal.

The land and water interface is visible to the northeast of the SLSC building, along with further water views and views to the North Curl Curl headland. It is considered that these views are more highly valued given the interface. These views are not impacted by the proposal.

2. The views are obtainable from the living room, balcony, bedroom 1 and bedroom 2 to varying degrees. Such views are obtained from standing and seated positions. The unit floor plan is provided at **Figure 27** for reference.

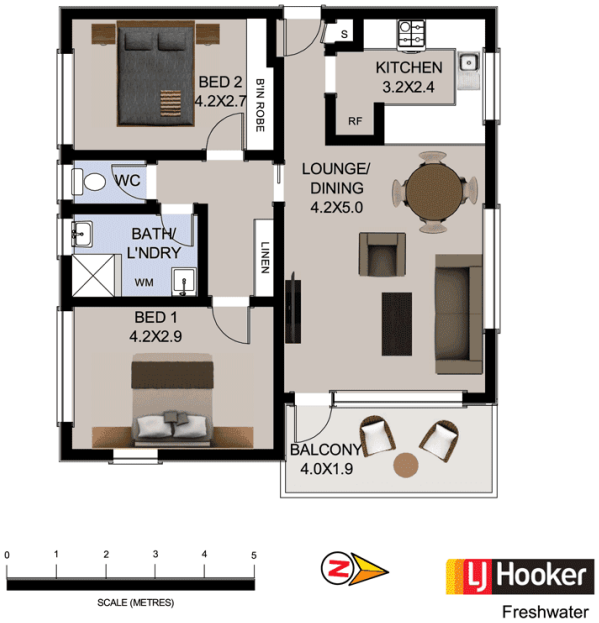


Figure 27 Floor plan of Unit 2/50A. Note that the balcony has since been enlarged from this image both in depth and length, now spanning the entire length of the eastern frontage.
Source: Realestate.com.au

The table below includes photos taken on the site inspection from each vantage point listed above to demonstrate the extent of views presently available.

Balcony in front of Living Room (northern end):



Figure 28 Centre of balcony, facing straight, standing.



Figure 29 Centre of balcony, facing straight, sitting.



Figure 30 Centre of balcony, facing northeast, standing.



Figure 31 Centre of balcony, facing northeast, sitting.



Figure 32 Centre of balcony, facing southeast, standing.

Balcony in front of Bedroom 1 (southern end):



Figure 33 Bedroom 1 end of balcony, facing straight, standing.



Figure 34 Bedroom 1 end of balcony, facing straight, sitting.



Figure 35 Bedroom 1 end of balcony, facing northeast, standing.



Figure 36 Bedroom 1 end of balcony, facing northeast, sitting.

Bedroom 1 front eastern window:



Figure 37 Bedroom 1, facing straight, standing.



Figure 38 Bedroom 1, facing straight, sitting.



Figure 39 Bedroom 1, facing northeast, standing.



Figure 40 Bedroom 1, facing northeast, sitting.

Living Room window:



Figure 41 Living room, facing straight, standing.



Figure 42 Living room, facing straight, sitting.

Bedroom 2 window:

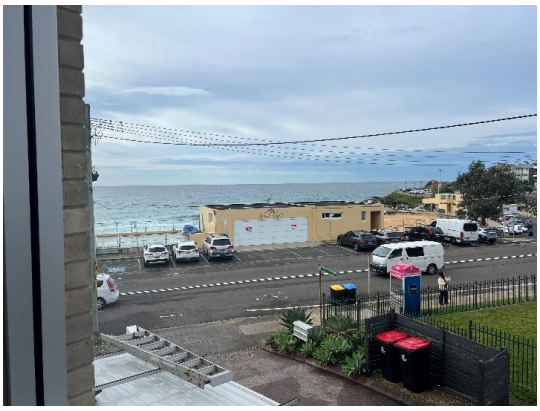


Figure 43 Bedroom 2, standing.



Figure 44 Bedroom 2, sitting.

3. The above photographs demonstrate that the Unit benefits from extensive views of the ocean, beach and headland in various directions due to its location on the second storey and at the eastern front of the RFB. It is recognised that the proposed addition will infill the existing terrace opening, which provides direct views to the ocean through the opening from each vantage point, which is a moderate impact.

   However, the Unit will continue to experience views of the ocean above the roof line of the proposed addition (RL 13.20), which is set at a similar height to the boat shed and caretaker's component (RL 12.66) to the south. Furthermore, existing views above the boat shed component will remain available, in addition to ocean views experienced further southeast towards the rock pool. Additionally, the higher valued views experienced to the northeast of the beach interface, the ocean, North Curl Curl Beach and the North Curl Curl headland are fully retained.

4. The proposal is considered reasonable in relation to the extent of view loss experienced at this Unit. There are no built form planning controls applicable to the proposal, due to its siting on RE1 Public Recreation zoned land. Despite this, a qualitative approach has been utilised within this assessment report, which determines that the height and scale of the addition is appropriate due to its consistency with the remainder of the SCC SLSC building in continuing the lower roof lines and utilising a low 2-degree skillion roof which lessens the height and scale of the addition. This allows the addition to sit well below (3.66m) the hipped roof ridge of the adjoining function hall component (RL 16.88), which remains the tallest element of the building. The addition is also set within the existing footprint of the site in relation to setbacks and considered appropriate in this regard. Given this, the proposal is considered to present an appropriate built form.

   The addition is primarily contained within the terrace opening, other than the minor works associated with the northern access stairs and lower-level gym expansion, which does not impact upon ocean views. The existing roof lines of the other elements of the building remain unaffected, and the terrace to the north remains open, allowing for the views within this direction to remain intact. Regarding the above, it is considered that the impact of the development is acceptable and allows for reasonable view sharing for this adjoining property.

<u>1/50A Carrington Parade, Curl Curl</u>

1. This property is located on the opposite (western) side of Carrington Parade to the SCC SLSC building. Unit 1 is located on Level 1 (the second storey) of the four-storey RFB and is contained behind Unit 2, with windows to the ocean on the southern side of the building.

The submissions related to Unit 2 above are also applicable to this Unit.

From the site inspection and as the photos below indicate, there is no land and water interface visible from the subject site through the terrace opening. There are water views available through the terrace and above the southern boat shed/caretakers room portion of the SLSC building, with these portions above the building not being affected by the proposal.

The land and water interface and rockpool is visible to the southeast of the SLSC building. It is considered that these views are more highly valued given the interface. These views are not impacted by the proposal.

2. The views are obtainable from the kitchen and bedroom 1 to varying degrees. Such views are obtained from standing and seated positions. The unit floor plan is provided at **Figure 45** for reference.



Figure 45 Floor plan of Unit 1/50A.
Source: Realestate.com.au

The table below includes photos taken on the site inspection from each vantage point listed above to demonstrate the extent of views presently available.

Kitchen window:



Figure 46 Kitchen window, standing.

Bedroom window:



Figure 47 Bedroom window, standing.



Figure 48 Bedroom window, sitting.

3. The above photographs demonstrate that the Unit benefits from views of the ocean and beach from the terrace opening to the southern part of the beach and rockpool. The terrace opening is only visible from the bedroom window and is not visible at all from the kitchen window. It is recognised that the proposed addition will infill the existing terrace opening, which provides direct views to the ocean through the opening from the bedroom only, which is a moderate impact.

   Despite this, the bedroom will continue to experience views of the ocean above the roof line of the proposed addition (RL 13.20), which is set at a similar height to the boat shed and caretaker's component (RL 12.66) to the south. Furthermore, existing views above the boat shed component will remain available, in addition to ocean views experienced further southeast towards the rock pool and the southern portion of the beach.

4. The proposal is considered reasonable in relation to the extent of view loss experienced at this Unit. As discussed in relation to Unit 2/50A above, the proposal is considered to present an appropriate built form despite the lack of built form planning controls applicable to the site.

   The only portion of the proposed works visible from the Unit is the addition within the terrace opening. The existing roof lines of the other elements of the building remain unaffected, allowing

these views to remain intact. Regarding the above, it is considered that the impact of the development is acceptable and allows for reasonable view sharing for this adjoining property.

7/50A Carrington Parade, Curl Curl

1. This property is located on the opposite (western) side of Carrington Parade to the SCC SLSC building. Unit 7 is located on Level 1 (the second storey) of the rear two storey RFB, with windows to the ocean on the eastern side of the building.

   The submission received from the owner indicates the following:

   "The change will impact the view from my apartment."

   From the site inspection and as the photos below indicate, there is no land and water interface visible from the subject site through the terrace opening. There are water views available through the terrace and above the southern boat shed/caretakers room portion of the SLSC building, with these portions above the building not being affected by the proposal.

   The land and water interface and rockpool is visible to the southeast of the SLSC building. It is considered that these views are more highly valued given the interface. These views are not impacted by the proposal. Additional ocean views are available to the northern side of the function hall component from the kitchen, which will not be impacted by the proposed works.

2. The views are obtainable from the balcony, living room and kitchen to varying degrees. Such views are obtained from standing and seated positions. The unit floor plan is provided at **Figure 49** for reference.

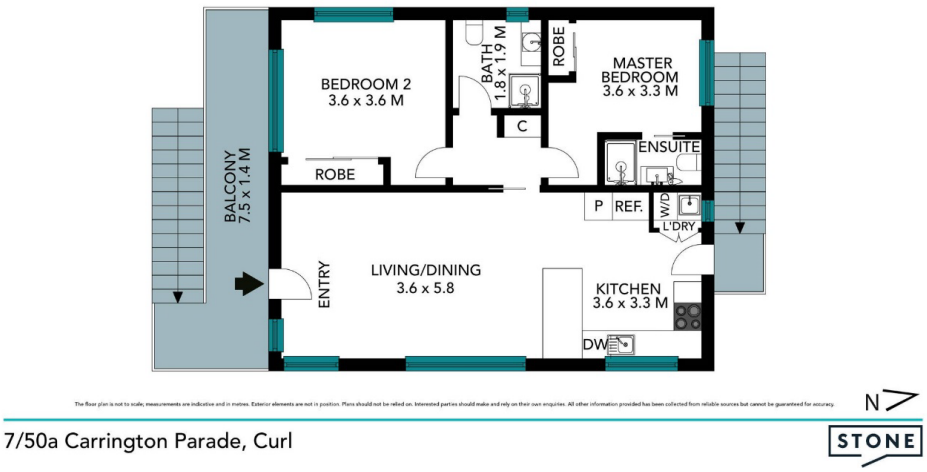


Figure 49 Floor plan of Unit 7/50A.
Source: Realestate.com.au.

The table below includes photos taken on the site inspection from each vantage point listed above to demonstrate the extent of views presently available.

Balcony window:



Figure 50 Balcony window, standing.



Figure 51 Balcony window, sitting.

Living room windows:



Figure 52 Living room window 1, standing.



Figure 53 Living room window 1, sitting.



Figure 54 Living room window 2, standing.

Kitchen window:



Figure 55 Kitchen window, standing.

3. The above photographs demonstrate that the Unit benefits from views of the ocean and beach from the terrace opening to the southern part of the beach and rockpool. The terrace opening is only visible from the balcony and is not visible at all from the living room or kitchen windows. It is recognised that the proposed addition will infill the existing terrace opening, which provides direct views to the ocean through the opening from the balcony only. However, given more of the ocean above the ridge line of the development is visible from the balcony of this Unit and the adjoining beach and rockpool area remains unobstructed, the impact of the infill addition is minor.

   The balcony and living room will continue to experience views of the ocean above the roof line of the proposed addition (RL 13.20), which is set at a similar height to the boat shed and caretaker's component (RL 12.66) to the south. Furthermore, existing views above the boat shed component will remain available, in addition to ocean views experienced further southeast towards the rock pool and the southern portion of the beach. Additionally, the kitchen benefits from ocean views to the northern side of the function hall which remain unaffected by the works.

4. The proposal is considered reasonable in relation to the extent of view loss experienced at this Unit. As discussed in relation to Unit 2/50A above, the proposal is considered to present an appropriate built form despite the lack of built form planning controls applicable to the site.

   The only portion of the proposed works visible from the balcony and living room is the addition within the terrace opening. The works within the northern access stairs and gym expansion will not adversely impact the ocean views available from the kitchen. The existing roof lines of the other elements of the building remain unaffected, allowing these views to remain intact. Regarding the above, it is considered that the impact of the development is acceptable and allows for reasonable view sharing for this adjoining property.

13/52 Carrington Parade, Curl Curl

This Unit was not inspected by the assessing officer, however photos were provided by the owner for assessment. These are used within the assessment below.

1. This property is located on the opposite (western) side of Carrington Parade to the SCC SLSC building. Unit 13 is located on Level 1 (the second storey) of the three-storey RFB and is contained within the rear building at the site, with windows to the ocean on the eastern side of the building.



Figure 56 Facing west towards the RFBs at 52 Carrington Parade. Unit 13 marked red.
Source: Google Street View, markup by CPS.

The submission received from the owner indicates the following:

"We live right in front of the clubhouse across the street. This new development will reduce the water views by about 40%."

As the photos below indicate, there is no land and water interface visible from the subject site through the terrace opening, above a portion of the function hall and above the ridge line of the front RFB located at the site.

2. The views are obtainable from the balcony, living room and bedroom 1 to varying degrees. Such views are obtained from standing and seated positions.

   The table below includes photos taken by the owner from each vantage point listed above to demonstrate the extent of views presently available.

Balcony:



Figure 57 Balcony, standing.



Figure 58 Zoomed in view from balcony, standing.

Bedroom 1 windows:



Figure 59 Bedroom 1, standing.



Figure 60 Zoomed in view from Bedroom 1, standing.

Living room windows:



Figure 61 Living room, standing.



Figure 62 Zoomed in view from living room, standing.

3. The above photographs demonstrate that the Unit benefits from views of the ocean and beach through the terrace opening. The terrace opening is primarily only visible from the balcony and bedroom 1 and is very minimally visible from the living room. It is recognised that the proposed addition will infill the existing terrace opening, which provides direct views to the ocean through the opening from both the balcony and the bedroom. However, given more of the ocean is visible above the ridge line of the development as viewed from the balcony and bedroom, and the addition will only be minorly visible from the living room, the impact of the infill addition is moderate.

   The balcony and bedroom will continue to experience views of the ocean above the roof line of the proposed addition (RL 13.20), which is set 3.66m below the adjoining function hall ridgeline. Furthermore, existing views above the addition and the function hall will remain available, in addition to ocean views experienced above the ridgeline of the RFB in front of the unit closer to Carrington Parade.

4. The proposal is considered reasonable in relation to the extent of view loss experienced at this Unit. As discussed in relation to Unit 2/50A above, the proposal is considered to present an appropriate built form despite the lack of built form planning controls applicable to the site.

   The only portion of the proposed works visible from the Unit is the addition within the terrace opening. The works within the northern access stairs and gym expansion will not be visible from this Unit. The existing roof lines of the other elements of the building remain unaffected, allowing these views to remain intact. Furthermore, ocean views are retained above the roofline of the new addition. Regarding the above, it is considered that the impact of the development is acceptable and allows for reasonable view sharing for this adjoining property.

Public Areas

While the proposed addition will obstruct views from the Carrington Parade pathway and road corridor, numerous alternative vantage points remain available along the Curl Curl beachfront. Given the abundance of these viewing locations within the expansive public reserves, the overall impact on the public domain is considered negligible.

Conclusion

In summary, the extent to which the proposal has impacted upon views experienced by neighbouring apartments has been deemed acceptable. The development results in impacts of varying degrees to each

of the neighbouring properties. However, given the built form is of an acceptable scale and each unit retains views to the ocean above the ridge line of the addition and in most cases to either side of the SCC SLSC building, the extent of view loss is considered reasonable.

The objectives of the control are:

- *To allow for the reasonable sharing of views.*
- *To encourage innovative design solutions to improve the urban environment.*
- *To ensure existing canopy trees have priority over views.*

The above assessment demonstrates that the proposal is consistent with the objectives of the control. The additions allow for the reasonable sharing of views, with all vantage points retaining a reasonable level of views. The design maintains a low profile, generally following the roofline of the lower elements of the building's roof form, whilst also sitting well below the higher hipped roof function hall component of the building. This assists in minimising the extent of view loss for the nearby residences. The proposal does not propose any changes to native vegetation or canopy trees.

As such, the proposal is considered to satisfy the requirements and objectives of Part D7 of WDCP 2011.

D20 Safety and Security

Control 3 states that there is to be adequate lighting of entrances and pedestrian areas. The objective of the control is as follows:

- *To ensure that development maintains and enhances the security and safety of the community.*

To ensure that the entrance point to the new training room is safe and visible, a condition for lighting at the new entrance point into the addition and along the ramp has been recommended. This will ensure that the entrance remains well-lit during the evening hours and the proposal is consistent with the requirements and objectives of the control.

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, subject to conditions regarding adequate external lighting.

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 $7,943.34 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $794,334.46.

Housing and Productivity Contribution

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

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

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	$12,000	new dwelling lot
	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 proposed development is not subject to Housing and Productivity Contributions.

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 2011;
- Warringah Development Control Plan 2011; 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:

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

PLANNING CONCLUSION

The Development Application seeks consent for alterations and additions to the SCC SLSC building. The works comprise the creation of a new rescue patrol and nippers training room, the expansion of the strength and conditioning facility and other minor associated works. The works are permitted with consent.

The proposed development is consistent with the site's context and its sensitive environmental setting and are appropriate for the site. The development will not result in any unreasonable adverse impacts on the surrounding area, including the residential properties, with any potential impacts mitigated by recommended conditions of consent.

The subject modification application has attracted 75 unique submissions from the community which have been addressed in this report. The proposal is supported by Council's referral departments, subject to conditions.

Overall, the development is consistent with all applicable environmental planning instruments and regulatory provisions. Therefore, the development is in the public interest.

Accordingly, it is recommended that the NBLPP approve the application, subject to the recommended conditions attached to this report.

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 Local Planning Panel as the consent authority approve DA2026/0310 for the alterations and additions to the South Curl Curl Surf Life Saving Club at Part Lot 7356 DP 1167221, Carrington Parade, Curl Curl, 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**	**Plan Title**	**Drawn By**	**Date**
DA-01	B	Site Plan / Site Analysis Plan Waste Management Plan Sediment and Erosion Control Plan	Michael Airey	05.02.2026
DA-04	B	Proposed Ground Floor Plan Proposed Lower Ground Floor Plan	Michael Airey	05.02.2026
DA-05	B	Proposed Elevations	Michael Airey	05.02.2026
MFS-01	1	External Materials and Finishes Schedule	Michael Airey Building Design & Drafting	February 2026
SW-1	1	Site Drainage Plan	D O'Brien Engineering Services Pty Ltd	06.02.2026

Approved Reports and Documentation			
Document Title	**Version**	**Prepared By**	**Date**
Building Code of Australia Design Compliance Report	002	Matt Shuter and Associates	17.12.2025

DDA Accessibility Design Compliance Report	002	Matt Shuter and Associates	17.12.2025
Operational Plan of Management	-	Urbis	February 2026
Waste Management Plan	-	-	-

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

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

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Referral – Ausgrid	07.04.2026

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

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

3. **Prescribed Conditions**
(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  (i) showing the name, address and telephone number of the Principal Certifier for the work, and
  (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  (iii) stating that unauthorised entry to the work site is prohibited.
  Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  (i) in the case of work for which a principal contractor is required to be appointed:
    A. the name and licence number of the principal contractor, and
    B. the name of the insurer by which the work is insured under Part 6 of that Act,
  (ii) in the case of work to be done by an owner-builder:
    A. the name of the owner-builder, and
    B. if the owner-builder is required to hold an owner-builder permit under that Act, the

number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

4. **General Requirements**

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

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

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

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

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

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

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

(f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than $25,000. The

Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

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

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

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

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

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

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

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

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

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
   (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

   Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
   (i) Swimming Pools Act 1992
   (ii) Swimming Pools Amendment Act 2009
   (iii) Swimming Pools Regulation 2018
   (iv) Australian Standard AS1926 Swimming Pool Safety
   (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
   (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**
Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of $7,943.34 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 $794,334.46

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

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

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

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

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

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

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

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

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

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

7. **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.

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

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane.

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

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. **Building Components and Structural Soundness**
B1 – All new development below the Flood Planning Level of 8.97m AHD shall be designed and constructed from flood compatible materials.

B2 – All new development must be designed to ensure structural integrity up to the Probable Maximum Flood level of 8.97m AHD, taking into account the forces of floodwater, debris load, wave action, buoyancy and immersion.

B3 – All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 8.97m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

11. **Floor Levels**
C2 – New floor levels within the development shall be set at or above the Probable Maximum Flood Level of 8.97m AHD.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

12. **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.

13. **Amendments to Plan of Management**
The Operational Plan of Management prepared by Urbis (dated February 2026) for the rescue patrol and nippers training room is required to be amended and submitted to Council prior to the issue of the Construction Certificate.

The Plan of Management is to be amended to include details regarding noise management strategies and complaints handling procedures. Management strategies are to include, but are not limited to:

i. Ensuring noise is kept to acceptable levels and do not exceed the ambient background noise levels by more than 5 dB(A).

ii. Ensuring users of the training room do not crowd or loiter in the vicinity of the room in such manner that pedestrian movement is obstructed or hindered.

iii. Ensuring that the manner in which activities within the room are conducted and/or the behaviour of persons entering and leaving the room does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or training room operations.

iv. Shall record in a Register full details of any disturbance complaint/s made by a person to management in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.

Reason: To ensure the development operates with minimal disruption to the surrounding area.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. **Installation of 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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. **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..

16. **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.

17. **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.

18. **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.

19. **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.

20. **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.

21. **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.

22. **Protection of Council's Public Assets**
Any damage to Council's public assets shall be made good by the applicant, and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge and native vegetation, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993. Existing trees shall be protected in accordance with AS4970-2025 Protection of Trees on Development Sites.

Reason: To protect and/or restore any damaged public asset.

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

24. **Stockpiling Materials**
During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All waste material is to be removed off site and disposed of according to the Waste Management Plan and applicable regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no waste or debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

25. **Aboriginal Heritage – Unexpected Finds / Stop Work Clause**
If any suspected Aboriginal site, objects, or cultural materials are uncovered during works an Unexpected Finds protocol must be followed:
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, the appropriate NSW heritage authority and the relevant Aboriginal Land Council must be notified in accordance with relevant legislation, 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..

Reason: Aboriginal Heritage Protection.

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

26. **Stormwater Disposal**
The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

27. **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.

28. **Certification of Works as Executed**
A suitably qualified engineer and/or registered surveyor is to certify that the completed works have been constructed in accordance with this consent and the approved plans with respect to the following:

1. Floor levels are set at or above the required level

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

29. **Certification of Building Components and Structural Soundness**
B2 – A suitably qualified structural engineer is to certify the structural integrity of the new development up to the Probable Maximum Flood level of 8.97m AHD. The depth, velocity, debris load, wave action, buoyancy and immersion must all be considered.

B3 – A suitably qualified electrician or contractor is to certify that all new and existing electrical equipment, power points, wiring and connections are located above the Flood Planning Level of 8.97m AHD, are protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

30. **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.

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

31. **Compliance with Plan of Management**
At all times during operation, the activity must comply with the Operational Plan of Management for the South Curl Curl Surf Life Saving Club prepared by Urbis dated February 2026, as amended by Condition 13 of this consent.

Reason: To ensure that the amenity of the area is protected.

32. **Hours of Operation**
The hours of operation of the rescue patrol and nippers training room are restricted to:

- Monday to Sunday – 6:00am to 10:00pm

Upon expiration of the permitted hours, all activities within the room shall immediately cease, no persons shall be permitted entry, and all people shall be required to leave the premises within the following 30 minutes.

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

33. **Noise**
The premises is to be managed to ensure that noise levels associated with the use of the site do not exceed the ambient background noise levels by more than 5 dB(A).

Reason: Neighbouring amenity.

34. **Public Lighting**
New or existing lighting must be installed/added surrounding the rescue patrol and nippers training room to illuminate the public areas adjacent to the room. Lighting is to be installed along the access path/ramp and entry landing to the training room entry door. The lights must comply with the relevant requirements of AS/NZS1158.3 Pedestrian Area Lighting. The lights shall be in operation during evening business hours.

Reason: To ensure adequate illumination of the building frontage and entrance point for pedestrians entering/exiting the training room during evening business hours.

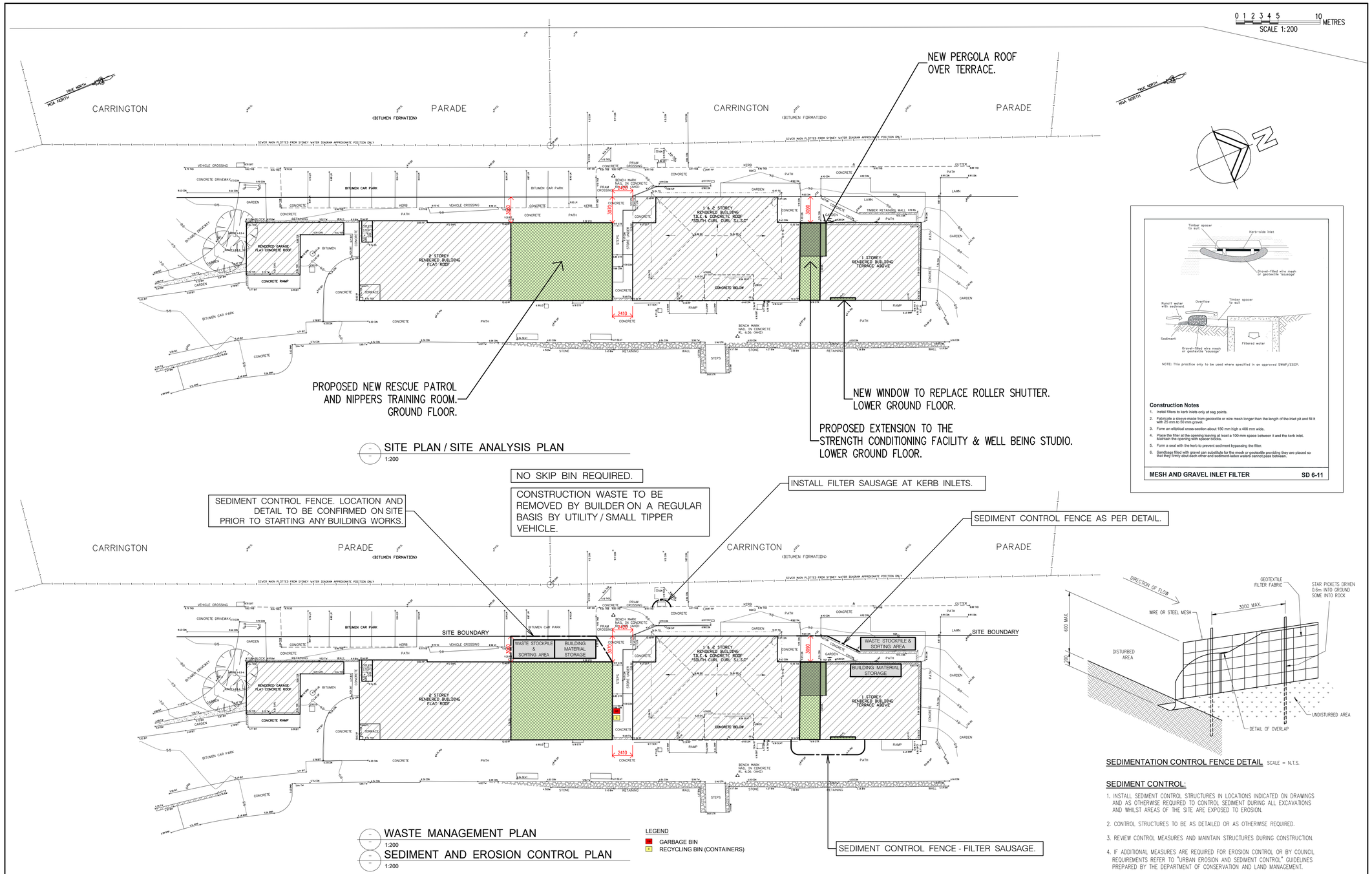
FINAL DECLARATION



Consultant Name: Annabelle Ambrogio (CPS)



In submitting this report to Council, I declare that I do not have a conflict of interest in making this recommendation.



NOTE: This practice only to be used where specified in an approved SWMP/ESCP.

Construction Notes

1. Install filters to kerb inlets only at sag points.
2. Fabricate a sleeve made from geotextile or wire mesh longer than the length of the inlet pit and fill it with 25 mm to 50 mm gravel.
3. Form an elliptical cross-section about 150 mm high x 400 mm wide.
4. Place the filter at the opening leaving at least a 100-mm space between it and the kerb inlet. Maintain the opening with spacer blocks.
5. Form a seal with the kerb to prevent sediment bypassing the filter.
6. Sandbags filled with gravel can substitute for the mesh or geotextile providing they are placed so that they firmly abut each other and sediment-laden waters cannot pass between.

MESH AND GRAVEL INLET FILTER **SD 6-11**

SEDIMENTATION CONTROL FENCE DETAIL SCALE = N.T.S.

SEDIMENT CONTROL:

1. INSTALL SEDIMENT CONTROL STRUCTURES IN LOCATIONS INDICATED ON DRAWINGS AND AS OTHERWISE REQUIRED TO CONTROL SEDIMENT DURING ALL EXCAVATIONS AND WHILST AREAS OF THE SITE ARE EXPOSED TO EROSION.
2. CONTROL STRUCTURES TO BE AS DETAILED OR AS OTHERWISE REQUIRED.
3. REVIEW CONTROL MEASURES AND MAINTAIN STRUCTURES DURING CONSTRUCTION.
4. IF ADDITIONAL MEASURES ARE REQUIRED FOR EROSION CONTROL OR BY COUNCIL REQUIREMENTS REFER TO "URBAN EROSION AND SEDIMENT CONTROL" GUIDELINES PREPARED BY THE DEPARTMENT OF CONSERVATION AND LAND MANAGEMENT.

No.	Date	Revision	By
B	05-02-2026	DEVELOPMENT APPLICATION	
A	19-10-2025	PUBLIC CONSULTATION	

No.	Date	Revision	By

Prepared by
MICHAEL AIREY
FRESHWATER NSW 2096
PHONE: 0418 289 585
EMAIL: mikeaireyitbigpond.com.au

ABN 26 769 291 556

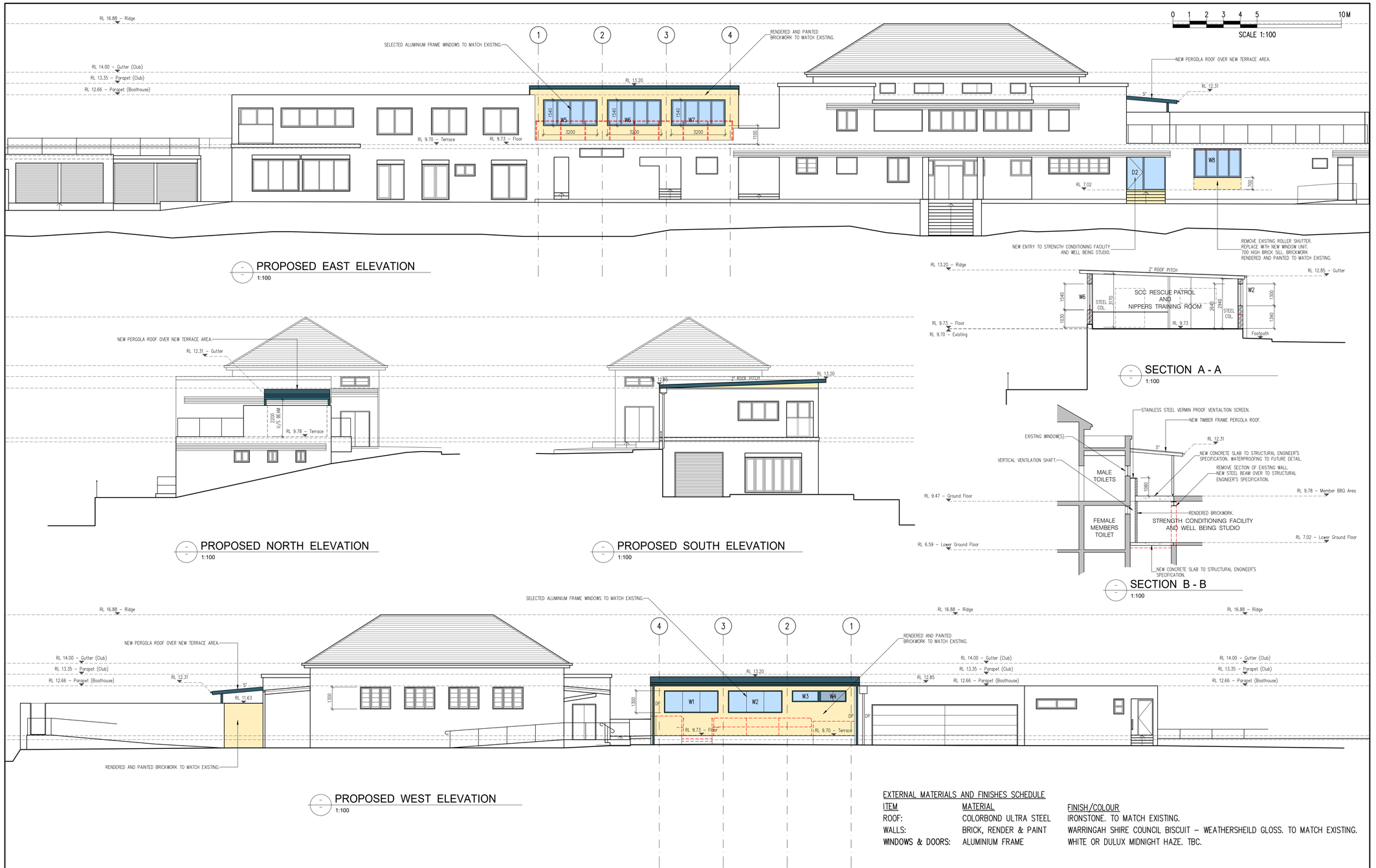
Client
SOUTH CURL CURL SURF LIFE SAVING CLUB
CARRINGTON PARADE
CURL CURL NSW 2096

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO THE EXISTING CLUBHOUSE

Designed By MA
Drawn By MA
Checked By
Date OCTOBER 2025

Title
SITE PLAN / SITE ANALYSIS PLAN
WASTE MANAGEMENT PLAN
SEDIMENT AND EROSION CONTROL PLAN

Scale 1:200 @ A1
Job No. SCCSLSC-2025-01
Drawing No. DA-01
Rev. B



EXTERNAL MATERIALS AND FINISHES SCHEDULE

ITEM	MATERIAL	FINISH/COLOUR
ROOF:	COLORBOND ULTRA STEEL	IRONSTONE. TO MATCH EXISTING.
WALLS:	BRICK, RENDER & PAINT	WARRINGAH SHIRE COUNCIL BISCUIT – WEATHERSHEILD GLOSS. TO MATCH EXISTING.
WINDOWS & DOORS:	ALUMINIUM FRAME	WHITE OR DULUX MIDNIGHT HAZE. TBC.

No.	Date	Revision	By
B	05-02-2026	DEVELOPMENT APPLICATION	
A	19-10-2025	PUBLIC CONSULTATION	

Prepared by
MICHAEL AIREY
FRESHWATER NSW 2096
PHONE: 0418 289 585
EMAIL: mikeairey@bigpond.com.au
ABN 26 769 291 556

Client
SOUTH CURL CURL SURF LIFE SAVING CLUB
CARRINGTON PARADE
CURL CURL NSW 2096

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO THE EXISTING CLUBHOUSE

Designed By MA
Drawn By MA
Checked By
Date OCTOBER 2025

Title
PROPOSED ELEVATIONS

Scale 1:100 @ A1
Job No. SCCSLSC-2025-01
Drawing No. DA-05
Rev. B

ITEM 4.5 DA2025/1886 - 71 WOOD STREET MANLY - DEMOLITION WORKS AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING INCLUDING A SWIMMING POOL

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2025/1886 for Demolition works and construction of a residential flat building including a swimming pool at Lot 28 DP 89561, 71 Wood Street MANLY subject to the conditions set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [**4.5.1** - 71 pages] 2. Site Plans & Elevations [**4.5.2** - 4 pages]

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/1886

Responsible Officer:	Nick Keeler
Land to be developed (Address):	Lot 28 DP 89561, 71 Wood Street MANLY NSW 2095
Proposed Development:	Demolition works and construction of a residential flat building including a swimming pool
Zoning:	Manly LEP2013 - Land zoned R1 General 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:	20/12/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	15/01/2026 to 29/01/2026
Advertised:	15/01/2026
Submissions Received:	11
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	$ 7,586,431.00

EXECUTIVE SUMMARY

This development application seeks consent for demolition works and construction of a residential flat building including a swimming pool.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the receipt of 10 objections during the notification period.

Concerns raised in the objections predominantly relate bulk and scale, streetscape character, privacy, view sharing, landscaping, overshadowing, setbacks, parking and traffic, excavation, density, noise and ventilation impacts. These matters have been carefully assessed and, where necessary, addressed

through design responses and recommended conditions of consent.

Critical assessment issues included view sharing, residential density, building height and number of storeys, side setbacks and building separation, landscaping outcomes, parking provision and earthworks associated with the basement excavation.

The assessment has determined that the proposal either complies with the applicable planning controls or, where variations occur, achieves the underlying objectives of those controls. Appropriate conditions of consent have also been imposed to mitigate potential impacts and ensure acceptable planning and environmental outcomes.

The assessment concludes that the proposal will not result in any unreasonable impacts on adjoining properties or the locality, with a recommendation that the NBLPP grant approval to the development application, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks development consent for demolition works and construction of a residential flat building containing with basement car parking, including a swimming pool.

The proposal includes the following elements:

- Demolition of the existing dwelling, garages, driveways, and associated landscaping.
- Construction of a 3-storey residential flat building containing three (3) dwellings.
- Basement level containing:
  - Six (6) resident car parking spaces
  - Bicycle parking
  - Storage, services, screened bin store
  - Pump-out system and OSD infrastructure
- Private open space for each dwelling including terraces, balconies, and rooftop spaces.
- A swimming pool and landscaped deep-soil areas at the rear.
- Extensive landscaping including native species and habitat-compensatory planting for Long-nosed Bandicoot.
- Two 5,000L rainwater tanks, water feature, and garden structures.
- Stormwater management including OSD and a basement pump-out system.
- New driveway and vehicular crossing, removal of redundant crossovers.
- Provision for EV charging for all basement parking spaces.

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 Development Control Plan - 3.4.3 Maintenance of Views
Manly Development Control Plan - 4.1.1.1 Residential Density and Dwelling Size
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 - 4.1.5 Open Space and Landscaping
Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)
Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)

SITE DESCRIPTION

Property Description:	Lot 28 DP 89561 , 71 Wood Street MANLY NSW 2095

Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Wood Street. The site is regular in shape with a frontage of approximately 15.55m along Wood Street and a depth of 45m. The site has a surveyed area of 695.2m². The site is located within the R1 General Residential zone and accommodates an existing single dwelling, garage and associated landscaping. The site exhibits steep topography, falling more than 5m from rear to the street, with a natural rock escarpment and sandstone outcrops present at the rear. The site contains a mix of vegetation including six on-site trees. The land is mapped as having Terrestrial Biodiversity values, with potential habitat for the Long-nosed Bandicoot noted. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by one- to three-storey residential buildings, including single dwellings, semi-detached dwellings and small residential flat buildings. Properties at 69 and 73 Wood Street adjoin the site to the east and west, with residential properties on Osborne Road to the north.

Map:



SITE HISTORY

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

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	See detailed assessment under "DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS" below.
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 amended architectural, stormwater and landscape plans. 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 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.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Northern Beaches Local Environmental Plan (Draft LEP)

Definition(s): Residential flat building

Land Use Zone: R1 General Residential

Permissible or Prohibited: Permitted with consent

Additional Permitted used for particular land – Refer to Schedule 1: Not applicable

A detailed assessment against the proposed numerical provisions and development standards has not been undertaken as part of this report. However, broad consideration has been given to the Draft LEP, and the proposal is consistent with its relevant aims and objectives.

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 15/01/2026 to 29/01/2026 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 process council is in receipt of 11 submission/s from:

Name:	Address:
Mr Pieter Edwin Stroethoff	61 Wood Street MANLY NSW 2095
Mr Peter Charles Monckton	2 / 77 Wood Street MANLY NSW 2095
Mr Derek Rodney Bryan	76 Wood Street MANLY NSW 2095
Mr Taylor Guthrie	1 / 62 Osborne Road MANLY NSW 2095
Mrs Francis E White Mr Anthony White	83 Wood Street MANLY NSW 2095
Mrs Ai Ping Echo Nostrant Mr Michael Nostrant	73 Wood Street MANLY NSW 2095
Ms Ann Philomena Jacinta Fraser	62 Osborne Road MANLY NSW 2095
Mr Paul David Grimshaw	59 Wood Street MANLY NSW 2095
Bill Tulloch	Po Box 440 MONA VALE NSW 1660
Ms Fiona Kristie Wade Mr Daniel Peter Angelo	69 Wood Street MANLY NSW 2095
Anson Douglas Sewell	80 Wood Street MANLY NSW 2095

One (1) submission was received after the end of the notification period and is not counted as a submission pursuant to Schedule 1 of the EP&A Act. Notwithstanding, the issues raised in this submission have been considered below.

The following issues were raised in the submissions:

- Bulk / scale / height / massing
- Streetscape and character
- Privacy
- View sharing
- Landscaping / trees
- Overshadowing / solar access
- Setbacks
- Parking / traffic
- Excavation / basement / structural risk
- Sense of enclosure / outlook
- SEPP (Housing) 2021 - 800m “safe walking distance”
- FSR / density
- Noise / acoustic (incl. pool & plant)
- Ventilation / airflow

The above issues are addressed as follows:

- **Bulk / scale / height / massing**

  The submissions raised concerns that the overall height and mass would present as visually dominant compared to the prevailing 1–2 storey pattern of development.

  Comment:

  The proposal results in a larger built form than existing development on the site and will be perceptible from adjoining properties and the street. Notwithstanding, the proposal has been assessed against the applicable height, built form and design provisions and is considered to achieve an acceptable relationship with surrounding development. Whilst some change in visual appearance will occur, the resulting impact is considered acceptable.

- **Streetscape and character**

  The submissions raised concerns that the façade expression and balcony projections do not respond to the locality's established character and would read as out of context in the immediate streetscape.

  Comment:

  Concerns were raised that the development is inconsistent with the established character of the locality. The proposal introduces a contemporary building form that differs from some surrounding dwellings; however, the area exhibits a mix of building ages, architectural styles and redevelopment outcomes. The proposal is capable of integrating with the evolving character of the locality and will not result in an unacceptable streetscape outcome.

- **Privacy**

  The submissions raised concerns that overlooking from upper-level windows/balconies would compromise privacy to adjacent bedrooms and living areas, with requests for fixed screening.

  Comment:

  Potential overlooking of adjoining properties has been considered. The proposal includes separation distances, window placement and privacy measures which reduce opportunities for direct overlooking. While some change to the existing level of privacy may occur as a consequence of redevelopment, the impacts are not considered unreasonable having regard to the urban context. On balance, privacy impacts are acceptable.

- **View sharing**

  The submissions raised concerns that the development would obstruct harbour/district views from highly used rooms and common areas, and that verified photomontages should be provided to assess reasonable sharing.

  Comment:

  The potential impact on views from neighbouring properties has been considered. The proposal will alter certain existing views; however, view impacts are generally a consequence of redevelopment within urban areas. Having regard to the extent of view retention, the nature of the

views affected and the overall planning outcomes sought by applicable controls, the resulting impact is considered acceptable. A detailed view loss assessment is included below in this report.

- **Landscaping / trees**

  The submissions raised concerns that proposed tree species could mature above rooflines and further erode views/daylight unless species selection, mature heights and ongoing maintenance are controlled.

  Comment:

  Concerns regarding the height and future growth of proposed landscaping are acknowledged. Landscaping forms an important component of site amenity and visual softening. While vegetation may affect some views and outlook over time, appropriate species selection and ongoing management can limit impacts. The inclusion of substantive vegetation and tree species prevail over the desire to retain views. The proposed landscaping is considered acceptable.

- **Overshadowing / solar access**

  The submissions raised concerns that winter solar access to north-facing living areas, decks and rooftop solar devices would be materially reduced.

  Comment:

  The proposal will result in some additional shadowing to adjoining properties. The submitted solar access information indicates that a reasonable level of solar access can continue to be achieved to neighbouring properties following development. While some reduction in sunlight will occur, the impacts are not considered excessive or unreasonable and are acceptable.

- **Setbacks**

  The submissions raised concerns that effective setbacks are reduced by ground works and landscaping within setback zones and by balcony projections, exacerbating bulk and amenity impacts.

  Comment:

  Concerns regarding the adequacy of front and side setbacks have been considered. The proposal incorporates setbacks that provide sufficient separation from adjoining properties and maintain opportunities for landscaping. Although the built form may appear more substantial when viewed from adjoining properties, the overall setback presentation is considered acceptable when assessed against the relevant planning controls and objectives.

- **Parking / traffic**

  The submissions raised concerns that on-street parking is already constrained and that no visitor spaces are provided, adding pressure to a cul-de-sac network close to a popular beach.

  Comment:

  Concerns regarding parking demand and visitor parking have been noted. The proposal provides

parking in accordance with the applicable requirements and is not expected to generate traffic volumes beyond those ordinarily associated with residential development of this scale. While some additional demand for on-street parking may occur, the impact is reasonable.

- **Excavation / basement / structural risk**

  The submissions raised concerns that basement/excavation close to boundaries could affect adjoining structures and amenity during construction without detailed geotechnical controls, shoring and monitoring.

  Comment:

  Concerns regarding excavation and potential impacts on adjacent properties are acknowledged. Detailed construction management, structural design and geotechnical measures are required prior to and during construction to ensure adjoining land is appropriately protected. Subject to these requirements, the impacts associated with excavation are considered manageable and acceptable.

- **Sense of enclosure / outlook**

  The submissions raised concerns that the combination of height, proximity and dense planting would create a sense of enclosure and loss of outlook to nearby rooms.

  Comment:

  The proposal will alter the outlook currently enjoyed from some neighbouring properties and may increase the perception of enclosure in certain areas. These impacts are a common consequence of urban redevelopment and have been considered in the design of the building through setbacks and articulation. On balance, the degree of impact is not unreasonable.

- **SEPP (Housing) 2021 - 800m safe walking distance**

  The submissions raised concerns that the site lies at the mapped extremity and requested a surveyor's verification that the proposal benefits properly apply under the walkable catchment provisions.

  Comment:

  Concerns regarding eligibility under the applicable Housing SEPP provisions have been considered. The application has been assessed against the relevant legislative requirements and accompanying documentation. Council has verified that the site is within the 800m walking distance range from the Manly town centre.

- **FSR / density**

  The submissions raised concerns that the gross floor area would exceed the applicable FSR controls, contributing to perceived overdevelopment.

  Comment:

  Concerns regarding the overall level of development and floor space have been considered. The proposal has been assessed against the applicable development standards and planning

framework and demonstrate compliance with the maximum permissible FSR for the site. While the development represents an intensified use of the site compared to existing development, the overall scale and form are considered acceptable having regard to the relevant controls and objectives.

- **Noise / acoustic (incl. pool & plant)**

  The submissions raised concerns that pool and mechanical plant could generate operational noise and reduce acoustic privacy if not enclosed or treated.

  Comment:

  Concerns regarding operational noise from building services and outdoor areas are acknowledged. Residential development of this nature is expected to generate a level of activity typical of the zone. Conditions of consent can be imposed to ensure plant and equipment operate within acceptable acoustic limits. Accordingly, potential noise impacts are considered acceptable on balance.

- **Ventilation / airflow**

  The submissions raised concerns that reduced separation and dense planting within side setbacks could diminish cross-ventilation to neighbouring dwellings.

  Comment:

  Concerns regarding reduced airflow and cross-ventilation to adjoining properties have been considered. While some changes to local airflow patterns may occur as a result of redevelopment, the proposal maintains building separation and open areas consistent with an urban residential setting. Any resulting impacts are not considered unreasonable and are acceptable.

Non-planning matters (e.g., property values, individual health circumstances, or broader policy commentary on housing reforms) have been noted; however, these are not determinative matters under a merit assessment against the EP&A Act and applicable instruments for this DA. They are recorded for transparency but are not weighed as planning impacts.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	***Supported with conditions*** The proposal is for demolition of existing structures and the construction of a residential flat building and associated external works The landscape setting outcome is assessed in consideration of the following: • State Environmental Planning Policy (Housing) 2021, clause 177 Landscaping (2) in consideration of the Tree Canopy Guide for Low and mid rise housing, for deep soil and tree planting requirements. • The site is located within the low and mid-rise housing zone, and additionally development controls under the Manly Local Environmental Plan and Manly Development Control Plan shall be considered by Landscape Referral to assess the landscape setting outcomes, and in particular control 5.7 Low and mid-rise housing areas, part 5.7.2 Attached dwellings, multi dwelling housing, multi dwelling housing (terraces), residential flat buildings and shop top housing. Under the Tree Canopy Guide for Low and mid rise housing, Table 7 Tree canopy and deep soil; a minimum 10% deep soil with a minimum dimension of 3 metres is required as the site is >650m2 at 695.2m2; and for every 350m2 of site area or part thereof at least one medium tree with a mature canopy spread of 8 metres or greater and canopy area of 50m2 as defined in the NSW Housing Pattern Book Landscape design guide for Low and Mid Rise Housing, is required with a total canopy cover of at least 15% of the site. Manly Development Control Plan part 5.7.2 similarly requires 10% deep soil in Table 6; and Table 3 similarly requires for every 350 m2 of site area or part thereof, to plant at least 1 medium tree in the deep soil area. An Arboricultural Impact Assessment (AIA) and Landscape Plans are submitted for assessment by Landscape Referral. <u>Arboricultural Impact Assessment:</u> Within the property, all existing trees and vegetation are proposed for removal as listed in the AIA report identified as tree numbers T1, T2 and T9 to T12 inclusive. The six trees within the property include two prescribed trees (numbered T1 and T10) and four are exempt species by height or type that may be managed or removed without Council consent. Both T1 and T10 are rated with a moderate significance, and no design alternative is available for retention and thus no objection is raised for removal subject to replacement. Eight trees (numbered T3 to T8 inclusive and T13 and T14 are located within adjoining properties near to development works and these shall be protected. <u>Landscape Plans:</u> It is noted that the site planning provides no at natural ground landscape area within the front setback and thus the landscape setting is limited as presented to the streetscape and objective 4 of Manly

Internal Referral Body	Comments
	DCP part 5.7.2 is unable to be achieved in terms of providing trees to soften the built form, and this matter of front setback outcomes shall be considered and determined by the Assessing Planning Officer. The Landscape Plans submitted include landscape works at natural ground level to the rear of the property and on structure to the front of the property. It is noted that the existing rock face at the rear of the property is to be exposed and remain along the boundary and the retention of this natural landscape feature is supported. The deep soil area of over 10% is adequate and tree planting as proposed at the rear of the property shall be located within the deep soil area. Proposed tree planting is located to replace existing trees impacted by development and thus proposed for removal. The new tree planting shall be either selected or managed to remain at a height no more than the height of the building eaves to preserve neighbouring views of the surrounds. Other lower height planting is proposed within natural ground areas and within on structure and no concerns are raised. Should the development application be supported by the Assessing Planning Officer, conditions for landscape setting outcomes shall be imposed.

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	***Supported with conditions*** The comments in this referral relate to the following applicable controls and provisions: • Manly DCP – Clause 6.5 Terrestrial Biodiversity • Manly DCP – Clause 3.3.1. Landscaping Design • Manly LEP – Clause 5.4.2. Threatened Species and Critical Habitat Lands The site is mapped as habitat of the endangered Long-nosed Bandicoot (*Perameles nasuta*) Population at North Head under the Manly LEP Clause 5.4.2 Threatened Species and Critical Habitat Lands. Therefore, it is a legislative requirement that a Test of Significance (5 Part-Test) is conducted to assess the impacts of the proposed development on Long nosed Bandicoots in accordance with Section 7.3 of the Biodiversity Conservation Act 2016. An Ecological Assessment and Test of Significance was prepared by Narla Environmental (December 2025). This concluded that there would be no significant impact on the North Head Endangered Population of Long-nosed Bandicoots as a result of the proposed development. Mitigation measures as outlined in the Ecological Assessment are to be implemented to ensure habitat is replaced and maintained appropriately. This includes amendments to the planting schedule to include species appropriate for native species foraging and nesting habitat. This will be conditioned as per Manly DCP Clause 3.3.1.a.iv. Landscaping Design in areas of habitat for the Long-nosed Bandicoot. According to the Arborist Report (Stride Landscape Design, December 2025), 6 trees are proposed for removal, 4 of which are exempt and therefore may be managed or removed at the discretion of the applicant without consent. Tree 1, *Syzygium australe*, and Tree 10, *Glochidion ferdinandi,* are prescribed trees and will require Council permission for removal. It is therefore a condition of approval that the Landscape Plan is amended to include locally native canopy tree species as replacement plantings for the two prescribed species proposed for removal. Locally native species are to be consistent with the relevant Manly Ward section of the Native Planting Guide available on Council's website. In accordance with the Arborist Report, the Tree Protection Specifications and General Recommendations will be implemented, and neighbouring trees will be retained without significant detriment to health or longevity. No objections in relation to biodiversity, subject to conditions.

Internal Referral Body	Comments
NECC (Development Engineering)	***Supported with conditions*** **22/07/2026** **<u>Development Engineering 3rd Referral Response</u>** Council's Development Engineer raises no objection to this proposal subject to conditions. **13/07/2026** **<u>Development Engineering 2nd Referral Response</u>** Council's Development Engineer requests additional information regarding the stormwater design and Site Access & Parking. **Stormwater** Council's Development Engineer requests additional information regarding the stormwater design as detailed below. • Council cannot accept the initial water level specified in the rainwater tanks. To be conservative, the rainwater tanks may be full when the storms happen, so the rainwater tanks as detention basin shall be removed from the DRAINS model. It is highly recommended for the hydraulic engineer to have a discussion with Council's Development Engineer. **Site Access** Council's Development Engineer requests additional information regarding the Site Access as detailed below. • The submitted driveway long-sections depict non-compliant gradients, in particular ML 02 Long-section. The first 6m from the front boundary into the property shall be at maximum 5% gradient if the driveway is going down from the front boundary in accordance with AS/NZS 2890.1:2004. **19/03/2026** **<u>Development Engineering 1st Referral Response</u>** Council's Development Engineer requests additional information regarding the stormwater design and site access. This proposal is for demolition works and construction of a residential flat building including a swimming pool. **Stormwater**

Internal Referral Body	Comments
	Council's Development Engineer requests additional information regarding the stormwater design as detailed below. • A copy of DRAINS model shall be submitted to Council for further assessment. It seems that the post-development flowrate is more than the flowrate shown on the stormwater plans. • An overflow pipeline shall be provided from the OSD tank as a safe overflow route. **Site Access** Council's Development Engineer requests additional information regarding the site access as detailed below. • The submitted driveway long-sections depict non-compliant gradients. The first 6m from the front boundary into the property shall be at maximum 5% gradient if the driveway is going down from the front boundary in accordance with AS/NZS 2890.1:2004. • In addition, the summit grade change shall not exceed 12.5% in accordance with AS/NZS 2890.1:2004. **Geotechnical Investigation** A geotechnical report has been submitted. Sandstone is encountered at relatively shallow depth. The basement has been conditioned to be tanked.
NECC (Water Management)	***Supported with conditions*** The proposed Demolition works, and construction of a residential flat building are considered acceptable from a water management standpoint, with no objections relating to water quality or water balance impacts.

Internal Referral Body	Comments
Traffic Engineer	***Supported with conditions*** The proposed development is to demolish the existing dwelling on the subject site and construct a new three storey Residential Flat Building with basement parking. The development contains 3 dwellings (one on each level). Off-street parking is proposed for a total of 6 cars within a new single-level basement parking area. Vehicular access to the parking area is proposed via a new single lane entry/exit driveway towards the northern end of the Wood Street site frontage. The application is being submitted under the provision of the Housing SEPP - Low and Mid-Rise Housing Policy, and as such the parking is in line with the requirements of the SEPP. The application has been submitted with the required TIA, which includes swept path analysis for access to each parking space and demonstrates that entry and exit in a forward direction can be achieve from each location. The basement access point is narrow and whilst the allocated space is only one lane wide it would be sufficient for a development of this size, with a proposed mirror installed at the entrance to assist in management of this access conflict point.
Waste Officer	***Supported with conditions*** 3 dwellings. Waste Storage screened area provided adjacent to entry/exit to basement which is within 6.5m of boundary of property. Indemnity will be required for wheel in / wheel out service to be provided as per Appendix E of the Waste Management Guidelines.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

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 proposed development is for a residential flat building containing three (3) dwellings. The development provides an additional two (2) dwellings on the site. As such, the contribution is $21,624.36, which is based on the current indexed base component.

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1826526M, dated 12 December 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 (Housing) 2021

Chapter 4 - Design of residential apartment development

Clause 144 of State Environmental Planning Policy (Housing) 2021 (SEPP Housing) stipulates that:

(2) This chapter applies to the following—
- (a) development for the purposes of residential flat buildings,
- (b) development for the purposes of shop top housing,
- (c) mixed use development with a residential accommodation component that does not include boarding houses or co-living housing, unless a local environmental plan provides that mixed use

development including boarding houses or co-living housing is residential apartment development for this chapter.

(3) This chapter applies to development only if—

(a) the development consists of—

(i) the erection of a new building, or

(ii) the substantial redevelopment or substantial refurbishment of an existing building, or

(iii) the conversion of an existing building, and

(b) the building is at least 3 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 residential flat containing three (3) self-contained dwellings which are accommodated within three (3) storeys.

As per the provisions of Clause 144 outlining the application of the chapter, the provisions of the chapter are not applicable to the assessment of this application as the building contains less than four (4) dwellings.

Accordingly, no further assessment is required with regard to the provisions of Chapter 4 of SEPP Housing.

Chapter 6 - Part 4 - Residential flat buildings and shop top housing

Division 2 Non-discretionary development standards—the Act, s 4.15	
Clause 179 - Non-discretionary development standards - residential flat buildings and shop top housing in Zone R1 or R2	**Comment**
(2) The following non-discretionary development standards apply:	
(a) a minimum lot size of 500sqm,	**Compliant** 695.2m^2
(b) a minimum lot width at the front building line of 12m,	**Compliant** 15.55m
(c) if no environmental planning instrument or development control plan that applies to the land specifies a maximum number of car parking spaces per dwelling —a minimum of 0.5 car parking space per dwelling,	**Compliant** Two spaces per dwelling provided
(d) a maximum floor space ratio of 0.8:1,	**Compliant** 0.8:1 (556m^2)
(e) a maximum building height of 9.5m.	**Compliant** 9.47m

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Biodiversity and Conservation) 2021

Chapter 6 – Water catchments

The subject property is located within the Sydney Harbour Catchment and Sydney Harbour Foreshores and Waterways Area therefore the provisions of Chapter 6 Water catchments of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* apply to this development. Accordingly, an assessment under Chapter 6 has been carried out as follows:

Part 6.2 Development in regulated catchments - Division 2 Controls on development generally

6.6 Water quality and quantity

(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—

(a) whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,
(b) whether the development will have an adverse impact on water flow in a natural waterbody,
(c) whether the development will increase the amount of stormwater run-off from a site,
(d) whether the development will incorporate on-site stormwater retention, infiltration or reuse,
(e) the impact of the development on the level and quality of the water table,
(f) the cumulative environmental impact of the development on the regulated catchment,
(g) whether the development makes adequate provision to protect the quality and quantity of ground water.

(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development ensures—

(a) the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and
(b) the impact on water flow in a natural waterbody will be minimised.

Comment:

The proposal has been reviewed by Council's Water Management, Development Engineer and Bushland

& Biodiversity Officer who have raised no objection to the works and their impacts to the adjoining waterway (subject to conditions).

6.7 Aquatic ecology

(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—

(a) whether the development will have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation,
(b) whether the development involves the clearing of riparian vegetation and, if so, whether the development will require—
(i) a controlled activity approval under the Water Management Act 2000, or
(ii) a permit under the Fisheries Management Act 1994,
(c) whether the development will minimise or avoid—
(i) the erosion of land abutting a natural waterbody, or
(ii) the sedimentation of a natural waterbody,
(d) whether the development will have an adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area,
(e) whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology,
(f) if the development site adjoins a natural waterbody—whether additional measures are required to ensure a neutral or beneficial effect on the water quality of the waterbody.

(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following:

(a) the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development,
(b) the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves,
(c) if a controlled activity approval under the Water Management Act 2000 or a permit under the Fisheries Management Act 1994 is required in relation to the clearing of riparian vegetation—the approval or permit has been obtained,
(d) the erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody will be minimised,
(e) the adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area will be minimised.

Comment:

The proposal has been reviewed by Council's Water Management and Bushland & Biodiversity Officer who have raised no objection to the works and their impacts to the surrounding natural environment.

6.8 Flooding

(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems.

(2) Development consent must not be granted to development on flood liable land in a regulated catchment

unless the consent authority is satisfied the development will not—

(a) if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or
(b) have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems

Comment:

The site is not located within a flood prone area.

6.9 Recreation and public access

(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider—

(a) the likely impact of the development on recreational land uses in the regulated catchment, and
(b) whether the development will maintain or improve public access to and around foreshores without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation.

(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—

(a) the development will maintain or improve public access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation,
(b) new or existing points of public access between natural waterbodies and the site of the development will be stable and safe,
(c) if land forming part of the foreshore of a natural waterbody will be made available for public access as a result of the development but is not in public ownership—public access to and use of the land will be safeguarded.

Comment:

6.10 Total catchment management

In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consult with the council of each adjacent or downstream local government area on which the development is likely to have an adverse environmental impact.

Comment:

The proposal has been reviewed by Council's Water Management and Bushland & Biodiversity Officer who have raised no objection to the works and their impacts to the surrounding natural environment. Based on the expert advice provided and conditions imposed, the proposed works are not considered to have an adverse environmental impact. As such consultation with adjoining local government areas was not undertaken in this instance.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

Manly Local Environmental Plan 2013

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

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	N/A
4.4 Floor space ratio	N/A
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

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 695.2m^2	Requirement	Proposed	Variation	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling per 250m^2	3 dwellings	1 dwelling	**No**
	Dwelling Size: 95m^2	U1: 185.7m^2	N/A	Yes
		U2: 185.2m^2	N/A	Yes
		U3: 185.2m^2	N/A	Yes
4.1.2.1 Wall Height	NW: 7.4m (based on gradient 1:6.8)	9m	21.6%	**No**
	SE: 7.2m (based on gradient 1:9)	9m	25%	**No**

4.1.2.2 Number of Storeys	2	3	1 storey	**No**
4.1.4.1 Street Front Setbacks	Prevailing primary building line - 4.5m	6.3m	N/A	Yes
	Prevailing garage line - Nil	Nil	N/A	Yes
	Prevailing balcony line - 2.5m	2.5m	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	NW: 2.97m (based on wall height)	2.72m	8.4%	**No**
	SE: 2.97m (based on wall height)	3.03m	N/A	Yes
	Windows: 3m	2.72m	9.3%	**No**
4.1.4.4 Rear Setbacks	8m	8.1m	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (382.4m^2)	61.8% (429.8m^2)	N/A	Yes
	Open space above ground 25% of total open space (107.5m^2)	11.7% (50.2m^2)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space (150.4m^2)	27.5% (118.3m^2)	21.3%	**No**
	3 native trees	1 trees	2 trees	**No**
4.1.5.3 Private Open Space	12m^2 per dwelling	>12m^2 per dwelling	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	3.6m	N/A	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	Nil	N/A	Yes
	1m curtilage/1.5m water side/rear setback	1m/1.8m	N/A	Yes
Schedule 3 Parking and Access	RFB - 5 resident spaces	6 spaces	N/A	Yes
	RFB - 2 visitor spaces	Nil	100%	**No**

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 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 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	No	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	Yes	Yes
4.4.1 Demolition	Yes	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
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

Detailed Assessment

3.4.3 Maintenance of Views

Description of non-compliance

Submissions were received from several properties raising potential view loss concerns.

View loss inspections were undertaken at 69 Wood Street and 64 Osborne Road to determine the extent of potential view loss caused by the proposed development.

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.

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:

69 Wood Street

The view corridor obtained from 69 Wood Street is between the south and west which includes elements of Sydney Harbour (including coastal interface), various harbour headlands, and distant views of the city skyline and wider district. It is filtered between existing development and vegetation and is only visible from the first floor of the dwelling. All views at the ground floor is obscured by existing development.

Having regard to the character and quality of the existing outlook, the views from the affected property are considered to be of moderate significance.



Image 1 - Standing view from kitchen towards the south



Image 2 - Standing view from living room towards the southwest



Image 3 - Standing view from kitchen window towards the south



Image 4 - Standing view from master bedroom window towards the south

64 Osborne Road

At the ground floor, the view corridor obtained from 64 Osborne Road is at the rear of the dwelling towards the southwest includes elements of Sydney Harbour (including coastal interface), various harbour headlands, and distant views of the city skyline and wider district. The corridor is disjointed as parts of the corridor is obscured by existing development and vegetation. The largest pocket of water view is between an existing palm tree and gum tree.

At the first floor, the view corridor is much the same as the ground floor, but significantly less obstructed by existing development and vegetation. A much larger area of water is able to be viewed from the first floor.

Having regard to the character and quality of the existing outlook, the views from the affected property are considered to be of high significance.



Image 5 - Standing view from rear ground floor terrace towards southwest



Image 6 - Standing view from ground floor living room towards southwest



Image 7 - Standing view from kitchen towards the southwest



Image 8 - Standing view from first floor sunroom towards the southwest

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:

69 Wood Street

Views are enjoyed from the front living room and balcony of the dwelling, which is considered to be a primary viewing location, warranting significant consideration in the assessment. Smaller pockets of view are achieved from the eastern bedroom windows, but are constrained by existing development and are obtained across the side boundary. These views considered to be a secondary viewing location, warranting limited consideration in the assessment.

64 Osborne Road

Views are enjoyed from the rear living room and kitchen of the dwelling, which is considered to be a primary viewing location, warranting significant consideration in the assessment. The view corridor is across the rear boundary and length of the subject site. The views at the ground floor are more constrained than those at the first floor, but do include valued elements such as the coastal interface, parts of Balmoral Beach and the distant city skyline. The first floor views include more water and a wider frame of reference than the from the ground floor.

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:

69 Wood Street

The largest extent of view impact is towards the south across the eastern side boundary. Views are likely to be severely impacted from the eastern elevation windows towards the rear of the dwelling, including the master bedroom. The view towards the south from the kitchen window will likely be severely impacted, but similarly this corridor is obtained across the side boundary. Expectation of retention from these points is unrealistic due to the underdeveloped nature of the subject site. It is likely any redevelopment of the subject site with a building of two or more storeys will impact upon these corridors, regardless of design and siting.

The front setbacks of the proposed development are sited to ensure limited view impact is caused upon the primary living area and front balcony of the dwelling. The proposed front building line, balconies and privacy fin are setback from the front boundary to ensure views towards the south from the living room and front balcony are maintained. The proposed development will have no impact upon the existing views towards the southwest and west. As such, the view impact of the proposed development from the front living room and balcony will be minor.

On balance, the total impact of the proposed development upon the dwelling at 69 Wood Street is minor.

64 Osborne Road

The largest extent of view impact is towards the southwest across the rear boundary. The views from the ground floor will be most significantly impacted with views of the water and coastal interface likely to be obscured by the proposed development. The distant city skyline views will be above the upper ridge level of the development and will not be impacted. As these views at the ground floor are associated with the primary living area and kitchen, the extent of impact will be severe.

The view from the first floor sunroom will be mostly unimpacted by the proposed development. Some elements in the foreground of the corridor will be obscured, but this area mostly contains existing development and vegetation. Almost all of the water and coastal interface views will be unaffected by the development at the first floor. As such, the extent of impact from the first floor will be negligible.

On balance, the total impact of the proposed development upon the dwelling at 64 Osborne Road is minor to moderate.

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:

In consideration of the reasonableness of the proposal, it is noted that the development demonstrates compliance with key built form controls, including building height and floor space ratio. The view corridor from the ground floor of 64 Osborne Road is inherently vulnerable due to the maximum permissible 9.5m building height on the site. It is therefore unrealistic to expect retention of this part of the view corridor, despite its severe impact and being obtained from the primary living area and kitchen. The height of the proposed development at its rearmost point is 7m, which means that a large proportion of the view corridor from the first floor will be retained as opposed to a development with a height of 9.5m at the same point.

The side setback of the building along the southeast elevation is compliant, while the northwest elevation has a minor non-compliance. As part of the view corridor from 64 Osborne Road is impacted by the setback of the southeast elevation, its numerical compliance demonstrates an acceptable level of impact. The width of the side setback areas are sufficient to ensure view corridors are maintained between buildings.

The front setbacks of the proposed development is the key built form characteristic that impacts the views from 69 Wood Street. It has been demonstrated that the front setback of the building is consistent with the prevailing front setbacks of adjacent and nearby development. This allows for most views from the primary living area of 69 Wood Street to be maintained. All other elements of the proposed development will have no unreasonable impact upon the views enjoyed from 69 Wood Street.

Accordingly, the proposal demonstrates a reasonable sharing of views.

As such, the development is consistent with the objectives of the control and is acceptable on merit.

4.1.1.1 Residential Density and Dwelling Size

Description of non-compliance

The control prescribes a maximum dwelling density of 1 dwelling per 250m^2 of site area. The development site has an area of 695.2m^2, meaning 2 dwellings are permitted.

The proposed development incorporates 3 dwellings, which is in excess of the control requirement.

Comment:

The objectives of the control are:

Objective 1) To promote a variety of dwelling types, allotment sizes and residential environments in Manly.
Objective 2) To limit the impact of residential development on existing vegetation, waterways, riparian land and the topography.
Objective 3) To promote housing diversity and a variety of dwelling sizes to provide an acceptable level of internal amenity for new dwellings.
Objective 4) To maintain the character of the locality and streetscape.
Objective 5) To maximise the use of existing infrastructure.

While the proposed development exceeds the maximum dwelling density control requirement, Chapter 6 of SEPP Housing has expanded the ability to provide for higher density residential flat buildings by virtue

of increased building height and floor space ratio and 500m^2 minimum lot size development standards.

The site has a lot size greater than the minimum 500m^2, therefore, buildings containing 3 or more dwellings are an expected typology on the site.

The surrounding locality has a mix of residential building typologies and densities, including dwelling houses, dual occupancies and residential flat buildings. The proposed development is generally in keeping with the mixed nature of development typologies in the locality.

The development is consistent with the requirements of the SEPP provisions and the objectives of the control, and is acceptable on merit.

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

Description of non-compliance

4.1.2.1 Wall Height

Based on a gradient of 1:6.8, the maximum permitted wall height for the northwest elevation is 7.4m. The proposed development is to have a maximum wall height of 9m, which is a 21.6% variation to the control requirement.

Based on a gradient of 1:9, the maximum permitted wall height for the southeast elevation is 7.2m. The proposed dwelling is to have a maximum wall height of 9m, which is a 25% variation to the control requirement.

4.1.2.2 Number of Storeys

Buildings must not exceed 2 storeys. The proposed dwelling is 3 storeys.

Comment:

The objectives of the control are:

(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.

Notwithstanding the non-compliant wall height and number of storeys, the development will achieve the underlying objectives of the control. The building responds appropriately to the site's topography and aligns with the prevailing and emerging streetscape character, with its apparent height moderated through articulation, roof form and setbacks. While the variations contribute to some additional bulk and scale, this is visually mitigated such that the development does not appear excessive or overbearing

within its context. The overall building height is compliant with the 9.5m permitted maximum.

The proposal has been designed to minimise impacts on views and amenity, with any incremental view loss from public or private domains being minor and consistent with urban expectations. A detailed view loss assessment is included elsewhere in this report. Solar access to adjoining properties and open space is maintained at acceptable levels, and the development integrates with the site's landform and surrounding environment without conflict. Overall, the variation does not undermine the intent of the control.

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

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

Description of non-compliance

4.1.4.2 Side setbacks and secondary street frontages

This control requires side setbacks to be one third of the wall height.

Based on wall heights of 9m, the minimum side setback is required to be between 2.97m.

The proposed northwestern elevation has a minimum side setback of 2.72m, resulting in a variation up to 8.4%.

This clause also requires windows to be setback a minimum of 3m from a side boundary, which is not achieved.

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.
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.*

Objective 3) To promote flexibility in the siting of buildings.
Objective 4) To enhance and maintain natural features by:

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

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

The proposed development as a whole is generally compliant with the side setback control requirement. The only element that is not compliant is part of the northwestern elevation. This portion represents 47% of the overall elevation and does not contain windows fronting the side boundaries, apart from a small window of the master suite. All other windows are perpendicular to the side boundary and are part of a recessed courtyard area in the central part of the building. As such, no unreasonable impact to existing levels of privacy will occur. The built form caused as a result of the non-compliance will not unreasonably impact upon the amenity or solar access enjoyed by adjoining properties and will remain consistent with the prevailing and future built form of the locality.

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

4.1.5 Open Space and Landscaping

Description of non-compliance

4.1.5.2 Landscaped Area

The site is located in the OS3 area, which requires a minimum 35% of the proposed total open space (TOS) to be landscaped area.

The proposed development provides compliant TOS (61.8%), but incorporates 27.5% (118.3m^2) landscaped area within the TOS, representing a variation of 21.3%.

It is noted that if including all landscaped area on the site, including those areas outside of the TOS and with soil depths less than 1m, the proposal incorporates 59.3% (255m^2) landscaped area.

Comment:

The objectives of the control are:

Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.
Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.
Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.
Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.
Objective 5) To minimise the spread of weeds and the degradation of private and public open space.
Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.

The proposed development does not involve the removal of any significant or native vegetation and demonstrates compliant total open space (TOS). When landscaped areas outside the TOS are included, the total landscaped area increases to 59.3% (255m^2), meeting the minimum requirement.

Overall, the development provides adequate open space and landscaping for future occupants. Substantial on slab landscaping is proposed to enhance the front setback area above the basement. Landscaping along the side boundaries is appropriately connected to the primary rear open space. The development will not result in unreasonable impacts on adjoining properties in terms of solar access, privacy, or views, nor will it contribute to weed spread or adversely affect local habitat.

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

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

Description of non-compliance

For residential flat buildings, the control requires the provision of 1 resident parking space per dwelling, plus 0.5 resident spaces per 3 bedroom dwelling. Separately, 0.5 visitor parking spaces are required for each dwelling. With three dwellings proposed, each with 3 bedrooms, this control requires 5 resident parking spaces and 2 visitor parking spaces.

The proposal includes 2 resident parking spaces per dwelling, for a total of 6 resident parking spaces. There are no proposed visitor parking spaces.

It is noted that the subject site is located in walking distance to frequent public transport services. Time limited on street parking is available in proximity to the site. Requiring the provision of further off-street parking would have negative environmental impact and discourage the use of public and active transport.

Comment:

The objectives of the control are:

Objective 1) To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).
Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.
Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.
Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.
Objective 5) To ensure the width and number of footpath crossings is minimised.
Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.
Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.

Despite the deficiency of visitor parking spaces, the proposal includes an extra residential parking space. The design and siting of the proposed parking spaces are appropriately integrated into the overall built form. Sufficient landscaping and material finishes are provided to ensure acceptable levels of visual quality when viewed from the street. The site is within walking distance to Manly town centre which is well serviced by public transport. The lack of visitor parking is acceptable in the site context due to its convenient access to public transport services.

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

4.4.5.1 General

The control requires natural and undisturbed ground level to be maintained within 0.9m of side and rear boundaries.

The proposed development includes excavation within 0.9m of the northwestern side boundary.

Comment:

The objectives of the control are:

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.*

Despite some excavation being undertaken within 0.9m of the boundaries, the proposal is acceptable given the significant topography and constraints of the site. A geotechnical report has been provided that includes several recommendations to ensure geotechnical hazards are appropriately managed and that impact to adjoining properties is minimised. The proposal is not expected to significantly or detrimentally alter the natural flow of ground and surface water. The proposed development is not expected to cause excessive sedimentation to enter drainage lines. A condition is recommended to require the preparation of a pre- and post-construction dilapidation report for the adjoining properties. This will ensure appropriate record keeping and document any changed conditions before and after the works.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

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

A monetary contribution of $75,864 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $7,586,431.

CONCLUSION

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

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

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

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

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

PLANNING CONCLUSION

This proposal, for demolition works and construction of a residential flat building including a swimming pool has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to the receipt of 10 objections.

The concerns raised in the objections have been addressed and resolved by detailed assessment against the relevant provisions of the Environmental Planning and Assessment Act 1979, applicable State Environmental Planning Policies, the Manly Local Environmental Plan 2013 and the Manly Development Control Plan. Where variations to development controls occur, the proposal has been demonstrated to satisfy the underlying objectives of the controls and appropriate conditions of consent have been imposed to manage potential impacts.

The critical assessment issues relating to view sharing, built form, residential density, height, setbacks, landscaping, parking and excavation have been carefully assessed and are considered acceptable on merit. The proposal achieves consistency with the objectives of the applicable planning framework and will not result in unreasonable impacts on the amenity of adjoining properties or the surrounding environment.

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

- The proposed variation to the dwelling density control is acceptable having regard to the provisions of the Housing SEPP and the achievement of the underlying objectives of the control.
- The departures from the Manly DCP controls relating to height, storeys, setbacks, landscaping, parking and earthworks are minor in planning terms and do not give rise to unacceptable impacts on the character or amenity of the locality.
- The proposal achieves a reasonable balance between the development potential of the site and the protection of neighbouring amenity, including view sharing, privacy, solar access and environmental values.

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 DA2025/1886 for Demolition works and construction of a residential flat building including a swimming pool on land at Lot 28 DP 89561, 71 Wood Street, MANLY, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

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

Approved Plans				
Plan Number	**Revision Number**	**Plan Title**	**Drawn By**	**Date of Plan**
D011	4	Site Layout - Existing & Demolition	Buck & Simple	12/06/2026
D012	4	Site Layout & Site Analysis - Proposed	Buck & Simple	12/06/2026
D101	4	Basement Floor Plan	Buck & Simple	12/06/2026
D102	4	Ground Floor Plan	Buck & Simple	12/06/2026
D103	4	First Floor Plan	Buck & Simple	12/06/2026
D104	4	Penthouse Floor Plan	Buck & Simple	12/06/2026
D105	4	Roof Plan	Buck & Simple	12/06/2026
D301	4	Sections	Buck & Simple	12/06/2026
D401	4	North Elevation	Buck & Simple	12/06/2026
D402	4	East & West Elevations	Buck & Simple	12/06/2026
D403	4	South Elevation	Buck & Simple	12/06/2026

Approved Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**
Accessibility Compliance Assessment Report	A25_633_Access 02	Absolute BCA	11/12/2025
Arboricultural Impact Assessment Report	2.0	STRIDE Landscape Design	09/12/2025
BASIX Certificate	1826526M_02	Innoca Tach	15/06/2026

BCA Compliance Assessment Report	A25_633_BCA 02	Absolute BCA	11/12/2025
Ecological Assessment	-	Narla Environmental	10/12/2025
Fire Engineering DA Support Letter	JN25-00352 V1	RED Fire Engineers	12/12/2025
Geotechnical Investigation Report	P3654_02	Morrow Geotechnics	21/01/2026
NatHERS Certificate	HR-1DJ59A-02	House Energy Certified	15/06/2026
Traffic & Parking Assessment Report	25172	CJP Consulting Engineers	12/12/2025
Waste Management Plan	-	Unnamed	Undated (Received 19/12/2025)
LPL_1401 - Landscape Master Plan	E	Lone Pine Landscapes	19/06/2026
LPL_1402 - Plant Schedule & Mood	E	Lone Pine Landscapes	19/06/2026
LPL_1404 - Landscape Plan Basement	E	Lone Pine Landscapes	19/06/2026
LPL_1405 - Landscape Plan GF Front	E	Lone Pine Landscapes	19/06/2026
LPL_1406 - Landscape Plan GF Back	E	Lone Pine Landscapes	19/06/2026
LPL_1407 - Landscape Sections Front and Side	E	Lone Pine Landscapes	19/06/2026
LPL_1408 - Landscape Sections Back	E	Lone Pine Landscapes	19/06/2026

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	Referral - Ausgrid	Undated (Received 15/01/2026)

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

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

3. **Approved Land Use**
Nothing in this consent shall authorise the use of the site beyond the definition of a *residential flat building*, in accordance with the Dictionary of the Manly Local Environmental Plan 2013.

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

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

4. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i) showing the name, address and telephone number of the Principal Certifier for the work, and

(ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

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

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

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

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

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

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

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

A. the name of the owner-builder, and

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

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

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

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

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

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

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

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

Reason: Legislative requirement.

5. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

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

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

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

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

i) Long Service Levy - Payment should be made to Service NSW (online or in person) or 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. **Policy Controls**
Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of $75,864.31 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 $7,586,431.00.

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

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

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

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

7. **Security Bond**

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

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

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

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

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

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

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

Contribution Type	Amount
Housing and Productivity Contribution	$21,624.36

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:

$$\frac{\textit{highest PPI number}}{\textit{consent PPI number}}$$

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

9. **On slab landscape planters**
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. Soil depths shall be as shown on approved Plans, or at the following minimum: 300mm for groundcovers, perennials, grasses and lawn; 600mm for shrubs; and 1m for small trees.

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 secure waterproofing and drainage is installed.

10. **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.

11. **Fencing for Wildlife Passage – Ecologist Certification**
Any new permanent fencing (with the exception of swimming pool fencing) is to be made passable to native fauna through the provision of access gaps or raised fencing to provide appropriate ground clearance. Any access gaps are to be a minimum of 150mm wide x 100mm high at ground level and spaced at a minimum of 6m intervals.

The Project Ecologist is to provide written certification of compliance to the Certifier prior to issue of any Construction Certificate.

Reason: To preserve wildlife corridors.

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

- In accordance with Manly DCP Clause 3.3.1.iv. Landscaping Design in areas of habitat for the long-nosed bandicoot, the Planting Schedule is to be amended such that 50% of non-canopy planting comprises of species recommended for Long-nosed Bandicoot foraging and nesting to replace habitat loss due to the proposed development. These species include *Lomandra sp. Dianella sp., Banksia spinulosa, Caustis sp., Xanthorrhoea sp., Isolepis sp., Juncus sp., Adiantum sp., Calochlaena sp., Callistemon sp., Grevillea juniperina, Gleichenia sp., Grevillea* 'Robyn Gordon' and tussocky native grasses (e.g.. Kangaroo Grass).
- At least 2 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 Manly 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.

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.

13. **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 V2501005 - SW000; SW001; SW100; SW101; SW200 & SW300, Issue E, dated 14/07/2026. 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.

The drainage plans must address the following:

- Stormwater outlet pipeline from the OSD tank must provide a minimum 1% gradient to the street kerb and gutter.

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.

14. **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 3.6 metres wide along frontage of site in Wood Street in accordance with Northern Beaches Council's Standard Normal Profile and in accordance with Section 138 of the Roads Act 1993.

Of note that any damaged existing footpath shall be reconstructed along the full site frontage.

Driveways are to be in plain concrete only.

Redundant layback and crossing along frontage of site to be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant. 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.

15. **Off Street Site Access**

The Applicant shall submit a design for the site access in accordance with the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking.

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

Reason: Compliance with this consent.

16. **Stormwater Treatment Measures - Minor**
The applicant must install a sediment control pit that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment.

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.
- 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 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 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.

18. **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.

19. **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 will require approval from Northern Beaches Local Traffic Committee. 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.

The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Applications must be lodged at least four (4) weeks prior to work commencing.

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

20. **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.

21. **Boundary Identification Survey**
The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on a boundary identification survey, prepared by a Registered Surveyor, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

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

22. **Tanking of Basement Level**

The basement area is to be permanently tanked. The Applicant is to submit structural details of the tanking, prepared by a suitably qualified Engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Environment and Heritage. The bore license must be obtained prior to commencement of dewatering works. All requirements of Water NSW are to be complied with and a copy of the approval must be submitted to the Certifier.

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

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements.

23. **Report Dead or Injured Bandicoots**

Any injured or dead Long-nosed Bandicoots found within the worksite must be reported to the National Parks & Wildlife Service (9457 9577) or Northern Beaches Council (1300 434 434).

Reason: To prevent impacts to Long-nosed Bandicoots in accordance with the Biodiversity Conservation Act 2016.

24. **Compliance with Standards**

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

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

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

25. **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.

26. **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

27. **Tree removal within the property**
This consent approves the removal of the following prescribed trees on the subject site as identified in the Arboricultural Impact Assessment: T1 and T10. 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.

28. **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.

Due to heavy traffic congestion throughout the area, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Specify that, due to the proximity of the site adjacent to #### School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by an TfNSW accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to

prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

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

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

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

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

Properties:

- Lot 1 DP 85913 - 69 Wood Street MANLY
- Lot A DP 108506 - 73 Wood Street MANLY
- Lot 1 DP 1039008 - 64 Osborne Road MANLY

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.

30. **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.

31. **Site Induction Required – Bandicoot Habitat**
All workers, including site inspectors and sub-contractors, are to be made aware of the potential presence of relevant threatened species and endangered ecological communities through a site induction prior to commencement of works. The site induction is to include information about their conservation significance, potential activities on-site, means of identification and the measures to be implemented for their protection. A confirmation of induction is to be signed by every worker and the site manager.

Evidence of the site induction is to be documented and provided to the Principal Certifying Authority.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

DURING BUILDING WORK

32. **Protection of rock and sites of significance**
All rock outcrops outside of the area of works as shown on approved Plans are to be preserved and protected at all times during demolition excavation and construction works. 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 (MLALC) are to be contacted.

Reason: Preservation of significant environmental features.

33. **Tree and vegetation protection**
a) Existing trees and vegetation shall be retained and protected, including:
i) all trees and vegetation located on adjoining properties
ii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:
i) tree protection shall be in accordance with AS4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment, and in

particular section 6. Recommendations, parts 6.1 and 6.2
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 of AS4970-2025 Protection of trees on development sites
ix) the activities listed in section 4 of AS4970-2025 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 AS4373-2007 Pruning of amenity trees
xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:
c) The arboricultural works listed in a) and b) are undertaken as complaint to AS4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment and/or Project Arborist as applicable.

Reason: Tree and vegetation protection.

34. **Compliance with Biodiversity Impact Mitigation Measures - During Construction**
All impact mitigation measures specified in the approved Ecological Assessment 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 avoid and minimise impacts to biodiversity.

35. **Pre-clearance Survey - Certified by Project Ecologist**
A pre-clearance survey for Long-nosed Bandicoot activity and presence is required prior to the removal of any vegetation, material or debris stockpiles. Any vegetation, material or debris stockpiles are to be inspected for native wildlife prior to the stockpiles' removal or relocation.

Removal or relocation of stockpiles may only proceed if the inspection confirms that no native wildlife, including Long-nosed Bandicoots, are utilising or sheltering within the stockpiles. Clearing may only proceed if the survey concludes that no Long-nosed Bandicoots are present within the area to be cleared or the immediate vicinity.

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.

36. **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.

37. **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.

38. **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.

39. **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.

40. **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.

41. **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.

42. **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.

43. **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.

44. **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.

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. **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.

47. **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.

48. **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

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

a) landscape works are to be contained within the legal property boundaries

b) planting shall be installed as indicated on the approved Landscape Plans, unless otherwise imposed by conditions

c) 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 Australian Standard 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 3.0 metres from buildings or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn
d) mass planting shall be in garden beds / planter beds prepared with a suitable free draining soil mix and minimum 75mm depth of mulch
e) all proposed tree planting shall be positioned in locations to replace existing trees that are removed, and 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, and shall be either selected or managed to remain at a height no more than the height of the building eaves
f) 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.

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.

50. **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.

51. **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.

52. **Convex Mirror at Ramps**
One (1) convex mirror is to be installed and maintained at the boundary access point to ensure vehicle and pedestrian safety at the carpark entrance.

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.

53. **Post-Construction Dilapidation Report**
Post-Construction Dilapidation Reports, including photos of any damage evident at the time of

inspection, must be submitted after the completion of works. The report must:

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

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

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

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

54. **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.

55. **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.

56. **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 the Occupation Certificate.

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

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

The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the original completed request forms (NSW Land Registry standard forms 13PC) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage 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 of the pump-out facility on the property being developed. 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 is to be submitted.

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

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

58. **Positive Covenant and Restriction as to User for On-site Stormwater Detention 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

59. **Certification of Off Street Site Access**

The Applicant shall submit a certificate from a suitably qualified person certifiying that the site access 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.

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

Reason: Compliance with this consent.

60. **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.

Waste rooms shall be clear of any 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.

61. **House / Building Number**
House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

62. **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.

63. **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.

64. **Swimming Pool Requirements**
The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:
(i) Swimming Pools Act 1992;
(ii) Swimming Pools Amendment Act 2009;
(iii) Swimming Pools Regulation 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

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

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water’s requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life.

65. **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.

66. **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.

67. **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.

68. **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

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

are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plans and any conditions of consent.

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.

The approved landscape planted areas consisting of lawn, planting at grade, planting on structure 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.

70. **Maintenance of Stormwater Treatment Measures - Minor**
Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

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.

71. **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.

72. **Swimming Pool/Spa Motor and Mechanical Plant Equipment Noise**
The swimming pool / spa motor and mechanical plant equipment shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest habitable room within any other residential premise as defined under the Building Code of Australia, Protection of the Environment Operations Act 1997 and its statutory instruments as well as any relevant Environmental Protection Authority guidelines.

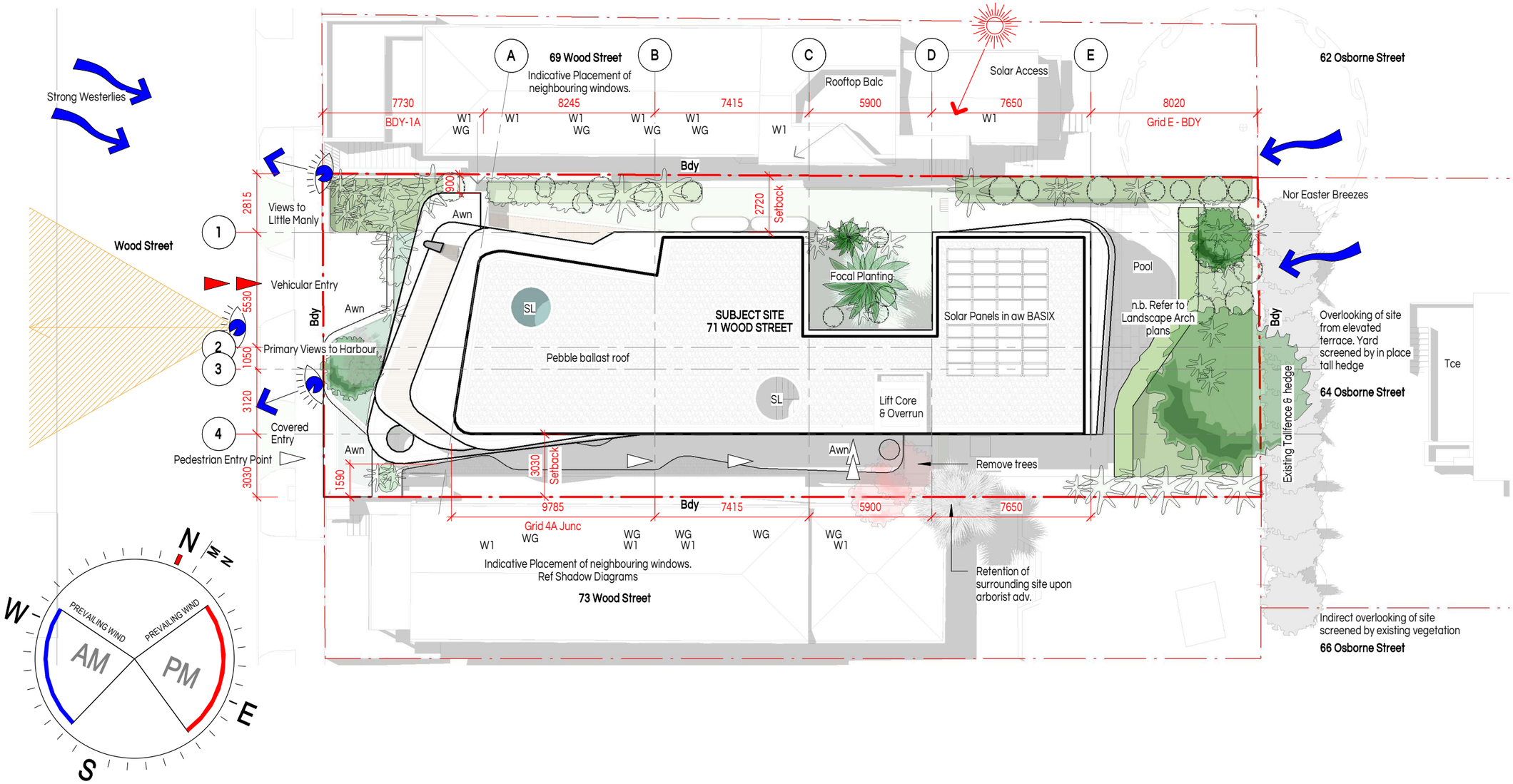
Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

73. **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.

74. **Outdoor Shower**
Use of the outdoor shower adjacent to the main building entrance between the hours of 10:00pm and 7:00am on any day is prohibited. Signage stating this prohibition must be installed in the shower cubicle.

Reason: To ensure acceptable acoustic amenity is maintained between dwellings.



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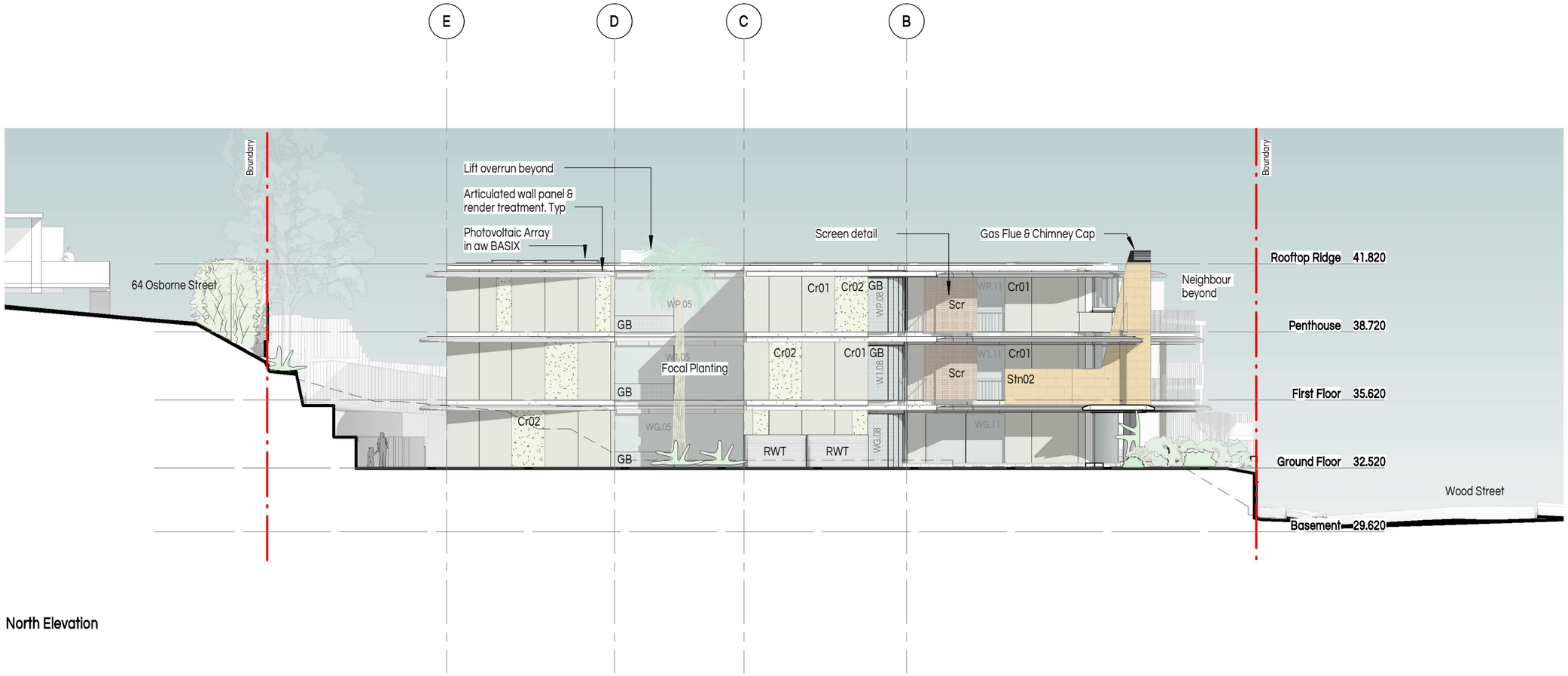
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Project	Driftwood
Location	71 Wood Street, Manly
Client	MDL Driftwood PTY LTD
Drawing	Site Layout & Site Analysis - Proposed

Scale @ A3	1 : 200	Drawn by	BS
		Checked by	BS
Project Issue Date	September 2025	Sheet Issue Date	12 June 2026
Project number	1291	Drawing #	D012
		Revision	4

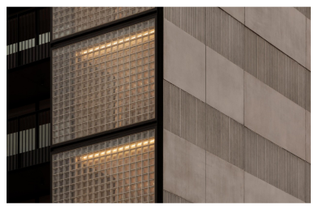
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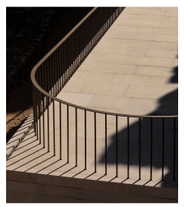
North Elevation



Til01
Mosaic Tile edge detail to slab edges



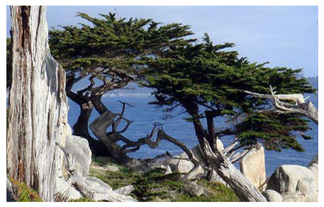
GB
Glass Block with FRL -/60/-



Bal
Metal Balustrade & Pool Fencing.
Aluminium, Pdr Coat Bronze finish



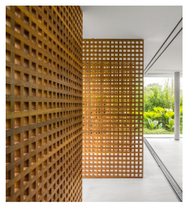
Cr01 & Cr02
Articulated render finish.
Mix of fine coat & heavy render finish.
Colour:
Main - Dulux Hogs Bristle
Accent - Dulux Hogs Bristle quarter



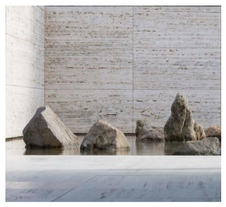
Landscaping
Integrated & Focal Landscape elements form ground plane



Stn01
Split face Natural stone with Ages brass accents & service signage



Scr
Crosshatch Privacy / Articulation screening compliant to BCA C2D10/C2D14 in Natural timber finish



Stn02
Exterior Feature cladding, Natural stone.
Travertine Silver

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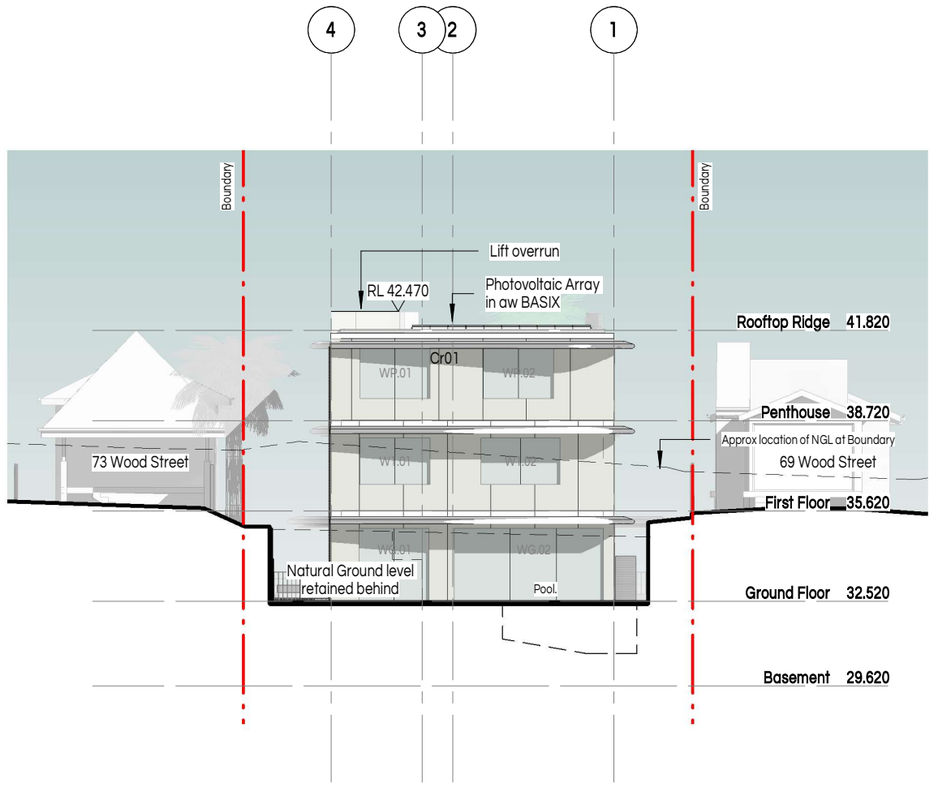
DEVELOPMENT APPLICATION

No.	Description	Date
1	Issue for Coordination	28 Nov 2025
2	Issued for Development Application	12 Dec 2025
4	Issued for Development Application	12 June 2026

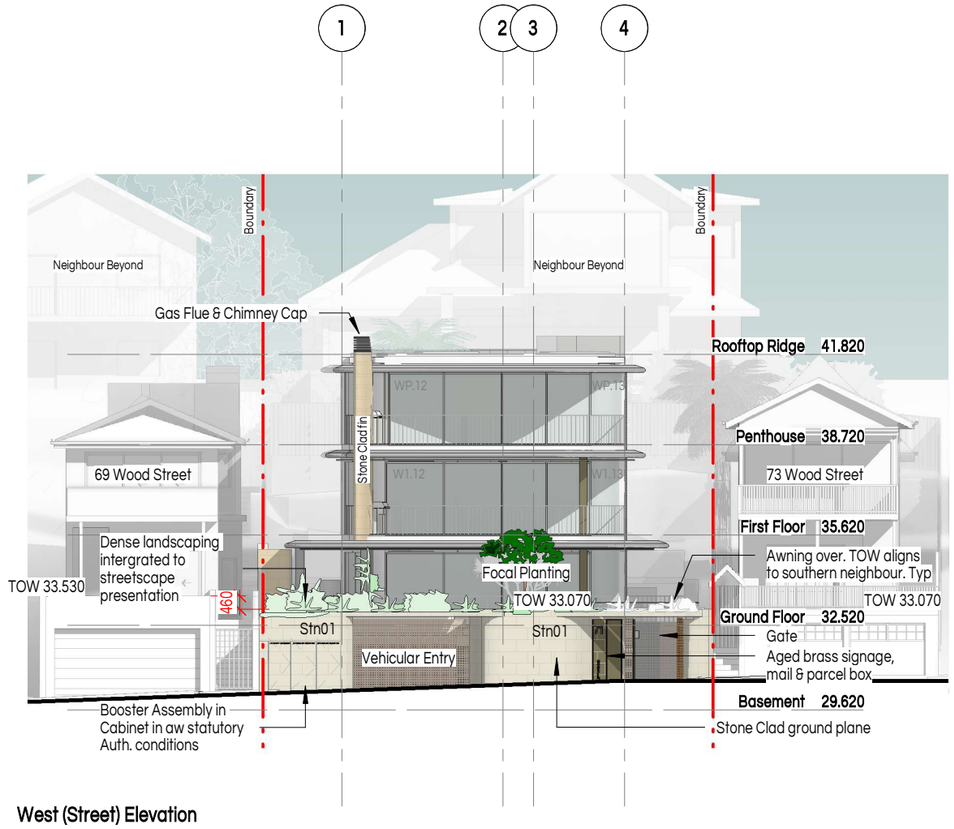
Project: Driftwood
Location: 71 Wood Street, Manly
Client: MDL Driftwood PTY LTD
Drawing: North Elevation

Scale @ A3	Drawn by	Checked by
As indicated	BS	BS
Project Issue Date: September 2025	Sheet Issue Date: 12 June 2026	
Project number: 1291	Drawing #: D401	Revision: 4

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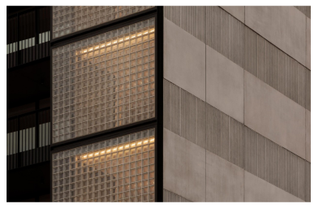
East Elevation



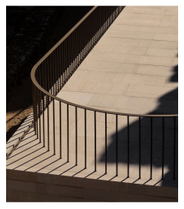
West (Street) Elevation



Til01
Mosaic Tile edge detail to slab edges



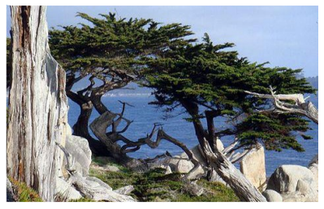
GB
Glass Block with FRL -/60/-



Bal
Metal Balustrade & Pool Fencing.
Aluminium, Pdr Coat Bronze finish



Cr01 & Cr02
Articulated render finish.
Mix of fine coat & heavy render finish.
Colour:
Main - Dulux Hogs Bristle
Accent - Dulux Hogs Bristle quarter



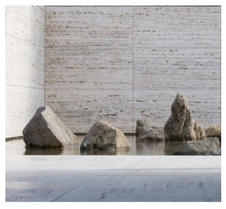
Landscaping
Integrated & Focal Landscape elements form ground plane



Stn01
Split face Natural stone with Ages brass accents & service signage



Scr
Crosshatch Privacy / Articulation screening compliant to BCA C2D10/C2D14 in Natural timber finish



Stn02
Exterior Feature cladding, Natural stone.
Travertine Silver

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doers of stuff

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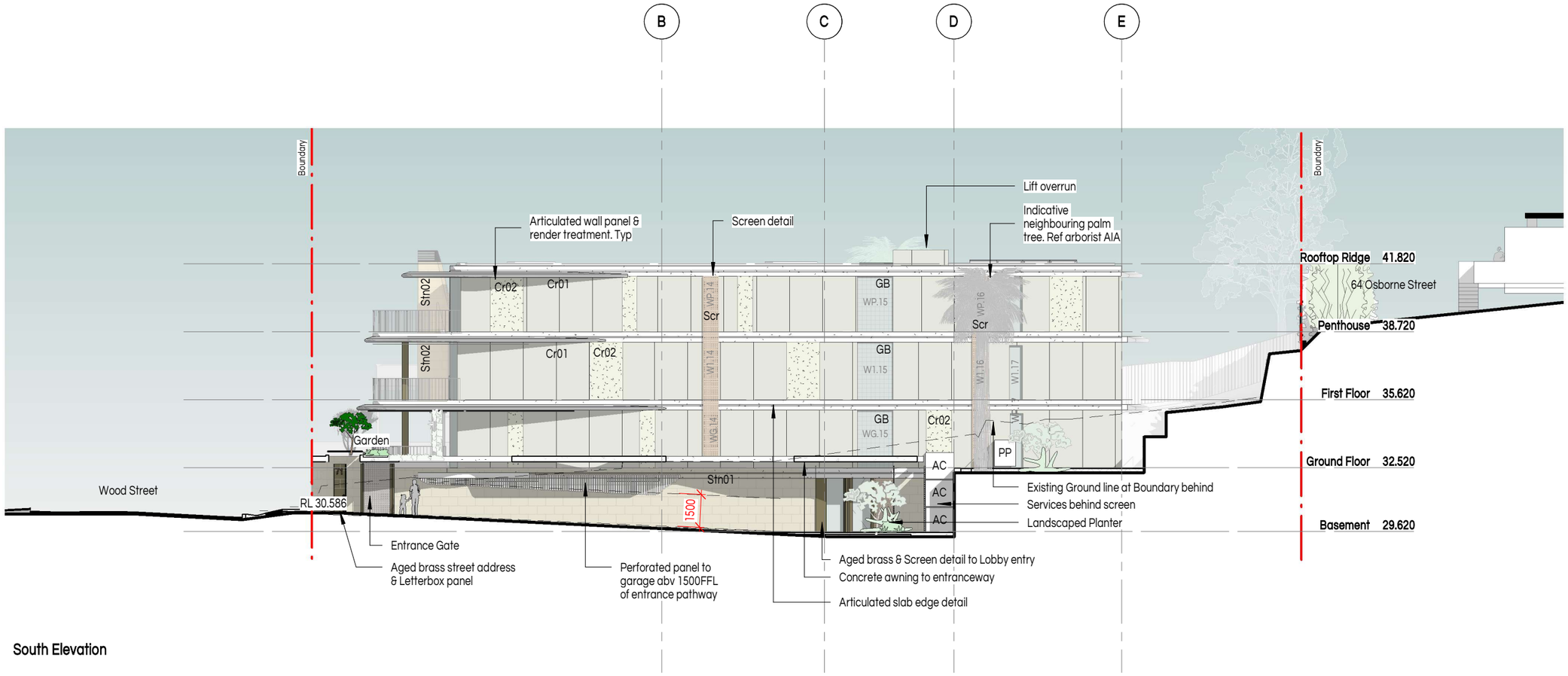
DEVELOPMENT APPLICATION

No.	Description	Date
1	Issue for Coordination	28 Nov 2025
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4	Issued for Development Application	12 June 2026

Project: Driftwood
Location: 71 Wood Street, Manly
Client: MDL Driftwood PTY LTD
Drawing: East & West Elevations

Scale @ A3	Drawn by	Checked by
As indicated	BS	BS
Project Issue Date: September 2025	Sheet Issue Date: 12 June 2026	
Project number: 1291	Drawing #: D402	Revision: 4

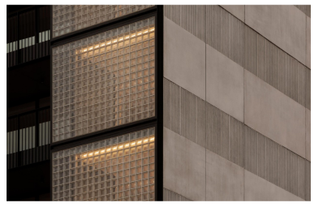
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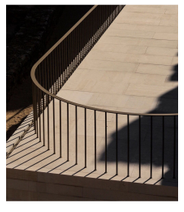
South Elevation



Til01
Mosaic Tile edge detail to slab edges



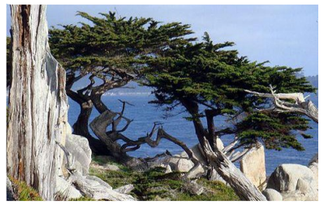
GB
Glass Block with FRL -/60/-



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Metal Balustrade & Pool Fencing.
Aluminium, Pdr Coat Bronze finish



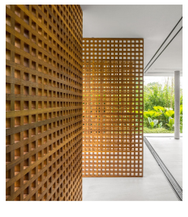
Cr01 & Cr02
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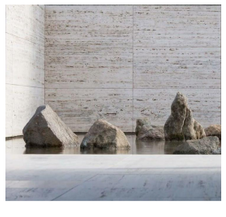
Landscaping
Integrated & Focal Landscape elements form ground plane



Stn01
Split face Natural stone with Ages brass accents & service signage



Scr
Crosshatch Privacy / Articulation screening compliant to BCA C2D10/C2D14 in Natural timber finish



Stn02
Exterior Feature cladding, Natural stone. Travertine Silver

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DEVELOPMENT APPLICATION

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Project: Driftwood
Location: 71 Wood Street, Manly
Client: MDL Driftwood PTY LTD
Drawing: South Elevation

Scale @ A3	Drawn by	Checked by
As indicated	BS	BS
Project Issue Date: September 2025	Sheet Issue Date: 12 June 2026	
Project number: 1291	Drawing #: D403	Revision: 4

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5 NON-PUBLIC MEETING ITEMS

ITEM 5.1 DA2026/0078 - 43 OSBORNE ROAD MANLY - DEMOLITION WORKS, CONSTRUCTION OF A DUAL OCCUPANCY (ATTACHED) INCLUDING SWIMMING POOLS AND STRATA SUBDIVISION

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

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, Floor Space Ratio Development Standard of Clause 4.4, Minimum Lot Size Development Standard of Clause 4.1 and Deep Soil Area Development Standard of Clause 4.1 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.

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2026/0078 for Demolition works, construction of a dual occupancy (attached) including swimming pools and strata subdivision at Lot 1, Lot 2 and Lot CP SP 33744, Units 1 & 2, 43 Osborne Road MANLY subject to the conditions set out in the Assessment Report

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [**5.1.1** - 68 pages] 2. Site Plans & Elevations [**5.1.2** - 6 pages] 3. Clause 4.6 - Landscaping [**5.1.3** - 9 pages] 4. Clause 4.6 - Height of Buildings [**5.1.4** - 13 pages] 5. Clause 4.6 - Minimum Lot Size [**5.1.5** - 8 pages] 6. Clause 4.6 - Floor Space Ratio [**5.1.6** - 11 pages]

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2026/0078

Responsible Officer:	Nick Keeler
Land to be developed (Address):	Lot 1 SP 33744, 1 / 43 Osborne Road MANLY NSW 2095 Lot 2 SP 33744, 2 / 43 Osborne Road MANLY NSW 2095 Lot CP SP 33744, 43 Osborne Road MANLY NSW 2095
Proposed Development:	Demolition works, construction of a dual occupancy (attached) including swimming pools and strata subdivision
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Costi Architects Pty Ltd

Application Lodged:	02/02/2026
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	12/02/2026 to 26/02/2026
Advertised:	Not Advertised
Submissions Received:	5
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	$ 2,970,000.00

EXECUTIVE SUMMARY

This development application seeks consent for demolition works, construction of a dual occupancy (attached) including swimming pools, and strata subdivision at 43 Osborne Road, Manly, replacing an existing dual occupancy of similar scale and intensity.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to variations to non-discretionary development standards under Chapter 6, Part 2 of the SEPP (Housing) 2021, including floor space ratio (10.4%), building height (25.3%), minimum lot size (4.4%), and deep soil area (12.6%).

The application was notified in accordance with legislative requirements, resulting in five submissions raising concerns including bulk and scale, non-compliance with controls, amenity impacts, and streetscape character. These issues have been addressed through design refinement, assessment, and recommended conditions.

The clause 4.6 variation request for the non-compliance with floor space ratio (FSR) standard arises from the proposal seeking to maintain a built form consistent with the existing dual occupancy on the site, resulting in a marginal exceedance where the overall bulk and scale remain compatible with the established character of the locality and do not give rise to unacceptable environmental or amenity impacts. It is noted the proposal slightly reduces the FSR compared to the existing development.

The clause 4.6 variation request for the non-compliance with building height standard arises from site topography and historical excavation which influence the application of existing ground levels, combined with a design approach that retains the overall height of the existing built form while redistributing bulk to achieve a more recessive and articulated outcome. It is noted that the proposed building height does not exceed that of the existing building.

The clause 4.6 variation request for the non-compliance with minimum lot size standard arises from the established presence of a dual occupancy on the site, demonstrating that the allotment is capable of accommodating the proposed development, with the variation being minor and not resulting in any adverse environmental or amenity impacts.

The clause 4.6 variation request for the non-compliance with deep soil area standard arises from site constraints and the design response which provides a functional and high-quality landscaping outcome despite the numerical shortfall, with sufficient permeable area and canopy planting to achieve the objectives of the control. It is noted that the deep soil and landscaped areas are increased compared to that of the existing development.

The proposal has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 and relevant planning controls. The variations are considered well founded, with compliance unreasonable or unnecessary and supported by sufficient environmental planning grounds.

On balance, the proposed development is considered to represent an appropriate form of development for the site, consistent with its zoning and surrounding context.

Accordingly, this report recommends that the NBLPP grant development consent to the application, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks development consent for demolition works and construction of a new dual occupancy (attached) in a stacked arrangement, including two swimming pools and strata subdivision.

Specifically the works include:

Basement Level (common property) - RL 32.52

- 4 car garage which will be double garage wide with tandem parking arrangement
- Bin room, wine cellar and lift access

Lower Ground Floor (common property) - RL 35.26

- Steam room and sauna
- Storage room
- Plant room

Ground Floor (Dwelling 1) - RL 38.06

- 2 bedrooms including WIR and ensuite to the master
- Bathroom & Laundry
- Open plan living/dining/kitchen which can access the front balcony and pool and rear alfresco space

First Floor (Dwelling 2) - RL 41.16

- Open Plan Kitchen/living/dining which will open out to a front balcony and swimming pool.
- 2 Bedrooms and Study. Bedroom 1 will include an ensuite and Bedroom 2 and ensuite and WIR.
- Laundry and powder room

Second Floor (Dwelling 2) - RL 44.26

- Master suite with WIR and Ensuite

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 R1 General Residential
Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys &

Roof Height)
Manly Development Control Plan - 4.1.3 Floor Space Ratio (FSR)
Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
Manly Development Control Plan - 4.1.5 Open Space and Landscaping
Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)
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 - 5.7.1 Dual Occupancies

SITE DESCRIPTION

Property Description:	Lot 1 SP 33744 , 1 / 43 Osborne Road MANLY NSW 2095 Lot 2 SP 33744 , 2 / 43 Osborne Road MANLY NSW 2095 Lot CP SP 33744 , 43 Osborne Road MANLY NSW 2095
Detailed Site Description:	The subject site consists of one (1) allotment located on the eastern side of Osborne Road. The site is regular in shape with a frontage of 12.12m along Osborne Road and a depth of 35.42m. The site has a surveyed area of 430m². The site is located within the R1 General Residential zone and accommodates a three-storey dual occupancy (attached) and three detached garages fronting the street. The site falls approx. 6m from the east towards the west. The site contains small pockets landscaped and garden areas throughout. Several trees are found on the site, including two large trees at the rear. The site is located in the critical habitat area for the threatened long nosed bandicoot. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by a mix of residential densities and building typologies, including dwelling houses, dual occupancies and residential flat buildings.

Map:



SITE HISTORY

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

Application **DA3625/90** for Alterations and Additions to a Dual Occupancy was approved on 4 July 1990.

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	See detailed assessment under "DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS" below.
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 amended architectural plans and clause 4.6 variation requests. 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 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.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Northern Beaches Local Environmental Plan (Draft LEP)

Definition(s): Dual occupancy (attached)

Land Use Zone: R1 General Residential

Permissible or Prohibited: Permitted with consent

Additional Permitted used for particular land – Refer to Schedule 1: Not applicable

A detailed assessment against the proposed numerical provisions and development standards has not been undertaken as part of this report. However, broad consideration has been given to the Draft LEP, and the proposal is consistent with its relevant aims and objectives.

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 12/02/2026 to 26/02/2026 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 process council is in receipt of 5 submission/s from:

Name:	Address:
Dr Oliver Robert Heybourn Hambidge	26 High Street MANLY NSW 2095
Mr David Milson Gray Mrs Melinda Jayne Gray	47 Osborne Road MANLY NSW 2095
Mr Erik Rainier La Hei Louise Elizabeth La Hei	41 Osborne Road MANLY NSW 2095
Mrs Jodi Alexandra Keall	48 Osborne Road MANLY NSW 2095
Ms Judith Ellen Levine	39 Osborne Road MANLY NSW 2095

The following issues were raised in the submissions:

- Height, bulk and scale
- Non-compliance with planning controls (FSR, density, SEPP/LEP applicability)
- Setbacks and building envelope
- Streetscape and character
- Privacy and overlooking
- Overshadowing and solar access
- Noise and residential amenity
- Trees and landscaping
- Excavation and structural impacts

- Access and maintenance (side boundary)

The above issues are addressed as follows:

- **Height, bulk and scale**

  The submissions raised concerns that the proposed development is excessive in height, bulk and overall scale, including a three-storey form and non-compliant building and wall heights, resulting in an overdevelopment of the site.

  Comment:

  The amended plans have reduced aspects of the building's overall bulk and presentation, including refinements to upper level form and articulation. While variations to controls remain, the building form is within an acceptable range when assessed against the relevant planning framework and objectives. The resulting impacts are therefore acceptable.

- **Non-compliance with planning controls (FSR, density, SEPP/LEP applicability)**

  The submissions raised concerns that the proposal does not comply with applicable planning controls, including FSR, residential density and minimum lot size, and that reliance on SEPP provisions is inappropriate.

  Comment:

  The proposal has been assessed against the applicable planning instruments, including the relevant SEPP and LEP/DCP provisions. Variations to development standards have been justified within the application documentation and are supported where the objectives of the standards are met. The extent of non-compliance will not result in unacceptable environmental or amenity impacts.

- **Setbacks and building envelope**

  The submissions raised concerns that side and rear setbacks are insufficient, the building envelope is inconsistent with controls, and the siting increases impacts on adjoining properties.

  Comment:

  Amendments have provided improved articulation and siting outcomes, reducing perceived building massing and interface impacts at boundaries. While not fully compliant in all respects, the setbacks provide a reasonable level of separation and are consistent with the intent of the controls. Impacts to adjoining properties are acceptable.

- **Streetscape and character**

  The submissions raised concerns that the design, scale and features (including elevated pools and large balconies) are inconsistent with the established streetscape and character of the area.

  Comment:

The design has been refined to better respond to the streetscape through materiality, articulation and landscaping treatments. Although the contemporary form differs from some surrounding development, it is not incompatible with the evolving character of the locality. The development will not unreasonably detract from the existing streetscape character.

- **Privacy and overlooking**

  The submissions raised concerns that windows, elevated areas and proximity to boundaries will result in overlooking and loss of privacy to neighbouring dwellings.

  Comment:

  Design changes, including window treatment, placement and screening measures, have reduced direct overlooking opportunities. Any remaining potential for privacy impacts is limited and consistent with typical urban residential interfaces. Overall, impacts are acceptable and within reasonable expectations.

- **Overshadowing and solar access**

  The submissions raised concerns that the increased height and built form will result in additional overshadowing, particularly to neighbouring bedrooms and rear yards.

  Comment:

  The amended built form has reduced shadow impacts compared to the original proposal. While some additional overshadowing may occur, it predominantly affects limited areas and time periods, and does not result in a significant loss of solar access to adjoining properties. The impact is acceptable.

- **Noise and residential amenity**

  The submissions raised concerns that the proposal, particularly elevated pools and outdoor entertaining areas, will generate unreasonable noise impacting neighbouring properties and the street.

  Comment:

  The design and operational aspects of the development, including conditions relating to use of outdoor areas and mechanical equipment, will mitigate potential noise impacts. The revised proposal reduces the intensity of potential noise sources, and any residual impacts are consistent with urbanised residential expectations.

- **Trees and landscaping**

  The submissions raised concerns regarding the removal of established trees, loss of landscaping character, and reduced screening and environmental amenity.

  Comment:

  The landscape design has been updated to include replacement planting and screening vegetation, improving the visual setting and mitigating the loss of existing trees. The proposal will maintain an appropriate landscaped character over time, and impacts associated with vegetation

removal are acceptable.

- **Excavation and structural impacts**

  The submissions raised concerns that extensive excavation and basement works may affect adjoining properties, including potential structural impacts, retaining walls and the need for engineering safeguards.

  Comment:

  Excavation has been reviewed in the context of appropriate engineering and construction management measures. Conditions of consent will require compliance with the geotechnical assessment recommendations, preparation of dilapidation reports and protection of adjoining structures. Subject to these safeguards, potential impacts are manageable and acceptable.

- **Access and maintenance (side boundary)**

  The submissions raised concerns that reduced side setbacks will restrict access to existing services and prevent reasonable maintenance of adjoining properties.

  Comment:

  The design has been considered in relation to reasonable boundary interface and building maintenance requirements. While separation distances are reduced, the proposal is not uncommon in constrained urban sites and does not preclude reasonable maintenance solutions. The resulting impact is acceptable. A condition is recommended to require the provision of access points to service utility meters of adjoining properties where they are located within 1m of the side boundaries.

The submissions also raised the following non-planning matters:

- Construction impacts, disruption and inconvenience
- Responsibility for costs associated with damage or works to adjoining structures

Comment:

These matters relate to construction management and private arrangements and are not relevant planning considerations under the s4.15 of the EP&A Act. They are typically addressed through other regulatory processes or civil arrangements.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	***Supported with conditions*** The application as described in reports and as illustrated on plans is assessed by Landscape Referral against the Manly Local Environment Plan (MLEP), and the following Manly DCP 2013 (MDCP) 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, including 4.1.5.2 (c) Minimum Tree Plantings where applicable. An Arboricultural Impact Assessment (AIA) is submitted and identifies the existing four trees within the property as exempt species. Exempt species may be managed or removed without Council consent. The existing street tree with the road reserve verge shall be protected and conditions shall be imposed. A Landscape Plan is submitted that provides for deep soil and on structure landscape proposals and no objections are raised, subject to conditions. The on structure planting as shown on plans includes the lawn and garden planting at the front of the property over the OSD tank and separate planters on ground level with 300mm soil depth, and level 2 planters with 1000mm soil depth. To satisfy Manly DCP control 4.1.5.2 (c), two native trees shall be planted at the rear of the property within deep soil.

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	***Supported with conditions*** The comments in this referral relate to the following applicable controls and provisions: • Manly LEP – Clause 6.5 Terrestrial Biodiversity • Manly DCP – Clause 5.4.2. Threatened Species and Critical Habitat Lands The subject site is identified under Clause 5.4.2. Threatened Species and Critical Habitat Lands Map of the Manly LEP, which requires preparation of a threatened species Test of Significance for Long-nosed Bandicoots in accordance with Section 7.3 of the Biodiversity Conservation Act 2016. Given that the proposal is largely within the existing footprint, Council's Biodiversity referral body have conducted a threatened species Test of Significance and are satisfied that the proposed development will not represent a significant impact, subject to recommended conditions to maintain bandicoot access and mitigate construction-related impacts. The proposed development will take place within an existing developed area and minor landscaped gardens. No native vegetation or trees are proposed for removal. As such, impacts to flora and fauna and nearby biodiversity values is considered unlikely. According to the Arboricultural Impact Assessment (Seasoned Tree Consulting, November 2025), four trees are proposed for removal, all of which are exempt and therefore may be managed or removed at the discretion of the applicant without. consent. No objections in relation to biodiversity, subject to conditions.
NECC (Development Engineering)	***Supported with conditions*** The proposal is for demolition works and construction of a dual occupancy and strata subdivision. No objections to approval subject to conditions as recommended.

<table>
<tr><th>Internal Referral Body</th><th>Comments</th></tr>
<tr><td>Strategic and Place Planning (Heritage Officer)</td><td>

Supported without conditions

<table>
<tr><td colspan="3">HERITAGE COMMENTS</td></tr>
<tr><td colspan="3">Discussion of reason for referral</td></tr>
<tr><td colspan="3">This application has been referred to Heritage as the subject site adjoins a heritage item, being:
I2 - Stone Kerbs - Manly, NSW</td></tr>
<tr><td colspan="3">Details of heritage items affected</td></tr>
<tr><td colspan="3">Statement of Significance
Stone kerbs are heritage listed.
Physical Description
Sandstone kerbing to streets relating to paving and kerbing of streets in the nineteenth century. Mostly located within Manly Village area and adjacent lower slopes of Eastern Hill and Fairlight.</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>No</td><td></td></tr>
<tr><td colspan="3">Consideration of Application</td></tr>
<tr><td colspan="3">This proposal is for the demolition of an existing dual occupancy dwelling and the construction of a new dual occupancy dwelling. The proposal also includes the construction of a basement level for a four car garage, wine cellar and lift access, and associated landscaping works. The subject site adjoins heritage listed stone kerbs located along the eastern side of Osborne Road. Heritage notes that the section of kerbing at the front of the subject property has already been removed. Heritage is therefore satisfied that the proposal will not result in adverse impact to the adjoining heritage item. Heritage is able to support the proposal and does not require any conditions.

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? No
Has a Heritage Impact Statement been provided? No</td></tr>
</table>

</td></tr>
</table>

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

Housing and Productivity Contribution

As there is no net increase in the number of dwellings on the site compared to the existing conditions, the Housing and Productivity Contribution does not apply in this case.

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1827730M, dated 19 December 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 (Housing) 2021

Chapter 6 - Part 2 - Dual occupancies and semi-detached dwellings

Clause 167 - Landscaping - Dual occupancies	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, published by the Department in February 2025. The site is 430m^2 and therefore requires a minimum of 20% of the site as deep soil area, and for every 200m^2 of site area or part thereof, at least one small tree in the deep soil area.	The site is within the outer LMR area as per the Town Centres Map and the Tree Canopy Guide has been considered. **Inconsistent** - refer to Clause 4.6 discussion The site provides 17.5% (75.08m^2) deep soil area and 2 trees.
Division 2 Non-discretionary development standards—the Act, s 4.15	
Clause 168 - Non-discretionary development standards - Dual Occupancies.	**Comment**
(2) The following non-discretionary development standards apply:	
(a) a minimum lot size of 450m^2,	**Inconsistent** - refer to Clause 4.6 discussion 430m^2
(b) a minimum lot width at the front building line of 12m,	**Consistent** 12.2m
(c) if no environmental planning instrument or development control plan that applies to the land specifies a maximum number of car parking spaces per dwelling—a minimum of 1 car parking space per dwelling,	**Consistent** 2 spaces per dwelling
(d) a maximum floor space ratio of 0.65:1,	**Inconsistent** - refer to Clause 4.6 discussion 0.764:1 (328.5m^2)
(e) a maximum building height of 9.5m.	**Inconsistent** - refer to Clause 4.6 discussion 11.9m

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.

Manly Local Environmental Plan 2013

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

Compliance Assessment

Clause	Compliance with Requirements
4.1 Minimum subdivision lot size	N/A
4.3 Height of buildings	N/A
4.4 Floor space ratio	N/A
4.6 Exceptions to development standards	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 R1 General Residential

The development proposes the construction of a new dual occupancy (attached) in a stacked arrangement, that being one on top of the other.

A *dual occupancy (attached)*, as defined in MLEP 2013, *means 2 dwellings on one lot of land that are*

attached to each other, but does not include a secondary dwelling.

A *dwelling*, as defined in MLEP 2013, *means means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile*.

The building contains two independent dwellings, one located at the ground level and the other located at the first and second levels. Each of these spaces are capable of being used as separate domiciles as they each contain at least one bedroom, living area, kitchen and bathroom. Each dwelling can be accessed through a common foyer, lift and stairwell.

The building contains additional rooms at the basement and lower ground floor levels that are superfluous to each dwelling and are intended to be used as shared facilities, as shown in the strata subdivision plan. These include a bin storage room, wine cellar, storage room, plant room, steam room and sauna.

The proposed development is therefore consistent with the definition of a *dual occupancy (attached)* as defined in MLEP 2013.

4.6 Exceptions to development standards

Deep Soil

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

Development standard: SEPP Housing Clause 167 - Landscaping - Dual occupancies
Requirement: 20% deep soil area (86m^2)
Proposed: 17.5% (75.08m^2)
Percentage of variation: 12.6%

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 167 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 167 is unreasonable or unnecessary in the circumstances of this application for the following reasons:

- The objectives of the landscaping/deep soil controls are achieved notwithstanding the non-compliance
- The proposal provides a substantial and functional landscape outcome, including 113.56m² (26.4%) of landscaped area across the site
- There are no significant existing landscape features on the site requiring retention, reducing the practical necessity for strict compliance
- The proposed landscaping scheme introduces meaningful canopy planting, including species capable of achieving substantial height and spread at maturity
- The development maintains appropriate amenity, including streetscape presentation, visual softening, and residential outlook
- Adequate permeable areas are retained to support infiltration and minimise stormwater impacts
- The shortfall in deep soil area is minor in quantitative terms and does not undermine the intent of the control
- The reduced tree canopy percentage does not result in any identifiable adverse environmental or urban design outcome
- Council's landscape officer has endorsed the proposed landscape design, confirming that the planning outcomes sought by the standard are achieved
- Strict compliance would not result in any demonstrably better planning outcome in this instance

(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:

Ground 1 – Compliance with the clause 4.1.5.2 MDCP landscaped area provisions applicable to this form of development on this particular site.

I note that the proposal is compliant with the landscaped area requirement at clause 4.1.5.2 of Manly Development Control Plan (MDCP) which requires a landscaped area of 35% of the proposed total open space. That is, when the deep soil areas with a dimension of at least 1.5m are included, the proposal provides for a total landscaped area of 113.56m² representing 26.4% of the site area. Councils landscape officer has endorsed the proposed site landscape regime.

In this context the landscaped area non-compliance is appropriately described both quantitatively and qualitatively as minor. I am satisfied that the landscaped area non-compliance does not prevent the provision and maintenance of a landscape regime which will ensure that the development is appropriately screened and softened and will sit within a landscape setting. Similarly, I am satisfied that appropriate canopy cover is achieved consistent with the prevailing landscape character of the area.

I am also satisfied that the non-compliance will not give rise to adverse streetscape or residential amenity impacts. Consistent with the findings of Commissioner Walsh in Eather v Randwick City Council [2021] NSWLEC 1075 and Commissioner Grey in Petrovic v Randwick City Council [2021] NSW LEC 1242, the nature of the departure from the actual numerical standard and absence of impacts consequential of the departure constitute environmental planning grounds, as it promotes the good design and amenity of the development in accordance with the objects of the EP&A Act.

Ground 2 - Objectives of the Environmental Planning and Assessment Act 1979

Approval of the landscaped area and tree canopy variations will promote the delivery of housing on this particular site, consistent with the pre-existing dual occupancy land use on the land, consistent with objective 1.3(b) of the Act.

There are sufficient environmental planning grounds to justify contravening the development standard.

It is agreed that sufficient landscaped area in accordance with MDCP is provided and that the objects of the EP&A Act are achieved.

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 167 for the following reasons:

- The proposal complies with Clause 4.1.5.2 of the MDCP landscaped area requirements, demonstrating consistency with the broader local planning framework
- The variation is minor in numerical terms and does not give rise to adverse environmental, amenity, or streetscape impacts
- The absence of adverse impacts arising from the contravention constitutes a valid environmental planning ground
- The proposal delivers a high-quality, site-responsive landscape design with appropriate planting opportunities
- Adequate deep soil zones are provided to support canopy growth and ecological function, notwithstanding the numeric variation
- The landscaping scheme ensures the development will sit appropriately within a landscaped setting
- The variation maintains consistency with the character of the locality and does not undermine the planning intent of the SEPP control
- The proposal facilitates appropriate development of the site consistent with its zoning and existing dual occupancy context
- The development supports the orderly and economic use of land and delivery of housing, consistent with the objectives of the EP&A Act
- The environmental planning grounds are specific to the nature of the contravention (landscaping/deep soil) and are sufficient to justify the departure from the standard
- 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 increased deep soil area compared to the existing site conditions, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

Minimum Lot Size

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

Development standard: SEPP Housing Clause 168(2)(a) - Minimum lot size
Requirement: 450m^2
Proposed: 430m^2
Percentage of variation: 4.4%

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 168(2)(a) 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 168(2)(a) is unreasonable or unnecessary in the circumstances of this application for the following reasons:

- The objectives of the minimum lot size standard are achieved notwithstanding the non-compliance
- The subject site is already developed as a dual occupancy, demonstrating that the site is capable of accommodating the intended form of development
- The non-compliance is minor, with a 430m² lot compared to the 450m² requirement (4.4% variation)
- The site complies with the minimum lot width requirement (12.19m), indicating that the site geometry is suitable for dual occupancy development
- The proposal maintains the same FSR and building height as the existing dual occupancy, confirming consistency in built form outcomes

- The development is compatible with the established and evolving streetscape, which includes a mix of dwelling types, including dual occupancies
- The proposal will not result in adverse streetscape impacts and presents as consistent with the character of the locality
- The development will not give rise to unacceptable impacts in terms of views, overshadowing, or privacy
- The implicit objective of the standard, to ensure sites can accommodate an appropriate built form without adverse impacts, is satisfied
- Requiring strict compliance would be unreasonable given the established use of the land and the negligible planning benefit of enforcing the standard

(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:

Ground 1 - Minor extent of breach and absence of environmental impact

The minimum lot size variation is quantitively and qualitatively appropriately described as minor and inconsequential in relation to streetscape, residential amenity and broader environmental consequences.

Consistent with the findings in Eather v Randwick City Council [2021] NSWLEC 1075, the contravention of the development standard is minor with the small departure from the standard and lack of any material impacts a sufficient environmental planning ground.

Ground [2] - Objectives of the Act

Approval of the minimum lot size variation will facilitate the replacement of the existing antiquated dual occupancy building with a new more contemporary dual occupancy, of superior amenity and design, and which displays the same floor space and overall building height as the existing building. Such outcome will facilitate the orderly an economic redevelopment of the land.

The proposition that an existing dual occupancy development would ever be demolished and replaced with a single dwelling house is unrealistic.

The building is of appropriate design quality with the minimum lot size variation facilitating an orderly and

economic redevelopment of the land in a skilfully designed and contextually compatible built form consistent with Objectives 1.3(b), (g) and (k) of the Act.

Overall, there are sufficient environmental planning grounds to justify contravening the development standard.

It is agreed that the breach is minor and that variation would not result in adverse impact due to the presence of an existing dual occupancy on the site.

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 168(2)(a) for the following reasons:

- The variation is minor in both numerical (4.4%) and qualitative terms and does not result in any material environmental or planning impacts
- The absence of adverse impacts on streetscape, amenity, and environmental performance constitutes a valid environmental planning ground
- The proposal facilitates the redevelopment of an existing dual occupancy with a modern, well-designed building of equivalent scale and intensity
- The development represents an orderly and economic use of land consistent with the objectives of the EP&A Act
- The variation does not undermine the planning intent of the minimum lot size control, as the site demonstrably accommodates the development appropriately
- The proposed built form is of appropriate design quality and is contextually compatible with surrounding development
- The variation supports housing delivery consistent with the existing and intended land use of the site
- It is not realistic or reasonable to expect the site to revert to a single dwelling given its current lawful dual occupancy use

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 there being an existing dual occupancy on the site, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

Floor Space Ratio

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

Development standard: Clause 168(2)(d) - Floor space ratio
Requirement: 0.65:1 (297.5m^2)
Proposed: 0.764:1 (328.5m^2)

Percentage of variation: 10.4%

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 168(2)(d) 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 168(2)(d) is unreasonable or unnecessary in the circumstances of this application for the following reasons:

The responds to the objectives of the FSR development standard, as follows:

- *To ensure the bulk and scale of development is consistent with the existing and desired streetscape character*

The proposal has an FSR of 0.764:1 (328.5m^2), which is consistent with the existing development on the site (0.77:1 / 331.1m^2), representing a marginal reduction in overall GFA.
The built form reflects the established density and scale of development within the locality and visual catchment.
Floor space has been redistributed to create a more recessive upper level with improved setbacks, reducing perceived bulk from the public domain.
Accordingly, the objective is achieved notwithstanding the variation.

- *To control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features*

  The proposal does not obscure identified landscape or townscape features, including the foreshore reserve.
  Impacts on views from adjoining properties are negligible to minor and considered reasonable.
  The articulation and design of the built form avoid any excessive perception of bulk despite the numerical exceedance
  Accordingly, the objective is achieved notwithstanding the variation.

- *To maintain an appropriate visual relationship between new development and the existing character and landscape of the area*

  The proposal is visually compatible with surrounding development and integrates with the existing streetscape character.
  The building does not present as jarring or visually dominant and is consistent with the broader built form character of the area.
  The design achieves a high-quality architectural response with appropriate modulation and landscaping.
  Accordingly, the objective is achieved notwithstanding the variation.

- *To minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain*

  The proposal does not result in unreasonable impacts in terms of overshadowing, overlooking, or privacy to neighbouring properties.
  Building articulation, setbacks, and landscaping mitigate potential impacts arising from increased floor space.
  The development is not overly dominant when viewed from the street, adjoining properties, or the waterway.
  Accordingly, the objective is achieved notwithstanding the variation.

- *To provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres*

  The site is not within a business zone and this objective does not apply.

Overall, the proposal achieves the objectives of the FSR development standard to an equal or better degree than a compliant development. Strict compliance is therefore unreasonable and unnecessary in the circumstances.

(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:

Ground 1 - Contextually compatible and responsive building form and design

The bulk and scale of the proposed dual occupancy as reflected by FSR are compatible with the bulk and scale established by development within the site's visual catchment. The proposition that an existing dual occupancy development with non-compliant FSR would ever be demolished and replaced with a smaller more contemporary dual occupancy with compliant FSR is unrealistic. I also note that the subject site is within the Chapter 6 SEPP Housing LMR mapped area with multi dwelling housing with a non-discretionary FSR standard of 0.7:1 and residential flat development with a non-discretionary FSR standard of 0.8:1 contributing towards the desired/ likely future character of the area.

Consistent with the findings of O'Neill C in the matter of 30 Fairlight Pty Limited v Northern Beaches Council [2022] NSWLEC 1615 the proposal's compatibility with the existing bulk and scale of the built form in the context of the site was properly described as an environmental planning ground within the meaning identified by his Honour in Initial Action at [23].

Ground 2 - Objectives of the Act.

The apparent size of the replacement dual occupancy will be compatible with the existing streetscape which features a number of buildings of significantly greater bulk and scale, both when viewed from the street and from the foreshore and Harbour. The development will replace an existing dual occupancy of similar floorspace, bulk, scale and height. The proposition that an existing dual occupancy development with non-compliant FSR would ever be demolished and replaced with a smaller more contemporary dual occupancy with compliant FSR is unrealistic.

The building is of appropriate design quality with the variation facilitating a floor space that provides for the orderly and economic redevelopment of the land in a skilfully designed and contextually compatible built form consistent with Objectives 1.3(b), (g) and (k) of the Act.

Overall, there are sufficient environmental planning grounds to justify contravening the development standard.

It is agreed that the breach is consistent with the bulk and scale of the existing dual occupancy on the site and is reasonable in the context of the prevailing character of development.

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 168(2)(d) for the following reasons:

- The proposal maintains consistency with the existing built form, replacing a dual occupancy of similar scale, bulk, and floor space.
- The variation is compatible with surrounding development, including buildings of similar or greater bulk within the locality.
- The design is contextually responsive, with improved articulation and setbacks reducing perceived bulk despite the FSR exceedance.
- The proposal aligns with the likely future character of the area, noting nearby permissible development with higher FSR controls (e.g. 0.7:1 and 0.8:1).
- The variation does not result in adverse impacts on streetscape, amenity, or environmental performance.
- The absence of adverse impacts arising from the FSR exceedance constitutes a valid environmental planning ground.
- The proposal delivers a high-quality architectural outcome that enhances the site relative to the existing development.
- The development facilitates the orderly and economic redevelopment of land, consistent with the objectives of the EP&A Act.
- It is not realistic to expect redevelopment to achieve strict compliance where an existing lawful development already exceeds the standard.
- The environmental planning grounds are specific to the FSR contravention and demonstrate why the exceedance is acceptable in this instance.

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:

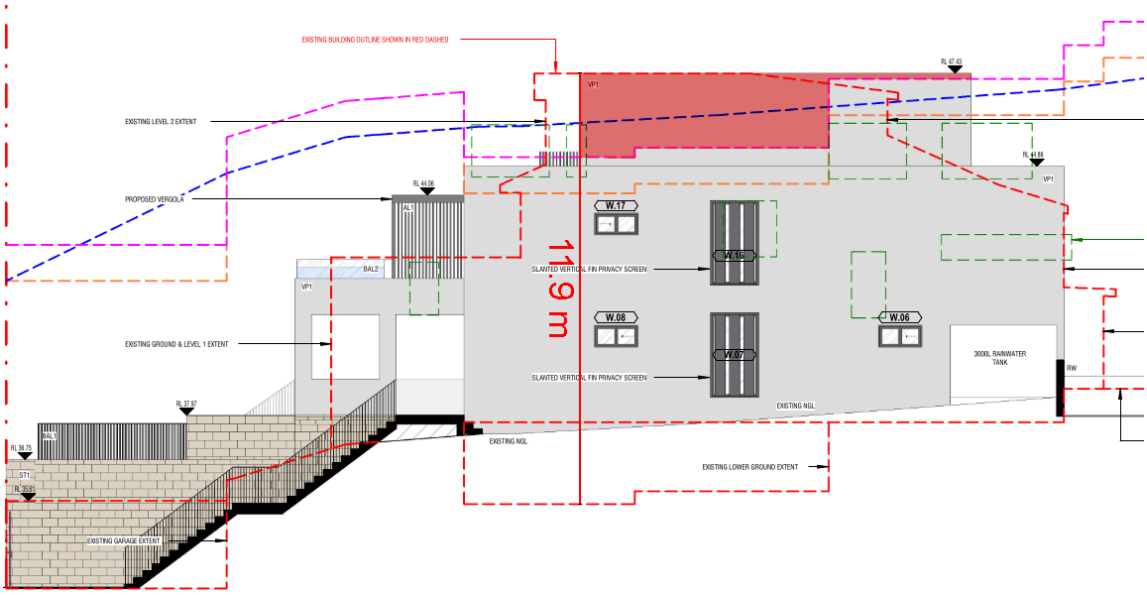
Council is satisfied as to the matters set out in Clause 4.6 of the MLEP 2013.

It is considered on balance, that having regard to the particular circumstances that the breach remains consistent with the existing development and prevailing character of development, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

Height of Buildings

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

Development standard: SEPP Housing Clause 168(2)(e) - Height of buildings
Requirement: 9.5m
Proposed: 11.9m
Percentage of variation: 25.3%



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 168(2)(e) 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 168(2)(e) is unreasonable or unnecessary in the circumstances of this application for the following reasons:

The responds to the objectives of the building height development standard, as follows:

- *To provide for building heights and roof forms consistent with the topographic landscape, prevailing building height and desired future streetscape character*

  The proposal maintains the same overall building height as the existing dual occupancy, which forms part of the established streetscape character.
  The upper-level elements are set further back from the street and boundaries, resulting in a more recessive presentation despite the numerical exceedance.
  The building height and roof form are consistent with the mix of built forms in the locality and reflect the topographic context of the site.
  Accordingly, the objective is achieved notwithstanding the variation.

- *To control the bulk and scale of buildings*

  The proposal incorporates articulation, setbacks, and design modulation to reduce perceived bulk and scale.
  The non-compliant height elements do not result in an overbearing or intrusive built form when viewed from the street or adjoining properties.
  The development remains consistent with surrounding buildings in terms of bulk and scale.
  Accordingly, the objective is achieved notwithstanding the variation.

- *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)

  View impacts to adjoining and nearby properties are assessed as negligible to minor and are considered reasonable.
  The design, including a more constrained upper-level floor plate, allows view corridors to be maintained.
  The development does not obscure identified important landscape or townscape features.
  Accordingly, the objective is achieved notwithstanding the variation.

- *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*

Shadow diagrams demonstrate that acceptable solar access is maintained to adjoining dwellings and private open space areas.
The proposal complies with relevant DCP solar access controls.
The height exceedance does not result in unreasonable overshadowing impacts.
Accordingly, the objective is achieved notwithstanding the variation.

- *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 site is not affected by recreation or environmental protection zoning, and this objective is not applicable.

Overall, the proposal achieves the objectives of the building height development standard notwithstanding the exceedance, and strict compliance is therefore unreasonable and unnecessary in this instance.

(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:

Ground 1 - Topography and prior excavation

The subject properties fall down from the rear boundary to the street with the topography of the land and previous excavation contributing to the extent of building height non-compliance. The prior excavation of the site within the footprint of the existing buildings distorts the height of buildings development standard plane overlaid above the site when compared to the natural undisturbed topography of the land. When the original undisturbed levels of the site are interpolated across the building footprint the extent of building height breach would be reduced.

Ground 2 - Compatibility of proposed building height

I note that the proposed replacement dual occupancy has the same overall building height as the existing dual occupancy building located on the subject site. The height of the existing building forms a component of the existing streetscape character. Although the replacement building has the same overall building height the

proposed building height and floor space have been distributed in a manner whereby the upper level has increased front and side boundary setbacks and will appear more recessive as viewed from the street and surrounding properties.

Approval of the building height variation will facilitate the replacement of the existing antiquated dual occupancy building with a new more contemporary dual occupancy, of superior amenity and design, and which displays the same floor space and overall building height as the existing building. Such outcome will facilitate the orderly an economic redevelopment of the land.

Ground 3 - Objectives of the Act

The apparent height of the replacement dual occupancy, in particular the building height breaching elements, will be compatible with the existing streetscape which features a number of buildings of significantly greater bulk and scale, both when viewed from the street and from the foreshore and Harbour. The development will replace an existing dual occupancy of similar floorspace, bulk, scale and height. The proposition that an existing dual occupancy development with non-compliant height and FSR would ever be demolished and replaced with a smaller more contemporary dual occupancy with compliant height and FSR is unrealistic.

The building is of appropriate design quality with the variation facilitating a building height that provides for the orderly and economic redevelopment of the land in a skilfully designed and contextually compatible built form consistent with Objectives 1.3(b), (g) and (k) of the Act.

Overall, there are sufficient environmental planning grounds to justify contravening the development standard.

It is agreed that breach is consistent with the bulk and scale of the existing dual occupancy on the site and is reasonable in the context of the prevailing character of development.

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 168(2)(e) for the following reasons:

- The variation arises in part from site topography and historical excavation, which distort the application of the height plane when measured from “existing ground level".
- When considering natural ground levels, the extent of the breach would be reduced, supporting the reasonableness of the variation.
- The proposal maintains the same overall height and scale as the existing built form, demonstrating compatibility with the established character.
- The upper-level elements are designed to be more recessive, reducing visual impact compared to the existing development.
- The variation does not give rise to adverse impacts in relation to streetscape, amenity, views, or solar access.
- The absence of adverse environmental or amenity impacts constitutes a valid environmental planning ground.
- The development will replace an existing ageing dual occupancy with a contemporary design of similar scale, improving overall built form outcomes.
- The proposal facilitates the orderly and economic redevelopment of the land, consistent with the objectives of the EP&A Act.
- The built form is contextually compatible with surrounding development, including buildings of greater bulk and scale within the visual catchment.

- It is not realistic to expect redevelopment to achieve strict compliance where an existing lawful structure of similar scale exists.
- The environmental planning grounds are specific to the building height contravention and sufficiently justify the variation in this instance.

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 that the breach remains consistent with the existing development and prevailing character of development, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 430m²	**Requirement**	**Proposed**	**% Variation**	**Complies**
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling per 250m²	2 dwellings	50%	**No**
	Dwelling 1 Size: 75m²	127.5m²	N/A	Yes
	Dwelling 2 Size: 110m²	182m²	N/A	Yes
4.1.2.1 Wall Height	N: 7.7m (based on gradient 1:5)	FF: 9.7m	26%	**No**
		SF: 12.3m	59.7%	**No**
	S: 7.6m (based on gradient 1:5.5)	FF: 7.4m	N/A	Yes
		SF: 9.9m	30.3%	**No**
4.1.2.2 Number of Storeys	2	3	50%	**No**
4.1.2.3 Roof Height	Parapet Height: 0.6m	0.2m	N/A	Yes
4.1.4.1 Street Front Setbacks	6m	Primary building line - 12.7m	N/A	Yes
		FF balcony - 8m	N/A	Yes
		GF swimming pool - 5m	16.7%	**No**
	Garage: Prevailing building line - Nil	Nil	N/A	Yes

4.1.4.2 Side Setbacks and Secondary Street Frontages	N: 3.2m (based on wall height)	FF: 1.5m	53.1%	**No**
	N: 4.06m (based on wall height)	SF: 3m	26.1%	**No**
	S: 2.44m (based on wall height)	FF: 1.5m	38.6%	**No**
	S: 3.27m (based on wall height)	SF: 3m	8.2%	**No**
	Windows: 3m	1.5m	50%	**No**
4.1.4.4 Rear Setbacks	8m	6.2m	22.5%	**No**
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (236.5m^2)	53.4% (229.7m^2)	2.9%	**No**
	Open space above ground 25% of total open space (57.4m^2)	20.7% (47.5m^2)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space (80.4m^2)	35.25% (80.9m^2)	N/A	Yes
	1 native tree	2 trees	N/A	Yes
4.1.5.3 Private Open Space	12m^2 per dwelling	>12m^2 per dwelling	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	6m	N/A	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	Both pools elevated above 1m	N/A	**No**
	1m curtilage side/rear setback	Both pools >1m	N/A	Yes
	1.5m water edge side/rear setback	Both pools >1.5m	N/A	Yes
Schedule 3 Parking and Access	Dual occupancy - 3 spaces	4 spaces	N/A	Yes
	Dual occupancy - 1 visitor space	No visitor space	100%	**No**

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.7 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 Residential Development Controls	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
4.1.3 Floor Space Ratio (FSR)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	Yes
4.4.1 Demolition	Yes	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
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes
5.7.1 Dual Occupancies	No	Yes

Detailed Assessment

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

Description of non-compliance

4.1.2.1 Wall Height

Based on a gradient of 1:5, the maximum permitted wall height for the north elevation is 7.7m. The proposed dwelling is to have a maximum wall height of 9.7m at the first floor and 12.3m at the second floor. This represents a 26% and 59.7% variation to the control requirement, respectively.

Based on a gradient of 1:5.5, the maximum permitted wall height for the north elevation is 7.6m. The proposed dwelling is to have a maximum wall height of 7.4m at the first floor and 9.9m at the second floor. This represents a 30.3% variation to the control requirement at the second floor.

4.1.2.2 Number of Storeys

Buildings must not exceed 2 storeys. The proposed dwelling is 3 storeys.

Comment:

There are no underlying objectives of this control under which to consider the merits of this variation. This clause instead relies on the objectives for the Height of Buildings at clause 4.3 in the Manly LEP 2013. The proposal has been assessed against these objectives under clause 4.6, above in this report.

4.1.3 Floor Space Ratio (FSR)

The proposed development has a floor space ratio of 0.764:1 (328.5m^2), which represents a variation of 17.5% to the prescribed 0.65:1 (297.5m^2) FSR requirement.

Refer to Clause 4.6 Exceptions to Development Standards of MLEP 2013 for a detailed assessment.

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

Description of non-compliance

4.1.4.2 Side setbacks and secondary street frontages

This control requires side setbacks to be one third of the wall height.

The proposed development incorporates the following side setbacks and variations:

North Elevation	**Requirement**	**Proposed**	**Variation**
First Floor - 9.7m wall height	3.2m	1.5m	53.1%
Second Floor - 12.3m wall height	4.06m	3m	26.1%
South Elevation			
First Floor - 7.4m wall height	2.44m	1.5m	38.6%
Second Floor - 9.9m wall height	3.27m	3m	8.2%

This clause also requires windows to be setback a minimum of 3m from a side boundary, which is not achieved.

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.
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.*

Objective 3) To promote flexibility in the siting of buildings.
Objective 4) To enhance and maintain natural features by:

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

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

The proposed development presents a bulk and scale similar to that of surrounding development and is overall lesser than the building it seeks to replace. The side setbacks are equal to or greater than the existing building, especially at the upper floor level. The proposal incorporates design solutions to ensure privacy between dwellings is appropriately managed, including offset windows and screening devices. Acceptable levels of solar access and view sharing is provided to adjacent dwellings.

On balance, the proposed development will enhance the amenity of the streetscape through the removal of the existing dilapidated building and replacement with a well designed and finished building that integrates well into the character of the locality.

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

4.1.5 Open Space and Landscaping

Description of non-compliance

4.1.5.1 Minimum Residential Total Open Space Requirements

The site is located in the OS3 area, which requires a minimum 55% of site area (236.5m^2) to be classified as Total Open Space (TOS), including minimum dimensions of 3m and a minimum unbroken area of 12m^2.

The proposed development incorporates 53.4% site area per lot (229.7m^2) as TOS, representing a variation of 2.9%.

Comment:

The objectives of the control are:

Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.
Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.
Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.
Objective 5) To minimise the spread of weeds and the degradation of private and public open space.
Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.

Notwithstanding the TOS non-compliance, the proposed open space is well-designed, useable and directly accessible from the main living areas of each dwelling, providing adequate space for outdoor recreation and daily use. The non-compliant areas are generally located within setbacks and along boundaries. While narrower, these spaces still contribute to landscaping, visual openness and site permeability.

On balance, the development provides adequate open space and landscaping for future occupants. Landscaping is proposed to enhance these areas. Landscaping along the side boundaries is appropriately connected to the primary rear open space. The development is not expected to result in unreasonable impacts on adjoining properties in terms of solar access, privacy, or views, nor will it contribute to weed spread or adversely affect local habitat.

Accordingly, variation to the minimum TOS requirement can be supported and the development provides a reasonable and well-balanced outcome for a dual occupancy.

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

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

Description of non-compliance

For dual occupancies, the control requires the provision of 1 resident parking space per dwelling, plus 0.5 resident spaces per 3 bedroom dwelling. Separately, 0.5 visitor parking spaces are required for each dwelling. With two dwellings proposed, each with 3 bedrooms, this control requires 3 resident parking spaces and 1 visitor parking space.

The proposal includes 2 resident parking spaces per dwelling located in sperate internal garages, for a total of 4 resident parking spaces. There are no proposed visitor parking spaces.

It is noted that the subject site is located in walking distance to frequent public transport services. Requiring the provision of further off-street parking would have negative environmental impact and discourage the use of public and active transport.

Comment:

The objectives of the control are:

Objective 1) To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).
Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.

Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.
Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.
Objective 5) To ensure the width and number of footpath crossings is minimised.
Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.
Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.

Despite the deficiency of visitor parking spaces, the proposal includes an extra residential parking space. The design and siting of the proposed parking spaces are appropriately integrated into the overall built form. Sufficient landscaping and material finishes are provided to ensure acceptable levels of visual quality when viewed from the street. The site is within walking distance to Manly town centre which is well serviced by public transport. The lack of visitor parking is acceptable in the site context due to its convenient access to public transport services.

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

4.1.9.1 Height above ground

The control requires swimming pools to be located no higher than 1m above the natural ground level.

The proposed swimming pools are located above natural ground level at the following heights:

Dwelling 1 - 1.8m
Dwelling 2 - 5.3m

4.1.9.2 Location and Setbacks

The control prohibits the siting of swimming pools in the front setback area, unless the following is achieved:

i) does not detract from the amenity or character of the neighbourhood; and
ii) is a minimum distance from the front boundary equivalent to at least twice the height of the swimming pools and/or spa and their curtilage and/or concourse at any point above existing ground level.

The setbacks of the swimming pools from the front boundary is as follows:

Dwelling 1 - minimum 3.6m / proposed 5m - complies
Dwelling 2 - minimum 10.6m / proposed 8m - not compliant (24.5%)

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.

Despite the proposed swimming pools being located within the front setback area, they are well integrated into the overall building design and will not adversely impact the streetscape character. The pools are modest in scale, with the higher pool being between 12m^2 in area and 1m deep. The pools are appropriately setback from the side boundaries and the spatial separation between surrounding buildings will limit visual and acoustic impacts. A condition is recommended to require acoustic treatment of the pool filters to minimise noise impact on surrounding properties.

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

4.4.5.1 General

The control requires natural and undisturbed ground level to be maintained within 0.9m of side and rear boundaries.

The proposed development includes excavation within 0.9m of the side boundaries.

Comment:

The objectives of the control are:

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.*

Despite some excavation being undertaken within 0.9m of the boundaries, the proposal is acceptable given the significant topography and constraints of the site. A geotechnical report has been provided that includes several recommendations to ensure geotechnical hazards are appropriately managed and that impact to adjoining properties is minimised. The proposal is not expected to significantly or detrimentally alter the natural flow of ground and surface water. The proposed development is not expected to cause excessive sedimentation to enter drainage lines. A condition is recommended to require the preparation of a pre- and post-construction dilapidation report for the northern and southern adjoining properties. This will ensure appropriate record keeping and document any changed conditions before and after the

works.

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

5.7.1 Dual Occupancies

Requirement			Proposed	Compliant
Site Layout	R1	Dual occupancy (attached) – Both dwellings are to be oriented towards the street frontage.	Both dwellings oriented to a street frontage.	Yes
		Dual occupancy – (detached) – Detached configurations are generally not supported due to potential impacts on tree retention, landscaped areas, privacy, and solar access.	N/A	N/A
	R2	Dwellings with a street frontage to have a front door directly visible from the street.	Both dwellings accessed via a gated pathway on the northern side of the garage to a common foyer, lift and stairwell. Dwelling 1 can be accessed via a separate gated pathway on the southern side of the garage. Both gated pathways front the street. This presents an appearance of two front doors addressing the street.	Acceptable
	R3	Where the side of a dwelling is facing a secondary street, this façade should be articulated with windows and/or doors to address the street.	N/A	N/A

Setbacks and Height	R4	A nil setback to the side boundary is permitted to the extent that it adjoins the common wall of a dual occupancy (attached).	Consistent	Yes
	R5	In the R1 General Residential Zone or the R2 Low Density Residential Zone, on land within area 'I' shown on the LEP Height of Buildings Map, where a dual occupancy is proposed, the maximum number of storeys is two.	The proposed development is 3 storeys	**No** - see discussion below

Building and Landscape Design	R6	Existing trees are to be retained wherever possible, and new tree planting is to be in accordance with Table 1 of 5.7.1. Existing prescribed trees may be counted towards the total number of required trees.	Consistent	Yes
		At least one tree is to be provided within the front yard of each dwelling.	Consistent	Yes
		At least one tree is to be provided within the rear yard of each dwelling.	Consistent	Yes
		Each tree shall be a locally native species.	Consistent	Yes
	R13	The deep soil percentage as identified in Table 2 of 5.7.1 is to be demonstrated.	Minimum - 20% (105.9m2) Proposed - 20% (106m2)	

	R8	Dwellings are to be designed to step with the topography.	Consistent	Yes
		The ground floor should not be more than 1.3 metres above ground level (existing) and no more than 1 metre below ground level (existing), except where a higher finished floor level is required to meet the applicable Flood Planning Level.	Consistent	Yes
		Basements, including for car parking, should be avoided unless no other practical alternative exists, and are not to be provided within required building setbacks.	Basement parking included, but unavoidable on this site due to site topography.	Yes

Parking Design and Vehicle Access	R9	The total width of all garages, carports or hardstand areas, for both dwellings combined, facing a street frontage is not to exceed 50% of the lot frontage or 7 metres, whichever is the lesser.	6m	Yes
		Unless an alternative layout or design clearly satisfies the objectives and/or principles of Council's current policies and guidelines relating to driveways and vehicle crossovers, driveway crossovers should be shared by each dwelling to minimise hard surfaces in the front setback, maximise on-street parking, minimise impacts on street trees, and reduce interactions between pedestrians and road users, by:	Consistent	Yes
		i. limiting the shared driveway to a maximum width of 6 metres;	Driveway 6m wide at front boundary	Yes
		ii. ensuring the layback (vehicle crossing) is no wider than 3 metres at the kerb; and	Conditioned to be 5m at kerb by Development Engineering	Acceptable

		iii.	positioning the proposed driveway to maximise the retention of on-street car parking spaces.	Achieved	Yes
		One uncovered parking space (not within a garage, carport or other structure) in a tandem arrangement, between the primary street frontage and the front building line, may be supported, provided:		N/A	N/A
		i.	Tree planting, landscaped area and deep soil requirements are met;	N/A	N/A
		ii.	There are clear sight lines between the parking space and the road kerb for pedestrian safety.	N/A	N/A

Description of non-compliance

R5 - Number of Storeys

The control limits the number of storeys to two.

The proposed development includes three storeys.

Comment:

The objectives of the control are:

- *Objective 1) To ensure that the visual bulk and scale of development are managed through building articulation, modulation, and stepping of the built form, to be compatible with neighbouring development.*

- *Objective 2) To enhance the landscape setting by retaining and/or providing trees and vegetation within deep soil areas, integrating the development into its natural surroundings, supporting biodiversity, and contributing to increased tree canopy coverage while softening the built form.*
- *Objective 3) To ensure development provides a clear sense of address to the street, with external materials, colours and textures that are compatible and complementary with the streetscape.*
- *Objective 4) To minimise the amenity impacts of development on adjoining and neighbouring properties.*
- *Objective 5) To ensure that car parking is not visually dominant on the site or in the streetscape.*

The three-storey form is appropriately articulated and stepped to respond to the site's topography, ensuring the development does not present excessive bulk or scale and remains compatible with surrounding development. This is reinforced by generous setbacks and a design that minimises visual dominance.

A clear sense of address is achieved through defined entry pathways and street-facing presentation, with materials and detailing contributing positively to the streetscape.

Amenity impacts on adjoining properties are minimised through the overall siting, articulation and compliance with key planning controls, notwithstanding the additional storey.

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

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 $29,700 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $2,970,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;

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

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

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

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

PLANNING CONCLUSION

This proposal, for demolition works, construction of a dual occupancy (attached) including swimming pools and strata subdivision has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to variation of the minimum deep soil area (12.6%), minimum lot size for dual occupancies (4.4%), maximum floor space ratio (10.4%) and building height (25.3%) non-discretionary development standards under Chapter 6 Part 2 of SEPP Housing.

Variations to floor space ratio, building height, minimum lot size, and deep soil area are supported under Clause 4.6, as the objectives of the standards are achieved, the variations are acceptable in context, and no unacceptable impacts arise.

Submissions have been considered and the issues raised, including bulk and scale, amenity, and character, are satisfactorily addressed. Referral bodies raise no objections, subject to conditions.

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

- The proposal is permissible within the R1 General Residential zone and represents a contemporary replacement of an existing dual occupancy, consistent with the established and evolving character of the locality.
- The Clause 4.6 variations are acceptable as the development achieves improved or equivalent planning outcomes compared to the existing development, including a reduction in floor space ratio, retention of the existing building height, and an increase in deep soil and landscaped area, resulting in no additional bulk, scale or environmental impact.

- The minimum lot size variation is minor and acceptable given the site's existing lawful dual occupancy use and demonstrated capacity to accommodate the proposed development.
- In all cases, compliance with the development standards is unreasonable or unnecessary, and sufficient environmental planning grounds have been demonstrated, with the objectives of the standards achieved notwithstanding the non-compliances.
- Amenity impacts are within acceptable limits, and issues raised in submissions have been adequately addressed through design refinement and conditions of consent.
- The proposal is suitable for the site, represents an orderly and economic use of land, and is in the public interest.

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 DA2026/0078 for Demolition works, construction of a dual occupancy (attached) including swimming pools and strata subdivision on land at Lot 1 SP 33744, 1 / 43 Osborne Road, MANLY, Lot 2 SP 33744, 2 / 43 Osborne Road, MANLY, Lot CP SP 33744, 43 Osborne Road, MANLY, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

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

Approved Plans				
Plan Number	**Revision Number**	**Plan Title**	**Drawn By**	**Date of Plan**
A0.04	22	Demolition / Sediment Control Plan	Costi Architects	24/06/2026
A1.01	22	Site / Roof Plan	Costi Architects	24/06/2026
A1.02	22	Proposed Floor Plan - Basement	Costi Architects	24/06/2026
A1.03	22	Proposed Floor Plan - Lower Ground	Costi Architects	24/06/2026
A1.04	22	Proposed Floor Plan - Ground	Costi Architects	24/06/2026
A1.06	22	Proposed Floor Plan - Level 1	Costi Architects	24/06/2026
A1.07	22	Proposed Floor Plan - Level 2	Costi Architects	24/06/2026
A3.01	22	External Elevations 1	Costi Architects	24/06/2026
A3.02	22	External Elevations 2	Costi Architects	24/06/2026
A3.03	22	External Elevations 3	Costi Architects	24/06/2026
A3.04	22	External Elevations 4	Costi Architects	24/06/2026
A3.05	22	Section	Costi Architects	24/06/2026
A4.07	22	Draft Strata Subdivision Plan	Costi Architects	24/06/2026
A5.01	22	External Materials and Finishes	Costi Architects	24/06/2026

Approved Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**
Arboricultural Impact Assessment Report	001	Seasoned Tree Consulting	14/11/2025
BASIX Certificate	1827730M	House Energy Certified	19/12/2025
Geotechnical Investigation Report	R25339. Rev1	Nepean Geotechnics	06/01/2026
NatHERS Certificate	HR-BZNUX0-01	House Energy Certified	19/12/2025
Waste Management Plan	-	Unnamed	Undated (Received 02/02/2026)
Landscape Plan - Ground Floor - L01	B	B+E Landscape Architects	15/12/2025
Landscape Plan - Second Floor - L02	B	B+E Landscape Architects	15/12/2025
Plant Schedule and Palette - L03	B	B+E Landscape Architects	15/12/2025
Landscape Details - L04	B	B+E Landscape Architects	15/12/2025
Landscape Specification and Maintenance Schedule - L05	B	B+E Landscape Architects	15/12/2025

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.

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	Undated (06/02/2026)

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

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

3. **Approved Land Use**

Nothing in this consent shall authorise the use of the site beyond the definition of a *dual occupancy (attached)*, in accordance with the Dictionary of the Manly Local Environmental Plan 2013.

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

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

4. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i) showing the name, address and telephone number of the Principal Certifier for the work, and

(ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

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

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

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

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

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

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

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

A. the name of the owner-builder, and

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

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

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

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

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

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

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

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

Reason: Legislative requirement.

5. **General Requirements**

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

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

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

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

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

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

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

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

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

i) Long Service Levy - Payment should be made to Service NSW (online or in person) or 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. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of $29,700.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of $2,970,000.00.

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

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

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

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

7. **Security Bond**

A bond (determined from cost of works) of $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

8. **On slab landscape planters**

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 dripline irrigation, and services connections. Soil depth shall be as documented on the approved plans.

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.

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. **Fencing for Wildlife Passage**
Any new permanent fencing (with the exception of swimming pool fencing) is to be made passable to native fauna through the provision of access gaps or raised fencing to provide appropriate ground clearance. Any access gaps are to be a minimum of 150mm wide x 100mm high at ground level and distance between gaps is not to exceed more than 6 metres.

Plans are to be certified as complying with this condition and provided to the Certifier prior to issue of the Construction Certificate.

Reason: To preserve wildlife corridors.

11. **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 Nastasi Consulting Group, project number 50174, drawing number SW00, SW01, SW02, SW03, SW04 dated 18/12/2025. 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.

12. **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 5 metres wide at the kerb and 6m wide at the boundary along frontage of site in Osborne in accordance with Northern Beaches Council's Standard Normal Profile and in accordance with Section 138 of the Roads Act 1993.

Driveways are to be in plain concrete only.

Redundant layback along frontage of site in Osborne Road to be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant. 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.

13. **Amendments to the approved plans**
The following amendments are to be made to the approved plans:

- The plans are to incorporate access points to allow the viewing and servicing of utility meters on adjoining properties where located within 1m of the side boundaries.

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

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

14. **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.

15. **Boundary Identification Survey**
The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on a boundary identification survey, prepared by a Registered Surveyor, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

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

16. **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.

17. **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

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

Properties:

- Lot 14 Sec B DP 5236 - 47 Osborne Road MANLY
- Lot 16 Sec B DP 5236 - 41 Osborne Road MANLY

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.

19. **Sediment and Erosion Controls**
<u>For developments that include more than 2500sqm of disturbance</u>:

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.

<u>For sites larger than 250sqm and less than 2500sqm of disturbance</u>:

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.

<u>For sites smaller than 250sqm or where the disturbance is less than 50sqm</u>:

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.

20. **Site Induction Required - Bandicoot Habitat**
All workers, including site inspectors and sub-contractors, are to be made aware of the potential presence Long-nosed Bandicoots through a site induction prior to commencement of works. The site induction is to include information about their conservation significance, potential activities on-site, means of identification and the measures to be implemented for their protection.

Evidence of the site induction is to be documented and provided to the Principal Certifying Authority.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

DURING BUILDING WORK

21. **Protection of existing street trees**
All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS4970-2025 Protection of trees on development sites, the Tree Protection Plan in Appendix 1A of the Arboricultural Impact Assessment, and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

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.

22. **Tree and vegetation protection**
a) Existing trees and vegetation shall be retained and protected, including:
i) all trees and vegetation located on adjoining properties,
ii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:
i) tree protection shall be in accordance with AS4970-2025 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 of AS4970-2025 Protection of trees on development sites,
ix) the activities listed in section 4 of AS4970-2025 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 AS4373-2007 Pruning of amenity trees,
xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:
c) The arboricultural works listed in a) and b) are undertaken as complaint to AS4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment and/or Project Arborist as applicable.

Reason: Tree and vegetation protection.

23. **Pre-clearance Survey - Bandicoot Habitat**
A pre-clearance survey for Long-nosed Bandicoot activity and presence is required prior to the removal or relocation of any vegetation, material or debris stockpiles. Clearing may only proceed if the survey concludes that no Long-nosed Bandicoots are present, utilising or sheltering within the area to be cleared or the immediate vicinity. If native wildlife is found within habitat to be removed, a suitably qualified ecologist and/or licensed wildlife rescue organisation is to be contacted for advice.

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 provided to the Principal Certifier prior to any Occupation Certificate.

Reason: To avoid injury or death of Long-nosed Bandicoots which may be utilising vegetation, stockpiles, materials or debris.

24. **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.

25. **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.

26. **Report Dead or Injured Bandicoots - Bandicoot Habitat**
Any injured or dead Long-nosed Bandicoots found within the worksite must be reported to the National Parks & Wildlife Service (9457 9577) or Northern Beaches Council (1300 434 434).

Reason: To prevent impacts to Long-nosed Bandicoots in accordance with the Biodiversity Conservation Act 2016.

27. **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.

28. **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.

29. **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.

30. **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.

31. **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.

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

33. **Landscape completion**
Landscape works are to be implemented in accordance with the approved Landscape Plan, and inclusive of the following conditions:
a) landscape works are to be contained within the legal property boundaries,
b) planting shall be installed as indicated on the approved Landscape Plan, unless otherwise imposed by conditions,
c) two locally native trees shall be planted within the rear of the property in deep soil at a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; selected from Northern Beaches Council's Native Plant Species Guide - Manly Ward, or Council's Tree Guide; in locations of the removed two trees to achieve a mature height of 6 metres; meet the requirements

of Australian Standard 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 3.0 metres from buildings or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
d) mass planting shall be in garden beds / planters prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
e) 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,
f) 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.

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.

34. **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.

35. **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.

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

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

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

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

Certifier prior to the issue of an Occupation Certificate.

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

37. **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.

38. **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.

39. **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 this link.

The form for the application can be found on Council's website using this link.

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.

40. **Bandicoot Access to Undercroft Areas**
Where concealing material is required for any undercroft areas (e.g. under the house, stairs or balcony), gaps are to be established to allow Long-nosed Bandicoot access. Gaps are to be at least 150mm high and 300m wide.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to any Occupation Certificate.

Reason: To maintain bandicoot access to existing and proposed habitat within and surrounding the site.

41. **Bright Lighting**
No bright lighting or motion detectors are to be installed to illuminate the lawn or garden areas. A modest amount of low lighting may be used for safety purposes only.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to any Occupation Certificate.

Reason: Bright lighting disturbs Long-nosed Bandicoots and disrupts normal Bandicoot foraging, sheltering and nesting activity.

42. **House / Building Number**
House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

43. **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.

44. **Swimming Pool Requirements**
The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:
(i) Swimming Pools Act 1992;
(ii) Swimming Pools Amendment Act 2009;
(iii) Swimming Pools Regulation 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

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

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life.

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

45. **Landscape maintenance**
If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

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.

The approved landscape planted areas consisting of lawn, planting at grade, planting on structure 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.

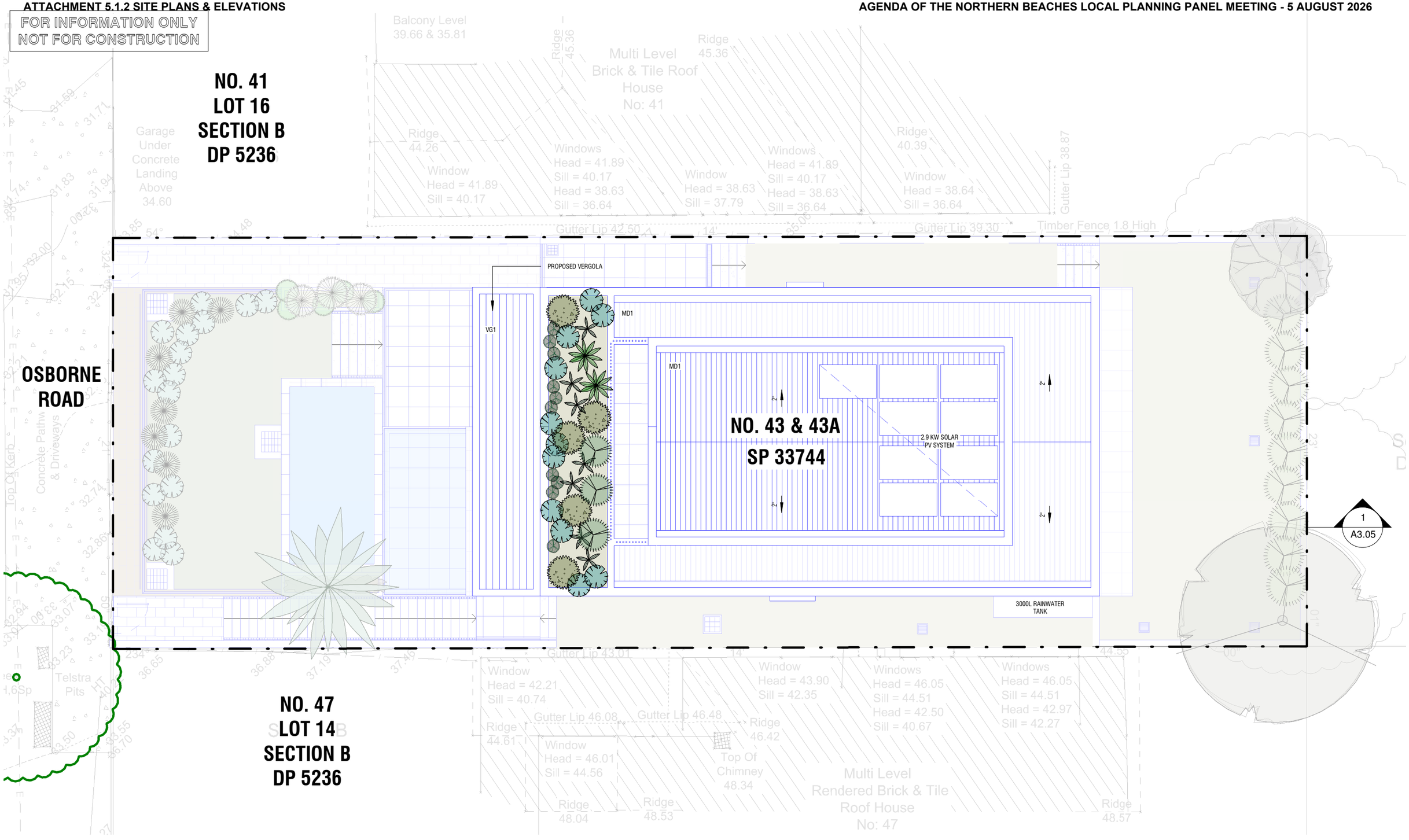
46. **Geotechnical Recommendations**
Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

47. **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 habitable room within any other residential premise as defined under the Building Code of Australia, Protection of the Environment Operations Act 1997 and its statutory instruments as well as any relevant Environmental Protection Authority guidelines.

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

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NOMINATED ARCHITECT: ANDREW COSTI 10973 , ACN 641619598

Rev.	Date	Approved by	Revision Notes
22	24/06/2026	ASC	For Information
21	21/05/2026	ASC	For Information

Client
MR & MRS SOTIROPOULOS

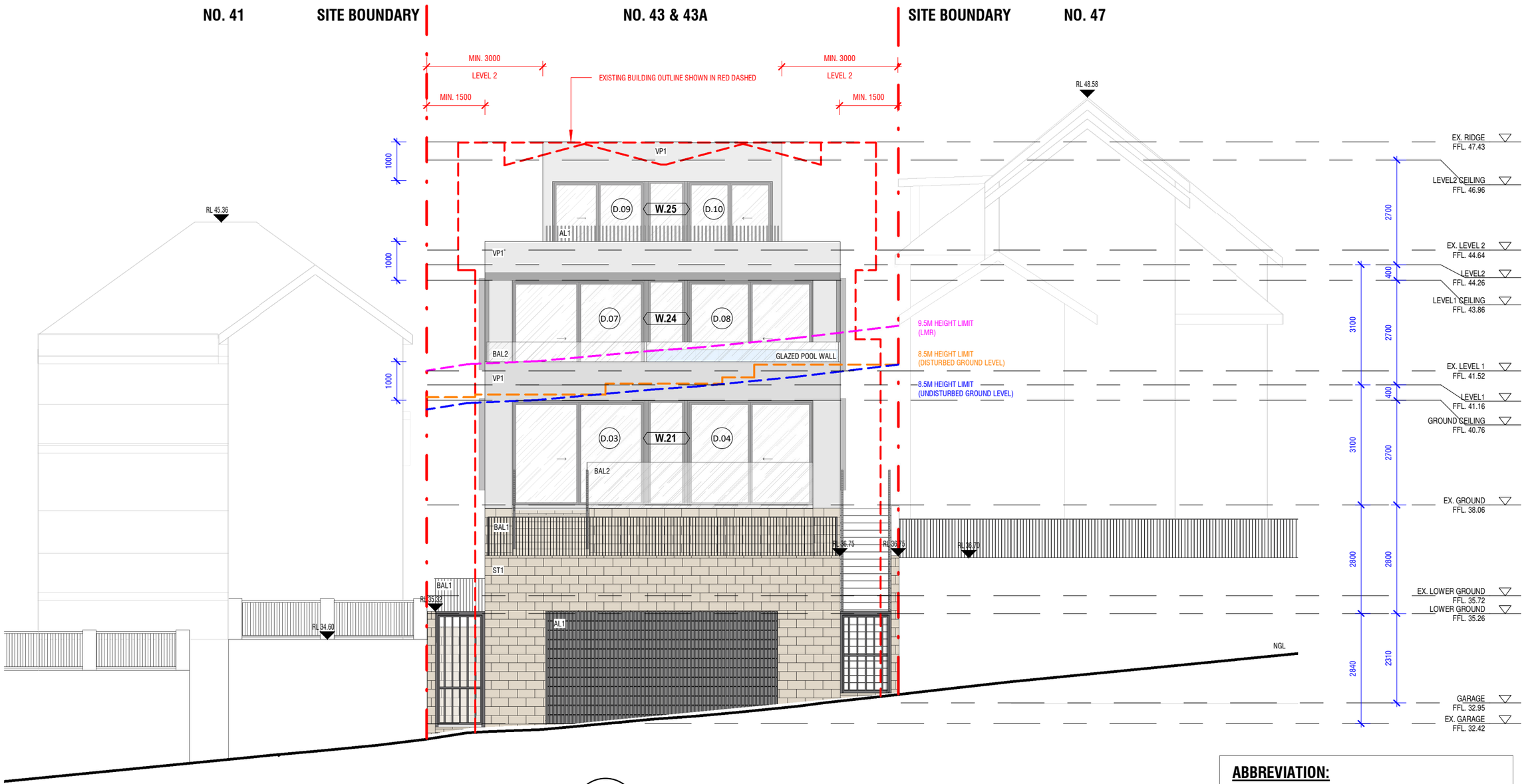
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43 & 43A OSBORNE ROAD, MANLY

Drawing Title
SITE / ROOF PLAN

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Status FOR INFORMATION
Project No. A25042
Sheet No. A1.01
Drawn by SL
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1 SW ELEVATION
1 : 100

ABBREVIATION:

AL	ALUMINIUM BATTEN
BAL	BALUSTRADE
OPQ	OPAQUE GLASS
ST	SANDSTONE
VP	VENETIAN PLASTER

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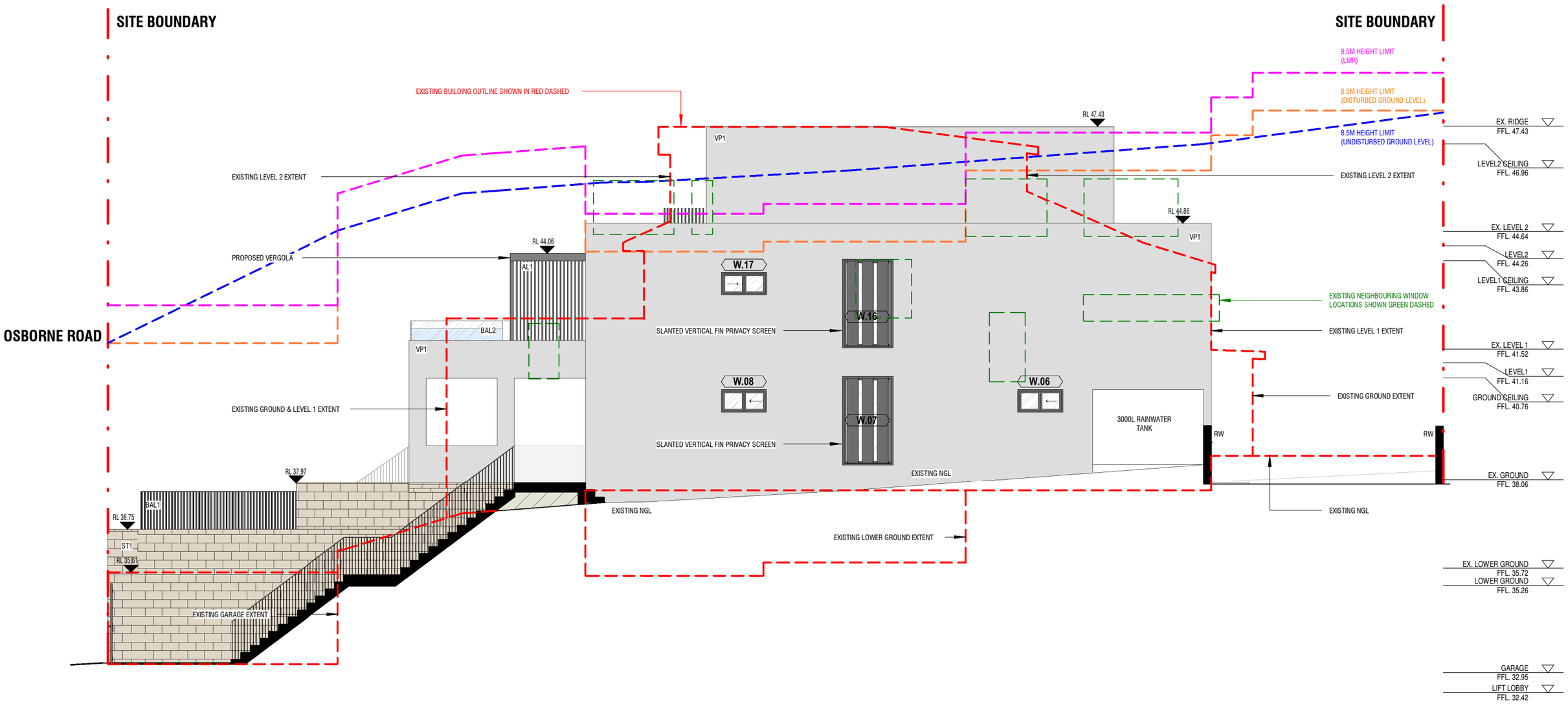
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43 & 43A OSBORNE ROAD, MANLY

Drawing Title
EXTERNAL ELEVATIONS 1

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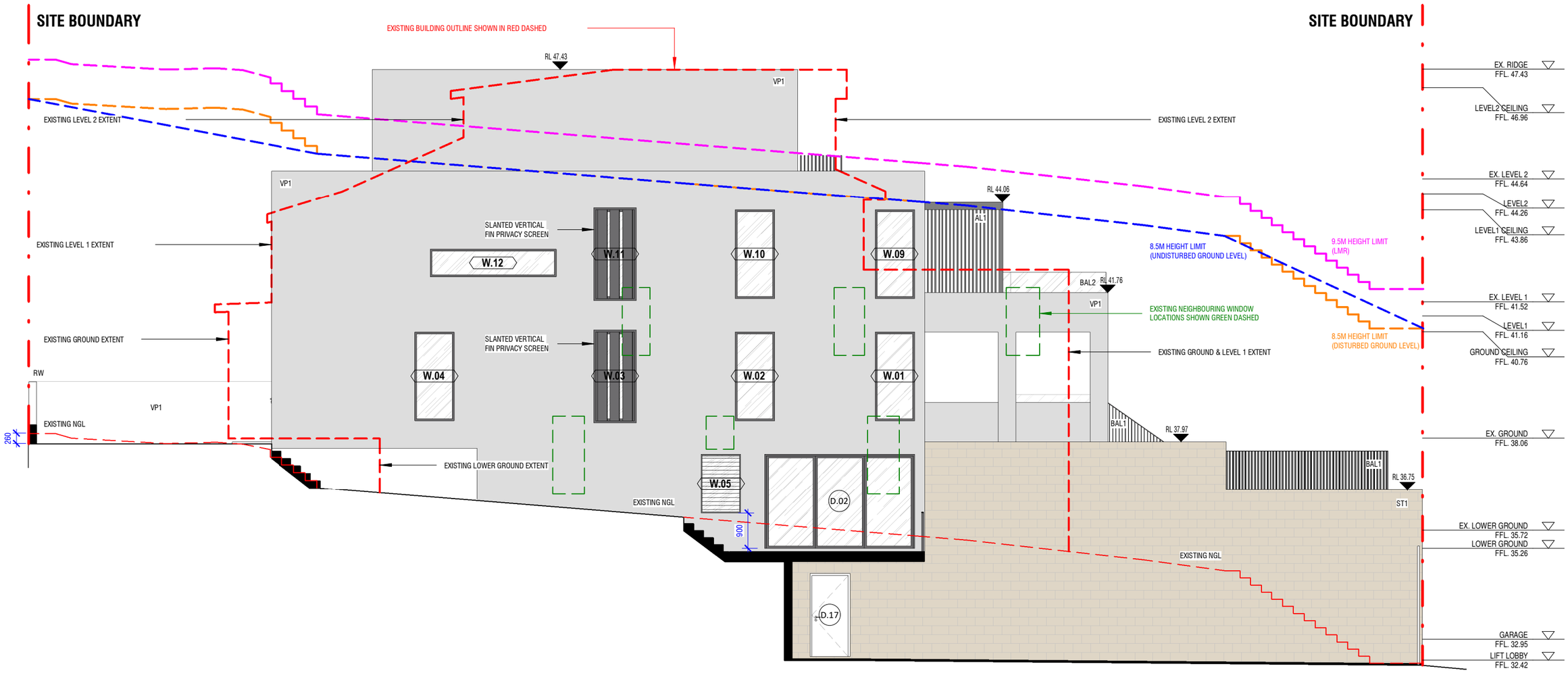
Project Title
43 & 43A OSBORNE ROAD, MANLY

Drawing Title
EXTERNAL ELEVATIONS 2

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Sheet No. A3.02
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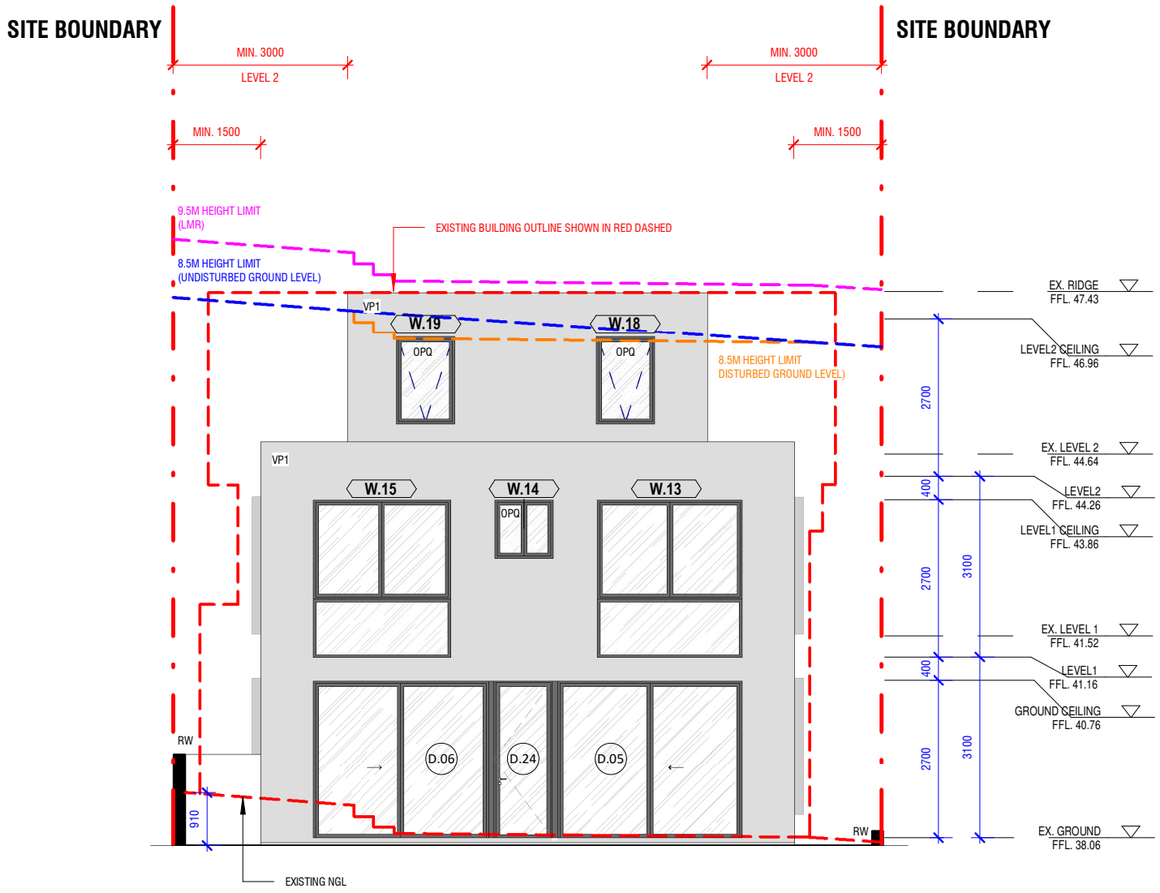
Project Title
43 & 43A OSBORNE ROAD, MANLY

Drawing Title
EXTERNAL ELEVATIONS 3

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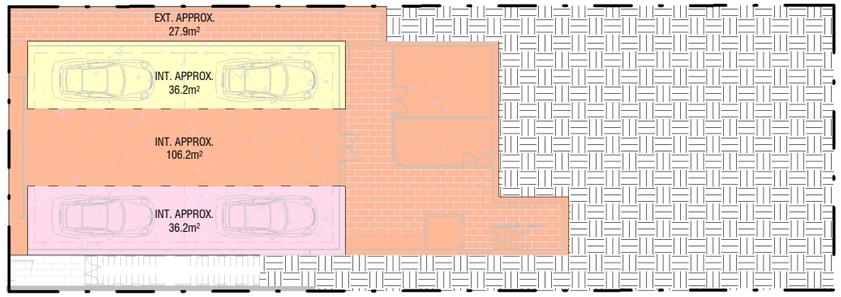
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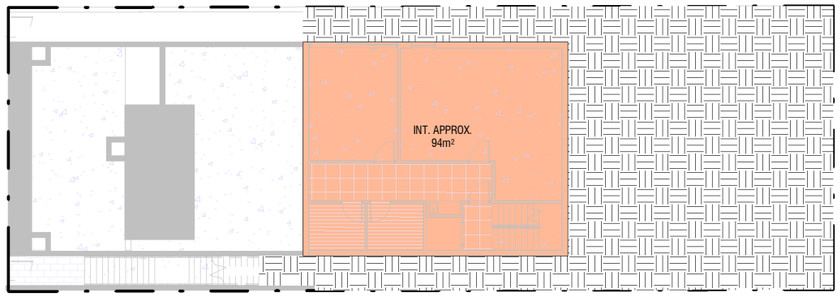
STRATA SUBDIVISION PLAN LEGEND

- COMMON PROPERTY
- DWELLING 1 (43 OSBORNE ROAD, MANLY)
- DWELLING 2 (45 OSBORNE ROAD, MANLY)



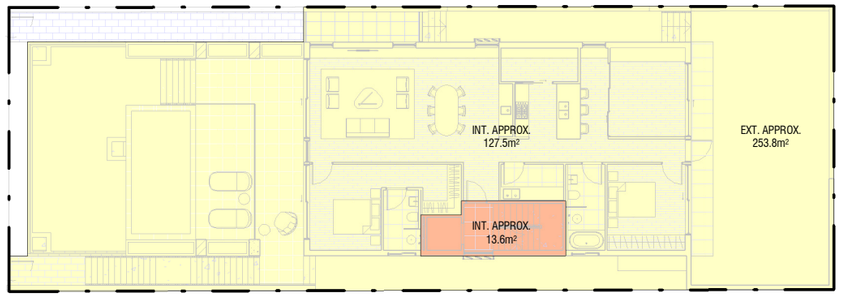
1 BASEMENT GARAGE

1 : 250



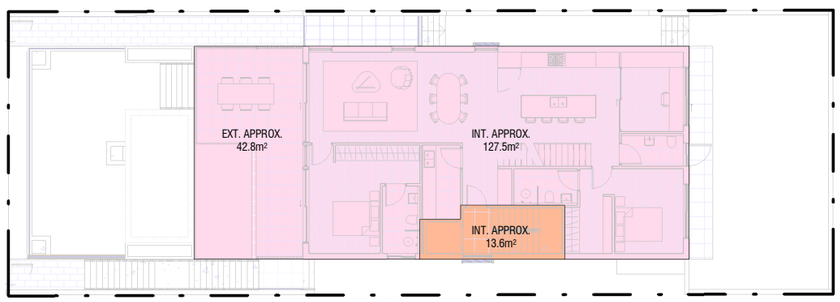
2 LOWER GROUND

1 : 250



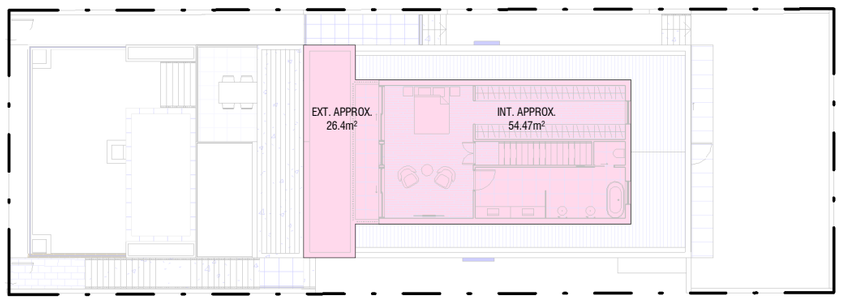
3 GROUND

1 : 250



4 LEVEL 1

1 : 250



5 LEVEL 2

1 : 250

NOTE:

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NOMINATED ARCHITECT: ANDREW COSTI 10973 , ACN 641619598

Rev.	Date	Approved by	Revision Notes
22	24/06/2026	ASC	For Information
21	21/05/2026	ASC	For Information

Client

MR & MRS SOTIROPOULOS

Project Title

43 & 43A OSBORNE ROAD, MANLY

Drawing Title

DRAFT STRATA SUBDIVISION PLAN

Scale: As indicated @A3

Status: FOR INFORMATION

Project No.: A25042

Sheet No.: A4.07

Drawn by: SL

Rev.: 22

North

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3BF TOWN PLANNERS

Clause 4.6 variation request – Landscaping

43 & 43a Osborne Road, Manly

June 2026

3BF TOWN PLANNERS

1 Clause 4.6 variation request – Landscaping

1.1 Introduction

This updated clause 4.6 variation request has regard to the Revision 22 Architectural plans prepared by Costi Architects.

This clause 4.6 variation has been prepared having regard to key Land and Environment Court judgements including the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe)* at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney [2019]* NSWLEC 61, *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130, SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112, and Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582*.

It is important to note at the outset that clause 4.6 of the LEP *"is as much a part of [the 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***." (*SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [73]).

1.2 State Environmental Planning Policy (Housing) 2021 (SEPP Housing)

1.2.1 Clause 167(2) – Landscaping (Tree Canopy Guide for Low and Mid Rise Housing)

Pursuant to clause 167(2) of SEPP Housing 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, published by the Department in February 2025.

In accordance with the Tree Canopy Guide dual occupancy development on land with a site area of between 300-600m² is to have a tree canopy of 20% of the site area and a deep soil area of 20% of the site area with a minimum dimension of 3m. Deep soil is defined within the Tree Canopy Guide as follows:

Deep soil	A landscaped area connected horizontally to the soil system and local ground water system beyond and is unimpeded by any building or structure above or below ground with the exception of minor structures*. Deep soil zones with a minimum dimension of 3m allows sufficient space for the planting and healthy growth of new trees that provide canopy cover and assist with urban cooling and infiltration of rainwater to the water table. Deep soil also allows for the retention of existing trees. * Minor structures are defined as: a. path, access ramp or area of paving with a maximum width up to 1.2m b. essential services infrastructure (such as stormwater pipes) with a maximum diameter up to 300mm c. landscape structures (such as lightweight fences, light poles or seating) requiring a footing with a maximum size of up to 300mm x 300mm in cross section. The 3 m dimension in deep soil refers to 3 m in every horizontal direction (length and width). This means deep soil is a minimum 9 m² (3 m x 3 m).

I note that pathways or areas of paving with a maximum width of 1.2m are defined as a minor structure and are allowable encroachments within the deep soil area.

Based on a total site area of 430m² a minimum deep soil area of 86m² is required representing 20% of the site area. Architectural plan A4.06(22) details the proposed deep soil landscaped area and confirms a deep soil area as defined of 75.08m² representing 17.5% of the site area. I note that the 1.2m wide paved area at the rear of the property is a minor structure and an allowable encroachment within the deep soil area.

This represents a non-compliance of 10.92m² or 12.6%.

I also note that the proposed area of tree canopy is approximately 10% of the site area representing a variation of 50%. The tree planting rate of 1 small tree per 200m² of site area is complied with.

I note that the proposal is compliant with the landscaped area requirement at clause 4.1.5.2 of Manly Development Control Plan (MDCP) which requires a landscaped area of 35% of the proposed total open space. That is, when the deep soil areas with a dimension of at least 1.5m are included, the proposal provides for a total landscaped area of 113.56m² representing 26.4% of the site area. Councils landscape officer has endorsed the proposed site landscape regime.

1.2.2 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of MLEP 2013 provides:

> *The objectives of this clause are:*
>
> *(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
>
> *(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 clause 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 MLEP 2013 provides:

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.

This clause applies to the landscaped area development standard at clause 167(2) of SEPP Housing.

Clause 4.6(3) of MLEP 2013 provides:

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 landscaped area development standard. However, 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, specific to the site and to its own context, to justify contravening the development standard.

The relevant arguments are set out later in this written request.

1.3 Relevant Case Law

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:

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].

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].

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].

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].

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.

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.

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

1. Is clause 167(2) of SEPP Housing 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

1.4 Request for variation

1.4.1 Is clause 167(2) of SEPP Housing a development standard?

The definition of "development standard" at clause 1.4 of the EP&A Act includes a provision of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

(b) the proportion or percentage of the area of a site which a building or work may occupy,

Clause 167(2) of SEPP Housing prescribes a landscaped area provision that seeks to control the percentage of the site to be landscaped with the consequence of restricting the area of the site which a building or work may occupy. Accordingly, clause 167(2) of SEPP Housing is a development standard.

1.4.2 Clause 4.6(3)(a) – Whether compliance with the development standard is unreasonable or unnecessary

The common approach for an applicant to demonstrate that compliance with a development standard is unreasonable or unnecessary are set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

The first approach is relevant in this instance, being that compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Consistency with objectives of the landscape development standard

As there are no stated objectives associated with this standard I have defaulted to the relevant objectives of the landscaping control at clause 4.15 of MDCP. An assessment as to the consistency of the proposal when assessed against the relevant objectives of the standard is as follows:

Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

Comment: There are no important landscape features or vegetation on the site. Whilst the application proposes the removal of 4 exempt tree species such tree loss is appropriately compensated for through the implementation of the enhanced site landscape regime as depicted on the Revision B landscape plans prepared by B+E Landscape Architects. Such plantings include 12m high Coastal Banksia with a mature height of 12 metres and a spread of 6 metres together with other landscape and canopy plantings including a canary Island Dragon Tree with a mature height of 5m and spread of 4.5m and an Australian Fan Palm with a mature height of 6m and spread of 3m.

This objective is achieved notwithstanding the non-compliant landscaped area and tree canopy area proposed.

Objective 2) *To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.*

Comment: I rely on my previous response to Objective 1. This objective is achieved notwithstanding the non-compliant landscaped area and tree canopy area proposed.

Objective 3) *To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.*

Comment: The existing street tree is retained. The shortfall in landscaped area and tree canopy do not result in residential amenity or streetscape impacts. This objective is achieved notwithstanding the non-compliant landscaped area and tree canopy area proposed.

Objective 4) *To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.*

Comment: I note that the proposal is compliant with the landscaped area requirement at clause 4.1.5.2 of Manly Development Control Plan (MDCP) which requires a landscaped area of 35% of the proposed total open space. That is, when the deep soil areas with a dimension of at least 1.5m are included, the proposal provides for a total landscaped area of 113.56m² representing 26.4% of the site area. Councils landscape officer has endorsed the proposed site landscape regime.

This objective is achieved notwithstanding the non-compliant landscaped area and tree canopy area proposed.

Objective 5) *To minimise the spread of weeds and the degradation of private and public open space.*

Comment: This objective is achieved notwithstanding the non-compliant landscaped area and tree canopy area proposed.

Objective 6) *To maximise wildlife habitat and the potential for wildlife corridors.*

Comment: For the reasons previously outlined I consider this objective to be achieved notwithstanding the non-compliant landscaped area and tree canopy area proposed.

The non-compliant development, as it relates to landscaped area and tree canopy cover, demonstrates consistency with the adopted landscaped area development standard objectives. Adopting the first option in *Wehbe,* strict compliance with the standard has been demonstrated to be unreasonable and unnecessary in the circumstances of this application.

1.4.3 Clause 4.6(3)(b) – Are there sufficient environmental planning grounds to justify contravening the development standard?

In *Initial Action* the Court found at [23]-[25] that:

> *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 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].

Sufficient environmental planning grounds

Ground 1 – Compliance with the clause 4.1.5.2 MDCP landscaped area provisions applicable to this form of development on this particular site.

I note that the proposal is compliant with the landscaped area requirement at clause 4.1.5.2 of Manly Development Control Plan (MDCP) which requires a landscaped area of 35% of the proposed total open space. That is, when the deep soil areas with a dimension of at least 1.5m are included, the proposal provides for a total landscaped area of 113.56m² representing 26.4% of the site area. Councils landscape officer has endorsed the proposed site landscape regime.

In this context the landscaped area non-compliance is appropriately described both quantitatively and qualitatively as minor. I am satisfied that the landscaped area non-compliance does not prevent the provision and maintenance of a landscape regime which will ensure that the development is appropriately screened and softened and will sit within a landscape setting. Similarly, I am satisfied that appropriate canopy cover is achieved consistent with the prevailing landscape character of the area.

I am also satisfied that the non-compliance will not give rise to adverse streetscape or residential amenity impacts. Consistent with the findings of Commissioner Walsh in Eather v Randwick City Council [2021] NSWLEC 1075 and Commissioner Grey in Petrovic v Randwick City Council [2021] NSW LEC 1242, the nature of the departure from the actual numerical standard and absence of impacts consequential of the departure constitute environmental planning grounds, as it promotes the good design and amenity of the development in accordance with the objects of the EP&A Act.

Ground 2 - Objectives of the Environmental Planning and Assessment Act 1979

Approval of the landscaped area and tree canopy variations will promote the delivery of housing on this particular site, consistent with the pre-existing dual occupancy land use on the land, consistent with objective 1.3(b) of the Act.

There are sufficient environmental planning grounds to justify contravening the development standard.

1.5 Conclusion

Pursuant to clause 4.6(4)(a) of MLEP 2013, the consent authority can be satisfied that this written request has adequately addressed the matters required to be demonstrated by subclause (3) being:

(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.

As such, I have formed the opinion that there is no statutory or environmental planning impediment to the granting of a landscape variation in this instance.

Boston Blyth Fleming Pty Limited



Greg Boston

B Urb & Reg Plan (UNE) MPIA

Director

3BF TOWN PLANNERS

Updated clause 4.6 variation request – Height of buildings

43 & 43a Osborne Road, Manly

June 2026

3BF TOWN PLANNERS

1 Updated clause 4.6 variation request – Height of Buildings

1.1 Introduction

This updated clause 4.6 variation request has regard to the Revision 21 Architectural plans prepared by Costi Architects.

This clause 4.6 variation has been prepared having regard to key Land and Environment Court judgements including the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe)* at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney [2019]* NSWLEC 61, *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130, SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112, and Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582*.

It is important to note at the outset that clause 4.6 of the LEP *"is as much a part of [the 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****."* (*SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [73]).

1.2 State Environmental Planning Policy (Housing) 2021 (SEPP Housing)

1.2.1 Clause 168(2)(e) – Maximum building height

Pursuant to clause 168(2)(e) of SEPP Housing a maximum building height of 9.5m applies to development for the purpose of a dual occupancy located in a low and mid-rise housing area.

Building height is defined as follows:

> ***building height*** *(or* ***height of building****) means the vertical distance between ground level (existing) and 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.*

Ground level existing is defined as follows:

> ***ground level (existing)*** means the existing level of a site at any point.

I note that Council has adopted the interpretation of ground level (existing) as that established in the matter of *Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582* where at paragraphs 73 and 74 O'Neill C found:

> *73. The existing level of the site at a point beneath the existing building is the level of the land at that point. I agree with Mr McIntyre that the ground level (existing) within the footprint of the existing building is the extant excavated ground level on the site and the proposal exceeds the height of buildings development standard in those locations where the vertical distance, measured from the excavated ground level within the footprint of the existing building, to the highest point of the proposal directly above, is greater than 10.5m. The maximum exceedance is 2.01m at the north-eastern corner of the Level 3 balcony awning.*

74. *The prior excavation of the site within the footprint of the existing building, which distorts the height of buildings development standard plane overlaid above the site when compared to the topography of the hill, can properly be described as an environmental planning ground within the meaning of cl 4.6(3)(b) of LEP 2014.*

It has been determined that the Level 2 master bedroom breaches the 9.5m building height standard when measured above ground level existing by between 2.37m (24.9%) and 2.67m 28.1% as depicted in the section extract below.

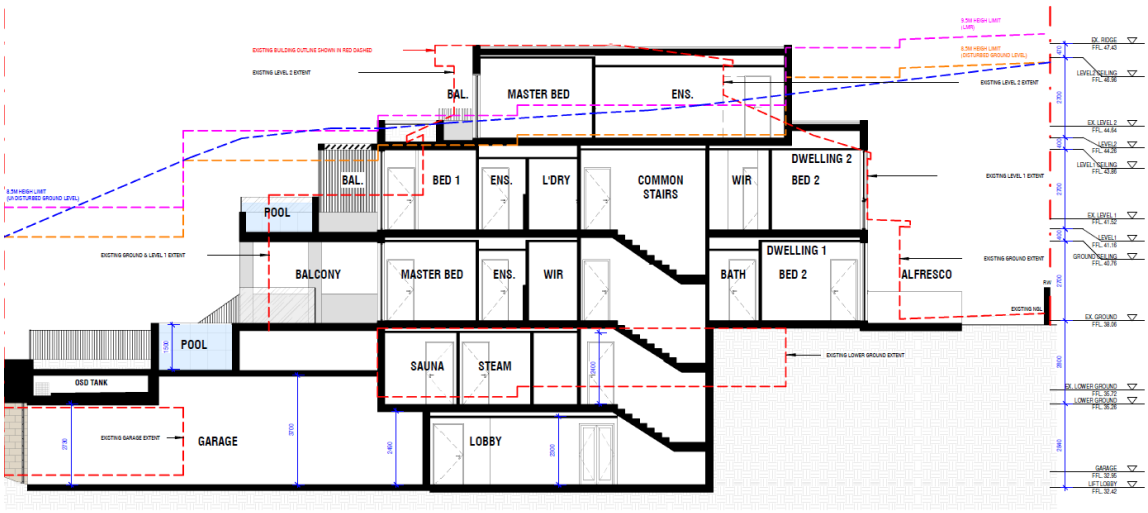


Image 1: Section showing height variation and height planes

I note that the replacement dual occupancy maintains the overall building height established by the existing dual occupancy located on the subject property although the proposed Level 2 breaching element is setback further from Osborne Road than the existing building element at this level and adopts greater setbacks to both side boundaries.

1.2.2 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of MLEP 2013 provides:

The objectives of this clause are:

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

(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 clause 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 MLEP 2013 provides:

> *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.*

This clause applies to the building height development standard at clause 168(2)(e) of SEPP Housing.

Clause 4.6(3) of MLEP 2013 provides:

> *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 building height development standard at clause 168(2)(e) of SEPP Housing which specifies a building height of 9.5m. However, 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, specific to the site and to its own context, to justify contravening the development standard.

The relevant arguments are set out later in this written request.

3BF TOWN PLANNERS

1.3 Relevant Case Law

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:

> *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].*
>
> *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].*
>
> *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].*
>
> *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].*
>
> *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.*
>
> *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.*

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

1. Is clause 168(2)(e) of SEPP Housing 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

1.4 Request for variation

1.4.1 Is clause 168(2)(e) of SEPP Housing a development standard?

The definition of "development standard" at clause 1.4 of the EP&A Act includes a provision of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

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

Clause 168(2)(e) of SEPP Housing prescribes a height limit for development on the site. Accordingly, clause 168(2)(e) of SEPP Housing is a development standard.

1.4.2 Clause 4.6(3)(a) – Whether compliance with the development standard is unreasonable or unnecessary

The common approach for an applicant to demonstrate that compliance with a development standard is unreasonable or unnecessary are set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

The first approach is relevant in this instance, being that compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Consistency with objectives of the building height development standard

As there are no stated objectives associated with this standard I have defaulted to the objectives of the building height standard contained at clause 4.3 of Manly LEP 2013. An assessment as to the consistency of the proposal when assessed against the objectives of the standard is 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,

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Comment: I note that the proposed replacement dual occupancy has the same overall building height as the existing dual occupancy building located on the subject site. The height of the existing building forms a component of the existing streetscape character. Although the replacement building has the same overall building height the proposed building height and floor space have been distributed in a manner whereby the upper level has increased front and side boundary setbacks and will appear more recessive as viewed from the street and surrounding properties.

This is evidenced in the plan extract below which overlays the proposal over an outline of the existing building. The upper revel maintains the established the overall building height however is more recessive relative to the front boundary and as viewed from the street.

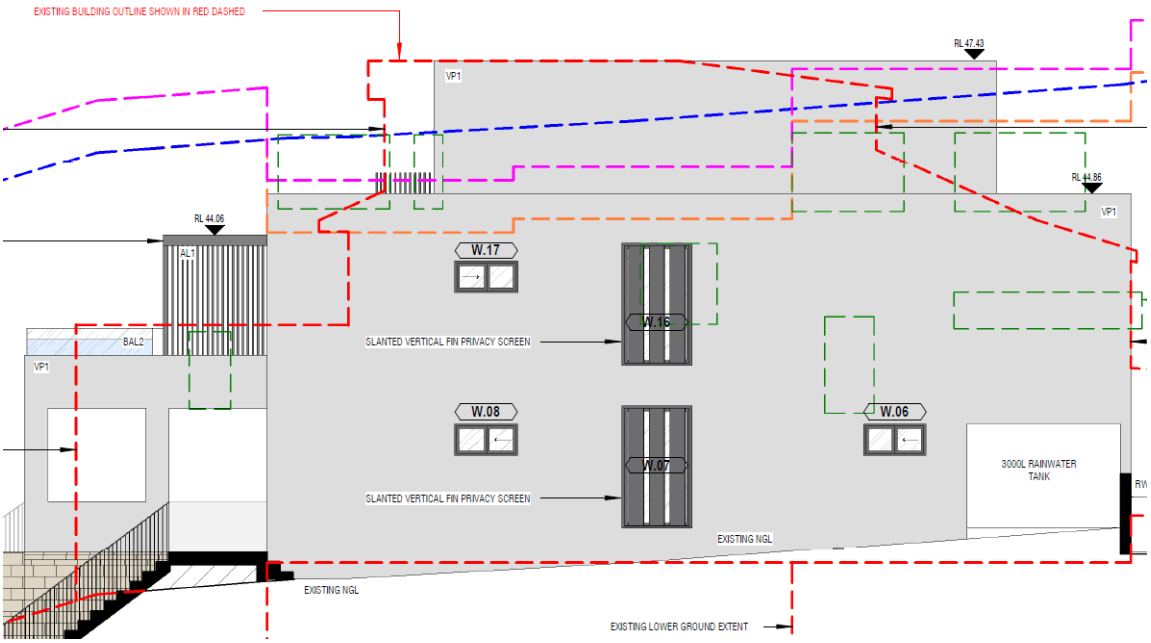


Figure 2: Plan extract with an overlay of the proposal relative to the existing building outline.

The photograph over page depicts the existing streetscape character which includes a mixture of dwelling houses, dual occupancy development and semi-detached dwellings interspersed by residential flat development having a mixture of pitched and parapeted roof forms. The subject property is shown with a red arrow noting that the upper-level element visible from this vantage point will be demolished and replaced with a new element at this level however pushed back further on the site such that it is more recessive in a streetscape context and barely visible from this location. That is, the proposal will be consistent with the existing street character albeit the upper level will be more recessive in a streetscape context.



Figure 3: Streetscape photograph looking north towards the subject site shown with red arrow



Figure 4: Perspective image showing recessive upper level and consistent/ compatible building height/ streetscape outcome.

As evidenced, the replacement dual occupancy, by virtue of its height, bulk and scale, is **entirely consistent with** the existing character of Osborne Road and the non-compliance with the building height development standard does not detract from consistency with the likely future/ desired streetscape character. Similarly, the parapeted roof forms proposed are consistent with the prevailing streetscape character with the stepped and articulated non-compliant upper level consistent the topographic landscape, prevailing building height and desired future streetscape character in the locality,

Further, in relation to 'desired future character', this clause 4.6 request acknowledges and relies upon the Land and Environment Court's ruling in the matter of *Big Property Group Pty Ltd v Randwick City Council [2021] NSWLEC 1161* at [42] – [44]:

> *"The desired future character of any area cannot be determined by the applicable development standards for height and FSR alone…The presumption that the development standards that control building envelopes determine the desired future character of an area is based upon a false notion that those building envelopes represent, or are derived from, a fixed three-dimensional masterplan of building envelopes for the area and the realisation of that masterplan will achieve the desired urban character.*
>
> *Although development standards for building envelopes are mostly based on comprehensive studies and strategic plans, they are frequently generic, as demonstrated by the large areas of a single colour representing a single standard on Local Environmental Plan maps, and they reflect the zoning map. As generic standards, they do not necessarily account for existing and approved development, site amalgamations, the location of heritage items or the nuances of an individual site. Nor can they account for provisions under other EPIs that incentivise particular development with GFA bonuses or other mechanisms that intensify development.*
>
> *All these factors push the ultimate contest for evaluating and determining a building envelope for a specific use on a site to the development application stage. The application of the compulsory provisions of cl 4.6 further erodes the relationship between numeric standards for building envelopes and the realised built character of a locality (see Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115 (SJD DB2) at [62]-[63]).*
>
> *For these reasons, the desired future character of an area is not defined and fixed by the development standards that determine the building envelope for a site. Development standards that determine building envelopes for a locality can only contribute to shaping the character of that locality (SJD DB2 at [53]-[54] and [59]-[60]).*"

In this instance, the desired future character incorporates the built form that is within the same visual catchment of the subject site. The proposition that an existing dual occupancy development with non-compliant FSR would ever be demolished and replaced with a smaller more contemporary dual occupancy with compliant FSR is unrealistic. I also note that the subject site is within the Chapter 6 SEPP Housing LMR mapped area with multi dwelling housing with a non-discretionary FSR standard of 0.7:1 and residential flat development with a non-discretionary FSR standard of 0.8:1 contributing towards the likely future character of the area.

The proposed development is 'consistent with' that character, as detailed above. The objective is therefore met.

The building height and roof form, in particular the non-compliant building height elements and roof form are consistent with the existing and desired/ likely future streetscape character and accordingly this objective is achieved notwithstanding the building height non-compliance proposed.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council (2005) NSW LEC 191* I have formed the considered opinion that to the extent that the building height breaching elements contribute to the overall bulk and scale the building that most observers would not find the bulk and scale of the proposed development offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of development within the visual catchment of the site.

This objective is achieved notwithstanding the building height breaching elements proposed.

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

Comment: The proposed building is well articulated and to the extent that the building height breaching elements contribute to building bulk and scale the breaching elements do not contribute to unacceptable streetscape outcomes nor unacceptable physical impacts on surrounding development in terms of views, overshadowing or privacy.

As depicted in Figure 3, the non-compliant building height breaching elements do not contribute to bulk and scale to the extent that the proposal will be perceived as being entirely consistent with the built form characteristics established by waterfront development within the site's visual catchment.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 I have formed the considered opinion that to the extent that the building height breaching elements contribute to the overall bulk and scale the building that most observers would not find the bulk and scale of the proposed development offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of development within the visual catchment of the site.

This objective is achieved notwithstanding the building height breaching elements proposed.

(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: I am satisfied that the impacts to views currently enjoyed by adjoining properties and properties upslope to the north of the site are negligible to minor and reasonable given the more constrained upper-level floor plate proposed which will open up view corridors down both sides of the property.

Having inspected the site and its immediate surrounds to identify important landscape and townscape features I am satisfied that the non-compliant components of the development do not obscure any identified important landscape and townscape features.

This objective is achieved notwithstanding the building height breaching elements proposed.

(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 non-compliant building height elements do not unreasonably contribute to overshadowing of public spaces. Clause 3.4.1.1 of MDCP 2013 prescribes that new development must not eliminate more than one-third of the existing sunlight accessing the private open space of adjacent properties between 9am and 3pm in midwinter. Further, clause 3.4.1.2 prescribes that the level of solar access presently enjoyed must be maintained to windows or glazed doors of living rooms for at least 2 hours between 9am and 3pm in midwinter.

The shadow diagrams demonstrate that existing compliant levels of solar access will continue to be received to the living areas and open space areas of surrounding development. In this regard, it can be demonstrated that notwithstanding the building height breaching elements the proposal maintains adequate sunlight access to the public and private open spaces and to the habitable rooms of adjacent dwellings.

This objective is achieved notwithstanding the building height breaching elements proposed.

(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: N/A

The non-compliant development, as it relates to building height, demonstrates consistency with the building height development standard objectives. Adopting the first option in *Wehbe,* strict compliance with the height of buildings standard has been demonstrated to be unreasonable and unnecessary in the circumstances of this application.

1.4.3 Clause 4.6(4)(b) – Are there sufficient environmental planning grounds to justify contravening the development standard?

In *Initial Action* the Court found at [23]-[25] that:

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 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].

Sufficient environmental planning grounds

Ground 1 - Topography and prior excavation

The subject properties fall down from the rear boundary to the street with the topography of the land and previous excavation contributing to the extent of building height non-compliance. The prior excavation of the site within the footprint of the existing buildings distorts the height of buildings development standard plane overlaid above the site when compared to the natural undisturbed topography of the land. When the original undisturbed levels of the site are interpolated across the building footprint the extent of building height breach would be reduced.

Ground 2 - Compatibility of proposed building height

I note that the proposed replacement dual occupancy has the same overall building height as the existing dual occupancy building located on the subject site. The height of the existing building forms a component of the existing streetscape character. Although the replacement building has the same overall building height the proposed building height and floor space have been distributed in a manner whereby the upper level has increased front and side boundary setbacks and will appear more recessive as viewed from the street and surrounding properties.

Approval of the building height variation will facilitate the replacement of the existing antiquated dual occupancy building with a new more contemporary dual occupancy, of superior amenity and design, and which displays the same floor space and overall building height as the existing building. Such outcome will facilitate the orderly an economic redevelopment of the land.

Ground 3 - Objectives of the Act

The apparent height of the replacement dual occupancy, in particular the building height breaching elements, will be compatible with the existing streetscape which features a number of buildings of significantly greater bulk and scale, both when viewed from the street and from the foreshore and Harbour. The development will replace an existing dual occupancy of similar floorspace, bulk, scale and height. The proposition that an existing dual occupancy development with non-compliant height and FSR would ever be demolished and replaced with a smaller more contemporary dual occupancy with compliant height and FSR is unrealistic.

The building is of appropriate design quality with the variation facilitating a building height that provides for the orderly and economic redevelopment of the land in a skilfully designed and contextually compatible built form consistent with Objectives 1.3(b), (g) and (k) of the Act.

Overall, there are sufficient environmental planning grounds to justify contravening the development standard.

1.5 Conclusion

Pursuant to clause 4.6(4)(a) of MLEP 2013, the consent authority can be satisfied that this written request has adequately addressed the matters required to be demonstrated by subclause (3) being:

(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.

As such, I have formed the opinion that there is no statutory or environmental planning impediment to the granting of a building height variation in this instance.

Boston Blyth Fleming Pty Limited



Greg Boston

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Director

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Clause 4.6 variation request – Minimum lot size

43 & 43a Osborne Road, Manly

June 2026

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1 Clause 4.6 variation request – Minimum lot size

1.1 Introduction

This clause 4.6 variation request has regard to the Revision 21 Architectural plans prepared by Costi Architects.

This clause 4.6 variation has been prepared having regard to key Land and Environment Court judgements including the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe)* at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney [2019]* NSWLEC 61, *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130, SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112, and Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582*.

It is important to note at the outset that clause 4.6 of the LEP *"is as much a part of [the 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***." (*SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [73]).

1.2 State Environmental Planning Policy (Housing) 2021 (SEPP Housing)

1.2.1 Clause 168(2)(a) – Minimum lot size

Pursuant to clause 168(2)(a) of SEPP Housing a minimum lot size of 450m² applies to development for the purpose of a dual occupancy located in a low and mid-rise housing area.

The subject site is located within the low and mid-rise housing area and has an area of 430m². This represents a non-compliance of 20m² or 4.4%.

I note that the subject site is currently occupied by a dual occupancy.

1.2.2 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of MLEP 2013 provides:

> *The objectives of this clause are:*
>
> *(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
>
> *(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 clause 4.6(3).

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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 MLEP 2013 provides:

> *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.*

This clause applies to the minimum lot size development standard at clause 168(2)(a) of SEPP Housing.

Clause 4.6(3) of MLEP 2013 provides:

> *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 minimum lot size development standard at clause 168(2)(a) of SEPP Housing which specifies a minimum lot size of 450m². However, 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, specific to the site and to its own context, to justify contravening the development standard.

The relevant arguments are set out later in this written request.

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1.3 Relevant Case Law

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:

> *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].*
>
> *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].*
>
> *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].*
>
> *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].*
>
> *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.*
>
> *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.*

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

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1. Is clause 168(2)(a) of SEPP Housing 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

1.4 Request for variation

1.4.1 Is clause 168(2)(a) of SEPP Housing a development standard?

The definition of "development standard" at clause 1.4 of the EP&A Act includes a provision of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

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

Clause 168(2)(a) of SEPP Housing prescribes a minimum lot size for dual occupancy development on the site. Accordingly, clause 168(2)(a) of SEPP Housing is a development standard.

1.4.2 Clause 4.6(3)(a) – Whether compliance with the development standard is unreasonable or unnecessary

The common approach for an applicant to demonstrate that compliance with a development standard is unreasonable or unnecessary are set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

The first approach is relevant in this instance, being that compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Consistency with objectives of the minimum lot size development standard

There are no stated objectives associated with this standard. I am of the opinion that when read in conjunction with the minimum lot width standard of 12 metres at clause 168(2)(b) of SEPP Housing that the implicit objective of this standard is to ensure that the size and geometry of the site are capable of accommodating a dual occupancy building displaying a compatible building form and which will not give rise to unacceptable streetscape or residential amenity impacts.

I note that the site has a clause 168(2)(b) SEPP Housing compliant width at the building line of 12.19 metres.

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An assessment as to the consistency of the proposal when assessed against the implicit objectives of the standard is as follows:

> *To ensure that the size and geometry of the site are capable of accommodating a dual occupancy building displaying a compatible building form and which will not give rise to unacceptable streetscape or residential amenity impacts.*

Comment: The variation is numerically minor with the site already occupied by a dual occupancy building. I note that the proposed replacement dual occupancy has the same FSR and overall building height as the existing dual occupancy building.

The existing streetscape character includes a mixture of dwelling houses, dual occupancy development and semi-detached dwellings interspersed by residential flat development having a mixture of pitched and parapeted roof forms.

As evidenced, the replacement dual occupancy, by virtue of its height, bulk and scale. setbacks and overall building form is **entirely consistent with** the existing character of Osborne Road and the minimum lot size standard does not detract from consistency with the likely future/ desired streetscape character.

The proposition that an existing dual occupancy development located on a non-compliant lot size would ever be demolished and replaced with a single dwelling house is unrealistic.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council (2005) NSW LEC 191* I have formed the considered opinion that notwithstanding the minor lot size non-compliance that most observers would not find the development offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of development within the visual catchment of the site.

Similarly, I am satisfied that the impacts to views currently enjoyed by adjoining properties and properties upslope to the north of the site are negligible to minor and reasonable given the more constrained upper-level floor plate proposed which will open up view corridors down both sides of the property. Notwithstanding the minor lot size variation the proposal will not give rise to unacceptable visual privacy or shadowing impacts.

This objective is achieved notwithstanding the minimum lot size variation proposed.

The non-compliant development, as it relates to minimum lot size, demonstrates consistency with the implicit objective of the standard. Adopting the first option in *Wehbe,* strict compliance with the standard has been demonstrated to be unreasonable and unnecessary in the circumstances of this application.

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1.4.3 Clause 4.6(4)(b) – Are there sufficient environmental planning grounds to justify contravening the development standard?

In *Initial Action* the Court found at [23]-[25] that:

> *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 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].*

Sufficient environmental planning grounds

Ground 1 - Minor extent of breach and absence of environmental impact

The minimum lot size variation is quantitively and qualitatively appropriately described as minor and inconsequential in relation to streetscape, residential amenity and broader environmental consequences.

Consistent with the findings in Eather v Randwick City Council [2021] NSWLEC 1075, the contravention of the development standard is minor with the small departure from the standard and lack of any material impacts a sufficient environmental planning ground.

Ground 3 - Objectives of the Act

Approval of the minimum lot size variation will facilitate the replacement of the existing antiquated dual occupancy building with a new more contemporary dual occupancy, of superior amenity and design, and which displays the same floor space and overall building height as the existing building. Such outcome will facilitate the orderly an economic redevelopment of the land.

The proposition that an existing dual occupancy development would ever be demolished and replaced with a single dwelling house is unrealistic.

The building is of appropriate design quality with the minimum lot size variation facilitating an orderly and economic redevelopment of the land in a skilfully designed and contextually compatible built form consistent with Objectives 1.3(b), (g) and (k) of the Act.

Overall, there are sufficient environmental planning grounds to justify contravening the development standard.

1.5 Conclusion

Pursuant to clause 4.6(4)(a) of MLEP 2013, the consent authority can be satisfied that this written request has adequately addressed the matters required to be demonstrated by subclause (3) being:

(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.

As such, I have formed the opinion that there is no statutory or environmental planning impediment to the granting of a minimum lot size variation in this instance.

Boston Blyth Fleming Pty Limited



Greg Boston

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3BF TOWN PLANNERS

Updated clause 4.6 variation request – Floor space ratio

43 & 43a Osborne Road, Manly

June 2026

3BF TOWN PLANNERS

1 Updated clause 4.6 variation request - Floor space ratio

1.1 Introduction

This updated clause 4.6 variation request has regard to the Revision 21 Architectural plans prepared by Costi Architects.

This clause 4.6 variation has been prepared having regard to key Land and Environment Court judgements including the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe)* at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney [2019]* NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130, and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112.

It is important to note at the outset that clause 4.6 of the LEP *"is as much a part of [the 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****."* (*SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [73]).

1.2 State Environmental Planning Policy (Housing) 2021 (SEPP Housing)

1.2.1 Clause 168(2)(d) – Maximum floor space ratio

Pursuant to clause 168(2)(d) of SEPP Housing a maximum floor space ratio of 0.65:1 applies to development for the purpose of a dual occupancy located in a low and mid-rise housing area which based on a site area of 430m² anticipates a maximum gross floor area (GFA) as defined of 279.5m²

The proposal has a total GFA of 328.47representing an FSR of 0.76:1. This represents a non-compliance of 48.97m² or 17.5%.

I note that the existing dual occupancy has a GFA of 331.1m² with the proposed replacement dual occupancy providing for a slight reduction on overall GFA/ FSR as defined.

1.2.2 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of MLEP 2013 provides:

The objectives of this clause are:

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

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

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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 clause 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 MLEP 2013 provides:

> *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.*

This clause applies to the floor space ratio development standard at clause 168(2)(d) of SEPP Housing.

Clause 4.6(3) of MLEP 2013 provides:

> *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 floor space ratio development standard at clause 168(2)(d) of SEPP housing which specifies a maximum floor space ratio of 0.65:1. However, 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.

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1.3 Relevant Case Law

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:

> *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].*
>
> *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].*
>
> *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].*
>
> *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].*
>
> *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.*
>
> *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.*

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

1. Is clause 168(2)(d) of SEPP Housing a development standard?

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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

1.4 Request for variation

1.4.1 Is clause 168(2)(d) of SEPP Housing a development standard?

The definition of "development standard" at clause 1.4 of the EP&A Act includes a provision of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

(d) the cubic content or floor space of a building,

Clause 168(2)(d) of SEPP Housing prescribes a floor space ratio provision which seeks to control the bulk and scale of certain development. Accordingly, clause 168(2)(d) of SEPP Housing is a development standard.

1.4.2 Clause 4.6(3)(a) – Whether compliance with the development standard is unreasonable or unnecessary

The common approach for an applicant to demonstrate that compliance with a development standard is unreasonable or unnecessary are set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

The first approach is relevant in this instance, being that compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

In forming this opinion, the proposition that an existing dual occupancy development with non-compliant FSR would ever be demolished and replaced with a smaller more contemporary dual occupancy with compliant FSR is unrealistic. I also note that the subject site is within the Chapter 6 SEPP Housing LMR mapped area with multi dwelling housing with a non-discretionary FSR standard of 0.7:1 and residential flat development with a non-discretionary FSR standard of 0.8:1 contributing towards the likely future character of the area.

Consistency with objectives of the floor space ratio development standard

As there are no stated objectives associated with this standard I have defaulted to the objectives of the FSR standard contained at clause 4.4 of Manly LEP 2013. An assessment as to the consistency of the proposal when assessed against these objectives is as follows.

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(a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment: I note that the existing dual occupancy has a GFA of 331.1m² with the proposed replacement dual occupancy providing for a slight reduction on overall GFA/ FSR as defined. Although the replacement building has a similar GFA/ FSR than the existing building the proposed floor space has been distributed in a manner whereby the upper level has increased side boundary setbacks and will appear more recessive as viewed from the street and surrounding properties.

This is evidenced in the plan extract below which overlays the proposal over an outline of the existing building. The upper revel maintains the established the overall building height however is more recessive relative to the front boundary and as viewed from the street.

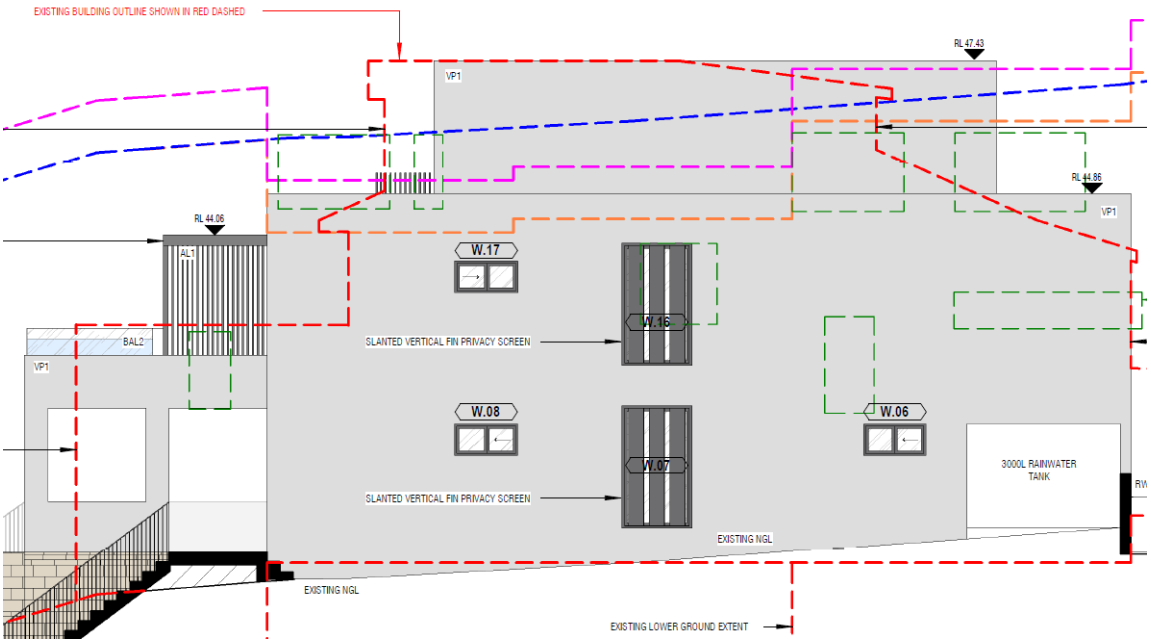


Figure 1: Plan extract with an overlay of the proposal relative to the existing building outline.

The photograph over page depicts the existing streetscape character which includes a mixture of dwelling houses, dual occupancy development and semi-detached dwellings interspersed by residential flat development. The subject property is shown with a red arrow noting that the upper-level element visible from this vantage point will be demolished and replaced with a new element at this level however pushed back further on the site such that it is more recessive in a streetscape context and barely visible from this location. That is, the proposal will be consistent with the existing street character albeit the upper level will be more recessive in a streetscape context.



Figure 2: Streetscape photograph looking north towards the subject site shown with red arrow



Figure 3: Perspective image showing recessive upper level and consistent/ compatible streetscape outcome.

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As evidenced, the replacement dual occupancy, by virtue of its height, bulk and scale, is **entirely consistent with** the existing character of Osborne Road and the non-compliance with the floor space ratio development standard does not detract from consistency with the likely future/ desired streetscape character.

Further, in relation to 'desired future character', this clause 4.6 request acknowledges and relies upon the Land and Environment Court's ruling in the matter of Big Property Group Pty Ltd v Randwick City Council [2021] NSWLEC 1161 at [42] –[44]:

> *"The desired future character of any area cannot be determined by the applicable development standards for height and FSR alone…The presumption that the development standards that control building envelopes determine the desired future character of an area is based upon a false notion that those building envelopes represent, or are derived from, a fixed three-dimensional masterplan of building envelopes for the area and the realisation of that masterplan will achieve the desired urban character.*
>
> *Although development standards for building envelopes are mostly based on comprehensive studies and strategic plans, they are frequently generic, as demonstrated by the large areas of a single colour representing a single standard on Local Environmental Plan maps, and they reflect the zoning map. As generic standards, they do not necessarily account for existing and approved development, site amalgamations, the location of heritage items or the nuances of an individual site. Nor can they account for provisions under other EPIs that incentivise particular development with GFA bonuses or other mechanisms that intensify development.*
>
> *All these factors push the ultimate contest for evaluating and determining a building envelope for a specific use on a site to the development application stage. The application of the compulsory provisions of cl 4.6 further erodes the relationship between numeric standards for building envelopes and the realised built character of a locality (see Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115 (SJD DB2) at [62]-[63]).*
>
> *For these reasons, the desired future character of an area is not defined and fixed by the development standards that determine the building envelope for a site. Development standards that determine building envelopes for a locality can only contribute to shaping the character of that locality (SJD DB2 at [53]-[54] and [59]-[60]).*"

In this instance, the desired future character incorporates the built form that is within the same visual catchment of the subject site. The proposition that an existing dual occupancy development with non-compliant FSR would ever be demolished and replaced with a smaller more contemporary dual occupancy with compliant FSR is unrealistic. I also note that the subject site is within the Chapter 6 SEPP Housing LMR mapped area with multi dwelling housing with a non-discretionary FSR standard of 0.7:1 and residential flat development with a non-discretionary FSR standard of 0.8:1 contributing towards the likely future character of the area.

The proposed development is 'consistent with' that character, as detailed above. The objective is therefore met.

The bulk and scale of development is consistent with the existing and desired/ likely future streetscape character and accordingly this objective is achieved notwithstanding the FSR non-compliance proposed.

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(b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment: I am satisfied that the impacts to views currently enjoyed by adjoining properties and properties upslope to the north of the site are negligible to minor and reasonable given the more constrained upper-level floor plate proposed which will open up view corridors down both sides of the property.

Having inspected the site and its immediate surrounds to identify important landscape and townscape features I am satisfied that the non-compliant components of the development do not obscure any identified important landscape and townscape features including the heritage listed foreshore reserve.

This objective is achieved notwithstanding the FSR non-compliance proposed.

(c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment: Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments*, most observers would not find the proposed development, in particular the non-compliant building floor space ratio, offensive, jarring or unsympathetic in a streetscape context or as viewed from the waterway, as demonstrated in the montages provided to support the application. To the contrary, the proposed development is visually compatible with the existing streetscape of Osborne Road and development within the site's visual catchment.

Furthermore, despite non-compliance with the maximum FSR prescribed, the proposed development achieves consistency with the total open space controls of MDCP 2013, enabling the provision of a high-quality landscaped outcome for the site.

This objective is achieved notwithstanding the non-compliant FSR proposed.

(d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment: The proposed development does not result in any unreasonable impacts upon neighbouring properties with regards to overshadowing, visual or acoustic privacy. In this regard, I rely on the shadow diagrams prepared by the project architect. The proposed building forms are appropriately articulated, by virtue of recessed elements, varied setbacks, building separation, differing materials and landscaping, and will not be overly dominant as seen from the street, the waterway or adjoining properties. The non-compliant FSR does not detract from consistency with this objective.

(e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment: Not Applicable.

Having regard to the above, the non-compliant building in terms of FSR will achieve the objectives of the standard to at least an equal degree as would be the case with a development that complied with the FSR standard. Given the development's consistency with the objectives of the FSR standard adopting the first approach in Wehbe strict compliance has been found to be both unreasonable and unnecessary under the circumstances.

1.4.3 Clause 4.6(4)(b) – Are there sufficient environmental planning grounds to justify contravening the development standard?

In *Initial Action* the Court found at [23]-[25] that:

> *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 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].*

Sufficient environmental planning grounds

Ground 1 - Contextually compatible and responsive building form and design

The bulk and scale of the proposed dual occupancy as reflected by FSR are compatible with the bulk and scale established by development within the site's visual catchment. The proposition that an existing dual occupancy development with non-compliant FSR would ever be demolished and replaced with a smaller more contemporary dual occupancy with compliant FSR is unrealistic. I also note that the subject site is within the Chapter 6 SEPP Housing LMR mapped area with multi dwelling housing with a non-discretionary FSR standard of 0.7:1 and residential flat development with a non-discretionary FSR standard of 0.8:1 contributing towards the desired/ likely future character of the area.

Consistent with the findings of O'Neill C in the matter of *30 Fairlight Pty Limited v Northern Beaches Council [2022] NSWLEC 1615* the proposal's compatibility with the existing bulk and scale of the built form in the context of the site was properly described as an environmental planning ground within the meaning identified by his Honour in Initial Action at [23].

Ground 2 - Objectives of the Act.

The apparent size of the replacement dual occupancy will be compatible with the existing streetscape which features a number of buildings of significantly greater bulk and scale, both when viewed from the street and from the foreshore and Harbour. The development will replace an existing dual occupancy of similar floorspace, bulk, scale and height. The proposition that an existing dual occupancy development with non-compliant FSR would ever be demolished and replaced with a smaller more contemporary dual occupancy with compliant FSR is unrealistic.

The building is of appropriate design quality with the variation facilitating a floor space that provides for the orderly and economic redevelopment of the land in a skilfully designed and contextually compatible built form consistent with Objectives 1.3(b), (g) and (k) of the Act.

Overall, there are sufficient environmental planning grounds to justify contravening the development standard.

1.5 Conclusion

Pursuant to clause 4.6(4)(a) of MLEP 2013, the consent authority can be satisfied that this written request has adequately addressed the matters required to be demonstrated by subclause (3) being:

(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.

As such, I have formed the opinion that there is no statutory or environmental planning impediment to the granting of a floor space ratio variation in this instance.

Boston Blyth Fleming Pty Limited



Greg Boston

B Urb & Reg Plan (UNE) MPIA

Director

ITEM 5.2 DA2026/0898 - 40 EMMA STREET MONA VALE - STRATA SUBDIVISION

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Minimum Lot Size Development Standard of Clause 4.1 pursuant to clause 4.6 of PLEP 2014 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.

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2026/0898 for Strata Subdivision of existing dual occupancy (attached) at Lot 9 DP 221609, 40 Emma Street MONA VALE subject to the conditions set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [**5.2.1** - 16 pages] 2. Site Plans & Elevations [**5.2.2** - 2 pages] 3. Clause 4.6 [**5.2.3** - 9 pages]

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2026/0898

Responsible Officer:	Brittany Harrison
Land to be developed (Address):	Lot 9 DP 221609, 40 Emma Street MONA VALE NSW 2103
Proposed Development:	Strata Subdivision of existing dual occupancy (attached)
Zoning:	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:	Luke Szann

Application Lodged:	08/07/2026
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	Not Notified
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and conservation zones: Lot 1: 53.29% Lot 2: 58.43%
Recommendation:	Approval

Estimated Cost of Works:	$ 5,500.00

EXECUTIVE SUMMARY

This development application seeks consent for the strata subdivision of an existing attached dual occupancy.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the proposal contravening Clause 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and conservation zones of the *Pittwater Local Environmental Plan 2014* (PLEP 2014), by more than 10.0%.

Clause 4.2A of the PLEP 2014 stipulates that strata subdivision of a dual occupancy must achieve

the minimum lot size as identified on the Minimum Lot Size Map for the area, which in this instance is 700.0m², unless they were built prior to 2003, the subject dual occupancy was approved in 2006. The proposed strata subdivision will result in a lot size of 327.0m² for Lot 1 and 291.0m² for Lot 2, with a variation of 53.29% and 58.43%, respectively.

In support of the variation is a detailed written Clause 4.6 variation request, which justifies that compliance with the development standard is considered unreasonable in the circumstances of this case. The extent of variation arises from the existing dual occupancy occupying land that is of only 699.0.0m² in area, and hence any strata subdivision would not achieve the required lot size of 700.0m². It is argued that the resulting lot sizes of the strata subdivision will not alter the physical presence of the dual occupancy, nor will result in any adverse amenity impacts. The land will not be fragmented by Torrens Title Subdivision, but rather allow for separate titles within an existing building to provide for separate sale and hence contribute to the local housing needs. Such subdivision will not result in disruption to the residential character nor established subdivision pattern. These factors have been submitted as sufficient environmental planning grounds, which in this circumstance is supported.

As per the Northern Beaches Community Participation Plan (CPP), Development Applications for strata subdivision *only* is stipulated as being exempt to public exhibition (that is, being notified to adjoining and surrounding properties). The proposal was therefore not notified.

Based on a detailed assessment of the application, it is considered that, on balance the proposal is a suitable and an acceptable development for the subject site for the reasons outlined in this report.

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

PROPOSED DEVELOPMENT IN DETAIL

This Development Application seeks consent for the strata subdivision of an existing dual occupancy into lot 1 and 2, including common property, as noted below.

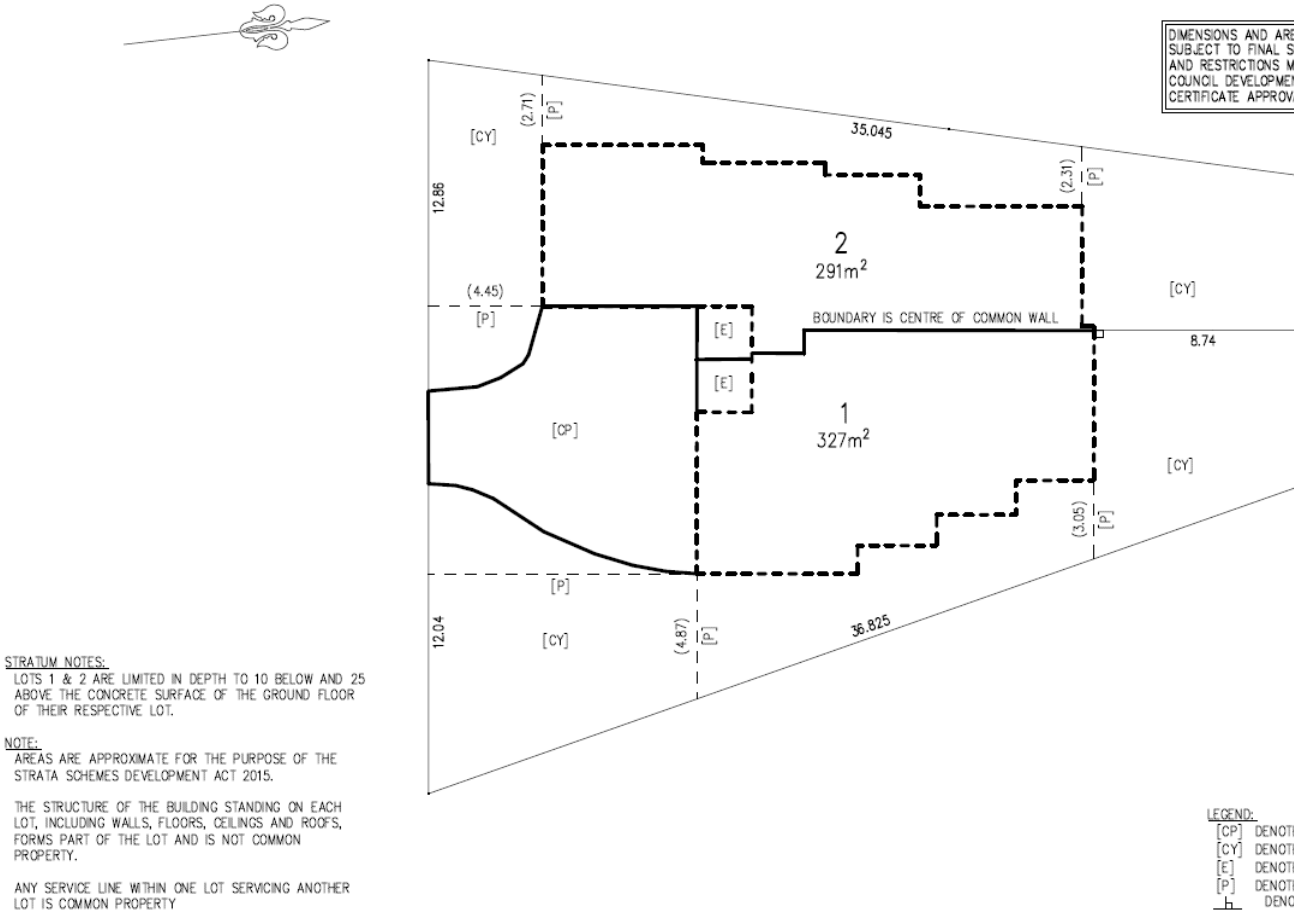


Figure 1: *Extract of Strata Subdivision Sheet 2 of 2, prepared by TSS, dated in the year 2026.*

NOTIFICATION

As per Northern Beaches Community Participation Plan (CPP), Development Applications for strata subdivision only is stipulated as being exempt to public exhibition (that is, being notified to adjoining and surrounding properties).

ASSESSMENT INTRODUCTION

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

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

- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

SITE DESCRIPTION

Property Description:	Lot 9 DP 221609 , 40 Emma Street MONA VALE NSW 2103
Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Emma Street. The subject site is legally identified as Lot 9 in Deposited Plan 221609, No. 40 Emma Street, Mona Vale. The allotment is of a trapezium shape with a frontage of 28.5 metres and a depth of 35.935 metres. The site has a surveyed area of 699.0m². The site is located within the R2 Low Density Residential zone pursuant to the *Pittwater Local Environmental Plan 2014* and accommodates an existing dual occupancy. The site is relatively flat and includes areas of open lawn to both the front and rear. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by low density residential development including dwellings and dual occupancies of various architectural designs.

Map:



SITE HISTORY

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

Consent No. N0184/06
Development Application for the demolition of the existing dwelling and construction of a two storey attached dual occupancy.
Determined on 7 December 2006.

CC0573/07
Construction Certificate for the demolition of the existing dwelling and construction of a two storey attached dual occupancy.
Obtained on 14 November 2007.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(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. 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 clause is not relevant to this application. 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 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 clause is not relevant to this application. 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 Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the 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 was not notified.

REFERRALS

No referrals were sent in relation to this application

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 (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones	700.0m²	**Lot 1:** 327.0m² **Lot 2:** 291.0m²	**Lot 1:** 53.29% **Lot 2:** 58.43%	**No** *Refer to Clause 4.6*

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.6 Subdivision - consent requirements	Yes
4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and conservation zones	No
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
7.10 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

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

Development Standard: Clause 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and conservation zones.
Requirement: 700.0m²
Proposed: Lot 1: 327.0m² & Lot 2: 291.0m²
Percentage of Variation: Lot 1: 53.29% & Lot 2: 58.43%

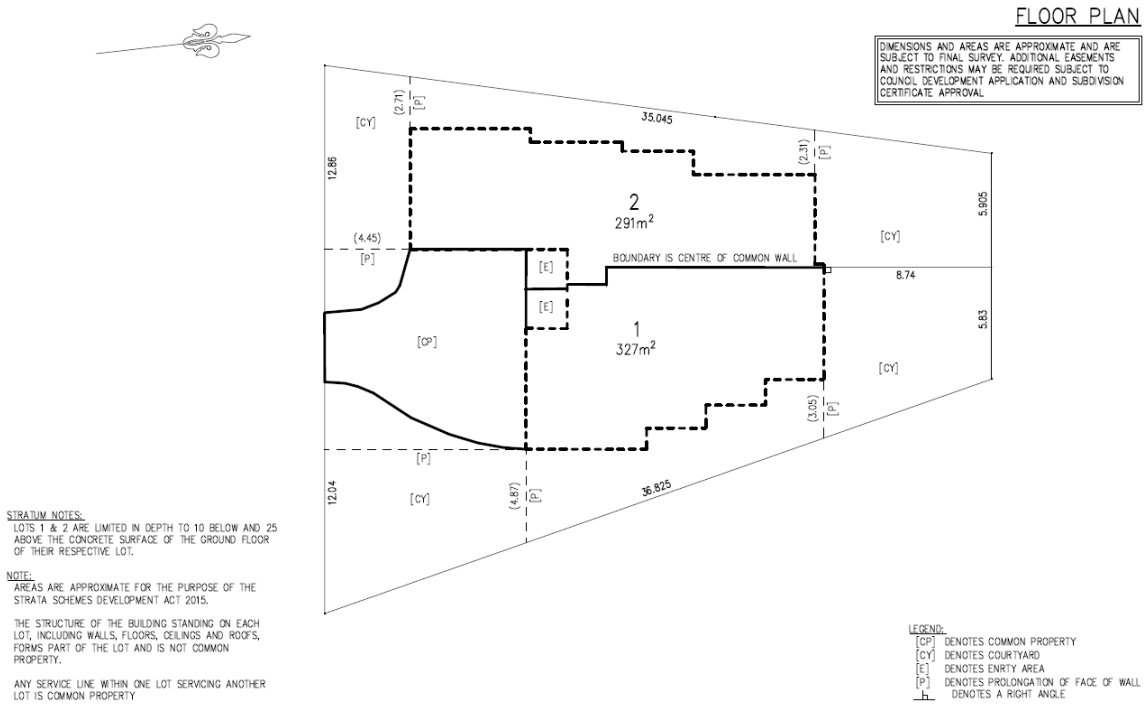


Figure 2: *Extract of Strata Subdivision Sheet 2 of 2, prepared by TSS, dated in the year 2026.*

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 PLEP 2014 (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 4.2A 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 4.2A is unreasonable or unnecessary in the circumstances of this application for the following reasons (extracted from submitted Clause 4.6):

- *The proposed development will be in the public interest because the land is not being fragmented by Torrens title subdivision and the lot and low-density pattern of subdivision in the area is not being undermined, Council's assessment should be focused on this numerical allowance as opposed to the variation to the specific standard.*

- *By providing flexibility the subject proposal is capable of achieving a better development and design outcome which adequately caters for the provision of additional low-density housing within the Pittwater LGA.*

- *The underlying objective or purpose of the standard in Clause 4.2A is still achieved as the land is not fragmented through the creation of individual lots but separate titles within an existing building which is a dual occupancy (attached). The creation of separate titles within an existing building in this regard does not alter the existing pattern of subdivision in the area. The proposal does not seek additional dwelling entitlements, as the site already contains an existing dual occupancy development.*

(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 (extracted from submitted Clause 4.6):

- *The proposal involves a strata subdivision of an existing lawful attached dual occupancy development, and does not involve any physical building work, hence there will be no impact on the existing privacy, views, overshadowing or noise impacts.*

- *The underlying objective or purpose of the standard in Clause 4.2A is still achieved despite the development because land is not being fragmented through the creation of individual lots but separate titles within an existing building which is a dual occupancy only is being created.*

- *The creation of separate titles within an existing building in this regard does not alter the existing pattern of subdivision in the area. The proposal does not seek additional dwelling entitlements, as the site already contains an existing dual occupancy development.*

- *Strict compliance with Clause 4.2A of the Pittwater Local Environmental Plan 2014 would hinder the attainment of the objectives of the Act as it would impact on the delivery of a stock of affordable housing within the community and would not promote an orderly and economic use and development of the land.*

- *The proposed development will be in the public interest because the land is not being fragmented by Torrens title subdivision and the lot and low density pattern of subdivision in the area is not being undermined.*

- *Allowing the strata subdivision below lot sizes will permit the creation of separate titles which will provide for separate sale and hence contribute to the local housing needs within the community, without impacting on or changing the low-density character of the area.*

- *Northern Beaches Council has recently approved through the NBLPP numerous applications for strata subdivision which vary the development standard of Clause 4.2A. In particular, the following approvals include: DA2024/1041 – 51 Mona Vale Road, Mona Vale, DA2024/1463 – 2 The Boulevarde, Newport an DA2025/0050 – 61A Elimatta Road, Mona Vale.*

- *The proposed development is consistent with the objectives of the standard and objectives for development within the zone. Accordingly, there can be no quantifiable or perceived public benefit in maintaining the standard.*

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and conservation zones.

It is determined that no amenity impacts will ensue, as a result of the strata subdivision as the proposal does not include any physical material change and will remain a dual occupancy. The building is existing and was lawfully approved as a dual occupancy, the strata subdivision will not disrupt the existing subdivision pattern of land. The existing character of the area will be maintained without adverse impacts.

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 PLEP 2014.

It is considered on balance, that having regard to the particular circumstances as discussed above, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

Pittwater 21 Development Control Plan

Built Form Controls
No physical works will occur under this application.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B2.2 Subdivision - Low Density Residential Areas	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C4.1 Subdivision - Protection from Hazards	Yes	Yes
C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities	Yes	Yes
C4.5 Subdivision - Utility Services	Yes	Yes
C4.6 Service and delivery vehicle access in subdivisions	Yes	Yes
C4.7 Subdivision - Amenity and Design	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes

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

As the estimated cost of works is less than $100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, 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 Pittwater Local Environmental Plan 2014 seeking to justify variation of the development standard contained within Clause 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and conservation zones 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.

This proposal, for strata subdivision of existing dual occupancy (attached) has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to contravention of Clause 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and conservation zones of the *Pittwater Local Environmental Plan 2014* (PLEP 2014), by more than 10.0%. The proposed variations for the respective lots are 53.29% (Lot 1) and 58.43% (Lot 2).

As per the Northern Beaches Community Participation Plan (CPP), Development Applications for strata subdivision *only* is stipulated as being exempt to public exhibition (that is, being notified to adjoining and surrounding properties).

The critical assessment issues relate primarily to the Clause 4.6 written request to vary the development standard. The extent of non-compliance will not result in any physical material changes to the existing dual occupancy, nor contribute to adverse amenity impacts to neighbouring properties or the public domain. The

land is not being fragmented by Torrens title subdivision, however, will allow for the creation of separate titles within an existing building, maintaining the streetscape and existing pattern of subdivision in the area. The Clause 4.6 is considered to be well founded and thus supported.

It is considered that the proposed development satisfies the relevant objectives and that all processes and assessments have been satisfactorily addressed. Accordingly, the application is referred to the NBLPP with a recommendation for **approval**, subject to recommended conditions.

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 DA2026/0898 for Strata Subdivision of existing dual occupancy (attached) on land at Lot 9 DP 221609, 40 Emma Street, MONA VALE, 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**
Sheet 1 of 2	Rev 0	Location Plan	TSS Total Surveying Solutions	2026
Sheet 2 of 2	Rev 0	Floor Plan	TSS Total Surveying Solutions	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.

BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

2. **Subdivision Certificate Application**
The Applicant shall submit a Subdivision Certificate Application to Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919, the final plan of subdivision and all relevant documents including electronic copies. This documentation is to be submitted to Council prior to the issue of the Subdivision Certificate. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919.

3. **Compliance with Relevant Legislation**
Prior to the issue of the Strata Plan of Subdivision (including any Stratum), all relevant matters pertaining to this Plan, are to be satisfied to the satisfaction of the Certifying Authority, and evidence provided that the Plan complies with clause 17 Strata Schemes Development Regulation 2016 and the relevant parts of Section 58 Strata Schemes Development Act 2015.

Reason: To ensure compliance with the Consent issued, compliance with relevant legislation, and to ensure adequate provision is made, where required for fire safety, occupant safety, egress, access and appropriate facilities in the premises for building occupants

4. **Release of Subdivision Certificate**
The final plan of subdivision will not be issued by Council until the development has been completed in accordance with terms and conditions of the development consent.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919.

5. **Title Encumbrances**
The Applicant shall ensure all easements, rights of carriageway, positive covenants and restrictions as to user as detailed on the plans and required by the development consent are to be created on the title naming Council as the sole authority empowered to release or modify.

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

Reason: To ensure proper management of land.

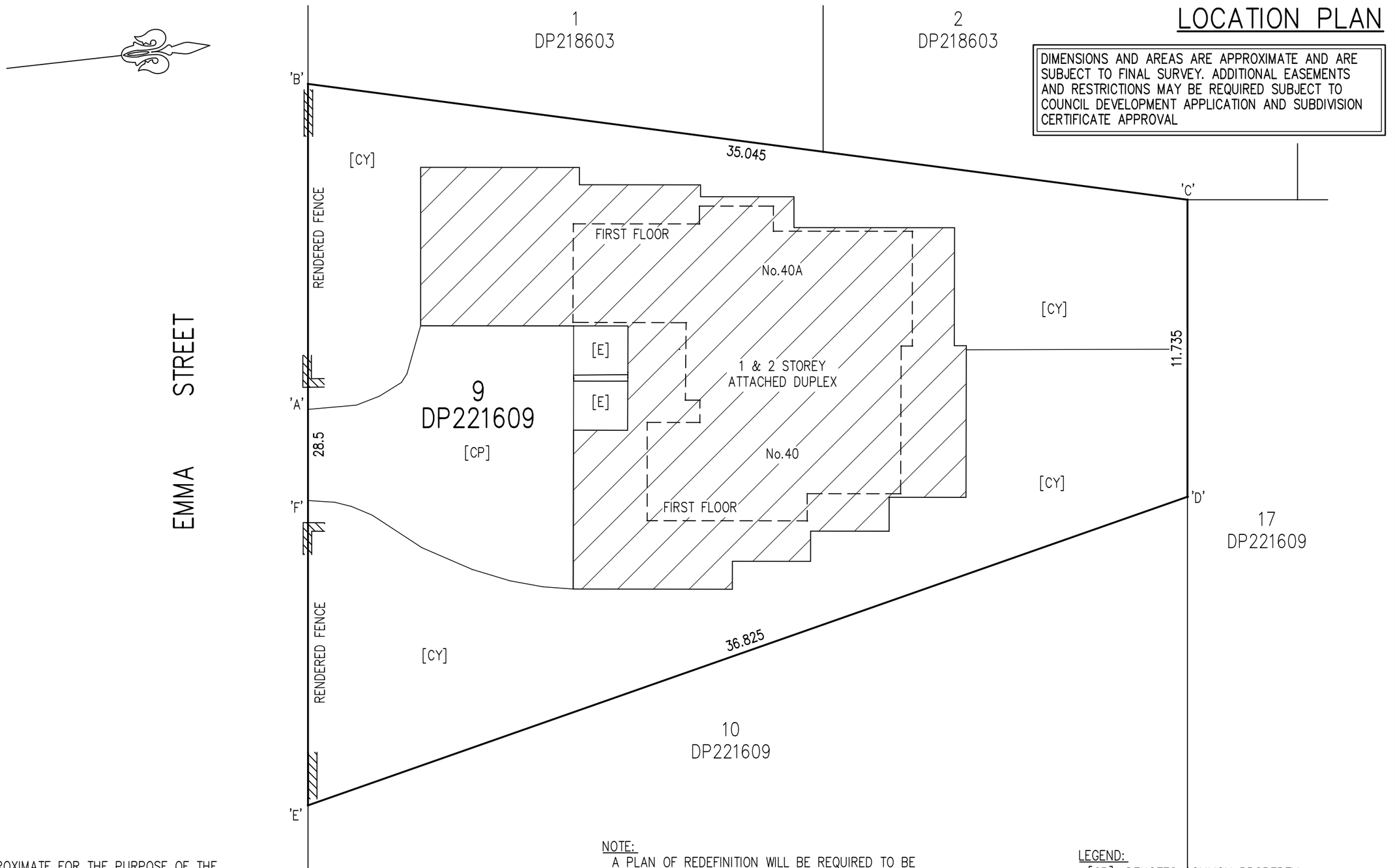
6. **Provision of Services for Subdivision**
The applicant is to ensure all services including water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan of subdivision.

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

Reason: To ensure that utility services have been provided to the newly created lots.

LOCATION PLAN

DIMENSIONS AND AREAS ARE APPROXIMATE AND ARE SUBJECT TO FINAL SURVEY. ADDITIONAL EASEMENTS AND RESTRICTIONS MAY BE REQUIRED SUBJECT TO COUNCIL DEVELOPMENT APPLICATION AND SUBDIVISION CERTIFICATE APPROVAL



NOTE:
AREAS ARE APPROXIMATE FOR THE PURPOSE OF THE STRATA SCHEMES DEVELOPMENT ACT 2015.
LOT BOUNDARIES 'A'–'F' ARE COINCIDENT WITH PARCEL BOUNDARIES.

NOTE:
A PLAN OF REDEFINITION WILL BE REQUIRED TO BE PREPARED AND REGISTERED WITH NSW LAND REGISTRY SERVICES (LRS) BEFORE THEY WILL ACCEPT A STRATA PLAN FOR REGISTRATION.

LEGEND:
[CP] DENOTES COMMON PROPERTY
[CY] DENOTES COURTYARD
[E] DENOTES ENRTY AREA

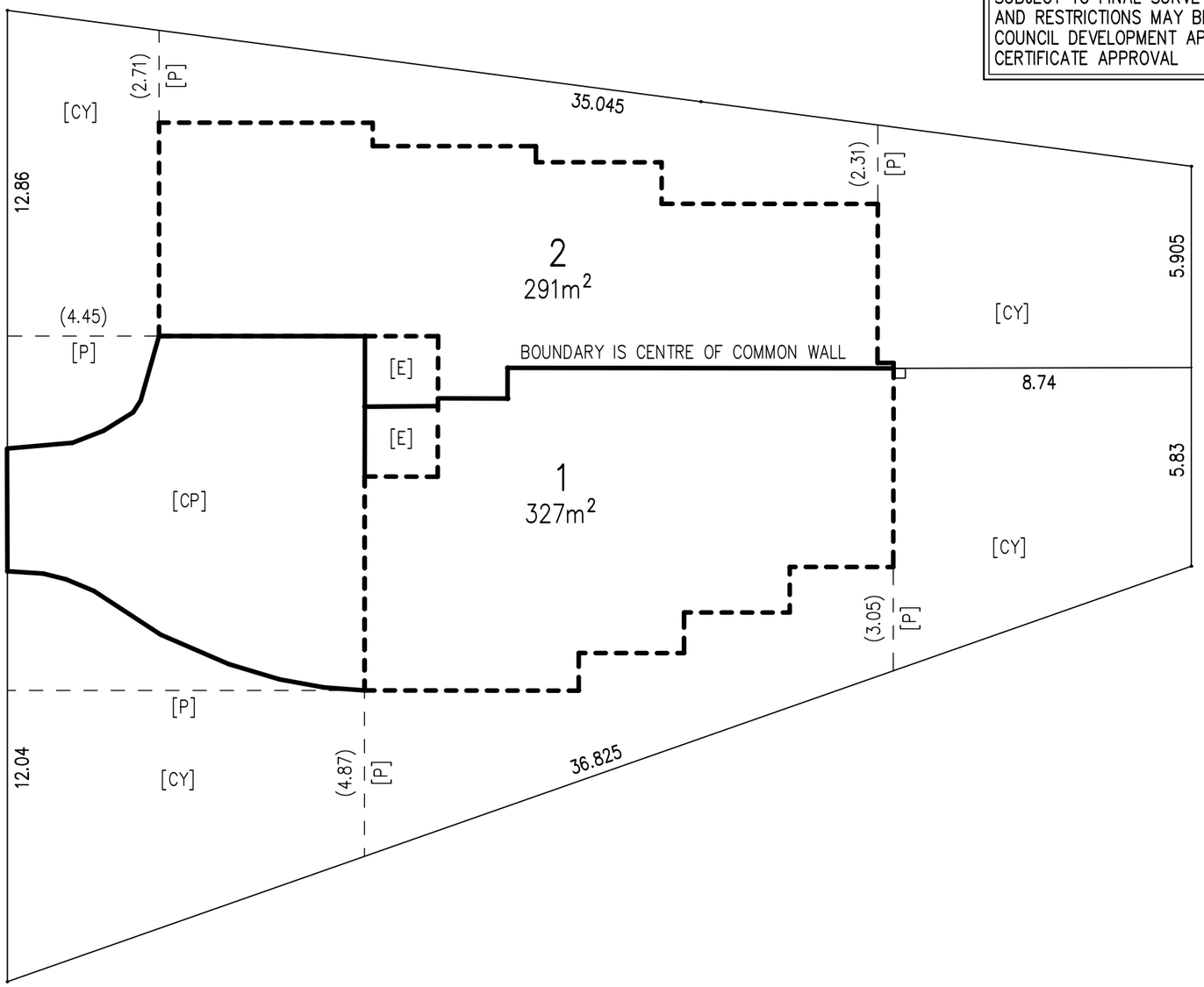
SURVEYOR Name: WILLIAM HAMER Date: __/__/2026 Reference: 260429–1	PLAN OF SUBDIVISION OF LOT 9 DP 221609 TSS TOTAL SURVEYING SOLUTIONS SYDNEY | CENTRAL COAST | NEWCASTLE	LGA: NORTHERN BEACHES Locality: MONA VALE Reduction Ratio: 1:150 Lengths are in metres.	REGISTERED Rev 0	DRAFT STRATA PLAN Issued: 24/5/2026

TSS Total Surveying Solutions Pty Ltd File 260429–1.dwg

PLAN FORM 1 (A3) WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION SHEET 2 OF 2 SHEETS

FLOOR PLAN

DIMENSIONS AND AREAS ARE APPROXIMATE AND ARE SUBJECT TO FINAL SURVEY. ADDITIONAL EASEMENTS AND RESTRICTIONS MAY BE REQUIRED SUBJECT TO COUNCIL DEVELOPMENT APPLICATION AND SUBDIVISION CERTIFICATE APPROVAL



STRATUM NOTES:
LOTS 1 & 2 ARE LIMITED IN DEPTH TO 10 BELOW AND 25 ABOVE THE CONCRETE SURFACE OF THE GROUND FLOOR OF THEIR RESPECTIVE LOT.

NOTE:
AREAS ARE APPROXIMATE FOR THE PURPOSE OF THE STRATA SCHEMES DEVELOPMENT ACT 2015.

THE STRUCTURE OF THE BUILDING STANDING ON EACH LOT, INCLUDING WALLS, FLOORS, CEILINGS AND ROOFS, FORMS PART OF THE LOT AND IS NOT COMMON PROPERTY.

ANY SERVICE LINE WITHIN ONE LOT SERVICING ANOTHER LOT IS COMMON PROPERTY

LEGEND:
[CP] DENOTES COMMON PROPERTY
[CY] DENOTES COURTYARD
[E] DENOTES ENRTY AREA
[P] DENOTES PROLONGATION OF FACE OF WALL
DENOTES A RIGHT ANGLE

SURVEYOR Name: WILLIAM HAMER Date: __/__/2026 Reference: 260429–1	PLAN OF SUBDIVISION OF LOT 9 DP 221609 TSS TOTAL SURVEYING SOLUTIONS SYDNEY | CENTRAL COAST | NEWCASTLE	LGA: NORTHERN BEACHES Locality: MONA VALE Reduction Ratio: 1:150 Lengths are in metres.	REGISTERED Rev 0	DRAFT STRATA PLAN Issued: 24/5/2026

TSS Total Surveying Solutions Pty Ltd File 260429–1.dwg

Four Towns Planning

Planning and property consultant

WRITTEN REQUEST PURSUANT TO CLAUSE 4.6 OF PITTWATER LOCAL ENVIRONMENTAL PLAN 2014

VARIATION OF A DEVELOPMENT STANDARD REGARDING MINIMUM SUBDIVISION LOT SIZE FOR STRATA PLAN SCHEMES IN CERTAIN RURAL, RESIDENTIAL AND ENVIRONMENT PROTECTION ZONES AS DETAILED IN CLAUSE 4.2A OF THE PITTWATER LOCAL ENVIRONMENTAL PLAN 2014

Proposed Strata Subdivision of Existing Dual Occupancy (Attached)

40 Emma Street,
Mona Vale NSW 2103

mathew@fourtowns.com.au
0425232018
www.fourtowns.com.au
PO Box 361, Balgowlah NSW 2093

This report has been prepared to support a Development Application under the *Environmental Planning and Assessment Act 1979*.

Report prepared by:
Mathew Quattroville
Director – Four Towns Pty Ltd

Report prepared for:
Luke Szann

1 July 2026

Disclaimer
This report has been prepared with due care and thoroughness by Four Towns Pty Ltd. The statements and opinions are given in good faith and in confidence that they are accurate and not misleading. In preparing this document, Four Towns Pty Ltd has relied upon information and documents provided by the Client or prepared by other Consultants. Four Towns Pty Ltd does not accept responsibility for any errors or omissions in any of the material provided by other parties.

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Introduction

This written request under clause 4.6 of Pittwater Local Environmental Plan 2014 (PLEP 2014) accompanies a Development Application, seeking consent for a two lot strata subdivision at 40 Emma Street, Mona Vale.

The nature and extent of the contravention is as follows:

Requirement	700sqm
Proposed	Lot 1 – 327sqm Lot 2 – 291sqm
Is the planning control in question a development standard?	Yes
Is the non-compliance with to the clause requirement a numerical/or performance based variation?	Numerical
If numerical enter a % variation to requirement	Lot 1 – 53.29% Lot 2 – 58.43%

Development standards are a means to achieving an environmental planning objective and can be numerical or performance based. Some developments may achieve planning objectives despite not meeting the required development standards. The planning system provides flexibility to allow these objectives to still be met by varying development standards in exceptional cases.

As detailed in this request, the proposed development is considered to meet the requirements prescribed under Clause 4.6 of the Pittwater LEP 2014, as the development standard is considered unreasonable, and the development displays sufficient environmental planning grounds to warrant contravention of the development standard.

The written request is made pursuant to Clause 4.6 PLEP 2014, seeking a variation to the minimum subdivision lot size for strata plan schemes in certain rural, residential and environmental protection zones as detailed under Clause 4.2A of the PLEP 2014.

Clause 4.2A notes:

(1) The objective of this clause is to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements.
(2) This clause applies to land in the following zones that is used, or is proposed to be used, for the purpose of a dual occupancy—
(a) Zone RU2 Rural Landscape,
(b) Zone R2 Low Density Residential,
(c) Zone R5 Large Lot Residential,
(d) Zone C4 Environmental Living.
(3) The size of any lot resulting from a subdivision of land to which this clause applies for a strata plan scheme (other than any lot comprising common property within the meaning of the Strata Schemes (Freehold Development) Act 1973 or Strata Schemes (Leasehold Development) Act 1986) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

Note—
Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provides that strata subdivision of a building in certain circumstances is specified complying development.

(4) This clause does not apply to the strata subdivision of land used, or proposed to be used, for the purpose of a dual occupancy for which development consent was granted on or before 2 June 2003.

A minimum subdivision lot size of 700sqm applies to the subject site, as per Figure 1 on the following page. Therefore, a written justification for the proposed variation to the minimum subdivision lot size development standard in accordance with Clause 4.6 of the Pittwater LEP 2014 is required.



Figure 1: The site is subject to a minimum lot size of 700sqm under the PLEP 2014
Source: planning portal.nsw.gov.au

Pittwater Local Environmental Plan 2014 ("PLEP")

2.1 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), which specifies the following objectives for the R2 zone:

To provide for the housing needs of the community within a low-density residential environment.

Comment: Allowing the strata subdivision below lot sizes will permit the creation of separate titles which will provide for separate sale and hence contribute to the local housing needs within the community, without impacting on or changing the low-density character of the area.

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

Comment: The proposed subdivision will not adversely impact on land uses that provide facilities or services to meet the day to day needs of residents.

To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.

Comment: The proposal relates to the strata subdivision of an existing dual occupancy (attached). The proposed subdivision is compatible with the established subdivision pattern in the vicinity of the site, and consistent with recent approvals granted in the area.

2.3 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of PLEP 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 latest authority in relation to the operation of clause 4.6 is the decision of Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 ("*Initial Action*"). *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 PLEP provides:

(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.

Clause 4.2A(3) is not excluded from the operation of clause 4.6 by clause 4.6(8) or any other clause of the PLEP.

Clause 4.6(3) of PLEP 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 development standard concerning the minimum lot size for strata plan schemes within the R2 Low Density Residential Zone, as prescribed under Clause 4.2A of the PLEP 2014, however strict compliance is unreasonable or unnecessary in the circumstances of this case and there are 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) of PLEP provides:

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

Clause 4.6(5) of PLEP has been repealed and is not applicable. Clause 4.6(6) relates to subdivision within certain zones and is not relevant to the development. Clause 4.6(7) has been repealed and is not applicable. Clause 4.6(8) is only relevant so as to note that it does not exclude clause 4.2(A) of the PLEP2014 from the operation of clause 4.6.

3. Relevant Caselaw

The grounds of objection are based upon the various tests of the recent judgements in the *NSW Land and Environment Court Case Wehbe v Pittwater Council (2007) 156 LGERA 446; [2007] NSWLEC 827, Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61, and RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

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

1. Is clause 4.2A(3) of PLEP 2014 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?

4. Request for Variation

4.1 Is clause Clause 4.2A(3) of PLEP2014 a development standard?

(a) The definition of "development standard" in clause 1.4 of the EP&A Act includes:

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

(b) Clause 4.2A(3) relates to a minimum subdivision lot size for strata plans. Accordingly, clause 4.2A(3) is a development standard.

4.2 Is compliance with clause 4.2A(3) unreasonable or unnecessary?

This request relies upon the First method identified by Preston CJ in *Wehbe*. The first way in *Wehbe* is to establish that the objectives of the standard are achieved.

It is acknowledged that the purpose of Clause 4.6 is to provide an appropriate degree of flexibility in applying certain development standards. In this regard, the proposed development will be in the public interest because the land is not being fragmented by Torrens title subdivision and the lot and low-density pattern of subdivision in the area is not being undermined, Council's assessment should be focused on this numerical allowance as opposed to the variation to the specific standard.

By providing flexibility the subject proposal is capable of achieving a better development and design outcome which adequately caters for the provision of additional low-density housing within the Pittwater LGA.

The First Method

The proposal is consistent with the objective of Clause 4.2A(3), as outlined below:

(1) The objective of this clause is to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements.

Comment: The underlying objective or purpose of the standard in Clause 4.2A is still achieved as the land is not fragmented through the creation of individual lots but separate titles within an existing building which is a dual occupancy (attached). The creation of separate titles within an existing building in this regard does not alter the existing pattern of subdivision in the area. The proposal does not seek additional dwelling entitlements, as the site already contains an existing dual occupancy development.

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

There are sufficient environmental planning grounds to justify contravening the development standard, as outlined below:

- The proposal involves a strata subdivision of an existing lawful attached dual occupancy development, and does not involve any physical building work, hence there will be no impact on the existing privacy, views, overshadowing or noise impacts.
- The underlying objective or purpose of the standard in Clause 4.2A is still achieved despite the development because land is not being fragmented through the creation of individual lots but separate titles within an existing building which is a dual occupancy only is being created.
- The creation of separate titles within an existing building in this regard does not alter the existing pattern of subdivision in the area. The proposal does not seek additional dwelling entitlements, as the site already contains an existing dual occupancy development.
- Strict compliance with Clause 4.2A of the Pittwater Local Environmental Plan 2014 would hinder the attainment of the objectives of the Act as it would impact on the delivery of a stock of affordable housing within the community and would not promote an orderly and economic use and development of the land.
- The proposed development will be in the public interest because the land is not being fragmented by Torrens title subdivision and the lot and low density pattern of subdivision in the area is not being undermined.

- Allowing the strata subdivision below lot sizes will permit the creation of separate titles which will provide for separate sale and hence contribute to the local housing needs within the community, without impacting on or changing the low-density character of the area.
- Northern Beaches Council has recently approved through the NBLPP numerous applications for strata subdivision which vary the development standard of Clause 4.2A. In particular, the following approvals include:
  - DA2024/1041 – 51 Mona Vale Road, Mona Vale
  - DA2024/1463 – 2 The Boulevarde, Newport
  - DA2025/0050 – 61A Elimatta Road, Mona Vale
- The proposed development is consistent with the objectives of the standard and objectives for development within the zone. Accordingly, there can be no quantifiable or perceived public benefit in maintaining the standard.

Having regard to Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, and further to the proposal's consistency with the above strategic and statutory environmental planning provisions, in this instance strict compliance with the development standard would hinder the attainment of the objects specified in Section 1.3 of the Environmental Planning and Assessment Act 1979 (the Act), which are as follows:

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

Strict compliance with Clause 4.2A of the Pittwater Local Environmental Plan 2014 would hinder the attainment of the objectives of the Act as it would impact on the delivery of a stock of affordable housing within the community and would not promote an orderly and economic use and development of the land.

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.

Based on the above, it has been demonstrated that there are sufficient environmental planning grounds to justify the proposed minimum lot size non-compliance in this instance.

5 Conclusion

In summary, this Clause 4.6 variation request is in relation to Clause 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and conservation zones in Pittwater Local Environmental Plan 2014.

Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the proposal complies with the First Way of the Five Part Test outlined in Wehbe, in that the objectives of the standard are achieved notwithstanding non-compliance with the standard.

In considering the balance between technical development standard compliance or support for this request to vary the set development standard, it is submitted that, in the proposed form, this unique development site can achieve the following positive environmental planning outcome/s:

- The separation of titles through the proposed strata subdivision will contribute to the stock of affordable housing and assist in addressing the housing needs within the community; and
- The dual occupancy already lawfully exists, and the strata subdivision does not alter the existing pattern of subdivision within the area; and
- The proposed strata subdivision will have no adverse impact on or alter the low-density character of the residential area; and
- The proposed strata subdivision will have no adverse environmental impacts and will not detract from the subject and surrounding residential amenity.
- Northern Beaches Council has recently approved similar variations for strata subdivisions under Clause 4.2A of PLEP2014.
- The proposal will not result in additional housing on the site.

Importantly, it is considered that a precedent will not be set by supporting the proposed departure as this proposal is responding to the uniqueness of this site and other similar projects. While strict adherence to the set development standard is desirable generally, on the merits of this specific case there is the opportunity to achieve a better environmental planning outcome on this site, through the development as proposed.

On the basis of the above, the Northern Beaches Council is able to support the proposed variation to the development standard under the provisions of Clause 4.6 of the LEP and favourably endorse the Development Application as submitted.

ITEM 5.3 DA2025/1605 - 16/1 GREYCLIFFE STREET QUEENSCLIFF - ALTERATIONS AND ADDITIONS TO A RESIDENTIAL FLAT BUILDING

PURPOSE

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

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 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.

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2025/1605 for Alterations and additions to a residential flat building at Lot 16 SP 60100, 16 / 1 Greycliffe Street QUEENSCLIFF subject to the conditions set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [**5.3.1** - 42 pages] 2. Site Plans & Elevations [**5.3.2** - 4 pages] 3. Clause 4.6 [**5.3.3** - 19 pages]

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/1605

Responsible Officer:	Adriana Bramley
Land to be developed (Address):	Lot 16 SP 60100, 16 / 1 Greycliffe Street QUEENSCLIFF NSW 2096
Proposed Development:	Alterations and additions to a residential flat building
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	No
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Xbyey Pty Ltd

Application Lodged:	03/11/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	14/11/2025 to 28/11/2025
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	4.3 Height of buildings: 68.12%
Recommendation:	Approval

Estimated Cost of Works:	$ 201,960.00

EXECUTIVE SUMMARY

This development application seeks consent for Alterations and Additions to the top floor unit (Unit 16) of an existing Residential Flat Building (RFB). The application in R2 Low Density Residential relies on existing use rights for the RFB, which has been demonstrated satisfactorily.

The works comprise of the partial enclosure of an existing terrace to create 19.1m2 of additional living space and the enclosure of the balcony off the master bedroom. Other internal alterations include removal of an internal blade wall, removal of bathroom cupboards and remodelled interiors.

The application is referred to the Northern Beaches Local Planning Panel (**NBLPP**) due to the departure

of Development Standard Clause 4.3 Height of Building by more than 10% in the Warringah Local Environmental Plan (**WLEP**), that being a new section of roof with a maximum height of 14.29m above ground level (existing). The proposed height is below the existing ridgeline of the building, which is 15.3m above ground level (existing) and no changes to the existing setbacks are proposed. The extension created an additional section of non-compliant section of wall height of up to 2m for a length up to 4.7 metres which is set in a non-compliant wall either side. There is also a small additional section of side boundary envelope non-compliance on the western side of up to 1.5m.

The application was notified in accordance with the Northern Beaches Community Participation Plan and three (3) submissions were received, two (2) of which were unique. Concerns raised in the objections predominantly relate to view sharing principles. Acceptable view sharing has been demonstrated with no significant view losses expected from surrounding properties.

Critical assessment issues included Building Height, Side Boundary Envelope and external materials.

The 4.6 request for the non-compliance with height standard arises from the partial enclosure of the existing roof terrace on the western side and the balcony on the southern side which creates a new section of roof to an existing roof terrace which creates a 68.12% variation. The entire building is non-compliant with the 8.5m height limit.

This report concludes with a recommendation that the NBLPP **approve** the development application, for the reasons set out at the end of this report, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks a development consent for Alterations and Additions to a Residential Flat Building as follows:

- Partial enclosure of an existing west facing balcony to extend the open living area into a 'Sun Room and Bar Area'
- Addition of vergola to half of the remaining west facing balcony and metal screening
- New solar Panels and skylight to new roof below existing roof ridgeline
- Partial enclosure of an existing south facing balcony to extend the Master Bedroom
- Internal reconfiguration for new internal fitout to existing Laundry and Storage space
- Internal reconfiguration to Master Bedroom to add walk in robe, and
- Internal modifications to remove small return blade wall from middle bedroom and cupboard from bathroom.

Image 1 - Original proposed partial enclosure and vergola on the west facing balcony

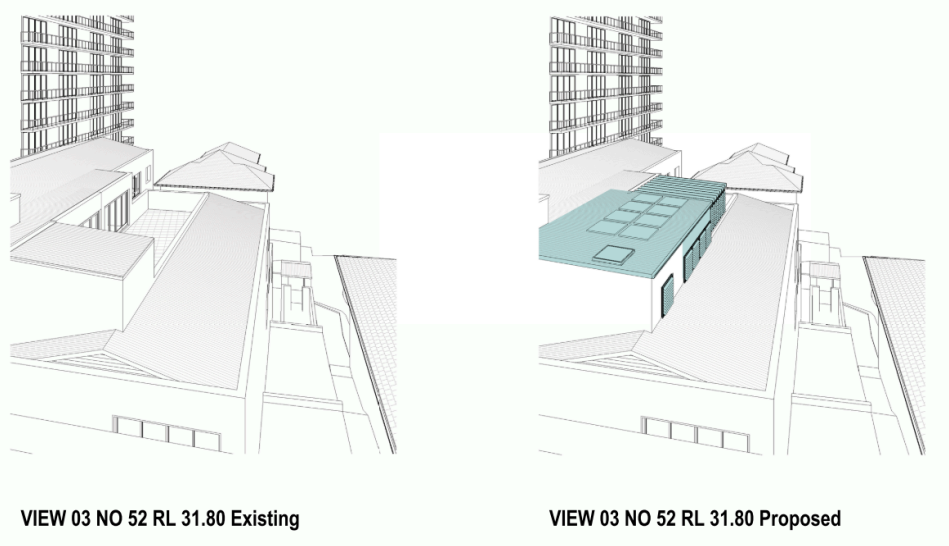


Image 2 - Original Proposed Unit 16 Floor Plan alterations

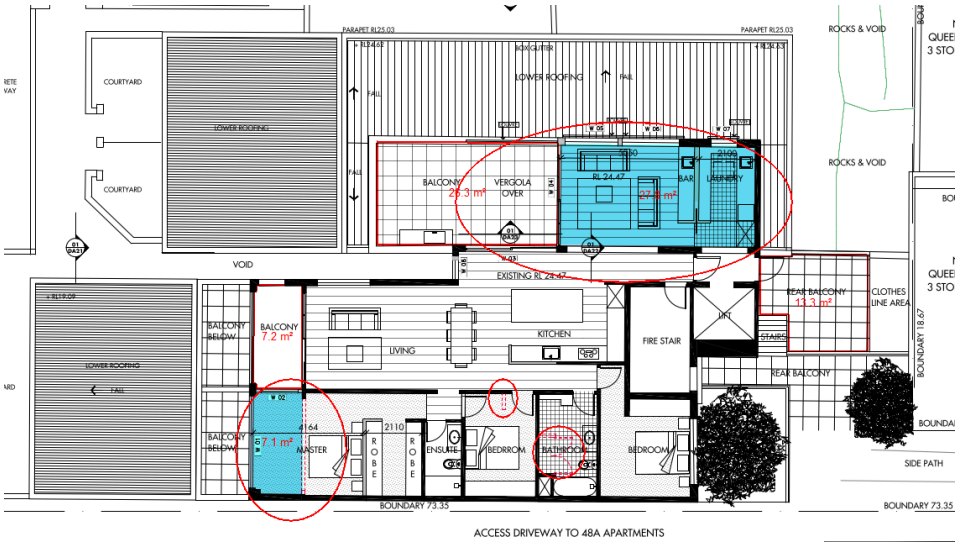
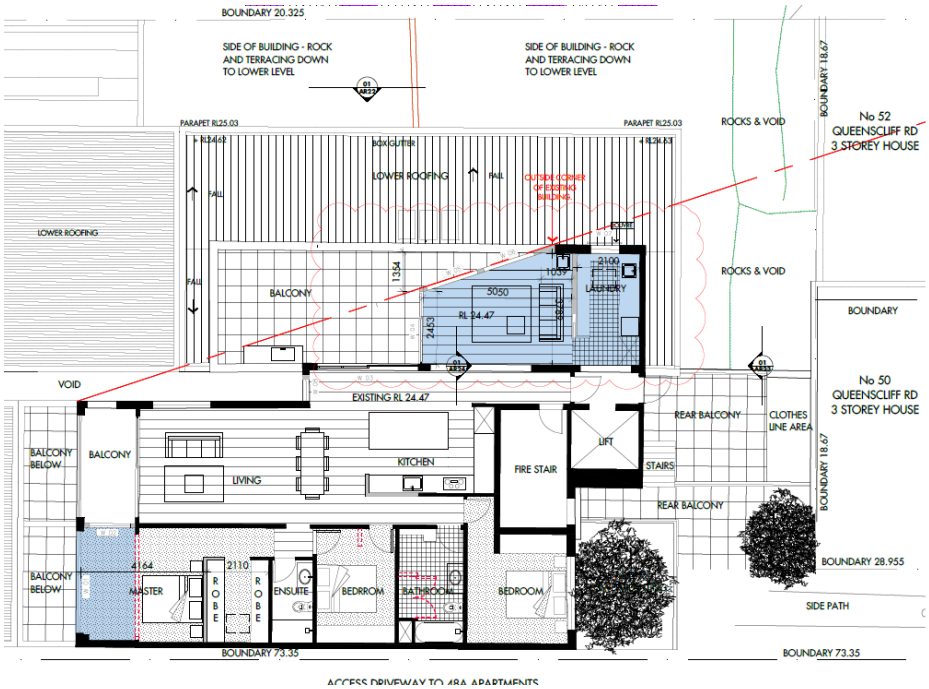


Image 3 - Existing West facing balcony that is proposed to be partially enclosed.



Image 4 - Amended Proposal restoring view corridor



Request for Further Information (RFI)

An RFI was issued in relation to view sharing. A response was received that amended the roof line to restore the existing view corridor from living areas at 52 Queenscliff Road (property to the rear / north). The amended plans also removed the proposed vergola and screening to the external balcony.

Amended Plans Notification

A notification was sent to all submitters that amended plans had been received. No further comments

were received in the 7 day period ending 10th July.

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.

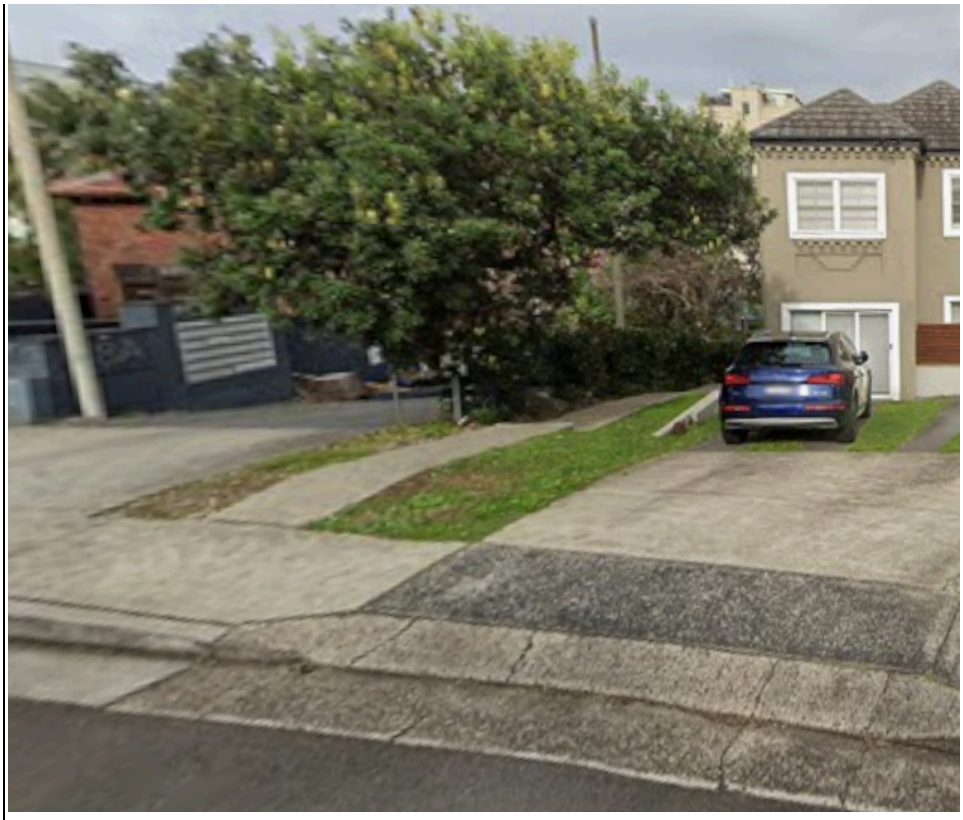
SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - B5 Side Boundary Setbacks
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D11 Roofs

SITE DESCRIPTION

Property Description:	Lot 16 SP 60100 , 16 / 1 Greycliffe Street QUEENSCLIFF NSW 2096

Detailed Site Description:	The subject site consists of one (1) allotment located on the southern side of Greycliffe Street. The site is battle-axe in shape with a narrow access handle of 3.05m wide and 28.96m long to Queenscliff Road (pedestrian pathway) with a block depth of 30.235m and a width of 21.095m at the rear boundary. The site has a surveyed area of 990.0m². The sites also has a boundary to Greycliffe Street that contains the vehicle access and main building entrance. The site is located within the Low Density Residential zone from WLEP 2011 and accommodates a Residential Flat Building of 16 units and of 15.3m in height. The site falls in a southerly direction towards Queenscliff Beach from a height of 31.52m at the pedestrian entrance on Queenscliff Road to 13.24m at the driveway entrance on Greycliffe Street (a total 72.356m depth) resulting in a slope ratio of 1:3.96. (25.27%). The site contains an existing 4 to 5 storey Residential Flat Building with no significant vegetation. **Image 5** - Greycliffe Street Entrance showing existing vehicle entry and four to five storey RFB on left.  **Image 6** - Pedestrian access pathway from Queenscliff Road between 48a and 50 Queenscliff Road.



Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by a mix of 2 to three storey detached dwelling houses and 4 to 11 storey residential flat buildings.

Map:



SITE HISTORY

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

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	See detailed assessment under "DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS" below.
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. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Information was requested on the existing use rights of the current building. 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 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 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.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Northern Beaches Local Environmental Plan (Draft LEP)

Definition(s): Residential Flat Building

Land Use Zone: R2 Low Density Residential Zone

Permissible or Prohibited: Prohibited

Additional Permitted used for particular land – Refer to Schedule 1: Not applicable

A detailed assessment against the proposed numerical provisions and development standards has not been undertaken as part of this report. However, broad consideration has been given to the Draft LEP, and the proposal is consistent with its relevant aims and objectives.

EXISTING USE RIGHTS

- **Does the existing use satisfy the definition of "existing use" under the *Environmental Planning and Assessment Act 1979* (the ‘Act')?**

Section 4.65 of the Act defines an existing use as:

> *"(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and*

(b) the use of a building, work or land:
(i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and
(ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse."

This necessarily requires the following questions to be answered:

1. Was the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use?

Comment:

The Applicant has provided evidence in the form of the registration of a Strata Plan SP60100 on 14 April 1999, which reveals that the use of the Residential Flat Building was approved and operating as a lawful purpose at that date, prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011.

2. Was the use of the building granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?

Comment:

The use of the building was lawfully approved, prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011.

3. Has the use of the building been carried out within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse?

Comment:

The Applicant has not provided any evidence to substantiate that the use of the building was carried out within one year from the date on which the provision having the effect of prohibiting the use commenced.

- **What is “the land on which the existing use was carried out" for the purposes of cl 162-167 of the Environmental Planning and Assessment Regulation 2021 (“the Regulation”)?**

Meagher JA in *Steedman v Baulkham Hills Shire Council [No. 1] (1991) 87 LGERA 26* stated (at 27) the rule to be applied as follows: *“if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose*”.

Comment:

Having regard to the above case law, it is noted that the whole of the area of the land was physically used for the purpose in question and therefore, it is considered that the land was used for that purpose and that existing use rights apply to the whole of the subject site.

- **What are the planning principles that should be adopted in dealing with an application to alter enlarge or rebuild and existing use?**

The judgement in *Fodor Investments v Hornsby Shire Council (2005) NSWLEC 71*, sets out the planning principles that should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights. The principles of Fodor Investments v Hornsby Shire Council (2005) NSWLEC 71 however have been varied by more recent judgements of the Court to the extent described in Saffioti v Kiama Municipal Council [2019] NSWLEC 57 and Made property Group Pty Ltd v North Sydney Council [2020] NSWLEC 1332 in that the planning controls apply to the existing use provided they do not derogate, due to the planning controls within an EPI being 'incorporated provisions' and therefore matters for consideration as described within Clause 4.67 of the Environmental Planning and Assessment Act, 1979.

The following four principles adopted by the NSW Land and Environment Court in this case will have general application in dealing with development applications that rely on existing use rights:

1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

Comment:

While the alterations and additions are contained within the current building footprint, the development includes an increase to the extent of the building that exists above the 8.5m height of building limit in the Warringah LEP and has increased the breach of maximum wall height in the Warringah DCP.

2. What is the relevance of the building in which the existing use takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

Comment:

The alterations and additions add a minimal amount of building bulk to the existing building however do not increase its footprint on the ground plane nor increase the overall maximum height. The minor increase in floor space is not likely to result in increased demand for parking or services as it adds extra living space and no further bedrooms.

3. What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Comment:

The impact on nearby existing residential properties have been assessed in relation to view sharing, increased demand to off-street and on-street parking and overshadowing and the resulting development will not result in any additional impacts.

4. What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Comment:

Internal amenity is considered acceptable and the increase in size of unit 6 improves the living area of the unit while leaving adequate private open space on the outside deck.

Conclusion

The use has been approved under a previous environmental planning instrument, (it is unclear from the building records which instrument applied at the time) and, therefore, is a lawful use. Subsequently, the use can be retained under the current environmental planning instrument (Warringah LEP 2011).

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 14/11/2025 to 28/11/2025 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 3 submission/s from:

Name:	Address:
Mrs Michaele Rose Somerville	54 Queenscliff Road QUEENSCLIFF NSW 2096
Mr John Olaf Halverson	52 Queenscliff Road QUEENSCLIFF NSW 2096
Ms Kathryn Mary Lamond	52 Queenscliff Road QUEENSCLIFF NSW 2096

Two (2) unique submissions were received during the exibition period, where 2 submissions were received from the same property.

Amended Plans
No additional comments were received in relation to the plan amendments.

The following issues were raised in the submissions:

- Loss of Views
- Excessive Built area (FSR)

The above issues are addressed as follows:

- **Loss of Views**

  The submissions raised concerns that views of the beach and ocean would be lost from the living areas of 54 Queenscliff Road and 52 Queenscliff Road.

  Comment:

  The view assessment of the amended proposal results in acceptable view sharing from the living areas of both 52 and 54 Queenscliff Road. (*See also D7 Views*).

- **Excessive Built Area (FSR)**

  The submissions raised concerns that the original building approved in the Land and Environment Court has excessive built areas compared with open space and the proposal exacerbates that.

  Comment:

  The existing Residential Flat Building relies on existing use rights as it was constructed prior to the current planning instrument and is no longer a Permitted Use in the R2 Low Density Residential Zone. In the area, the requirement for open space is 40% of the site at ground level. This is not achievable on this site and the existing situation will remain. The enclosing of part of the roof deck only impacts on the provision of private open space for Unit 16. The Private Open Space for a Unit has a requirement of a minimum of 10m2 with a minimum dimension of 2.5 metres. The resulting private open space meets the requirements of the current Warringah Development Control Plan.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	***Referral completed - conditions recommended.*** The comments in this referral relate to the following applicable controls and provisions: • SEPP (Resilience and Hazards) 2021 - Coastal Environment Area • Warringah DCP Clause E4 Wildlife Corridors • Warringah DCP Clause E6 Retaining unique environmental features The proposal would take place on existing hardstand and is unlikely to impact upon native flora and fauna. As the proposal would take place in areas identified as wildlife corridors, conditions are recommended.

Internal Referral Body	Comments
NECC (Development Engineering)	***Referral completed - conditions recommended.*** The proposed development is in Region 2. Vehicle crossing construction is not proposed. On-site detention is not required. Development engineering raises no objections to the proposed development, subject to conditions.

<table>
<tr><th>Internal Referral Body</th><th>Comments</th></tr>
<tr><td>Strategic and Place Planning (Heritage Officer)</td><td>

Referral completed - no conditions required.

<table>
<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 is within the vicinity of a heritage item

I127 - House - 56 Queenscliff Road Queenscliff</td></tr>
<tr><td colspan="3">Details of heritage items affected</td></tr>
<tr><td colspan="3">Statement of Significance
A locally rare & representative example of an inter-war building in the mediterranean style. Displays high integrity with much original fabric & detailing. Prominent location providing evidence of inter-war development which maximised views of the sea.

<u>Physical Description</u>
Two storey rendered masonry dwelling with hipped tiled roof.Square headed windows and pairs of arched windows with central column.Balcony on side over door. Extensive terrace over tall loggia on southern side. Rendered chimney with arched top.Stone fence. Single garage in front, towards the street, with gabled tiled roof & new door. Fibro to gable.</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></td><td></td></tr>
<tr><td>RAIA Register of 20th Century Buildings of Significance</td><td>No</td><td></td></tr>
<tr><td>Other</td><td>No</td><td></td></tr>
<tr><td colspan="3">Consideration of Application</td></tr>
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Internal Referral Body	Comments
	The proposal seeks consent for alterations and additions to an existing unit within a residential flat building. It includes the conversion of existing balconies to create additional internal floor space and internal alterations. The heritage item is located to the north west of the subject site. Given the physical separation between the heritage item and the subject site, the proposal is considered to not impact upon the heritage item or its significance. Therefore Heritage raises no objections and requires no conditions. Consider against the provisions of CL5.10 of WLEP. Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No

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

The proposed development does not increase the number of medium-density dwellings on the site and therefore no contribution is applicable.

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. A1818724_04 dated 29 June 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

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 minor alteration of one unit in the building which does not involve increasing the number of units or height of the existing building and therefore does not meet the threshold of being a "substantial redevelopment" under 144(1)(a)(ii) of Clause 144 above. As such, under the provisions of Clause 144 outlining the application of the policy, the provisions of Chapter 4 SEPP Housing are **not** applicable to the assessment of this application.

In addition, in relation to Clause 29 of the Environmental Planning and Assessment Regulation 2021 the application does not require the submission of a Design Verification Statement from the qualified designer. The application also does not need to be referred to the design review panel.

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

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

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

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

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

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

Comment:
The proposal is to enclose existing balcony areas and undertake minor internal alterations on the top floor unit of an existing residential Flat Building. The proposal is unlikely to cause any adverse impacts on the processes or values listed in Clause 2.10 to the Coastal Environment Area.

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

Comment:
The proposal is to enclose existing balcony areas and undertake minor internal alterations on the top

floor unit of an existing residential Flat Building. The proposal is unlikely to cause any adverse impacts in accordance with the requirements of Clause 2.10 (2)(a).

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 proposal is to enclose existing balcony areas and undertake minor internal alterations on the top floor unit of an existing residential Flat Building. The proposal is unlikely to cause any adverse impacts on the matters listed in Clause 2.11 (1)(a),(b) and (c) in relation to the Coastal Use Area.

Division 5 General
2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

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

Comment:
The proposal is to enclose existing balcony areas and undertake minor internal alterations on the top floor unit of an existing residential Flat Building. The proposal is unlikely to cause any increase risk of coastal hazards.

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

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

management program that applies to the land.

Comment:
No Coastal Management Program is applicable to this land.

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

Chapter 4 – Remediation of Land

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

Warringah Local Environmental Plan 2011

Is the development permissible?	No
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	14.29m max height of Alts and Adds 15.3m (existing RFB height)	68.12%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

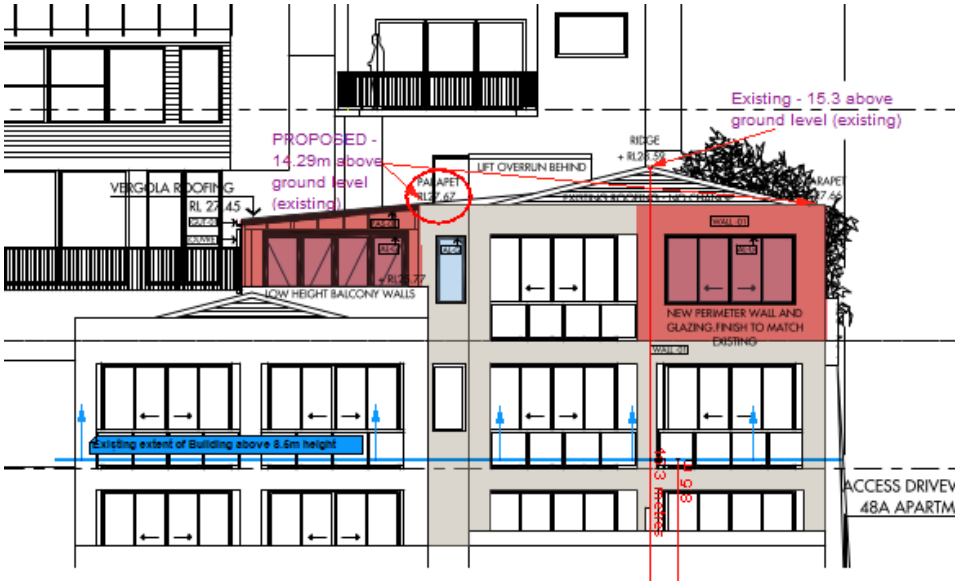
4.6 Exceptions to development standards

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

Development standard: Clause 4.3 Height of Buildings

Requirement: 8.5m
Proposed: 14.29m
Percentage of variation: 68.12%

Image 7 - South Elevation showing the balcony enclosures (max height 14.29m) underneath the existing building height of 15.3m.



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 is unreasonable or unnecessary in the circumstances of this application for the following reasons:

• the proposal is minor in nature and is contained within the existing building footprint
• the overall height of the existing building is 15.3m above ground level (existing) and the proposal is below that at 14.29m, and
the alterations and additions proposed are wholly contained in a Unit that is already wholly existing above the height limit.

(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 proposal meets the objectives of the WLEP Height Of Building Control and the WLEP R2 Zone regardless of the non-compliance
• The proposal does not result in any unreasonable impacts on adjoining owners in relation to solar access or views
• Compliance with the standard is unreasonable as the proposal is within the existing non-complying building height and it does not increase the bulk and scale, and
• the proposal is consistent with the surrounding buildings bulk and scale.

It is agreed that the applicants reasons are supportable as:

• the proposal is consistent with the surrounding height, bulk and scale of the surrounding buildings
• the proposal does not detrimentally impact on the amenity of nearby residents including views, solar

access and bulk and scale
• it would be unreasonable to impose any development control on a proposal where the entire subject site is already in breach of that control AND the proposal results in a no net-worsening of that breach.

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.3 for the following reasons:

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 WLEP 2011.

It is considered on balance, that having regard to the particular circumstances of the Clause 4.3 Height of Buildings 8.5m requirement, and the relatively minor proposal to partially enclose two balconies to a maximum height of 14.29m below the height of the existing building (15.3m), the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	9.2m (new works) up to 11.9m (existing walls)	27.7%	**No***
B3 Side Boundary Envelope	5m (east)	non-compliance for up to 7.5m over 17m (existing - no change)	150%	No
	5m (west)	non-compliance for up to 1.5m height up to 4.8 m in length (new works) non-compliance for up to 1.5m over 3.1m (existing)	30%	**No***
B5 Side Boundary Setbacks	0.9m	7.5m (existing - no change)	N/A	Yes
	0.9m east	0.4m (existing - no change)	55.56%	No
B7 Front Boundary Setbacks	6.5m Primary frontage (Queenscliff Road)	29m (existing - no change)	N/A	Yes

	3.5m Secondary frontage (Greycliffe Street)	0m (existing - no change)	100%	No
B9 Rear Boundary Setbacks	6m	0m (existing - no change)	100%	N/A
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	No change to existing	N/A	No

*B1 Wall Height & B3 Side Boundary envelope on the western elevation is the only Built form control that is changed by the new works.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	N/A	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	N/A	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	No	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

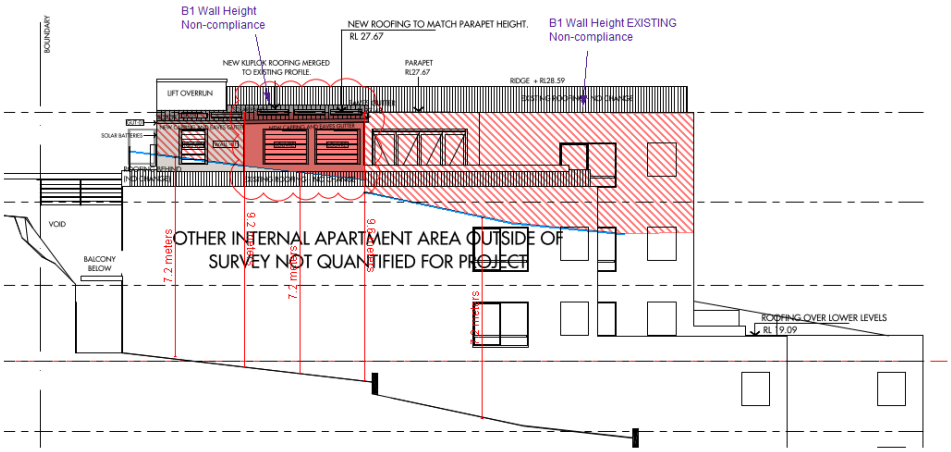
Detailed Assessment

B1 Wall Heights

Description of non-compliance

Clause B1 requires that walls are not to exceed 7.2 metres from ground level (existing) to the underside of the ceiling on the uppermost floor of the building. A conditional exception exists for sites with slopes greater than 20%. The overall slope of the site is 25.27% and it is assumed for the purpose of assessing the new work that the slope under the relevant western wall is greater than 20%. The proposal results in a maximum wall height of 9.2 metres for the new external wall section, for a length of 4.8 metres on the diagonal wall.

Image 8 - Proposed Wall Height non-compliance within the existing non-compliant walls



Comment:

The objectives of the control are:

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*
- *To ensure development is generally beneath the existing tree canopy level*
- *To provide a reasonable sharing of views to and from public and private properties.*
- *To minimise the impact of development on adjoining or nearby properties.*
- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*
- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

The non-compliant wall height is a minor addition to a substantially non-compliant building in relation to

wall heights. The wall provides a reasonable level of view sharing and is angled towards the internal of the existing building away from the outer edge, on a recessed wall providing some stepping and relief of wall heights on the western side. There is no impact such as overshadowing on adjoining properties and the proposed variation in roof design (diagonal) provides some additional living space without contributing to any discernible visual impact when viewed from surrounding development.

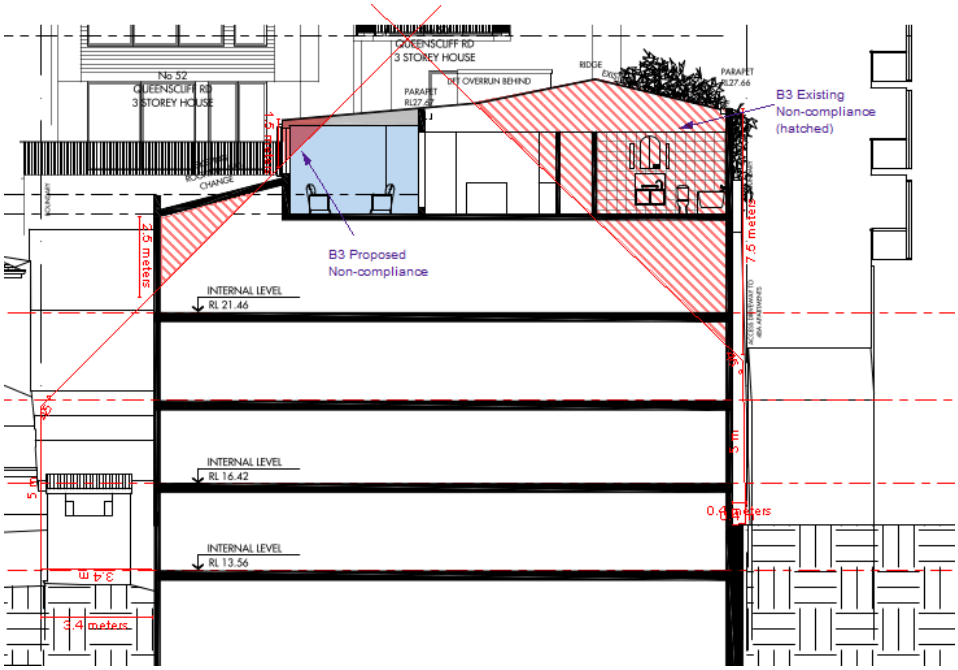
The development is consistent with the objectives of the control and is acceptable on merit.

B3 Side Boundary Envelope

Description of non-compliance

- The proposed living area extension provides an area of non-compliance of up to 1.5 metres.

Image 9 - Existing and Proposed Non-compliant Side Building Envelope.



Comment:

The objectives of the control are:

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*
- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*
- *To ensure that development responds to the topography of the site.*

The proposed extension does not become visually dominant as the relatively small non-compliance in context of the whole building steps back from the side boundaries and the roof angles towards the internal of the site quickly. The extension also has adequate spatial separation from the adjoining buildings and does not impact on available light, solar access or privacy. As the site drops off steeply the

non-compliance also increases the side boundary setback responding to the topography.

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

B5 Side Boundary Setbacks

The non-compliant side setback of 0.4m on the eastern side of the building is existing and is unchanged by the new works.

B7 Front Boundary Setbacks

The non-compliant secondary front setback to Greycliffe Street is existing and is unchanged by the new works.

B9 Rear Boundary Setbacks

The non-compliant rear setback is existing and is unchanged by the new works.

D1 Landscaped Open Space and Bushland Setting

No changes to the Landscape Open Space are proposed for the building.

D7 Views

Merit consideration

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

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

  Comment:

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

  1. Nature of the views affected

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

  Comment to Principle 1:

  52 Queenscliff Road - Views of Manly Beach - water land interface, Heritage items - Ocean reserves, North Steyne Surf Club, Norfolk Pines, North and South Steyne.

  54 Queenscliff Road - Views of Manly Beach, water and land interface, Heritage Items -

Oceans reserves, North Steyne Surf Club, Norfolk Pines, North and South Steyne.

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

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

Comment to Principle 2:

52 Queenscliff Road - Views are obtained from the rear of the property sitting and standing from the Ground floor living area and yard, First floor living area and Second Floor Main bedroom.

54 Queenscliff Road - Views are obtained from the rear of the property sitting and standing from the first floor living area, and standing on the ground floor yard area.

3. Extent of impact

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

Comment to Principle 3:

52 Queenscliff Road - Negilible impact to views from living area and lawn of ground floor and Moderate impact of views from First Floor main bedroom area and minor impact from Second Floor Living area - see images below.

Image 10 - View Impact at 52 Queenscliff Road (Ground Floor Living).



Image 11 - View Impact at 52 Queenscliff Road (First Floor Bedrooms).



Image 12 - View impact at 52 Queenscliff Road (Second Floor Living).



54 Queenscliff Road - Negligible impact to water views from first floor living area - see image below.

Image 13 - View impact at 54 Queenscliff Road (First Floor living area).



4. Reasonableness of the proposal that is causing the impact

"*The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable*."

Comment to Principle 4:

52 Queenscliff Road - The impact is negligible and results in a reasonable view sharing outcome.

54 Queenscliff Road - The impact is negligible and results in a reasonable view sharing outcome.

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

  Comment:

  The proposed roof and living room extension has been angled toward the internal of the building to meet the existing setback wall maintaining a view corridor for the dwellings at the rear via a triangular building element improving the urban outcomes for neighbouring dwellings.

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

  Comment:

  Not applicable. No canopy trees are present or impacted by views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D11 Roofs

Downpipes, gutters, metal flashing and metal roofing have all be designed to match the existing building and are conditioned as the approved 'External Finishes'.

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 $2,020 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $201,960.

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 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 Alterations and Additions to the Residential Flat Building has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to the proposal contravening the development standard for the Height of Buildings in Clause 4.3 of the Warringah Local Environmental Plan (WLEP) by more than 10%. The proposal contains an overall height of 14.29 metres on a site that allows a maximum height of 8.5 metres.

The concerns raised in the objections have been addressed and resolved by an amended plan that diagonally angles the proposed roof to allow the preservation of existing view corridor.

The critical assessment issues included height and view sharing. The submitted Clause 4.6 provided by the applicant demonstrated that compliance with the 8.5m height limit was in this instance, unreasonable and unnecessary and sufficient environmental planning grounds exist to justify the contravention of the height requirement. Planning grounds included that the alterations are within an existing building of 15.3 metres in height. The overall height of the building is not changing and view sharing assessment has resulted in an acceptable outcome for surrounding properties.

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 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 Warringah Local Environmental Plan 2011 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 DA2025/1605 for Alterations and additions to a residential flat building on land at Lot 16 SP 60100, 16 / 1 Greycliffe Street, QUEENSCLIFF, 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**
10132_AR01	3	Location Plan	XbyeY	19/06/2026
10122_AR10	3	Proposed Plan	XbyeY	19/06/2026
10122_AR11	3	Roof Plan Proposed	XbyeY	19/06/2026
10122_AR21	4	South Elevation Proposed	XbyeY	23/06/2026
10122_AR22	3	West Elevation Proposed	XbyeY	19/06/2026
10122_AR23	1	North Elevation Proposed	XbyeY	20/10/2025
10122_AR24	1	Section Proposed	XbyeY	20/10/2025
10122_AR25	3	Long Section Proposed	XbyeY	19/06/2026
10122_AR26	1	Section Proposed	XbyeY	20/11/2025
1 of 1	DA2	External Finishes Schedule	Applicant	21/11/2025

Approved Reports and Documentation	

Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate	A181724_04	Applicant	29 June 2026
Waste Management Plan	-	Applicant	29/10/2025 (registered)

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	17/11/2025 (registered)

(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 $2,019.60 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 $201,960.00.

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

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

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

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

6. **Security Bond**

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

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

inspection).

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. **Stormwater Disposal from Low Level Property**
The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy in particular Section 5.5 Stormwater Drainage from Low Level Properties. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with Northern Beaches Council's policy by an appropriately qualified Civil Engineer are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

8. **Stormwater Drainage Disposal**
The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil or Hydraulic Engineer, and where relevant, a Geotechnical Engineer, must be submitted to and approved by the Certifier prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the owner/developer must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifier prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

9. **Boundary Identification Survey**
The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on a boundary identification survey, prepared by a Registered Surveyor, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

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

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

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

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

DURING BUILDING WORK

11. **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.

12. **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.

13. **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.

14. **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.

15. **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.

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

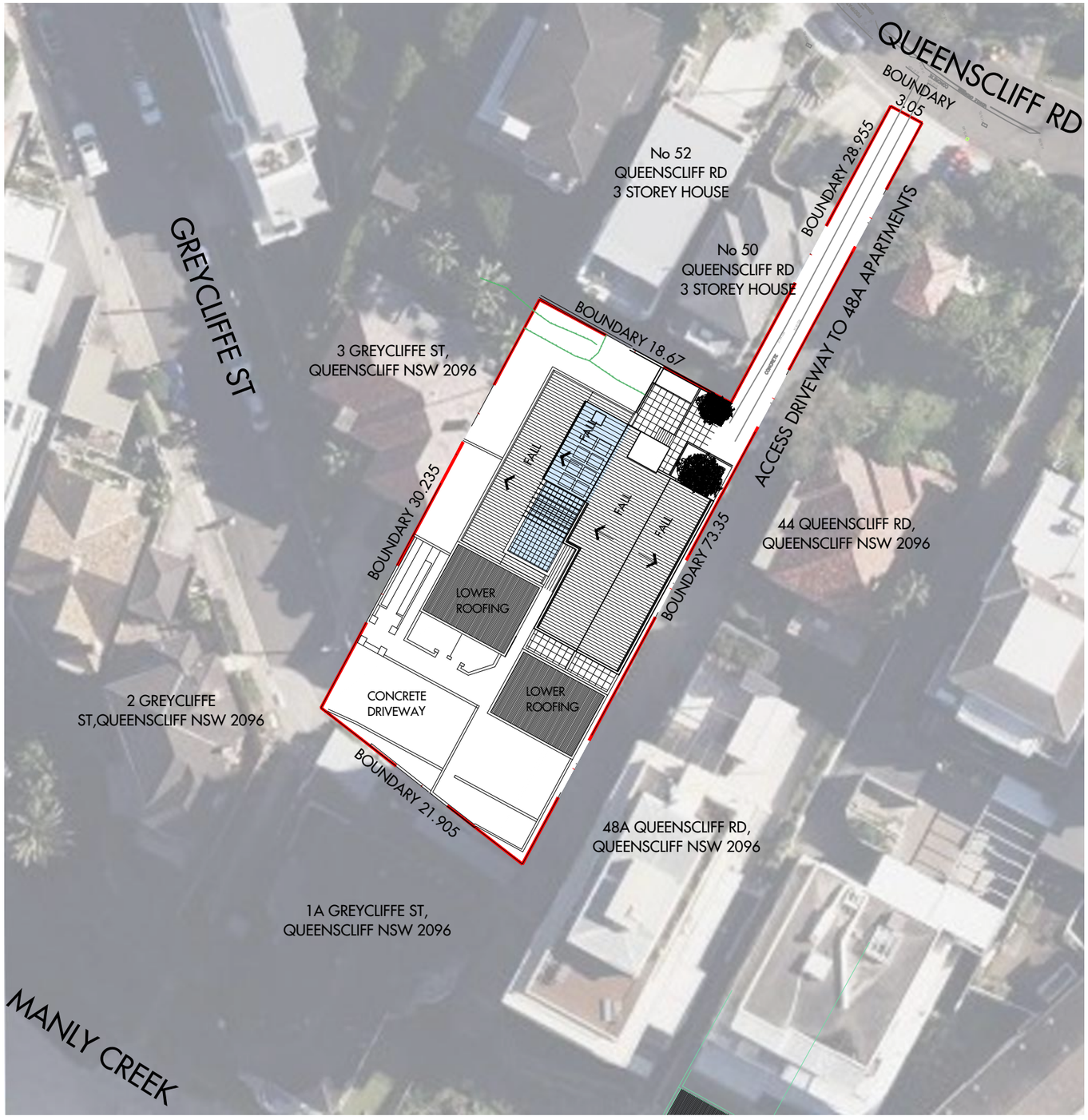
Details demonstrating compliance must be submitted to the Principal Certifier.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

17. **Stormwater Disposal**
The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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



BASIX VALUE

Construction	Additional insulation required (R-value)	Other specifications
flat ceiling, pitched roof	ceiling: R2.50 (up), roof: foil/sarking	dark (solar absorptance > 0.70)

Window/door number	Orientation	Area of glass including frame (m2)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type
W1	SW	5.44	0	0	external louvre/ blind (fixed)	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W4	SW	8.16	3.2	3.8	eave/ verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W2	NW	3.5	0	0	eave/ verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W3	NW	8.16	0	0	eave/ verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W5	NW	2.75	0	0	external louvre/ blind (fixed)	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W6	NW	2.75	0	0	external louvre/ blind (fixed)	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W7	NW	2.75	0	0	external louvre/ blind (fixed)	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W8	SW	0.96	0	0	external louvre/ blind (fixed)	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)

Skylight number	Area of glazing inc. frame (m2)	Shading device	Frame and glass type
S1	0.96	no shading	aluminium, moulded plastic single clear, (or U-value: 6.21, SHGC: 0.808)
S2	0.96	no shading	timber, double clear/air fill, (or U-value: 4.3, SHGC: 0.5)

DEVELOPMENT APPLICATION

This drawing is for council or CDC approval purposes only and is not to be used for construction unless authorised by xBYEy. All dimensions and levels to be checked by builder/ contractor prior to commencing any work. All boundaries and contours subject to receipt of valid survey to date. Drawings may not be reproduced without permission from xBYEy.

No.	Description	Date
1	DEVELOPMENT APPLICATION	20.10.25

Shaded area indicating proposed extension

Existing structure to be demolished

Existing wall to be retained

Proposed new internal walls

TN

Client
Simon Blakers
simonblakers@hotmail.com

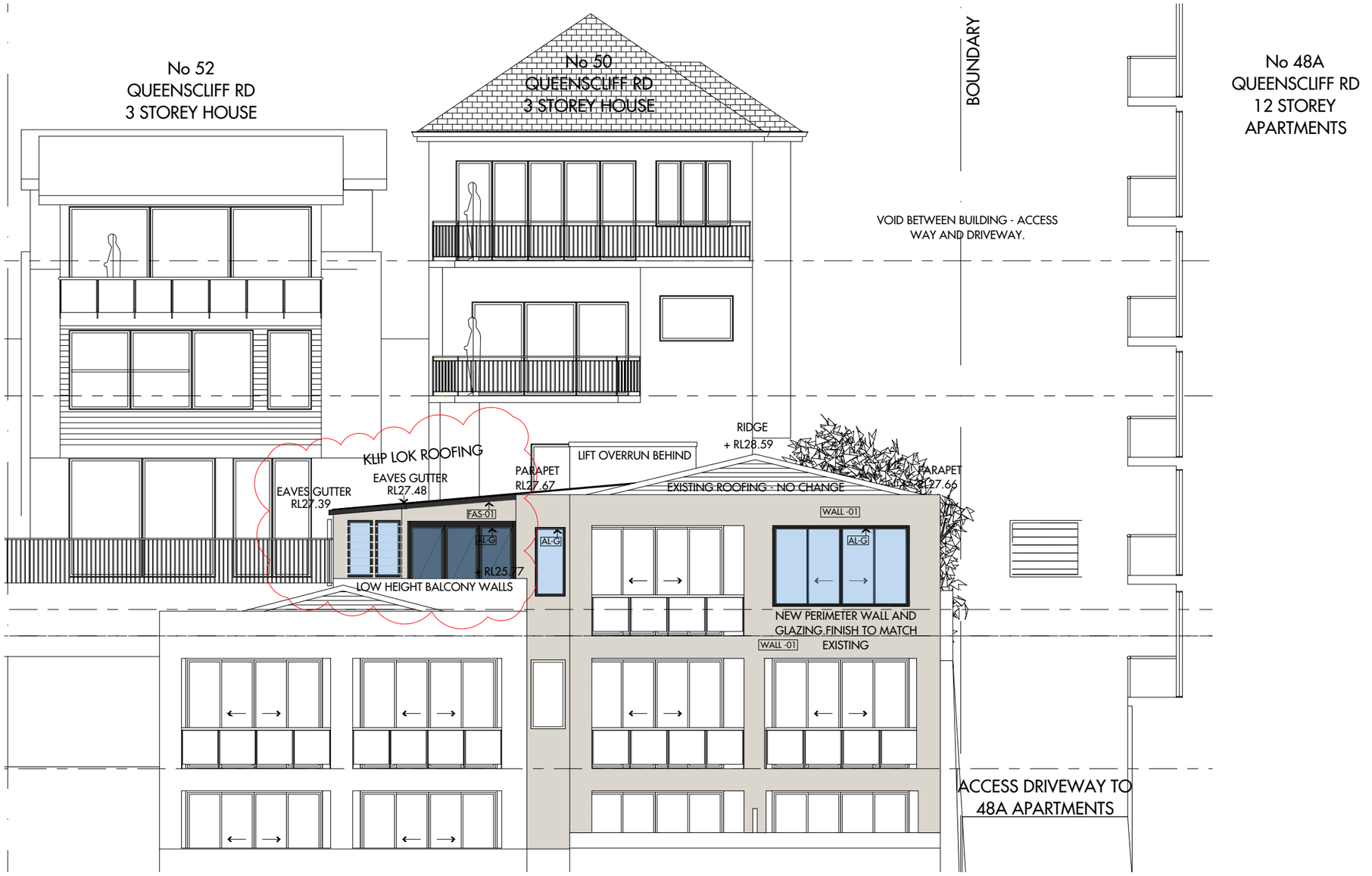
16_1 Greycliffe St. Queenscliff NSW SP60100

Title
PROPOSED SITE PLAN
PROPOSED

Drawn MB | Checked | Scale 1:400@A3

Number **10122 _ AR02** | Issue **1**

Mitchbye@xbyey.com.au
xbyey.com.au
NSW ARB #9822



EXTERNAL FINISHES

All finishes are to match existing

RF-01	Metal roofing	Colorbond:Basalt to match existing roofing.	Basalt®
SAND- 01	Sandstone	Capping to low height wall	
WALL-01	Render wall finish	Linseed	Linseed

FAS-01	metal flashing	Colorbond:Basalt to match existing	Basalt®
GUT-01	Gutter	Colorbond:Basalt to match existing	Basalt®
DP-01	Downpipe	Paint finish to match corresponding paint colour	
AL - G	Aluminium window frame & Vergola	Monument	MONUMENT
LOUVRE	External metal works	Monument	MONUMENT

DEVELOPMENT APPLICATION

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No.	Description	Date
1	DEVELOPMENT APPLICATION	20.10.25
2	DEVELOPMENT APPLICATION	21.11.25
3	DEVELOPMENT APPLICATION - VERGOLA REMOVED	20.04.26
4	DEVELOPMENT APPLICATION - CHAMFER	23.06.26

Shaded area indicating proposed extension

Existing structure to be demolished

Existing wall to be retained

Proposed new internal walls

Simon Blakers
simonblakers@hotmail.com

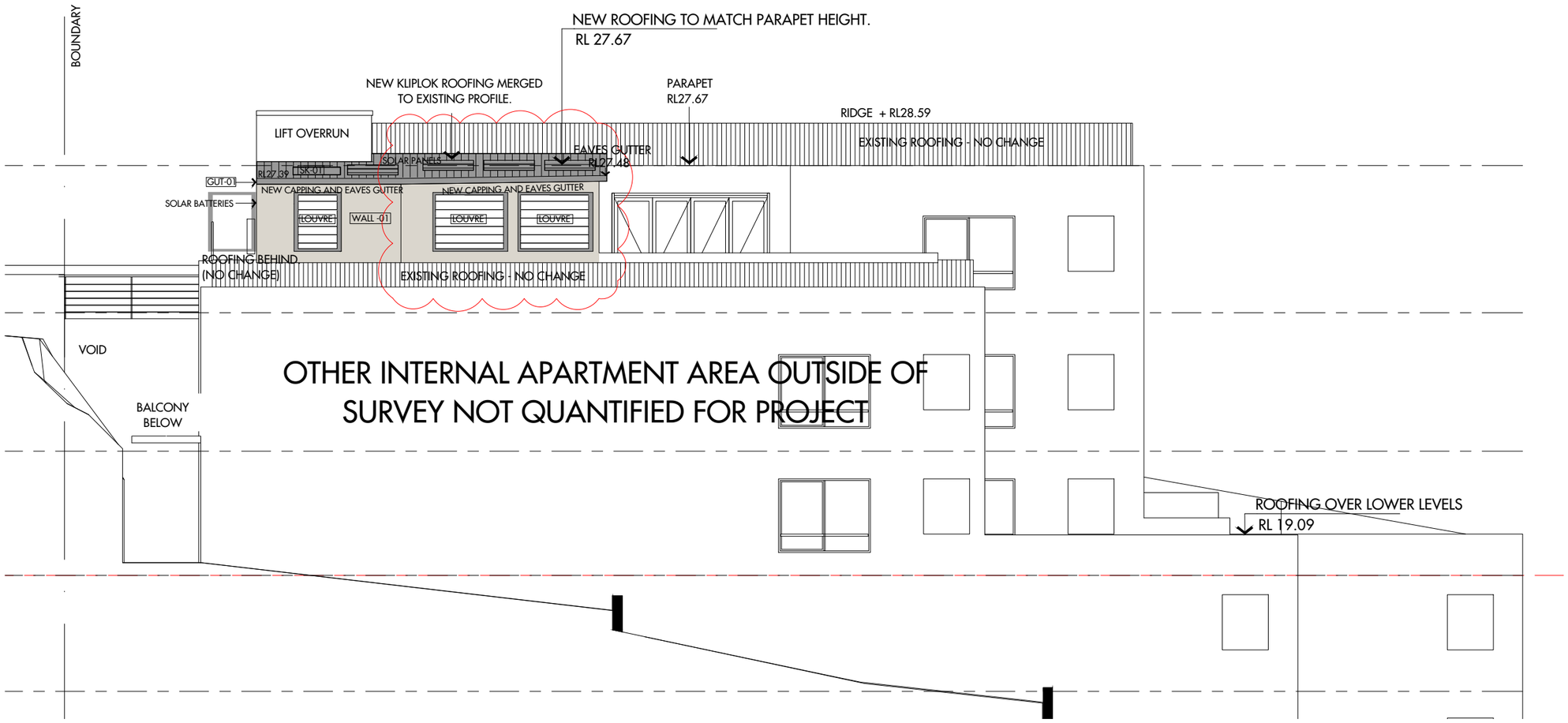
16_1 Greycliffe St. Queenscliff NSW SP60100

SOUTH ELEVATION
PROPOSED

Drawn: MB
Checked:
Scale: 1:100@A3
Number: **10122 _ AR21**
Issue: **4**

Mitchbye@xbyey.com.au
xbyey.com.au
NSW ARB #9822

xBYEy



DEVELOPMENT APPLICATION

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Issue	Description	Date
1	DEVELOPMENT APPLICATION	20.10.25
2	DEVELOPMENT APPLICATION - VERGOLA REMOVED	20.04.26
3	DEVELOPMENT APPLICATION - CHAMFER	19.06.26

Shaded area indicating proposed extension

Existing structure to be demolished

Existing wall to be retained

Proposed new internal walls

Client
Simon Blakers
simonblakers@hotmail.com

16_1 Greycliffe St. Queenscliff NSW SP60100

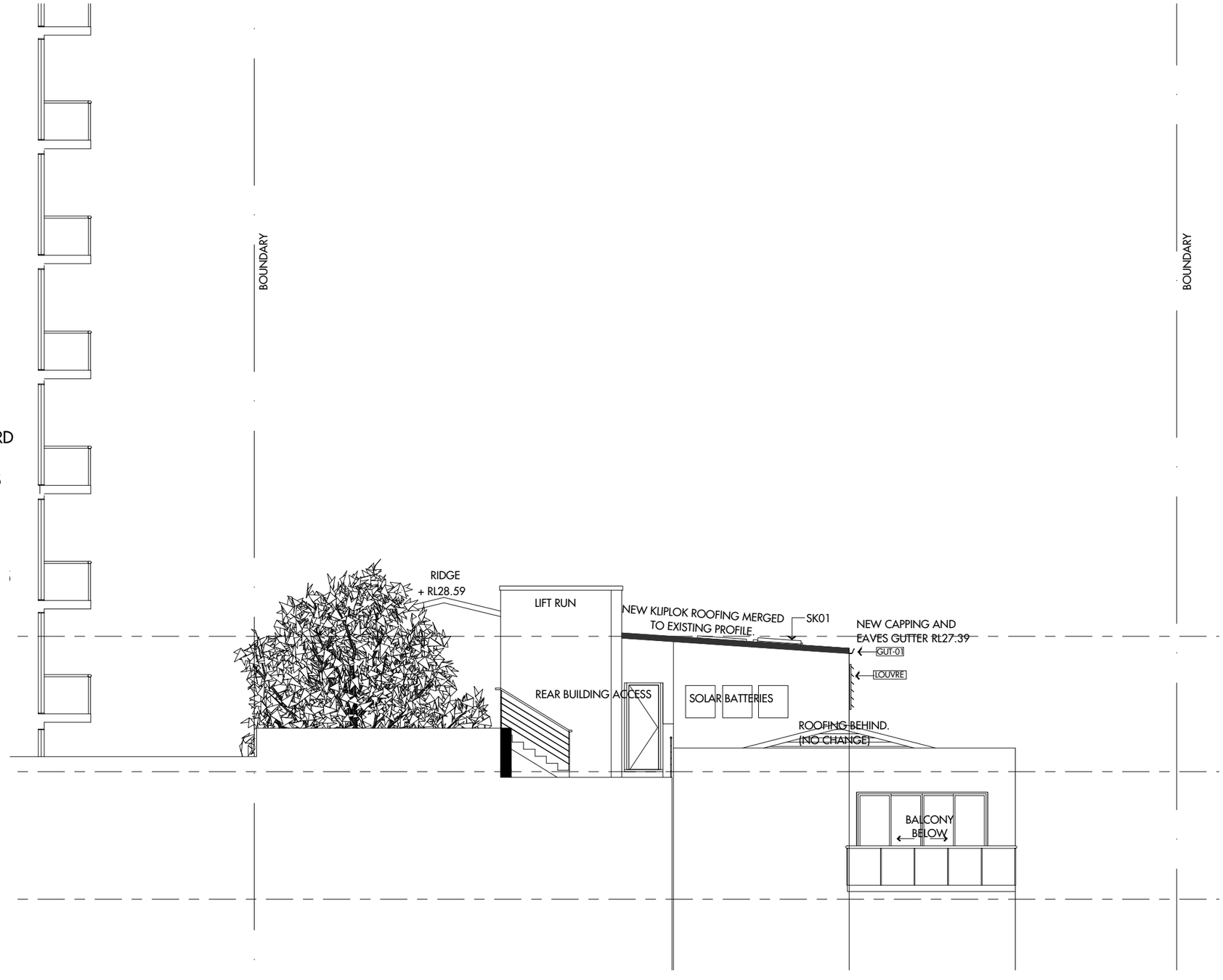
Title
WEST ELEVATION
PROPOSED

Drawn MB | Checked | Date 1:100@A3

Number **10122 _ AR22** | Issue **3**

Mitchbye@xbyey.com.au
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xBYEy



DEVELOPMENT APPLICATION

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No.	Description	Date
1	DEVELOPMENT APPLICATION	20.10.25

Shaded area indicating proposed extension

Existing structure to be demolished

Existing wall to be retained

Proposed new internal walls

Client
Simon Blakers
simonblakers@hotmail.com

16_1 Greycliffe St. Queenscliff NSW SP60100

Title
NORTH ELEVATION
PROPOSED

Design MB | Checked | Scale 1:100@A3

Number **10122 _ AR23** | Issue **1**

Mitchbye@xbyey.com.au
xbyey.com.au
NSW ARB #9822

Four Towns Planning

Planning and property consultant

REVISED WRITTEN REQUEST PURSUANT TO CLAUSE 4.6 OF WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011

VARIATION OF A DEVELOPMENT STANDARD REGARDING THE HEIGHT OF BUILDINGS AS DETAILED IN CLAUSE 4.3 OF WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011

Alterations and additions to existing residential flat building

16/1 Greycliffe Street, Queenscliff NSW 2096

mathew@fourtowns.com.au
0425232018
www.fourtowns.com.au
PO Box 361, Balgowlah NSW 2093

This report has been prepared to support a Development Application under the *Environmental Planning and Assessment Act 1979*.

Report prepared by:
Mathew Quattroville
Director – Four Towns Pty Ltd

Report prepared for:
Simon Blakers

22 November 2025

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Introduction

This written request is made pursuant to the provisions of Clause 4.6 of Warringah Local Environmental Plan 2011. In this regard, it is requested Council support a variation with respect to compliance with the maximum building height of a building as described in Clause 4.3 of the Warringah Local Environmental Plan 2011 (WLEP 2011).

The following assessment of the variation to Clause 4.3 – Building Height development standard, has taken into consideration the recent judgement contained within Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582, Bettar v Council of the City of Sydney [2014] NSWLEC 1070, Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61, and RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130.

Requirement	8.5m
Proposed	21.17m (Existing maximum 22.36m)
Is the planning control in question a development standard?	Yes
Is the non-compliance with to the clause requirement a numerical/or performance based variation?	Numerical
If numerical enter a % variation to requirement	149.06%

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the WLEP 2011. The proposal is consistent with surrounding developments and the proposed variation is compatible and retains the existing building height with the works below that of the existing maximum for the site. The proposal is consistent with the locality and streetscape of Greycliffe Street.

A variation to the strict application of the Height of Building standard is considered appropriate for the subject site and is supportable for the following reasons:

- The objectives of the WLEP2011 Height of Building control are achieved notwithstanding the technical non-compliance.
- The objectives of the WLEP2011 R2 Low Density Residential zone are achieved notwithstanding the technical non-compliance.
- Compliance with the development standard is both unreasonable and unnecessary.
- There are sufficient environmental planning grounds to support the proposed variation.
- The site has an existing maximum building height of 22.36m. The proposed works relate to an additional roof component which has been designed with a maximum height of 21.17m measured from the ground level (existing).
- The proposed development is consistent with the existing building height for the site and the works do not increase the height any further.
- The breach to the building is considered acceptable as it relates to the existing approved building height, bulk and scale.
- The breach will have no adverse impacts on neighbouring properties and will not result in a building of an unacceptable bulk and scale.
- The proposed development does not result in any adverse privacy or overshadowing impacts to neighbouring properties or any public place.

Clause 4.6 Variation Requirements

The grounds of objection are based upon the various tests of the recent judgements in the *NSW Land and Environment Court Case Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582, Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61, and RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130* and review the following:

Compliance being unreasonable or unnecessary

1. 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].*
2. The underlying objective or purpose of Clause 4.3(2) is not relevant to the development with the consequence that compliance is unnecessary. *Wehbe v Pittwater Council at [45]*
3. 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]*
4. 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 stand is unnecessary and unreasonable: *Wehbe v Pittwater Council at [47].*
5. The relevance of the zoning provisions of the land to which the development is proposed.

Sufficient environmental planning grounds

1. First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard"
2. 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]

General Provisions Relating to Clause 4.6 which will be applicable to Clause 4.3(2) Height of Building

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.

Comment: As detailed previously in this request, Clause 4.6 of WLEP2011 is applicable to enable a variation to the Height of Building to permit Northern Beaches Council power to grant development consent to the subject development.

This proposal involves a departure from the Height of Building control of WLEP2011, a formal variation to this standard is required under *Clause 4.6 – Exceptions to Development Standards*. This provision allows consent to be granted for a development even though it would contravene a development standard imposed by this or any other planning instrument.

The provisions of Clause 4.6, which the consent authority must have regard to in determining whether a development that contravenes a development standard should be supported, includes the following:

- *That compliance with the development standard is unreasonable and unnecessary in the circumstances of the case; Cl 4.6 (3)(a)*

- *That there is sufficient environmental planning grounds to justify contravening the development standard; Cl 4.6 (3) (b)*

4.3 Height of buildings

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

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

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

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

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

(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.

(2A) If the Height of Buildings Map specifies, in relation to any land shown on that map, a Reduced Level for any building on that land, any such building is not to exceed the specified Reduced Level.

Comment: It is acknowledged that the proposed development does not comply with clause 4.3 (2) and accordingly there is a requirement to submit a Clause 4.6 Variation. This Clause 4.6 seeks an exemption to the development standard as prescribed under the WLEP2011 and demonstrates that compliance with the provisions of clause 4.3 (2) is both unreasonable and unnecessary. The proposed development meets the required steps that are set out in the relevant NSW Land and Environment Court decisions to justify that the standard can be varied to achieve the subject proposal.

The development standard in Clause 4.3 (2) of the WLEP2011, is amendable to variation. The purpose of this Clause 4.6 is to vary the Height of Building as a building height referrable to the building to give Council the power to grant development consent to the non-compliant purposes. This proposition is reinforced by the following:

Clause 4.3 (2) 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 Building Map sets a maximum Height of Building control of 8.5m. For the purpose of calculating Height of Building, the WLEP2011 provides the following definition:

Building height is defined as follows:

***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.

***ground level (existing)** means the existing level of a site at any point.*

It is noted that Northern Beaches Council now refers to the leading case authority which considers the definition of "ground level (existing) *Merman Investments Pty Ltd v Woollahra Municipal*

Council [2021] NSWLEC 1582, which insists that the ground level (existing) is measured from the **excavated** ground level (within the footprint of the existing building) to the highest point of the proposal directly above. It is noted that the Court accepted (at [74]) that there is an 'environmental planning ground' that may justify the contravention of the height standard under 'clause 4.6' when the prior excavation of the site (within the footprint of the existing building) distorts the maximum building height plane. This falls hand in hand with the original leading case *Bettar v Council of the City of Sydney [2014] NSWLEC 1070*.

The Height of Building in clause 4.3(2) of the WLEP2011 is a development standard in accordance with the definition set out below:

Development standards' is defined in section 1.4 of the EP&A Act 1979 as:

development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which **requirements are specified or standards are fixed** in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

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

Despite the variation to the Height of Building control which occurs due to the existing building, the proposed development is considered to be in keeping with the desired future character of the locality. The proposal has been strategically designed to minimise the impact and bulk and scale of the project.

The proposed development will not result in any unreasonable impacts on adjoining properties in terms of views, privacy or overshadowing noting the building height remains as existing. Therefore, this written submission is considered to be compliant with the Statutory Provisions prescribed both under WLEP2011 and the provisions of Clause 4.6 which permit a variation to a development standard.

Objection to Development Standard – Height of Building (Clause 4.3(2))

Compliance being unreasonable or unnecessary

1. Compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the stand: *Wehbe v Pittwater Council at [42] and [43].*

Comment: Clause 4.6(3)(a) of the WLEP2011 states that the proposed variation to the development standard must demonstrate that compliance with the development standard is *'unreasonable or unnecessary in the circumstances of the case'.*

In determining a merits-based assessment for the Height of Building of the development due consideration has been given to the above objectives and the planning principles set by the Land and Environment Court of NSW, Planning Principle – *Veloshin v Randwick Council [2007] NSWLEC 428*.

It is acknowledged that the purpose of Clause 4.6 is to provide an appropriate degree of flexibility in applying certain development standards. In this regard the Height of Building of the site should be assessed on a greater numerical figure, noting the sites constraints and the unique nature of the

locality in a varying degree of development types. The proposed works do not alter the existing building height and are located under the roof line which is maintained, therefore it is submitted that the development is reasonable despite the variation to the development standard. Given the proposed application is consistent with similar approvals granted in the area, Council's assessment should be focused on this numerical allowance as opposed to the variation to the specific standard.

By providing flexibility in this regard, the subject proposal is capable of achieving a better development and design outcome which adequately caters for residential needs within the Northern Beaches LGA in particularly the Queenscliff precinct. As noted under the review of Clause 4.3 within the Statement of Environmental Effects, the proposal is consistent with the objectives of Clause 4.3, as outlined below:

- The objectives of the WLEP2011 Height of Building control are achieved notwithstanding the technical non-compliance.
- The objectives of the WLEP2011 R2 zone are achieved notwithstanding the technical non-compliance.
- The compliance with the development standard is both unreasonable and unnecessary given the existing building height is retained and the works are below the existing roof line.
- There are sufficient environmental planning grounds to support the proposed variation.
- The proposal is consistent with the existing bulk and scale of the area.
- The proposal has no adverse impacts to views or view corridors.
- The proposal does not impact existing solar access to private and public places.
- The proposal will not result in a building of an unacceptable bulk and scale.

As outlined above, the proposed development is consistent with the underlying objectives of the Height of Building standard, notwithstanding the proposed variation. Given the modified state of the site, through this application the permissible Height of Building control does not align with the existing height on the site, nor several built form controls of the WDCP. This essentially limits any redevelopment potential of the site without varying Council's standard.

The underlying objective or purpose of Clause 4.3 is not relevant to the development with the consequence that compliance is unnecessary. *Wehbe v Pittwater Council at [45]*

Comment: The proposal is for alterations and additions to the existing residential flat building which do not change the existing maximum building height for the site. It is important to acknowledge that the existing maximum building height for the building is over the maximum height allowance, therefore any proposed works, albeit under the existing maximum building height on the site, trigger the requirement for non-compliance.

The site has a maximum building height provision of 8.5m. The existing building has a maximum building height of 22.36m with the proposed works below the existing maximum building height at 21.17m which requests a variation by 12.67m (or 149.06%). The additional roofing component proposed has been designed to match the existing roof profile and pitch and has been sited beneath the existing maximum ridge height. The proposal does not increase the building footprint as the proposed extensions to the perimeter walls involve infilling portions of the existing balconies/terraces to accommodate the additional GFA, nor does it extend the maximum building height beyond what exists on site. The proposal is supported and in our opinion is consistent with the objectives of the Clause, as outlined below:

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

The proposed development is compatible with the height and scale of surrounding and nearby development. It is noted that notwithstanding the existing breach to the building height, the proposal is below the existing maximum building height for the building, therefore the works are inconsequential to that existing and purely relate to infilling the existing terrace areas to accommodate additional floor space and privacy to the apartment. It is noted that notwithstanding the existing breach to the building height, adjoining properties have similar breaches, and the approval would not result in significant impacts to the bulk and scale of Greycliffe Street. It is important for Council to acknowledge the existing streetscape and built form character of Greycliffe Street and recent approvals granted for residential flat buildings in the immediate area with variations to Clause 4.3 Height of Buildings. Examples below:

DA2025/0454 – 1A Greycliffe St, Queenscliff - Alterations and additions to a residential flat building, including the amalgamation of apartments 4 and 7 – 79.41% variation to building height

Mod2025/0160 – 90 Queenscliff Road, Queenscliff - DA2022/1443 granted for Demolition works and construction of a residential flat building and strata subdivision – 10% variation to building height

DA2024/0114 – 48A Queenscliff Road, Queenscliff - Alterations and additions to a residential flat building – 126.3% variation to building height

Surrounding residential flat developments are all located within the R2 Low Density Residential zone and accordingly are assumed to benefit from existing use rights. The height and scale of surrounding development is depicted in the following images.

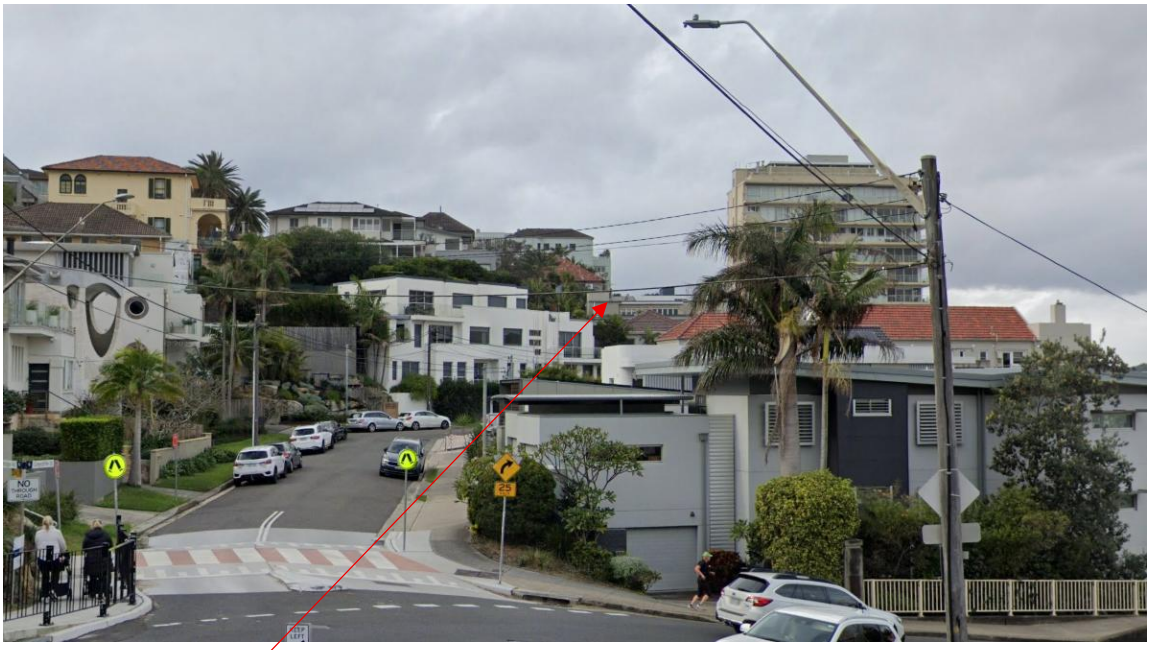


Image of the subject site (existing 4-5 storey RFB) and adjoining neighbour to the east – 9/10 storey RFB



Source: Google Streetview Oct 2024

Image of the subject site (existing 4-5 storey RFB) and surrounding developments when viewed from the pedestrian pathway at Queenscliff Beach



Source: Google Streetview May 2025

Image of the subject site (existing 4-5 storey RFB) and surrounding developments when viewed from the intersection of Greycliffe Street and Bridge Road

The consideration of building compatibility is dealt with in the Planning Principle established by the Land and Environment Court of New South Wales in the matter of Project Venture Developments v

Pittwater Council [2005] NSWLEC 191. At paragraph 23 of the judgment Roseth SC provided the following commentary in relation to compatibility in an urban design context:

> *22 There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.*

The question is whether the building height breaching elements contribute to the height and scale of the development to the extent that the resultant building forms will be incompatible with the height and scale of surrounding and nearby development. That is, will the non-compliant building height breaching elements result in a built form which is incapable of coexisting in harmony with surrounding and nearby development to the extent that it will appear inappropriate and jarring in a streetscape and urban context.

The building height breaching elements will not be visually prominent when viewed from Greycliffe Street or Queenscliff Beach and to the extent that they will be visible they have been blended into the existing RL of the roof form on the site. The overall height, bulk and scale the building as viewed from the street frontage is entirely consistent with that established on the immediately surrounding properties. Similarly, the additions have been set within the building footprint and envelope which is consistent with the bulk of each existing building façade.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 I have formed the considered opinion that most observers would not find the height and scale of the additions, notwithstanding the building height breaching elements, offensive, jarring or unsympathetic in a streetscape and urban context. In this regard, it can be reasonably be concluded that, notwithstanding the building height breaching elements, the development is capable of existing together in harmony with surrounding and nearby development.

Notwithstanding the building height breaching elements, the resultant development is compatible with the height and scale of surrounding and nearby development and accordingly the proposal achieves this objective.

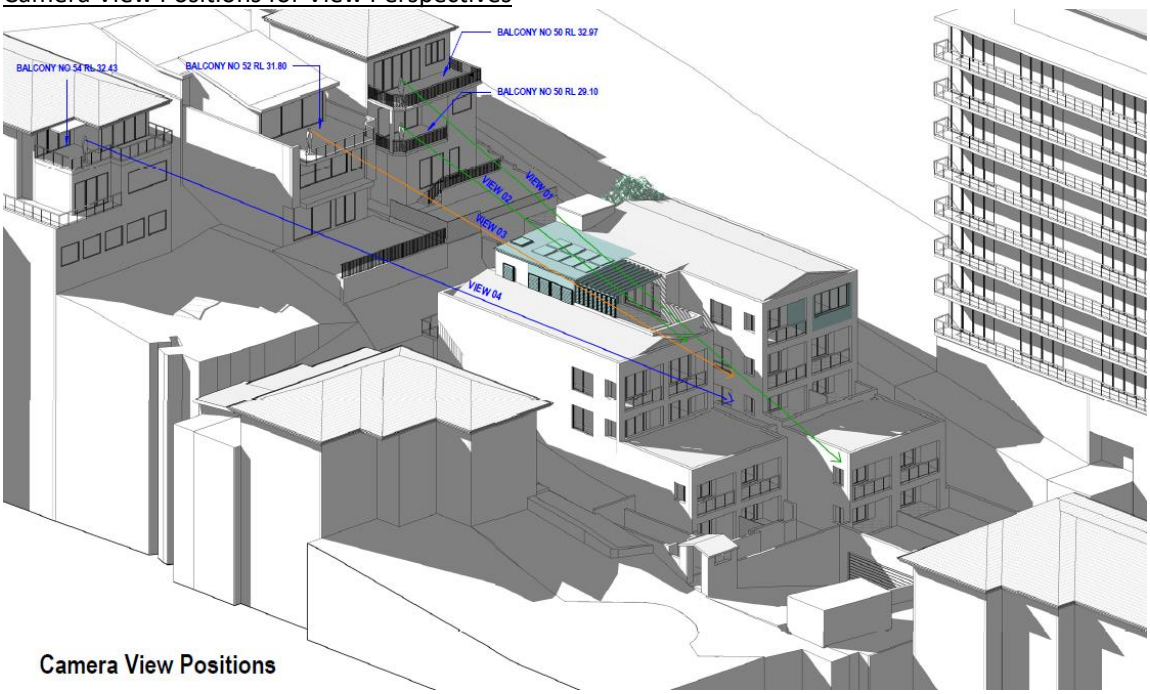
(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

The proposal will have minimal visual impact, will not adversely disrupt views, increases privacy and amenity to the occupants and adjoining neighbours and will not create any loss of solar access. The proposal has been designed within the existing building footprint being existing terrace and balcony areas with the project architect ensuring the works are maintained at or below the existing roof heights.

Views

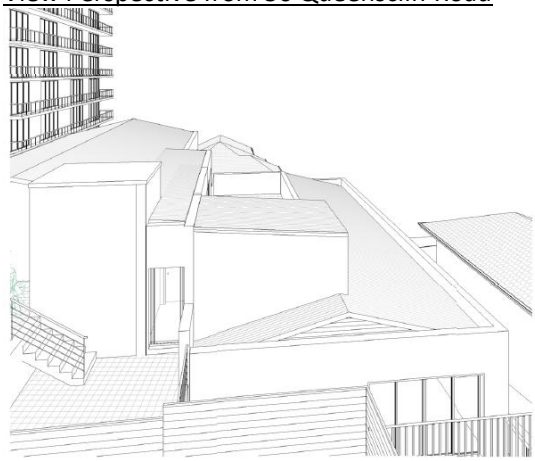
In relation to the disruption of views, having inspected the site and its immediate surrounds to identify existing view corridors we have formed the opinion that the proposed development will not give rise to any unacceptable view impacts from surrounding properties in particular the properties to the north of the subject site which obtain views over the properties located on the low side of Queenscliff Road towards Manly Beach. In this regard, the additions are contained predominantly within the visual roof/view plane established by the existing development to minimise impacts on available views from surrounding development as depicted on views extracts on the following page:

Camera View Positions for View Perspectives

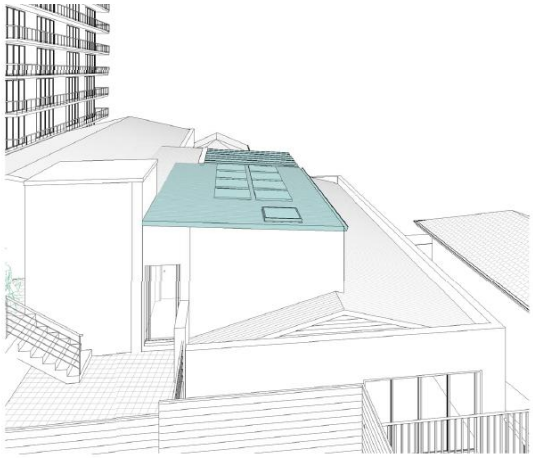


Camera View Positions

View Perspective from 50 Queenscliff Road

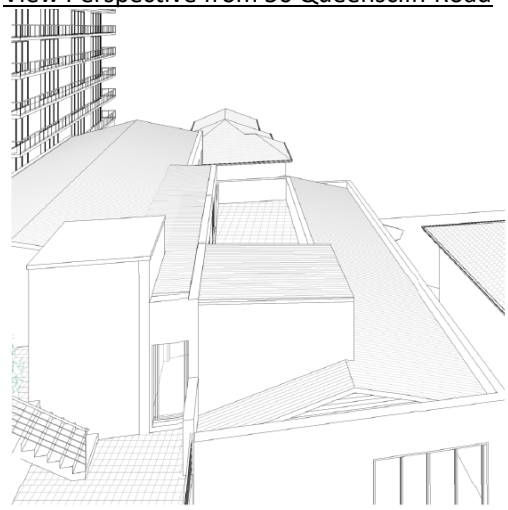


VIEW 01 NO 50 RL 29.10 Existing

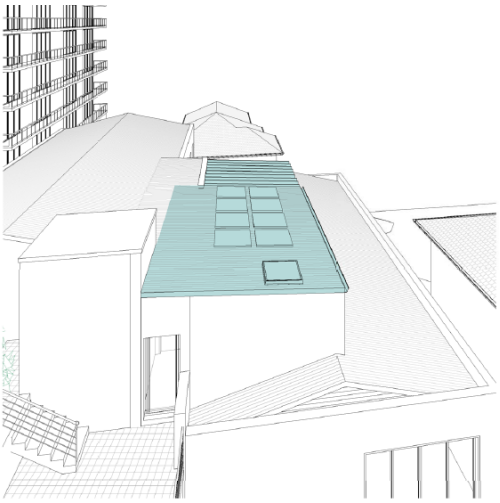


VIEW 01 NO 50 RL 29.10 Proposed

View Perspective from 50 Queenscliff Road

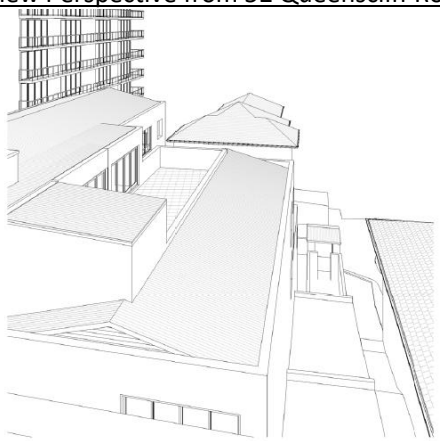


VIEW 02 NO 50 RL 32.97 Existing

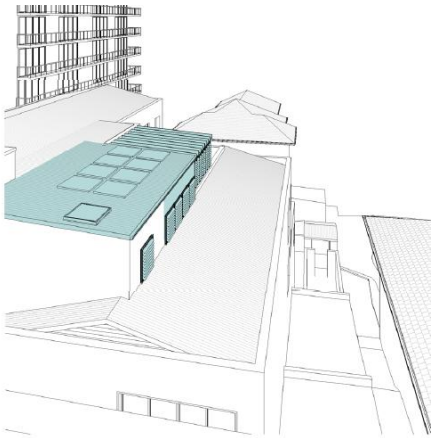


VIEW 02 NO 50 RL 32.97 Proposed

View Perspective from 52 Queenscliff Road

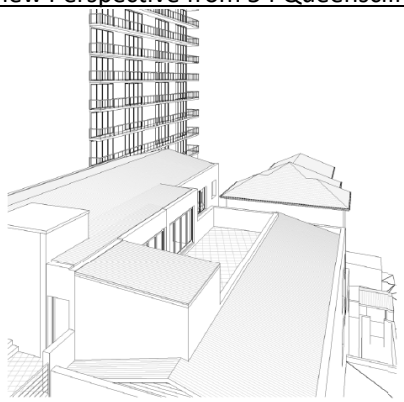


VIEW 03 NO 52 RL 31.80 Existing

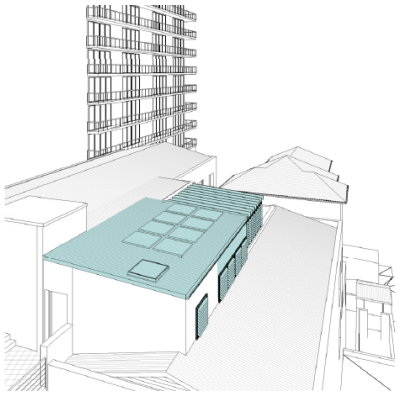


VIEW 03 NO 52 RL 31.80 Proposed

View Perspective from 54 Queenscliff Road



VIEW 04 NO 54 RL 32.43 Existing

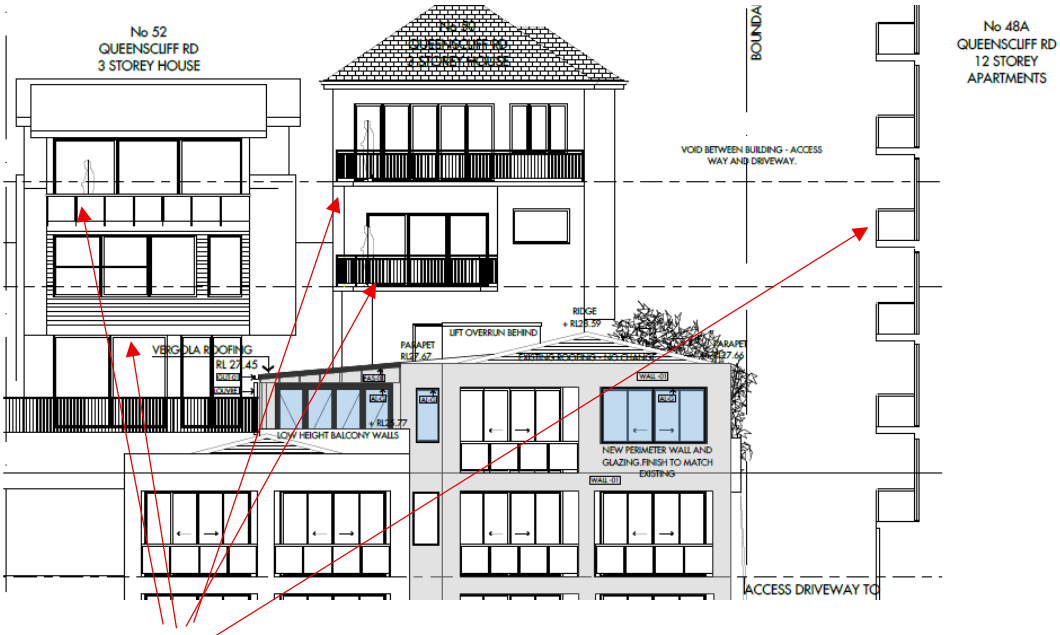


VIEW 04 NO 54 RL 32.43 Proposed

On the basis of the above, I am satisfied that the proposed variation to the building height control will not give rise to unreasonable view sharing as existing on the site.

Privacy

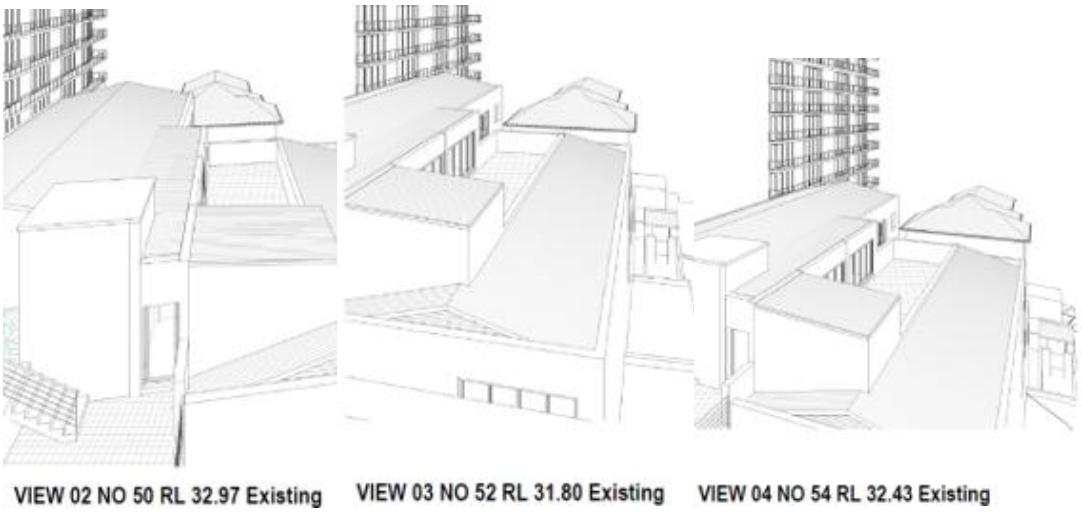
In relation to the minimisation of privacy loss, the development has been carefully designed to reduce privacy impacts to that existing on-site to both the occupants and the neighbouring properties to the north at 50, 52 and 54 Queenscliff Road. This is emphasised through the extracts below:



Existing balconies from neighbouring properties that view /impact privacy to the existing terrace area for the subject site



Photograph from the existing terrace which shows visual intrusion and privacy impacts to the northern adjoining neighbours at 50, 52 and 54 Queenscliff Road.



VIEW 02 NO 50 RL 32.97 Existing VIEW 03 NO 52 RL 31.80 Existing VIEW 04 NO 54 RL 32.43 Existing

The excerpts above show the current view lines to the terrace showing direct sight lines.
The excerpts below show that the proposed works will have a net benefit in reducing privacy impacts and direct sight lines to adjoining properties.



VIEW 02 NO 50 RL 32.97 Proposed VIEW 03 NO 52 RL 31.80 Proposed VIEW 04 NO 54 RL 32.43 Proposed

On the basis of the above, I am satisfied that the proposal will have a net benefit in reducing privacy to both the occupants and the neighbouring properties.

Solar Access
In relation to solar access, the accompanying shadow diagrams (Drawings 10122_AR_50 -1 to 10122_AR_56 -1) demonstrate that the alterations and additions will not result in any additional shadowing impact to any surrounding residential properties.

In this regard, I have formed the opinion that the design of the development has minimised visual impacts, disruption of views, loss of privacy and loss of solar access and accordingly this objective is achieved notwithstanding the building height breaching elements. It is my professional opinion that the proposal satisfies this objective and can be supported by Council as submitted.

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,
The project architect has strategically designed the proposal to integrate seamlessly into the existing streetscape of Greycliffe Street which promotes facets of Warringah's coastal and bush environments through high quality finishes and design. I am satisfied that the recessive nature of the

non-compliant building height elements as potentially viewed from the beach and surrounding public domain ensures that any adverse impacts have been minimised. This objective is met.

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

The proposed development will be of an appropriate and sympathetic bulk and scale consistent with surrounding development in the street. Further, when viewed from Queenscliff Beach, the bulk and scale will not be perceived as inappropriate as it is maintained within the existing building footprint and in line or below the existing roof heights. Accordingly, the visual impact of the development when viewed from public places is negligible. This objective is met.

It is our professional opinion that the building by virtue of its height, bulk and scale, is consistent with the locality and desired character of the area. I have formed the considered opinion that the proposal is a sympathetic design with a bulk and scale consistent with the existing and future character of the area. The proposal is not offensive, or unsympathetic in the context of the streetscape, therefore the building height as proposed, can be supported by Northern Beaches Council.

2. 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]*

Comment: It would indeed be unreasonable for Council to refuse the development that is proposed by way of a variation as the proposal does not have any adverse impacts on the immediate amenity of the area. The development has been designed with the necessary sensitivity to complement existing buildings and the natural landform of the area. There is no adverse visual impact associated with the form and structures proposed.

3. 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 stand is unnecessary and unreasonable: *Wehbe v Pittwater Council at [47].*

Comment: Whilst the proposal seeks a variation to Councils numerical Height of Building standard, it is consistent with the relevant objectives (as outlined previously in this report).

A review of other developments within the immediate area and approvals granted show that the development standard for Height of Buildings has been virtually abandoned or destroyed by Council's own decisions in granting development consents, hence compliance with this development standard is unnecessary and unreasonable.

Sufficient environmental planning grounds

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

There are sufficient environmental planning grounds to justify contravening the development standard. Whilst there is no requirement that the development comply with the objectives set out in clause 4.6(1) it is relevant to note that objective (b) provides:

*"to achieve better outcomes **for and from** development by allowing flexibility in particular circumstances."*

It should be noted at the outset that in *Initial Action* the Court held that it is incorrect to hold that the lack of adverse impact on adjoining properties is not a sufficient ground justifying the development contravening the development standard when one way of demonstrating consistency with the objectives of a development standard is to show a lack of adverse impacts.

There is an absence of environmental harm arising from the contravention and positive planning benefits arising from the proposed development as outlined in detail above. From a planning perspective, there is sufficient environmental planning grounds to justify the variation to the height of buildings development standard for the following reasons:

Future Development and Context noting Existing Non-Compliant Building Height

- The proposed works are lower than the existing maximum building height on the site.
- As per assessment on pages 8-16 of this report, the proposed alterations and additions have been designed to reduce the existing building height non-compliance on the site.
- The area surrounding the subject site is characterised by a mixture of dwelling houses and residential flat buildings ranging in height from 2 to 10 storeys.
- The proposed alterations and additions to the existing building have been designed to remain consistent with the character of the locality, despite the variation to building height, through design, architectural features and complimentary materials and colour choices.
- Variation to the Warringah LEP 2011 Cl. 4.3 Height of Building control has been the subject of recent precedent for the following developments:
    - DA2025/0454 – 1A Greycliffe St, Queenscliff - Alterations and additions to a residential flat building, including the amalgamation of apartments 4 and 7 – 79.41% variation to building height
    - Mod2025/0160 – 90 Queenscliff Road, Queenscliff - DA2022/1443 granted for Demolition works and construction of a residential flat building and strata subdivision – 10% variation to building height
    - DA2024/0114 – 48A Queenscliff Road, Queenscliff - Alterations and additions to a residential flat building – 126.3% variation to building height
- The proposed alterations and additions will allow for the provision of a modern floor plan, with refurbished and improved internal spaces. This represents an efficient use of an existing developed site, with all services readily available.
- The proposed works will not hinder any future development of the lot.

Based on the above, the proposal demonstrates fulfillment of clause 1.3 (c) and (g) of the EPA Act 1979.

Topography and prior excavation

- The site falls approximately 12m across its surface in a southerly direction and has been excavated to accommodate the existing residential flat building. The topography of the site and prior excavation contribute to the extent of building height breach.

Deletion of non-compliant parts proposed would not be orderly and economic use of land

- Object 1.3(c) of the EP&A Act 1979 is "*to promote the orderly and economic use and development of land*". The benefits of allowing alterations and additions to an existing building ensure a new modern layout for the dwelling. It would be an unreasonable (and contrary to the public interest) to deny the variation and require the removal/reduction to

the dwelling as a result of the height non-compliance which is limited to that existing and under the highest point.

Based on the above, the proposal demonstrates fulfillment of clause 1.3 (c) and (g) of the EPA Act 1979.

The impacts of the height breach will be imperceptible

- It is considered that there is an absence of any significant material impacts attributed to the breach on the amenity or the environmental values of surrounding properties, the amenity of future building occupants and on the character of the locality.
- The proposed shadow impacts are acceptable given they are compliant with the DCP despite the numeric variation. The shadow impact is therefore what would be reasonably expected of a fully height compliant development on the subject site and entirely consistent in scale with the development within the locality.
- The height non-compliance relates to a portion of the dwelling that is already non-compliant, and as such the non-compliant section of the building does not introduce any privacy impacts to the surrounding residential developments, in fact, the proposal will increase privacy measures and remove direct overlooking to the northern adjoining properties.
- The height of building breach does not result in view loss which is not reasonably anticipated within the planning controls and site context. Given the minor extent of the non-compliant elements it is anticipated the extent of view loss caused by these elements would be minor to nil as per the assessment on pages 11-13 of this report.

Based on the above, the proposal demonstrates fulfillment of clause 1.3 (c) and (g) of the EPA Act 1979.

General

Having regard to Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, and further to the proposal's consistency with the above strategic and statutory environmental planning provisions, the proposal is consistent with the following objectives under Section 1.3 of the Environmental Planning and Assessment Act 1979 (the Act):

(c) to promote the orderly and economic use and development of land; and
(g) to promote good design and amenity of the built environment,

1. In response to (c), the proposal will facilitate the orderly and economic use and development of the land in a manner that is desired by the planning controls because it will facilitate the revitalisation of the dwelling that is usable and functional, noting the current floorplate and open terrace with minimal measures to prevent overlooking. In considering the contrary (refusal of the DA), retention of the building in its current form would not promote the orderly and economic use and development of land in the manner that council's strategic and statutory planning provisions seek. Retention of the building in its current form makes no advancement towards achieving the goal of creating functional development opportunities.

2. In response to (g) the proposal has been designed to promote good design and amenity of the built environment, with a consistent built form retained.

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.

Based on the above, it has been demonstrated that there are sufficient environmental planning grounds to justify the proposed height of buildings non-compliance in this instance.

5 Conclusion

Pursuant to clause 4.6(3), the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) being:

> *(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.*

As such, I have formed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a height of buildings variation in this instance.

6 MEETING CLOSURE