

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 19 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.

ORDER OF BUSINESS

1 APOLOGIES AND DECLARATIONS OF INTEREST	4
2 MINUTES OF PREVIOUS MEETING.....	4
2.1 Minutes of the Northern Beaches Local Planning Panel Meeting held on 5 August 2026.....	4
3 CATEGORY 3 APPLICATIONS.....	5
4 PUBLIC MEETING ITEMS	6
4.1 DA2025/1653 - 19 A Rowan Street MONA VALE and 67 Elimatta Road - Demolition works and construction of multi-dwelling housing, lot consolidation and strata subdivision	6
4.2 DA2026/0418 - 580 Barrenjoey Road AVALON BEACH - Demolition works and construction of a dual occupancy (attached), including strata subdivision	119
4.3 MOD2026/0160 - 35-39 Belgrave Street MANLY - Modification of Development Consent DA2023/0987 granted for Demolition of existing structures and construction of a shop top housing development.....	161
5 NON-PUBLIC MEETING ITEMS.....	209
<p>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.</p>	
5.1 DA2026/0175 - 30 Kentwell Road ALLAMBIE HEIGHTS - Subdivision of one lot into two lots including alterations and additions to existing dwelling house	209
5.2 DA2026/0701 - 119 Florence Terrace SCOTLAND ISLAND - Alterations and additions to a dwelling house	277
6 MEETING CLOSURE.....	330

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 5 AUGUST 2026

RECOMMENDATION

The Panel notes that the Minutes of the Northern Beaches Local Planning Panel Meeting held on 5 August 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 DA2025/1653 - 19 A ROWAN STREET MONA VALE AND 67 ELIMATTA ROAD - DEMOLITION WORKS AND CONSTRUCTION OF MULTI-DWELLING HOUSING, LOT CONSOLIDATION AND STRATA SUBDIVISION

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. DA2025/1653 for Demolition works and construction of multi-dwelling housing, lot consolidation and strata subdivision at Lot 103 DP 709505, 19A Rowan Street MONA VALE and Lot 72 DP 5464, 67 Elimatta Road MONA VALE subject to the conditions set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	<ol style="list-style-type: none"> 1. Assessment Report [4.1.1 - 101 pages] 2. Site Plans & Elevations [4.1.2 - 6 pages] 3. Design and Sustainability Panel Report [4.1.3 - 5 pages]

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/1653
----------------------------	-------------

Responsible Officer:	Olivia Ramage
Land to be developed (Address):	Lot 103 DP 709505, 19 A Rowan Street MONA VALE NSW 2103 Lot 72 DP 5464, 67 Elimatta Road MONA VALE NSW 2103
Proposed Development:	Demolition works and construction of multi-dwelling housing, lot consolidation and strata subdivision
Zoning:	R2 Low Density Residential
Development Permissible:	Yes, under State Environmental Planning Policy (Housing) 2021
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	The Trustee For Osc Development Trust

Application Lodged:	13/11/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	16/04/2026 to 30/04/2026
Advertised:	16/04/2026
Submissions Received:	79
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 4,096,889.00
---------------------------------	-----------------

EXECUTIVE SUMMARY

This development application seeks consent for demolition works and construction of multi-dwelling housing, lot consolidation and strata subdivision.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the application receiving more than ten unique submissions by way of objection to the proposed development during the notification period.

The application was originally notified for a period of 14 days from 24 November 2025 to 8 December 2025 in accordance with Council's Community Participation Plan. Concerns raised in the objections predominantly relate to overdevelopment, privacy, view loss, setbacks, solar access, traffic and parking. A total of 41 submissions were received during this period.

On 28 November 2025, Council wrote to the applicant raising concerns whether the LMR controls applied to the whole development site given only a portion of one of the lots was within the LMR area. However, on 12 December 2025, the Housing SEPP was amended clarifying that if any part of the site is within the proximity of the town centre, then the whole site is considered to be also.

On 20 February 2026, further information was requested in relation to the Shadow Diagrams, Setbacks and Building Separation, View Sharing, Scale, Built Form and Articulation, Development Engineering, Flooding, Waste Management and Urban Design. On 7 April 2026, the applicant lodged Amended Plans, Stormwater information, Flooding Information, and an Amended Waste Management Report. The amendments to the plans included a reduction in number of dwellings from 10 to 9, deletion of second driveway crossing to Elimatta Road and introduction of basement parking to R1 and R2, increased separation between dwellings to improve view corridors, deletion of northern and southern facing dormers to attic level of R3-R9 to reduce appearance of the third storey, and increased front setback to R1 and R2.

The amended plans and documentation were re-notified for a period of 14 days from 16 April 2026 to 30 April 2026 in accordance with Council's Community Participation Plan. A total of 37 submissions were received during this re-notification period comprising 19 from previous submitters and 18 new submitters in objection to the proposal.

The amended development on merit, despite the objections, is found to be acceptable. It is consistent with the requirements of the Housing SEPP and the applicable provisions of the Pittwater 21 DCP. This report concludes with a recommendation that the NBLPP grant approval to the development application, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development consists of demolition works and construction of multi-dwelling housing, lot consolidation and strata subdivision. Specifically, the works comprise the following:

- Torrens title amalgamation of two lots into one.
- Demolition of existing structures.
- Construction of multi-dwelling housing comprising nine four-bedroom dwellings.
- New driveway crossing and through-site link from Elimatta Road to Rowan Street.
- Fencing, landscaping and associated works.
- Strata subdivision.

Application History

On 28 November 2025, a letter was sent to the applicant raising concerns regarding the permissibility of the proposed development in relation to the LMR mapping under the Housing SEPP. The proposal relied on the enabling LMR provisions of Chapter 6 of the Housing SEPP permitting multi-dwelling housing within 800m walking distance of the Mona Vale town centre. However, only a portion of 19A Rowan Street is located within 800m walking distance of Mona Vale Town Centre. The application relied on the

consolidation of the lots to enable the LMR provisions to extend across the whole site including 67 Elimatta Road. However, the permissibility of the development under the Housing SEPP only arises when the lots are consolidated. This, in the framework of the application could only occur once consent is granted for the DA. At the time that the application is made, the LMR provisions did not presently apply to 67 Elimatta Road, as the LMR development proposed on *that lot* is not within the mapped LMR area or within 800m walking distance of the town centre.

However, on 12 January 2026, the applicant responded referencing the amendment made to the Housing SEPP on 12 December 2025. This amendment includes the following:

low and mid rise housing area means—

- (a) land within 800m walking distance of—
 - (i) land identified as “Town Centre” on the [Town Centres Map](#), or
 - (ii) a public entrance to a railway, metro or light rail station listed in Schedule 11, or
 - (iii) for a light rail station listed in Schedule 11 with no public entrance—a platform of the light rail station, and
- (b) if a site area contains land identified in paragraph (a)—the site area.

As such, if any part of the proposed site area is within the mapped low and mid rise housing area, the provisions under Chapter 6 of the Housing SEPP apply which is the case for this application.

On 20 February 2026, further information was requested in relation to the Shadow Diagrams, Setbacks and Building Separation, View Sharing, Scale, Built Form and Articulation, Development Engineering, Flooding, Waste Management and Urban Design.

On 7 April 2026, the applicant lodged Amended Plans, Stormwater information, Flooding Information, and an Amended Waste Management Report.

The amended documents were re-notified from 16 April 2026 to 30 April 2026.

On 31 July 2026 further information was lodged by the applicant including Amended Landscape Plans, Waste Management Plans and Strata Subdivision Plan in response to the DSAP advice. This information was not required to be re-notified in accordance with Council's Community Participation Plan (CPP) as the documents do not cause a greater impact than the information previously notified.

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 R2 Low Density Residential

Pittwater Local Environmental Plan 2014 - 5.21 Flood planning

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.4 Solar Access

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.7 Private Open Space

Pittwater 21 Development Control Plan - C7.2 Attached dwellings, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings

Pittwater 21 Development Control Plan - D9.3 Building colours and materials

Pittwater 21 Development Control Plan - D9.9 Building envelope

SITE DESCRIPTION

Property Description:	Lot 103 DP 709505 , 19 A Rowan Street MONA VALE NSW 2103 Lot 72 DP 5464 , 67 Elimatta Road MONA VALE NSW 2103
------------------------------	--

Detailed Site Description:

The subject site consists of two (2) allotments Lot 72 DP 5464, 67 Elimatta Road and Lot 103 DP 709505, 19 A Rowan Street. 67 Elimatta Road is located on the north-western side of Elimatta Road with a frontage of 21.85 metres, depth of 68.8m and a surveyed area of 1295m². 19A Rowan Street is located on the southern side of Rowan Street with a frontage of 4.575 metres, depth of 72.505 metres and a surveyed area of 1046m².

The site is zoned R2 Low Density Residential pursuant to the *Pittwater Local Environmental Plan 2014* (PLEP 2014). The site is currently occupied by a two storey dwelling house at 67 Elimatta Road and a single storey dwelling house and swimming pool at 19A Rowan Street.

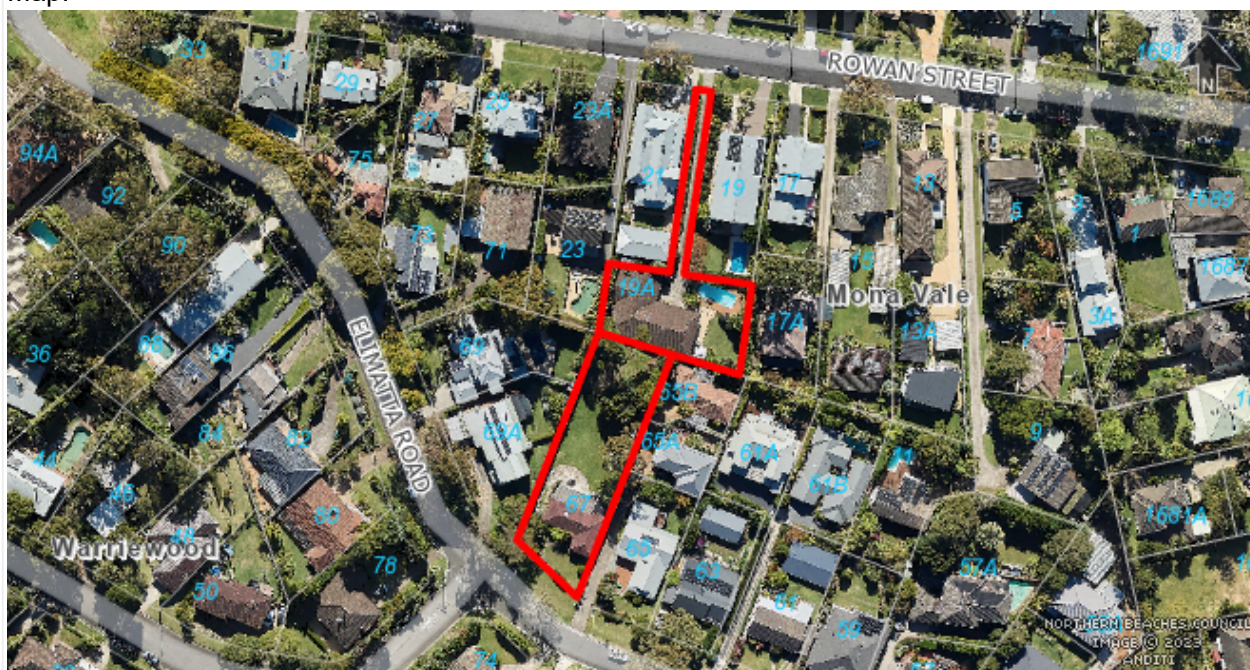
The site slopes down from the southern Elimatta Road frontage towards the northern Rowan Street frontage.

The site contains a few mature canopy trees and lawn areas.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by low density residential development including detached dwelling houses and dual occupancy developments.

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	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 Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p>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.</p> <p>Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the Shadow Diagrams, Setbacks and Building Separation, View Sharing, Scale, Built Form and Articulation, Development Engineering, Flooding, Waste Management and Urban Design.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>

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	<p>(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.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 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): Multi Dwelling Housing

Land Use Zone: R2 Low Density Residential

Permissible or Prohibited: Prohibited but remains permissible under Housing SEPP

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 16/04/2026 to 30/04/2026 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 79 submission/s from:

Name:	Address:
Mr James Edward Bullough	64 Elimatta Road MONA VALE NSW 2103
Mr Mark Cree Barry	20 Rowan Street MONA VALE NSW 2103
Mr Terence Michael Wooldridge	6 Island Parade NORTH NARRABEEN NSW 2101
Mrs Maureen Anne Wooldridge	13 Gerroa Avenue BAYVIEW NSW 2104
Mr Brett Anthony Clapham	47 Bertana Crescent WARRIEWOOD NSW 2102
Mr Richard John Staniland Mrs Elizabeth Jean Staniland	17 Rowan Street MONA VALE NSW 2103
Mrs Louise Frances McCready	57 A Elimatta Road MONA VALE NSW 2103
Mrs Jan Narelle McJannett	106 A Elimatta Road MONA VALE NSW 2103
Abra Antoinette Robertson	28 Shearwater Drive WARRIEWOOD NSW 2102
Mr Stephen James Hills	30 Turimetta Street MONA VALE NSW 2103
Withheld Mr Andre Francois Rickenbach	WARRIEWOOD NSW 2102
Withheld Mr Andre Francois Rickenbach	37 Bertana Crescent WARRIEWOOD NSW 2102
Lee-Anne Andersen	69 Waterview Street MONA VALE NSW 2103
Tam Cannon	Address Unknown
Ms Charito Cruzado	19 Rowan Street MONA VALE NSW 2103
Mr David John Williams	61 B Elimatta Road MONA VALE NSW 2103
Mr William John Edward Mulligan Mrs Karen Ann Mulligan	21 Rowan Street MONA VALE NSW 2103
Sonia Williams	15 Alleyne Avenue NORTH NARRABEEN NSW 2101
Mrs Melletta Ellen Wilson	65 Elimatta Road MONA VALE NSW 2103
Mr John Allan Faul Mrs Jillian Robyn Faul	65 B Elimatta Road MONA VALE NSW 2103
Mrs Catherine Elizabeth Read	8 Jenkins Street MONA VALE NSW 2103
Mr Jason Brian Baker	27 Rowan Street MONA VALE NSW 2103
Ms Elizabeth Deirdre Wall	20 Dickson Place WARRIEWOOD NSW 2102
Ms Nicola Yakich	15 Carpenter Crescent WARRIEWOOD NSW 2102
Mr Jason Peter Jenkins	25 Rowan Street MONA VALE NSW 2103

Name:	Address:
Mr Leslie Gordon Wingham Ms Jennifer Robertson Wingham	69 Elimatta Road MONA VALE NSW 2103
Ms Sara Ann Bennetts	80 Elimatta Road MONA VALE NSW 2103
Ms Janine Elizabeth Clark	16 Lake Park Road NORTH NARRABEEN NSW 2101
Mrs Sylvia Pecar	55 Elimatta Road MONA VALE NSW 2103
Mrs Colleen Frances Sheerin	103 Elimatta Road MONA VALE NSW 2103
Mrs Deborah Lee Austin	70 A Elimatta Road MONA VALE NSW 2103
Mr John Richard Mazey Mrs Catherine Ivy Mazey	8 B John Street AVALON BEACH NSW 2107
Miss Melanie Vere	30 A Rowan Street MONA VALE NSW 2103
Mrs Nelmae Patricia Mary Palmer	22 Lake Park Road NORTH NARRABEEN NSW 2101
Mr Stephen Charles Little	106 Elimatta Road MONA VALE NSW 2103
iObject	C/- 123 Headland Road NORTH CURL CURL NSW 2099
Stephen Shane Eccleston Mrs Maree Eccleston	69 A Elimatta Road MONA VALE NSW 2103
Ms Helen Mccarthy	31 A Turimetta Street MONA VALE NSW 2103
Mrs Helen Mary Matthews	63 Elimatta Road MONA VALE NSW 2103
Mr Shane Ian Matthews	63 Elimatta Road MONA VALE NSW 2103
Mr James Bruce Gaal Mrs Trudy Annette Gaal	40 A Elimatta Road MONA VALE NSW 2103
Mr Colin John Pocklington Mrs Janie Elizabeth Pocklington	70 Elimatta Road MONA VALE NSW 2103
Ms Melissa Kylie Penney	65 A Elimatta Road MONA VALE NSW 2103
Ms Kay Elizabeth Field	3 A Rowan Street MONA VALE NSW 2103
Mr Benjamin James Green	23 Rowan Street MONA VALE NSW 2103
Mr John Lynton Bentley Mrs Marilyn Pamela Bentley	10 / 21 Mona Street MONA VALE NSW 2103
Mrs Dianne Sally Aitken	57 Elimatta Road MONA VALE NSW 2103
Mr Ben Koch	88 Elimatta Road MONA VALE NSW 2103
Mrs Michelle Anne Dunbar	106 Warriewood Road WARRIEWOOD NSW 2102
Mr Stuart Glen Dunbar	17 A Rowan Street MONA VALE NSW 2103
Ryan Michael Gannon	73 Elimatta Road MONA VALE NSW 2103
Mr Paul Rodney Fameli	68 A Elimatta Road MONA VALE NSW 2103
Ms Lisa Marie Clark Mr David Edward Murray	74 Elimatta Road MONA VALE NSW 2103

Name:	Address:
Mr Joshua Bruce Dymock	81 Elimatta Road MONA VALE NSW 2103
Ms Maureen Anne Brown	102 Elimatta Road MONA VALE NSW 2103
Ms Susan Louise Crompton	98 B Elimatta Road MONA VALE NSW 2103
Mrs Louise Jayne Baker	49 Bertana Crescent WARRIEWOOD NSW 2102
Mona Vale Residents Association	Po Box 479 MONA VALE NSW 1660
Mr Carlos Santo	4 Rowan Street MONA VALE NSW 2103
Swaab Attorneys	Level 4 20 Hunter Street SYDNEY NSW 2000
Ms Eva-Maria Anuschka Bobbert	81 Elimatta Road MONA VALE NSW 2103
Kimberley Elizabeth Read	18 Nambucca Road TERREY HILLS NSW 2084
Ms Keryn Maree Sarkies	71 Stella Street COLLAROY PLATEAU NSW 2097
Mr Michael Francis Maitland	11 / 155 Darley Street West MONA VALE NSW 2103
Mr Graham Kingsley Lewis	5 / 44 - 48 Park Street MONA VALE NSW 2103
Mr David Michael Austin	70 A Elimatta Road MONA VALE NSW 2103
Mr Rene Robert Ruegg	5 Argyle Street BILGOLA PLATEAU NSW 2107
Mrs Kim Roberts	8 / 155 Darley Street West MONA VALE NSW 2103
Mrs Margaret Gladys Woods	42 A Elimatta Road MONA VALE NSW 2103
Ms Karen Stapleton	311 / 5 Bungan Street MONA VALE NSW 2103
Mr Joseph Denis Penney	65 A Elimatta Road MONA VALE NSW 2103
Mrs Helen Terese O'Meara	2 / 155 Darley Street West MONA VALE NSW 2103
Mrs Lynne Spencer	112 / 102 Darley Street West MONA VALE NSW 2103
Mrs Sonia Williams	61 B Elimatta Road MONA VALE NSW 2103
Mrs Nancy Mary Formica	PO Box 283 NEWPORT BEACH NSW 2106
Mrs Virginia Norah Murphy	107 Elimatta Road MONA VALE NSW 2103
Mr Andrew William Davies	27 Turimetta Street MONA VALE NSW 2103
Mrs Joy Allison Barber	2 / 10 Kunari Place MONA VALE NSW 2103
Lisa Jane Robson	38 A Elimatta Road MONA VALE NSW 2103
Ms Julie Therese Maslen	52 Elimatta Road MONA VALE NSW 2103

The application was initially notified from 24 November 2025 to 8 December 2025 and 41 submissions in objection were received during this period.

The application was later re-notified following receipt of amended plans from 16 April 2026 to 30 April 2026. 37 submissions were received during this period comprising 19 from previous submitters and 18 new submitters in objection to the proposal.

A further 12 submissions in objection were lodged outside of the notification periods. As per Section 15 of the Environmental Planning and Assessment Act 1979 No 203 (EPA Act), submissions made outside of

the notification period are not submissions for the purposes of the EPA Act. That is, the submissions do not contribute to the total number of submissions received, however, Council still considers the issues raised.

The relevant planning issues raised in the submissions are summarised and addressed below:

- **Overdevelopment**

The submissions raised concerns that the proposed development is an overdevelopment of the site. Specifically, the height, bulk and scale is excessive and incompatible with the low density residential character of the area. Concern is raised that the site is unsuitable being a constrained battle-axe site. Additionally, the proposal prioritises dwelling yield over amenity and design quality and does not adequately resolve the bulk and scale impacts. Concern is also raised for the urban heat effects resulting from the proposed development.

Comment:

The proposal is for multi-dwelling housing providing nine dwellings pursuant to Chapter 6 of the Housing SEPP. This provides additional housing stock on the site in the form of medium density multi-dwelling housing which is consistent with the development typology envisaged by the LMR reforms. The proposed development complies with the non-discretionary height and FSR requirements of the Housing SEPP and also provides sufficient landscaping in accordance with the Tree Canopy Guide for Low and Mid Rise Housing. It is acknowledged that the proposed development is of a higher density being multi-dwelling housing providing nine dwellings, when compared to the surrounding single detached dwelling houses and dual occupancies. However, the proposed density is facilitated by Chapter 6 of the Housing SEPP and is consistent with the development typology anticipated by the planning reforms. The proposal incorporates various architectural elements to enhance the streetscape. This includes the incorporation of varied roof forms, bay windows, dormer windows and varied front setbacks to Elimatta Road providing articulation and helping to minimise visual bulk and scale.

- **Privacy**

The submissions raised concerns that the proposal results in significant privacy impacts and overlooking issues for neighbouring properties. Concern is raised regarding the extensive number of new windows, doors and balconies overlooking neighbouring properties. The elevated decks introduced to R1 and R1 raise further concerns of overlooking.

Comment:

A detailed assessment is provided under C1.5 Visual Privacy of this report. Ultimately, the proposal is found to maintain a reasonable level of privacy in accordance with this control. Conditions are recommended requiring privacy treatments to certain windows where there is direct overlooking within 9 metres.

- **View Loss**

The submissions raised concerns that the proposal causes significant view loss and disrupts the outlook of the ocean, trees and sky. The submissions request that surveyed height poles are erected to demonstrate the impact of the development. Concern is raised that the

submitted photomontages understate the actual impact as the buildings are transparent.

Comment:

A detailed assessment is provided under C1.3 of this report against the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140. The assessment finds that the views currently enjoyed are distant water glimpses that are obscured by existing tree canopy. The proposal has been designed with varied roof forms and a stepped appearance to enhance view retention where possible. Ultimately, given the nature of the views and the level of compliance with the planning controls, the proposal is found to be acceptable and the view sharing outcome reasonable. The information submitted with the application and site visits conducted were sufficient to enable an accurate view impact assessment based off the levels of the existing and surrounding buildings. Height poles were not required to be erected in this instance and would not assist or inform the assessment in any meaningful way given the varied height and roof forms.

- **Setbacks**

The submissions raised concerns that the proposed development provides inadequate setbacks to adjoining properties which results in adverse privacy, amenity and solar access impacts.

Comment:

The proposal exhibits non-compliance with the required side setbacks stipulated by C7.2 of the P21DCP. A detailed assessment is provided under this clause. In summary, the extent of non-compliances are minor and do not contribute to unreasonable levels of privacy, amenity and solar access as discussed throughout this report.

- **Traffic and Parking**

The submissions raised concerns regarding the traffic and parking impacts of the proposal. Elimatta Road is already congested with limited street parking whereby the proposed development will worsen these issues. The submissions state that insufficient off-street parking is provided within the proposal. Additionally, the 3m wide access driveway through the site is unsafe and does not provide passing bays. Concern is also raised for pedestrian safety as there are no footpaths. Concerns are also raised that the driveway will be used by the public as a short cut.

Comment:

The proposal has been reviewed and supported by Council's Traffic Team subject to the recommended conditions. Passing bays are not required as the site through-link is one-way. The site's access driveway is located on private land and is not to be used by the public as a roadway. Furthermore, Clause 172(2) of the SEPP Housing stipulates non-discretionary development standards that apply to the proposed development. This means that the application cannot be refused if the proposal complies with the particular requirement. Clause 172(2)(c) stipulates that *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*. The Pittwater 21 Development Control Plan (P21DCP) specifies a minimum number of car parking spaces per dwelling, but does not specify a maximum number of car parking spaces per dwelling. As such, a minimum of 1 parking spaces per dwelling is required in

accordance with this clause. The proposal provides 1 car parking space per dwelling, meeting the minimum requirements. As the SEPP Housing prevails over the P21DCP, a more onerous standard cannot be imposed. As such, the proposal provides sufficient car parking facilities.

- **Waste Management**

The submissions raised concerns regarding the amenity impacts on neighbouring properties arising from the bin storage areas in terms of odour and visual amenity. Additionally, concern is raised that there has been no consideration for where the bins will be on collection day along the street as well as bulky goods collection as the property does not have proper street frontage to Rowan Street.

Comment:

The bin stores have been amended to be enclosed roofed areas to mitigate odour and visual impacts. Furthermore, a wheel out/wheel in service will be provided on collection day so that the bins are not positioned on the street. The proposal has been reviewed and supported by Council's Waste Management Team subject to the recommended conditions.

- **LMR Permissibility**

The submissions raised concerns that the proposal relies on a loophole to be permissible and is inconsistent with the intent of the LMR provisions of the Housing SEPP being to provide affordable housing.

Comment:

Initially, Council had concerns whether the LMR controls applied to the whole development site given only a portion of one of the lots was within the LMR area. However, on 12 December 2025, the Housing SEPP was amended (without savings provisions) clarifying that if any part of the site is within the proximity of the town centre, then the whole site is considered to be also. Therefore, the Housing SEPP provisions apply to the whole site area, and the proposed multi-dwelling housing is permissible. There is no requirement under Chapter 6 of the Housing SEPP for the development to provide affordable housing.

- **Noise**

The submissions raised concerns regarding the increased noise impacts on adjoining properties arising from the shared driveway, bin storage and increased density.

Comment:

It is acknowledged that the increased density made permissible by Chapter 6 of the Housing SEPP introduces greater acoustic impacts on adjoining dwellings when compared to existing. However, the proposal maintains the residential use and nature of the site and is not expected to generate noise that would be out of character for a residential area. The Protection of the Environment Operations Act 1997 provides generic regulatory instruments that can be applied to this context, should noise generated be determined to be 'offensive noise', allowing action to be taken by council or police officers.

- **Overshadowing**

The submissions raised concerns that the proposed development will overshadow adjoining properties and the submitted shadow diagrams do not accurately reflect the impacts.

Comment:

A detailed assessment is provided under C1.4 Solar Access of this report finding that the proposal maintains a reasonable and acceptable level of solar access to adjoining properties.

- **Stormwater and Flooding**

The submissions raised concerns regarding increased stormwater runoff resulting from the development. Surrounding properties have experienced flooding and runoff issues which would be exacerbated by the proposed development.

Comment:

The proposal has been reviewed and supported by Council's Flooding Team subject to the recommended conditions. The proposal has also been reviewed by Council's Development Engineering Team with regards to stormwater deeming it acceptable subject to the recommended conditions.

- **Excavation**

The submissions raised concerns that the amended proposal includes a basement level to R1 and R2 which requires greater excavation. The submissions question whether the geotechnical risks have been considered through a geotechnical assessment.

Comment:

In accordance with the Geotechnical Risk Management Policy for Pittwater, works that involve excavations greater than 1.5m deep require a Geotechnical Report at Construction Certificate stage. As such, a condition is recommended requiring a Geotechnical Report to be submitted to the Certifier prior to the issue of the Construction Certificate.

- **Landscaping**

The submissions raised concerns that the proposal has a lack of adequate landscaping and insufficient tree canopy. Concerns are raised regarding the loss of trees and habitat for wildlife.

Comment:

The proposal provides deep soil landscaped area and tree plantings in accordance with the Tree Canopy Guide for Low and Mid Rise Housing and the P21DCP.

- **Character**

The submissions raised concerns that the proposal disrupts the character of the area which consists of detached dwellings within low density residential streets. The proposed multi-dwelling housing is significantly out of character for the area and inconsistent with the objectives of the R2 zone. This will negatively impact the property values of surrounding dwellings.

Comment:

The proposal is for multi-dwelling housing providing nine dwellings pursuant to Chapter 6 of the Housing SEPP. This provides additional housing stock on the site in the form of medium density multi-dwelling housing which is consistent with the development typology envisaged by the LMR reforms. The proposed development complies with the non-discretionary height and FSR requirements of the Housing SEPP and also provides sufficient landscaping in accordance with the Tree Canopy Guide for Low and Mid Rise Housing. The proposal incorporates various architectural elements to enhance the streetscape. This includes the incorporation of varied roof forms, bay windows, dormer windows and varied front setbacks to Elimatta Road providing articulation. The proposal encapsulates a Hamptons architectural style comprising light grey cladding, white timber trims and a pitched roof which is commensurate with the coastal character commonly displayed in the Mona Vale area. As such, while the Mona Vale character statement does not envisage the development permissible by the Housing SEPP, the proposal has been appropriately designed to integrate with the locality and maintain the desired character of the Locality. Furthermore, the density of the area is subject to change as per the legislative changes and subsequently, the character of the area is also subject to change.

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

- **Infrastructure and Services**

The submissions raised concerns that the local infrastructure is already under significant strain and this development will worsen the situation. Concern is raised that parking in the town centre is increasingly difficult and further density will intensify this problem. Additionally, essential services such as sewage and water supply are under pressure raising concerns about the area's ability to cope with further development.

Comment:

The NSW State Government has nominated the town centres as areas that are ideal to provide more low and mid-rise housing as they have a wide range of shops, services and amenities, frequent public transport, and infrastructure capacity. As such, the intent of the LMR reforms is to provide increase housing supply in areas that are well-serviced by infrastructure to reduce the need for travel. As the site is located within proximity to the Mona Vale town centre, occupants are likely to walk to the town centre, rather than drive and will not require parking. A condition is recommended requiring a Section 73 Compliance Certificate under the Sydney Water Act 1994 to be obtained from Sydney Water Corporation. As such, it is a matter for Sydney Water to determine that the sewer infrastructure can support the development before construction commences.

- **Construction Impacts**

The submissions raised concerns that the construction period will be lengthy and cause significant impacts. Notably, traffic issues, damage to roads and infrastructure, pedestrian safety, noise and vibration impacts.

Comment:

A condition is recommended requiring a Construction Traffic Management Plan to be prepared highlighting how construction vehicles, machinery and delivery of materials will be managed within the site and surrounding traffic network.

- **Floor Space Ratio (FSR)**

The submissions raised concerns that the submitted FSR calculation is incorrect as it includes the site access handle in the site area. This area shall be excluded resulting in a reduced permissible floor space.

Comment:

The Housing SEPP defines site area as: *the area of land on which development is or will be carried out and may include the whole or part of 1 lot, or more than 1 lot if the lots are contiguous to each other, but does not include land on which development is not permitted to be carried out under this Policy.*

The proposal involves development across the whole of both 19A Rowan Street and 67 Elimatta Road. The access handle is correctly included in the site area for the purposes of calculating FSR.

- **Public Interest**

The submissions raised concerns that the proposal is not in the public interest with over 50 objections lodged. Concern is raised that the proposed dwellings are not affordable and do not achieve the intended objectives of the LMR policy.

Comment:

Notwithstanding the number of submissions lodged, the proposal is permissible by virtue of Chapter 6 of the Housing SEPP and meets the non-discretionary development standards. The proposal provides additional housing stock on the site in the form of medium density multi-dwelling housing which is consistent with the development typology envisaged by the LMR reforms. There is no requirement under Chapter 6 of the SEPP Housing for the development to provide affordable housing.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p><i>Matters for Consideration.</i></p> <p>The application was referred to the Design and Sustainability Advisory Panel (DSAP) on 28 May 2026.</p> <p>The DSAP provided the below advice and recommendations:</p> <p>Strategic context, urban context: surrounding area character Adjacent development consists of dwelling house and dual occupancy development, often accessed via 'battle axe' driveway arrangement. In this respect, the alignment of two blocks to form a continuous connection, serves to provide superior address to the proposed dwellings.</p> <p>Scale, built form and articulation The Panel is generally supportive of the scale of built form.</p> <p>The proposal demonstrates a fairly considered arrangement of semi-detached and detached dwellings arranged around a new, central access way.</p> <p>The proposal is of an appropriate height, notwithstanding some suggested changes to roof form herewith.</p> <p>The site topography rises towards the South and is steeper towards the South of the site. The proposal, sensibly, locates garage entry from the central access way and pedestrian address to Elimatta Road, however, the particular response results in a large amount of subterranean development and a significant level change from the street to the dwelling entries. The Panel commented that a reduction on the internal accommodation of dwellings R1 and R2 may result in a more comfortable arrangement of space, oriented North and having a closer to grade street address from Elimatta Rd.</p> <p><u>Recommendations:</u> 1. Reduce internal floor space to R1 and R2, orienting habitable spaces to north and establishing more level pedestrian entry via Elimatta Road.</p> <p><u>Planner Comment:</u> The orientation and configuration of R1 and R2 was a matter raised with the applicant. Previously, R1 and R2 were accessed via a separate driveway from Elimatta Road which was not supported by Council. The applicant explored alternate options re-orientating R1 and R2 to face the site link, however, Council indicated that it was more desirable to maintain a street presence to Elimatta Road to ensure consistency with the streetscape. The slope of the site presents challenges with locating the vehicle access and parking to R1 and R2 from the site link whilst also maintaining a frontage to Elimatta Road. This has resulted in additional excavation to accommodate the basement parking. This approach is considered appropriate as the</p>

Internal Referral Body	Comments
	<p>proposal maintains a two storey appearance to the streetscape. The proposal also orients the ground floor living areas and terraces to the north.</p> <p>Access, vehicular movement and car parking Dwellings R3 through R9 gain pedestrian access via a vehicular access way spanning from Elimatta Road to Rowan Street. Each dwelling has individual garage accessed via the vehicular access way.</p> <p>The Panel considers that due to the address to some dwellings being located a significant distance from public domain, that the new access way should:</p> <ul style="list-style-type: none"> • Cater for various modes of transport including dignified pedestrian access (see Landscaping comments). <p><u>Recommendations:</u> 2. Ensure dignified pedestrian-prioritised address and thoroughfare. 3. Establish high quality, sensitive landscape design to encourage slow traffic movements and prioritised pedestrian thoroughfare to improve quality and passive safety of residential address.</p> <p><u>Comment:</u> The plans show a dedicated pedestrian walkway comprising a footpath on permeable pavers adjoining the driveway. Amended Landscape Plans have been provided demonstrating a sensitive landscape design.</p> <p>Landscape The Landscape Plans indicate that twelve medium sized specimen trees are proposed to be planted over the site, with two in the frontage to the dwellings facing Elimatta Road. Based on the site size of 2344m², twelve medium sized trees are required under both the SEPP and Council controls. The proposal therefore complies.</p> <p>Many proposed units have very small areas of open space. Outdoor settings and amenity need to be indicated on the landscape plan to demonstrate they can be utilised.</p> <p>Small yards should be largely paving and soft landscape, not turf. Such spaces are inevitably paved for all weather use as this will be the likely outcome over time and such small pocket lawns should not be calculated into deep soil calculations.</p> <p>The yards are all enclosed by 1.8m high privacy courtyard fences, plus they will be partially covered by the above balconies at some locations making them feel very enclosed small spaces.</p> <p>The access driveways will be used by both vehicles and pedestrians alike with potential conflicts. Likewise; the limited space means unit front doors will open onto these common spaces and there is minimal opportunity to provide landscape buffers.</p>

Internal Referral Body	Comments
	<p>The panel recommends using Woonerf techniques, whereby the driveway is transformed to a social space where pedestrians are encouraged to make use of the entire roadway, move freely from one point to another and participate in recreational activities.</p> <p>A Woonerf-designed street creates no division between vehicles and people. Hence, it is referred to as a “shared space” that is open for cars but is also catered to giving citizens a pedestrian-friendly and welcoming environment.</p> <p>One necessary feature of Woonerf is landscaping. Through community gardens, plant boxes and thriving city trees, people have a better experience due to the calming and inviting natural elements that create a more pleasant ambiance, encourage pedestrian interaction, and prioritize the well-being of individuals over vehicular traffic.</p> <p>Selection of more detailed paving e.g. Unit pavers; calming humps and chicanes and other measures should replace the plain concrete driveway proposed.</p> <p><u>Recommendations:</u></p> <p>4. Indicate adequate hardstand spaces and furnishings within outdoor terraces to demonstrate overall compliance and amenity.</p> <p>5. Incorporate considered Woonerf street principles into access driveway to make street like space.</p> <p>6. Incorporate more intricate paving materials and calming devices.</p> <p><u>Planner Comment:</u></p> <p>Amended Landscape Plans have been provided which indicate the treatments to the private open space areas. It is important for a balance to be achieved between landscaping and safety associated with the site link. Council's Traffic Team requires all driveways to be surfaced and sealed and landscaping is limited in height to maintain sight distances. Council is satisfied that the proposal achieves an appropriate balance of landscaping and safe access.</p> <p>Amenity</p> <p>Proposal offers generally acceptable levels of solar access, privacy and daylight to dwellings.</p> <p>In the case of dwellings R3 through R7, private open spaces are small and offer little opportunity for outlook and furnishability (see also landscape comments).</p> <p>R1 and R2 suffer from extent to which spaces are subterranean, including the private open space, which as a result is overlooked, overshadowed and has a poor address.</p> <p>Entry and address off common access ways are relatively clear in dwellings R3 through R9, however, depend on utilising dedicated</p>

Internal Referral Body	Comments
	<p>driveway spaces for pedestrian access and as such creating conflict between pedestrians and vehicles. The Panel considers that landscaping and Architectural elements can work in concert to make pedestrian entry clearer and more dignified.</p> <p><u>Recommendations</u></p> <p>7. Improve amenity to Private open space by incorporating adequately proportioned hardstand surfaces for furnishing and enjoyment of outdoor areas.</p> <p>8. Consider ways to improve address to R1 and R2.</p> <p>9. Reduce extent of subterranean development in R1 and R2, including private open space of these dwellings.</p> <p>10. Improve clarity of pedestrian address of R3 through R9 incorporating Landscape and Architectural strategies/delineations.</p> <p><u>Planner Comment:</u></p> <p>As above, amended Landscape Plans have been provided which indicate treatments to the private open space areas. As also discussed above, the address of R1 and R2 has been a challenge due to the slope of the site and difficulty with locating vehicular access to these dwellings from the site link. Council is satisfied that the amended proposal offers an appropriate alternative that maintains a suitable street address to R1 and R2. The terraces at the rear of R1 and R2 are located above the basement garages and are above ground.</p> <p>Façade treatment/Aesthetics</p> <p>Proposed dwelling facades are composed of materials including predominantly weatherboard cladding, aluminium windows and articulated timber trims and details, all in white/pale grey shades, which appear to be characterful and expressive of natural light, however, derive heavily from an imported coastal 'style'. The panel felt that consideration could be given to local character in conjunction with landscape materiality/form.</p> <p>Consideration should be given to strength and clarity of address to each of the dwellings.</p> <p>It was also considered that architectural elements such as bay windows could be designed to promote oblique views along the 'street' and thereby enhance passive surveillance as well as providing specific and meaningful Architectural character.</p> <p>In some cases, such as between R3 and R4, the roof plane steps, creating unnecessary complications in the roof form. Likewise, the misalignment of R1 and R2, results in complicated reading of the buildings.</p> <p>Prominence and layout of the bin storage areas detract from the quality of the development and the interstitial spaces. Consideration should be given to concealing/securing bins away from common access way so that the entries are welcoming and continuous with adjacent public</p>

Internal Referral Body	Comments
	<p>domain.</p> <p><u>Recommendations</u></p> <p>11. Ensure specified materials are appropriate to the site conditions and for long term performance.</p> <p>12. Consider how proposal may respond more directly to local character and materiality.</p> <p>13. Consider implementing bay window elements promoting passive surveillance along axis of common access way.</p> <p>14. Resolve complicated geometry of junctions between R1 and R2 as well as R3 and R4.</p> <p>15. Provide designated, concealed bin storage areas.</p> <p><u>Planner Comment:</u></p> <p>The proposed colours and materials are compatible with the external colours and finishes of surrounding development. Several surrounding properties incorporate light colours including light grey and white finishes. In particular, the surrounding properties 17, 19 and 21 Rowan Street and 69 Elimatta Road all incorporate light grey or white weatherboard cladding with white trims. This is reflective of the coastal character commonly seen around the Mona Vale area. Evidently, the proposed colours and finishes respond well to the local character and materiality. The roof forms of R1/R2 and R3/R4 are designed well to step down in accordance with the slope of the land. The applicant has provided an amended Waste Management Plan providing dedicated, concealed bin storage areas.</p> <p>Sustainability</p> <p>The site orientation is difficult, but the passive design responds well to the constraints – the windows are of reasonable proportion, and northern orientation has been maximised where possible. R7 and R8 could potentially have more northern windows on the ground floor.</p> <p>The detailed design of the construction for the attic rooms needs to be carefully considered. The walls of these spaces need to be treated as ceilings in terms of the amount of insulation required to mitigate heat gain and prevent the rooms from becoming saunas.</p> <p>Electrify the services by replacing the hot water with heat pumps and providing induction cooktops. There is space around each dwelling to allow for a heat pump to be accommodated for each dwelling.</p> <p>Provide solar panels to each home. A recent national study has shown solar can increase property prices by 2.6% on average, so there is good rationale both financially and environmentally to include solar.</p> <p><u>Recommendations</u></p> <p>16. Clean Energy</p> <p>Use all-electric systems (avoid gas for cooking, heating, and hot water). Consider heat pumps for the hot water provision and induction cooktops.</p>

Internal Referral Body	Comments
	<p>Install rooftop solar panels to each home. Hot water storage is a de facto battery if heated by PVs during the day.</p> <p>17. Passive Design: Improve the amenity of R7 and R8 by increasing northern windows and ensure good solar access to all other units.</p> <p>18. EV Charging Consider how EV charging will be provisioned to meet the Council requirements.</p> <p>19. Embodied Carbon Reduction The project is commended for using timber framing as a lower embodied carbon material. Use lightweight materials instead of concrete wherever possible. Reuse and/or recycle materials from any demolished buildings (e.g. masonry, timber, fittings, equipment). Use fewer materials where possible (e.g. exposed concrete floors, reduced tiling). Design for durability and adaptability over time, accounting for different systems and services. Preference low-carbon or renewable materials (e.g. timber, recycled steel, low-carbon concrete).</p> <p><u>Comment:</u> The applicant has been encouraged to install rooftop solar panels if suitable with the proposed roof form. This may be undertaken at a later date under exempt development. There are concerns regarding privacy and overlooking from the windows of R7 and R8 into neighbouring properties, as such, adding more windows is not a superior outcome. Council's Traffic Engineering Team have recommended conditions requiring EV charging or EV ready infrastructure to be provided to all parking spaces. The external materials comprise lightweight weatherboard cladding. The application is accompanied by a BASIX Certificate.</p>

Internal Referral Body	Comments
Landscape Officer	<p><i>Referral completed - conditions recommended.</i></p> <p><u>Amended Plans Comment 23/04/2026</u></p> <p>Deep Soil Area Based on the site size of 2344m², the proposal is required to provide 25% of the site as Deep Soil under the prevailing SEPP. Deep Soil is to be measured as 3m in any direction. A total of 586m² Deep Soil is therefore required. The SEE notes that this is less than that required under Council's planning controls, but that the SEPP prevails in this instance.</p> <p>Amended Plans (Area Plans - Landscape Dwg No. DA05.31) indicate that 557m² (23.7%) Deep Soil has been provided.</p> <p>Under SEPP Housing consideration is to be given to the Tree Canopy Guide for Low and Mid Rise Housing <i>171 Landscaping—multi dwelling housing or multi dwelling housing (terraces)</i></p> <p><i>(2) 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.</i></p> <p>A minimum 25% deep soil is nominated to be achieved for a site of this size under the Guide.</p> <p>In consideration of the Tree Canopy Guide, and the reliance of the proposal on the provisions of the SEPP over Council's planning controls (which would otherwise require a greater percentage of deep soil), non-compliance with the deep soil recommendation of the Guide is not supported.</p> <p><u>Review of Assessment Comment 04/02/2026</u> Review of landscape calculations indicates that the preliminary assessment of compliant areas is considered to achieve the required 25% landscape area.</p> <p>As such, the proposal can be supported with regard to landscape issues subject to conditions.</p> <p><u>Original Assessment Comment</u> The application seeks consent for: Demolition works and construction of multi-dwelling housing, lot consolidation and strata subdivision.</p> <p>The SEE indicates that the proposal complies with the requirements of Council's planning instruments and, where compliance is not achieved, the proposal complies with the Housing SEPP 2021, which prevails</p>

Internal Referral Body	Comments
	<p>over Council's controls.</p> <p>There are two key landscape requirements for development submitted under Housing SEPP 2021. These are tree planting and Deep Soil Area.</p> <p>1. Tree Planting The Landscape Plans indicate that twelve medium sized specimen trees are proposed to be planted over the site, with two in the frontage to the dwellings facing Elimatta Road. Based on the site size of 2344m², twelve medium sized trees are required under both the SEPP and Council controls. The proposal therefore complies.</p> <p>2. Deep Soil Area Based on the site size of 2344m², the proposal is required to provide 25% of the site as Deep Soil under the prevailing SEPP. Deep Soil is to be measured as 3m in any direction. A total of 586m² Deep Soil is therefore required. The SEE notes that this is less than that required under Council's planning controls, but that the SEPP prevails in this instance.</p> <p>Calculations were undertaken over the Architectural Plans <i>Proposed 1F Plan_South, Proposed Ground Plan_South</i> and <i>Proposed Ground Plan_North</i>. The calculations indicated that Deep Soil Areas measuring 3m in any direction comprise 368.8m², a shortfall of the minimum requirement under the SEPP of 10%.</p> <p>Given that the proposal by my calculation does not comply with Deep Soil under both the SEPP and Council's controls, the proposal is not able to be supported with regard to landscape issues.</p> <p>If clarification of the calculation by the applicant is provided, this assessment can be reviewed.</p> <p><u>Planner Comment:</u> The proposal has been amended to provide a compliant quantum of deep soil area.</p>

Internal Referral Body	Comments
NECC (Development Engineering)	<p data-bbox="536 353 1161 387"><i>Referral completed - conditions recommended.</i></p> <p data-bbox="536 421 798 454">Comments 8/7/2026</p> <p data-bbox="536 454 1398 589">The stormwater management plan and DRAINS model has been reviewed and are satisfactory. A passing bay is not required now as the vehicle access is one way. No objections to the multi dwelling development subject to conditions.</p> <p data-bbox="536 656 798 689">Comments 4/7/2026</p> <p data-bbox="536 689 1347 757">The proposed multi dwelling development is not supported for the following reasons:</p> <p data-bbox="536 757 1398 925">1) The access handle off Rowan Street requires a passing bay in accordance with Clause B6.2 of Pittwater DCP 21, the passing bay is required to be 5m wide by 10m long and feature transitions to a 3.5 m wide newly constructed driveway. This will require easements for a right of way or land acquisition from adjoining properties.</p> <p data-bbox="536 925 1398 1059">2) The updated stormwater drainage plans referred to in the Taylor Consulting letter in response to the previous referral comments are to be submitted to Council for review together with the DRAINS model in accordance with Council's water management for development policy.</p> <p data-bbox="536 1126 798 1160">Previous comments</p> <p data-bbox="536 1160 1406 1261">The proposed development is in Region 1 of the Water Management for Development Policy. The following amendments are required to the master plans and stormwater management plans:</p> <p data-bbox="536 1261 1315 1328">1. Dual vehicle crossings on the Elimata Road frontage are not supported. Remove the vehicular access to R1 and R2.</p> <p data-bbox="536 1328 1358 1462">2. In accordance with the Pittwater DCP and AS2890.1:2004, the internal driveway width shall be a minimum of 5.5m for the entire development except the existing dog leg to 19A. The unobstructed driveway width for the dog leg section shall be a minimum of 3.5m.</p> <p data-bbox="536 1462 1390 1529">3. The vehicle crossing width on Elimata road shall be a maximum of 5.5m.</p> <p data-bbox="536 1529 1398 1619">4. Provide surveyed crossing utility service levels for the 300RCP connection into Council's 450RCP. The orifice RL for the OSD shall be at connecting kerb invert level or higher.</p>

Internal Referral Body	Comments
NECC (Flooding)	<p><i>Referral completed - conditions recommended.</i></p> <p>This proposal is for the demolition of existing dwellings across two lots, to construct multiple town houses with enclosed garages. The proposal is affected by the Flood Planning Area and Section B3.12 of the Pittwater DCP applies.</p> <p>'Report - Stormwater letter' expresses compliance with Council's conditions of lowering the outdoor rear area of Lot R3 to RL 29.80m AHD and the rear of Lot R4 to RL 29.60m AHD, to minimise the risk of water entering the dwellings in a CC 1% AEP event. Subject to the following conditions the proposal generally complies with Section B3.11 of the Pittwater DCP and Clause 5.21 of the Pittwater LEP.</p>
NECC (Water Management)	<p><i>Referral completed - conditions recommended.</i></p> <p>The application has been assessed with reference to the following:</p> <ul style="list-style-type: none">- Supplied plans and supporting documentation- Northern Beaches Water Management for Development Policy (WMD Policy)- Relevant provisions of the Local Environmental Plan (LEP) and Development Control Plan (DCP)- State Environmental Planning Policy (Resilience and Hazards) 2021 <p>The proposed stormwater management strategy, including stormwater harvesting, reuse and filtration system, is considered satisfactory. The requirement for rainwater tanks must conform with the BASIX certificates.</p> <p>The Water Management Officer has reviewed the application and raised no objections to the proposed development.</p>

Internal Referral Body	Comments
Strategic and Place Planning (Urban Design)	<p><i>Matters for Consideration.</i></p> <p>This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment.</p> <p>The application seeks consent for the demolition of existing structures and the construction of a multi dwelling housing development comprising nine townhouses, basement parking, a through-site link, and associated landscape works.</p> <p>This proposal falls under the Low-Mid Rise Housing Policy, but does not use any of the pre-endorsed patterns outlined in the NSW Housing Pattern Book (Low-rise Pattern Homes for NSW), released by the State Government in July 2025. Therefore, Council controls apply.</p> <p>While the application has been amended in response to previous Council comments, the proposal remains fundamentally unacceptable. Urban Design does not support the application in its current form for the reasons outlined below.</p> <p>Council Controls</p> <p>The Pittwater LEP and the Pittwater 21 DCP remain the primary planning controls applicable to this development, notwithstanding the introduction of the Low-Mid Rise Policy under the Housing SEPP.</p> <p>The proposal fails to comply with key provisions of the Pittwater 21 DCP, resulting in unacceptable impacts on residential amenity and an overdevelopment of the site.</p> <p>C1.7 Private Open Space</p> <p><i>c) Ground floor units are to have a minimum area of private open space of 30sq.m and with no dimension less than 4 metres.</i></p> <p>The proposal fails to achieve this requirement. Private open space for dwellings R3 - R9 is wholly reliant on the setback area, which is generally 3 metres for dwellings R3 - R7. This is below the required standard and is unacceptable, particularly for such large dwellings. The outcome is a clear overdevelopment of the site, with inadequate provision of functional open space and insufficient separation to adjoining properties, resulting in significant overlooking and privacy impacts.</p> <p>A typical setback in this neighbourhood would be 6.5m to the rear boundary which would better maintain the landscape character.</p> <p>In addition, the required deep soil provision of 25% has not been demonstrated. This is a minimum standard and must be achieved.</p> <p>Number of Storeys</p>

Internal Referral Body	Comments
	<p>The Pittwater 21 DCP states that in the R2 Low Density Residential Zone, developments are not to exceed 2 storeys. As previously advised in written and verbal discussions, any development within the 9.5m height limit must <i>present primarily as two storey dwellings</i>.</p> <p>The current proposal does not achieve this outcome. The NSW Low-Mid Rise Housing Policy endorsed patterns are generally two storey dwellings, with allowance for an occasional additional bedroom or study with dormer windows incorporated in the roof space.</p> <p>By contrast, the proposal incorporates a full third storey across all nine dwellings. This level is excessive in bulk and scale, contains multiple rooms, is not recessive in form, and is inconsistent with both the DCP controls and the established and emerging low density character of the locality. The third storey must be reduced to mitigate impacts relating to bulk and scale, overlooking, and overshadowing.</p> <p>R1 and R2 present as four storeys. This built form outcome is entirely unacceptable and cannot be supported. Furthermore, the extent of excavation required at R1 and R2 to facilitate this outcome is excessive, unjustified, and not supported.</p> <p>Privacy The concentration of three-storey built form, particularly across dwellings R3 - R7, results in unacceptable overlooking and privacy impacts to adjoining properties, including No. 69A and 69 Elimatta Road and the rear of 23 Rowan Street.</p> <p>Increased separation at both ground and upper levels along the western boundary is required to mitigate these impacts and achieve a reasonable level of residential amenity for both the subject site and neighbouring properties.</p> <p>Amenity and Built Form Outcome The proposal results in unacceptable amenity impacts on adjoining properties and future occupants. The cumulative impacts of inadequate setbacks, insufficient deep soil and canopy planting and unresolved privacy issues demonstrate a failure to achieve a reasonable residential outcome.</p> <p>In its current form, the proposal does not reflect the desired future character of Mona Vale. Further redesign is required.</p> <p>Previous advice provided 29/01/2026:</p> <p>This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment.</p>

Internal Referral Body	Comments
	<p>The application seeks consent for the demolition of existing structures, the amalgamation of two lots into a single lot, and the construction of a new multi dwelling housing development comprising ten townhouses, parking, a through-site link, and associated landscape works.</p> <p>The introduction of the Low-Mid Rise Housing policy under the Housing SEPP permits a scale and intensity of development not previously anticipated for this site under the Northern Beaches LEP and DCP. While a development of this scale may be permissible, it must not result in unreasonable amenity impacts on neighbouring properties. Appropriate setbacks, generous landscaped areas, deep soil planting and tree canopy, legible pedestrian movement and privacy measures are essential to achieving a development that is both a desirable place to live and a positive contributor to the evolving residential character of Mona Vale in proximity to the town centre.</p> <p>Scale, built form and articulation</p> <ul style="list-style-type: none"> • Mona Vale is characterised as a low density residential suburb, with development surrounding Elimatta Road and Rowan Street predominantly comprising freestanding dwelling houses on large lots. While the Housing SEPP permits a maximum building height of 9.5 metres in this location, height compliance alone does not ensure an appropriate built form response. • The development should present primarily as two storey dwellings, with any third storey expressed as a lighter, recessive element set back above. The bulk and scale of the third storey across all dwellings should be reduced to mitigate visual impact, minimise overshadowing, improve visual privacy and better reflect the future character of the surrounding low density neighbourhood. • This proposal represents an over development of the site, particularly in relation to the excavation resulting in sub-terranean rooms on the ground floor of R1 and R2. • The ground and first floor footprints are largely uniform across the site, particularly for dwellings R3 to R8. Greater variation in building form and articulation is recommended to introduce visual interest and reduce perceived bulk. • Townhouse or villa-style developments with at-grade vehicle access are inherently impactful on the natural environment. When replicated across multiple sites, this typology can result in cumulative adverse impacts, including: <ul style="list-style-type: none"> • Loss of deep soil zones and established tree canopy • Reduced connectivity for biodiversity corridors • Poor long-term landscape outcomes due to excessive hardstand areas associated with driveways, walkways, and parking • Dwellings oriented primarily towards narrow side setbacks, resulting in poor outlook, privacy impacts and overshadowing to neighbouring properties

Internal Referral Body	Comments
	<p>Setbacks and building separation</p> <ul style="list-style-type: none"> The 0.8m side setback at townhouse R1 along the boundary line facing 69A Elimatta Road is wholly inadequate. A minimum setback of 3 metres is recommended to allow for landscaping and improved amenity outcomes. Building separation distances across the site are inconsistent and, in several instances, insufficient. Notably: <ul style="list-style-type: none"> A separation of approximately 2 metres between R6 and R7 Approximately 3 metres between R4 and R5 Approximately 5 metres between Bedroom 01 of R2 and Bedroom 01 of R3 <p>These separations raise significant concerns regarding visual and acoustic privacy.</p> <ul style="list-style-type: none"> Although the proposal is not a residential flat building and is not subject to the ADG, the increased scale and density enabled by the Housing SEPP justify the application of a more detailed amenity analysis. In this regard, ADG principles provide a useful benchmark, and a minimum building separation of 6 metres is preferred. While the dwellings respond to the site's topography through stepped forms, further design refinement is required. Measures such as offset windows, revised room layouts, and targeted screening should be incorporated to improve privacy, particularly between R4 and R5. <p>Vehicle and pedestrian movement</p> <ul style="list-style-type: none"> The provision of ten enclosed parking spaces and three visitor spaces has resulted in the building envelopes being pushed to the site boundaries. The number of dwellings should be reconsidered to reduce these impacts. Alternative vehicle configurations should be investigated to minimise vehicle movement along the full length of the site and reduce hardstand dominance. <p>Landscape character</p> <ul style="list-style-type: none"> Townhouses R6 and R7, and potentially R3 and R4, require more generous private open space and improved landscape integration to support resident amenity. There is limited functional relationship between townhouses R1 and R2 and the landscaped front setback to Elimatta Road. The introduction of an additional driveway in this location compromises the ability for this area to function as meaningful, usable open space. <p>View impacts</p> <ul style="list-style-type: none"> Long-distance ocean views are a defining characteristic of the locality and must be carefully considered in relation to building

Internal Referral Body	Comments
	<p>bulk, scale, and visual prominence within the landscape.</p> <ul style="list-style-type: none"> View sharing principles should inform the siting and massing of the townhouses. Further detailed analysis of view corridors is required to demonstrate an equitable outcome. <p>Future iterations of the design must minimise building footprints and vehicle dominance, reduce excavation impacts, and maximise opportunities for high-quality, long-term residential amenity. A stronger emphasis on deep soil landscaping, tree canopy, and sensitive built form transitions is required to ensure the development responds appropriately to its context and contributes positively to the future character of Mona Vale.</p> <p><u>Planner Comment:</u></p> <p>Each proposed dwelling has private open space areas of at least 30m² which is more than 15% of the floor area of each dwelling. However, the private open space areas have minimum dimensions of 3 metres at the ground level which is less than 4 metres. The private open space areas are located off the ground floor living area of each dwelling and are private, usable areas. The private open space areas have good solar orientation being located towards the north, north-east and north-west. The ground floor of dwellings R3-R9 comply with the required setbacks to the western side boundary. As this boundary is a side boundary and not the rear boundary, a 6.5 metre setback is not required. The plans have been amended to demonstrate compliance with the required 25% deep soil area. The proposed attic levels are minor in size and incorporated into the roof form to reduce the appearance of a third storey. Additionally, the configuration of the dwellings is such that R1 and R2 front Elimatta Road to ensure consistency with the streetscape and reduce the appearance and scale of the development when viewed from the street. The proposal is sensitively designed with regards to privacy and amended plans have been provided increasing the separation of the proposed dwellings. The proposal appropriately locates higher-use living rooms and main private open space areas at the ground level where there are limited opportunities for overlooking. The bedrooms, being lower-use rooms, are located at the first floor and attic level where there is a greater risk of overlooking due to the elevated nature. A detailed assessment is provided under C1.5 Visual Privacy of this report. Ultimately, the proposal is for multi-dwelling housing providing nine dwellings pursuant to Chapter 6 of the Housing SEPP. The proposed development complies with the non-discretionary height and FSR requirements of the Housing SEPP and also provides sufficient landscaping in accordance with the Tree Canopy Guide for Low and Mid Rise Housing. This provides additional housing stock on the site in the form of medium density multi-dwelling housing which is consistent with the development typology envisaged by the LMR reforms.</p>

Internal Referral Body	Comments
Traffic Engineer	<p><i>Referral completed - conditions recommended.</i></p> <p>Proposed description: Demolition works and construction of multi-dwelling housing, lot consolidation and strata subdivision</p> <p>Traffic team have reviewed the following documents:</p> <ul style="list-style-type: none"> Architectural plans, designed by JKM Architects, dated 27/10/2025 Transport Impact Statement, prepared by PDC Consultants, dated 27/10/2025 <p>Comments</p> <ul style="list-style-type: none"> The proposed development comprises 10 residential dwellings, each containing four bedrooms. A total of 13 car parking spaces is proposed, consisting of one single garage per dwelling (10 spaces) and three visitor spaces. Site access is provided via: <ul style="list-style-type: none"> A 4 m wide driveway from Elimatta Road serving Dwellings R1 and R2. A separate 3 m wide entry-only driveway from Elimatta Road serving the remaining dwellings (R3–R10), continuing as a one-way internal roadway to a 3 m wide exit driveway onto Rowan Street. Pittwater DCP applies to the proposed development. In accordance with the DCP, the development is required to provide a total of 25 car parking spaces, comprising 20 residential spaces (2 space for each dwelling), 4 visitor spaces and 1 car wash bay. However, the application has been lodged under Low and Mid Rise Housing (LMR). As such, LMR control takes precedence and hence the parking can be provided as per SEPP Housing Clause 172 (2)(c), which specifies a rate of 1 space per dwelling. Therefore, applying this SEPP rate, the proposed development is required to provide a minimum of 1 car parking space per dwelling. The proposed 10 car parking spaces (allocated as 1 space per dwelling) satisfies the LMR control and proposed 3 visitor spaces does not fully satisfy the DCP, however is acceptable as there is no requirement for visitor parking under LMR. The Pittwater DCP applies to this development. Under the DCP, the proposal would ordinarily require 25 parking spaces: <ul style="list-style-type: none"> 20 resident spaces (2 per dwelling) 4 visitor spaces 1 car wash bay <p>However, the application has been lodged under the Low and Mid Rise Housing (LMR) provisions. LMR controls take precedence, and parking may therefore be provided in accordance with SEPP Housing Clause 172(2)(c), which requires 1 space per dwelling. On this basis, the proposal requires 10 resident spaces, which are provided. The three</p>

Internal Referral Body	Comments
	<p>visitor spaces, while not meeting the DCP requirement, are acceptable because visitor parking is not required under LMR.</p> <ul style="list-style-type: none"> • The Pittwater DCP requires all LMR developments to provide EV charging or EV-ready infrastructure for 100% of resident, visitor, and car-share parking spaces. Additionally, 20% of resident spaces must be fitted with a Level 2 charging station prior to the issue of an Occupation Certificate. A condition will require the architectural plans to demonstrate that all parking spaces can accommodate EV charging infrastructure. • For Dwellings R1 and R2, the internal garage doors currently open inward and encroach into the parking space (refer to page 30 of the traffic report). These doors must be revised to open outward. This will be conditioned. • The development is required to provide one bicycle parking space per dwelling in accordance with DCP LMR Control C7.2, R26. Although the traffic report states that bicycle parking is provided, the architectural plans do not show these spaces. The plans must be updated to show compliant bicycle parking in accordance with AS2890.3. This will be conditioned. • The DCP also requires one electric bicycle charging point (10A outlet) per four bicycle parking spaces. A minimum of three electric bicycle charging points must therefore be provided. This will be conditioned. • Vehicle access to Dwellings R1 and R2 is via a combined driveway from Elimatta Road. The swept-path analysis shows vehicles entering forward and reversing onto the road. Council's DCP requires forward-in, forward-out movements for all developments other than a single dwelling. Reversing onto a T-intersection is also considered unsafe. The access design must therefore be revised to demonstrate B99 forward entry and exit. This will be conditioned. • Vehicle access to Dwellings R3–R10 via the 3 m wide one-way driveway (entry from Elimatta Road, exit to Rowan Street) is acceptable. • The traffic report indicates that the development will generate 2–3 vehicle trips per hour during peak periods, which is considered low and unlikely to adversely affect the surrounding road network. • Waste collection is proposed to occur kerbside by Council's waste truck, consistent with Council's requirements. Council's Waste Services team will review the bin room design and access arrangements. • Loading and servicing are proposed to occur from on-street parking spaces. Given the small scale and residential nature of the development, this arrangement is acceptable.

Internal Referral Body	Comments
	<ul style="list-style-type: none"> The development will not be eligible for Resident Parking Permits under Council's Resident Parking Permit Scheme. This will be included as a condition. <p>Conclusion The application can be supported subject to conditions.</p>
Waste Officer	<p><i>Referral completed - conditions recommended.</i></p> <p>Updated waste referral comments 9/4/2026 - please note have slightly changed the wording of standard condition re waste storage area as it is external. Demolition and Construction Waste Management Plan will be required to be submitted to Council Updated Elephants Foot Consulting Operational Waste Management Plan Revision C dated 3/3/2026 Council will supply bins as per Appendix A of the Northern Beaches Waste Management Guidelines. Bin stores at Rowan Avenue & Elimatta Road are satisfactory. Service will be provided as wheel out/wheel in at both streets.</p> <p>19A Rowan St and 67 Elimatta Rd Mona Vale - Subdivision and construction of 10 townhouses.</p> <p>Bin storage for R1-6 should be equally accessible to all the dwellings including R1 & R2 and bins should not be stored stacked. The bin storage for R7-10 is satisfactory. Allowance should also be made for provision of a food waste service as mandated by the NSW Government to be provided by council to all domestic dwellings by July 2030.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><i>Referral Completed - conditions recommended.</i></p> <p>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.</p>

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 the construction of multi-dwelling housing comprising 9 dwellings with strata subdivision. The proposal results in 7 additional dwelling lots. As such, the contribution is \$84,000

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1819252M_02 dated 16 April 2026).

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

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

SEPP (Housing) 2021

Chapter 6 - Part 3 - Attached dwellings, multi dwelling housing and multi dwelling housing (terraces)

Clause 171 - Landscaping - multi dwelling housing or multi dwelling housing (terraces)	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 within the outer LMR area as per the Town Centres Map and the Tree Canopy Guide has been considered.
The site is 2341sqm and therefore requires a minimum of 25% of the site as deep soil area, and for every 200sqm of site area or part thereof, at least one medium tree in the deep soil area (12 trees)	The site provides 25.9% (606.4m ²) deep soil area which complies. >12 medium trees
Division 2 Non-discretionary development standards—the Act, s 4.15	
Clause 172 - Non-discretionary development standards - multi dwelling housing	Comment
(2) The following non-discretionary development standards apply in relation to development for the purposes of multi dwelling housing:	
(a) a minimum lot size of 600sqm,	Complies - 2341m ²
(b) a minimum lot width at the front building line of 12m,	Complies - min 20.3m
(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,	Complies - 1 per dwelling plus 3 visitor
(d) a maximum floor space ratio of 0.7:1,	Complies - 0.61:1 (1428m ²)
(e) a maximum building height of 9.5m.	Complies - 9.5m

SEPP (Transport and Infrastructure) 2021Ausgrid

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.

Pittwater Local Environmental Plan 2014

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	9.5m	11.8%	No*

* The proposal is made under Chapter 6 of the Housing SEPP which prescribes a maximum building height of 9.5m to which the proposal complies. The SEPP Housing provisions prevail over the PLEP 2014.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment**Zone R2 Low Density Residential**

Whilst the proposed land use is not within the range of permitted land uses in the R2 Low Density Residential zone, it nonetheless is a permissible land use through Chapter 6 of the Housing SEPP, which

prevails over the provisions of the PLEP 2014.

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:

The proposal has been reviewed and supported by Council's Flooding Team subject to the recommended conditions. As such, the above matters are satisfied.

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:

The proposal has been reviewed and supported by Council's Flooding Team subject to the recommended conditions. As such, the above matters have been considered.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
D9.6 Front building line (Primary - Elimatta Road)	6.5m	Min. 6.5m	-	Yes
D9.6 Front building line (Secondary - Nailon Place)	3.25m	>3.25m	-	Yes

C7.2 Side building line	East 3m (wall height <3m) $S = 3 + (H-2)/4$ (wall height >3m)	R2: Ground Floor: 3.4m First Floor and Attic: 4.175m	Ground Floor: 4.6m First Floor: 4.6m Attic: 6.7m	- - -	Yes Yes Yes
		R3: Ground Floor: 3.0m First Floor and Attic: 4.175m	Ground Floor: 6.3m-7.3m First Floor: 6.9m-8.7m Attic: 7.8m- 10.1m	- - -	Yes Yes Yes
		R4: Ground Floor: 3.425m First Floor and Attic: 4.175m	Ground Floor: 6.3m-7.3m First Floor: 6.9m-8.7m Attic: 7.8m- 10.1m	- - -	Yes Yes Yes
		R5: Ground Floor: 3.0m First Floor and Attic: 4.175m	Ground Floor: 6.3m-7.3m First Floor: 6.9m-8.7m Attic: 7.8m- 10.1m	- - -	Yes Yes Yes
		R8: Ground Floor: 3.4m First Floor and Attic: 4.175m	Ground Floor: 4.0m First Floor: 4.0m Attic: 5.4m-7.3m	- 4.2% -	Yes No Yes
		R9: Ground Floor: 3.0m First Floor and Attic: 4.0m	Ground Floor: 4.0m First Floor: 4.0m Attic: 5.4m-7.3m	- - -	Yes Yes Yes

	West 3m (wall height <3m) $S = 3 + (H-2)/4$ (wall height >3m)	R1: Ground Floor: 3.0m First Floor and Attic: 3.935m	Ground Floor: 1.2m First Floor: 1.2m Attic: 3.1m-5.1m	60% 69.5% 21.2%	No No No
		R3: Ground Floor: 3.0m First Floor and Attic: 4.025m	Ground Floor: 3.0m First Floor: 4.0m-4.2m Attic: 4.5m-6.7m	- 0.6% -	Yes No Yes
		R4: Ground Floor: 3.0m First Floor and Attic: 4.075m	Ground Floor: 3.0m First Floor: 4.0m-4.2m Attic: 4.5m-6.7m	- 1.8% -	Yes No Yes
		R5: Ground Floor: 3.0m First Floor and Attic: 4.05m	Ground Floor: 3.0m First Floor: 4.0m-4.2m Attic: 4.5m-6.7m	- 1.2% -	Yes No Yes
		R6: Ground Floor: 3.0m First Floor and Attic: 3.975m	Ground Floor: 3.0m First Floor: 4.0m Attic: 5.8m-6.3m	- - -	Yes Yes Yes
		R7: Ground Floor: 3.0m First Floor and Attic: 3.975m	Ground Floor: 3.0m First Floor: 4.0m Attic: 5.8m-6.3m	- - -	Yes Yes Yes
	North 3m (wall height <3m) $S = 3 + (H-2)/4$ (wall height >3m)	R7: Ground Floor: 3.0m First Floor and Attic: 4.075m	Ground Floor: 3.0m First Floor: 3.0m Attic: 4.5m	- 26.3% -	Yes No Yes
		R8: Ground Floor: 3.0m First Floor and Attic: 4.05m	Ground Floor: 3.0m First Floor: 3.0m Attic: 4.5m	- 25.9% -	Yes No Yes
	South 3m (wall height <3m) $S = 3 + (H-2)/4$ (wall height >3m)	R9: Ground Floor: 3.0m First Floor and Attic: 3.9m	Ground Floor: 3.0m First Floor: 3.0m Attic: 4.5m	- 23.1% -	Yes No Yes

D9.9 Building envelope	East - 4.2m	Within Envelope	-	Yes
	West - 4.2m	R1 - minor breach rest Within Envelope	N/A	No
C7.2 Deep soil	25%	25.9% (606.4m ²)	-	Yes

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
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	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	No	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
C7.2 Attached dwellings, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings	No	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	No	Yes
D9.6 Front building line	Yes	Yes
D9.9 Building envelope	No	Yes
D9.12 Fences - General	Yes	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

This control requires a total of 21 car parking spaces to be provided comprising 18 resident spaces (2 per dwelling) and 3 visitor spaces.

However, this application is lodged pursuant to the Housing SEPP which requires a minimum of 1 car parking space per dwelling under Clause 172 (2)(c). Notably, this is a non-discretionary development standard. The SEPP does not require any visitor parking to be provided. The provisions of the Housing SEPP prevail over the DCP controls in this instance. Therefore, 9 car parking spaces are required to be provided.

The proposal provides 11 resident car parking spaces and 3 visitor spaces which complies with the Housing SEPP requirements.

C1.3 View Sharing

Merit Consideration

The outcomes of the control are:

- *A reasonable sharing of views amongst dwellings.*

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

1. Nature of the views affected

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

more valuable than one in which it is obscured".

Comment to Principle 1:

The affected views are obtained from the adjoining western properties 69 and 69A Elimatta Road and the properties on the south-western side of Elimatta Road. The view consists of distant glimpses of water views to the north-east of the Pacific Ocean and district views of Mona Vale. The ocean views are obscured by existing tree canopy.

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

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

Comment to Principle 2:

The views from 69 Elimatta Road are obtained from the ground floor deck, dining room and kitchen and the first floor deck. The views are obtained across the rear boundary. The views from 69A Elimatta Road are obtained from the first floor living, dining, kitchen and deck. This property also contains an attached secondary dwelling which enjoys views from the first floor deck. This property is of an irregular shape without a clear defined rear boundary, therefore the views can be described as obtained across either the side or rear boundary.

The properties on the south-western side of Elimatta Road enjoy views across the front boundary.



Figure 1 - View from 69 Elimatta Road - ground floor deck looking north-east



Figure 2 - View from 69 Elimatta Road - first floor deck looking north-east



Figure 3 - View from 69A Elimatta Road - first floor deck looking north



Figure 4 - View from 69A Elimatta Road - first floor deck looking north-east



Figure 5 - View from 69A Elimatta Road - first floor deck of attached secondary dwelling looking north-east

3. Extent of impact

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

Comment to Principle 3:

The proposal will obscure portions of the distant water views obtained from the ground floor deck, dining room and kitchen at 69 Elimatta Road. Portions of the distant water view are retained along the horizon and the district views are retained. The water views and district views from the first floor deck remain unaffected.

The proposal will obscure all of the distant water views obtained from the first floor living, dining, kitchen, deck and secondary dwelling deck at 69A Elimatta Road. Notwithstanding, the proposal requires the removal of trees 11 and 12 which currently obscure the distant water views. As such, while the proposal obscures the water views shown on the right hand side of Figure 4, the removal of trees will facilitate improved views on the left hand side. The district views remain unaffected.

The properties on the south-western side of Elimatta Road sit at a higher elevation whereby the water views and district views will continue to be available.

Given the nature of the affected views which is to distant water glimpses that are partly obstructed by tree canopy, the overall view impact is categorised as minor.

4. Reasonableness of the proposal that is causing the impact

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."

Comment to Principle 4:

The view impact arises due to the increased height and scale made permissible by the LMR provisions of the Housing SEPP. The provisions permit a maximum building height of 9.5m to which the proposal complies. While the proposal exceeds the number of storeys control prescribed by C7.2 of the P21DCP, the proposed attic levels are minor in size and incorporated into the roof form to reduce the appearance of a third storey. The design of the dwellings and associated roof forms are such that two storey dwellings could be provided that would still result in the same building height of up to 9.5m as permitted by the Housing SEPP. Furthermore, the proposed dwellings sit within the required building envelope with the exception of a minor breach to the western facade of R1 but does not contribute to view impacts. Additionally, the proposal presents non-compliances with some of the required western side setbacks at the first floor level. However, the extent of non-compliances are minor and compliant side setbacks would not reduce the impact on views. Evidently, the view impact does not arise as a result of a non-compliance with the planning controls. The proposed development complies with the non-discretionary height and FSR requirements of the Housing SEPP and also provides sufficient landscaping in accordance with the Tree Canopy Guide for Low and Mid Rise Housing. The proposed multi-dwelling housing is consistent with the development typology envisaged by the LMR reforms.

Furthermore, the views currently enjoyed comprise distant water glimpses that are available over the tops of the tree canopy. Such views are available due to the low scale nature of the

dwelling currently occupying the subject site at 67 Elimatta Road. This comprises a modest two storey dwelling that occupies less than a third of the 1,295m² property. The rear portion of this property is open and vacant with limited vegetation enabling greater view opportunities. As such, it could be reasonably expected that the site would be developed in some form and therefore, it is unreasonable to expect that views be retained in perpetuity.

In this regard the proposal is found to be acceptable on merit and is considered reasonable

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

Comment:

The proposal reasonable maintains views and vistas from roads and public places.

- *Canopy trees take priority over views.*

Comment:

The proposal requires tree removal to accommodate the proposed building footprint. The trees are not proposed for removal for the purpose of views.

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

C1.4 Solar Access

This control requires the following:

- *The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.*
- *Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).*

Comment:

The adjoining western properties, 23 Rowan Street, 69 and 69A Elimatta Road experience a minor increase in shadowing at 9am on June 21 which falls along the eastern boundaries of these properties. At 10am, there is a very minor increase in shadows falling on the southern corner of 69A Elimatta Road. At 11am, there is a minor increase in shadows falling on the eastern boundary of 23 Rowan Street, but the shadows do not fall on the swimming pool. By 12pm, there is no further shadowing on these properties by the proposed development. Furthermore, at no point does the proposed development overshadow any private open space areas or windows to principal living areas of these dwellings between 9am to 3pm on June 21. As such, the adjoining western properties, 23 Rowan Street, 69 and 69A Elimatta Road receive a compliant level of solar access in accordance with this control.

In relation to the adjoining eastern property, 17A Rowan Street, the proposed development does not result in any shadows cast over this boundary or on this property.

For the other adjoining eastern properties, 65 and 65A Elimatta Road, the proposed development does not cause any shadows at 9am, 10am and 11am on June 21. At 12pm and 1pm there is a minor increase

in shadows that only falls on the driveway. At 2pm, there is greater shadow falling on the driveway and a small portion of the yard areas, but the rear private open space areas remain in sun. At 3pm, a significant portion of the front and rear yards are in shadow. Evidently, the proposed development does not overshadow private open space areas or windows to principal living areas of 65 and 65A Elimatta Road from 9am-1pm on June 21. Therefore, a compliant level of solar access is achieved to these properties.

In relation to the other adjoining eastern property 65B, at 9am, 10am, 11am and 12pm on June 21 the proposal results in additional shadows that fall only on the roof of this dwelling and rear patio. At 1pm, there is additional shadow over the roof of the rear patio and a portion adjoining the eastern side of the dwelling. Similarly, at 2pm, there is additional shadow on the patio roof, a portion adjoining the eastern side of the dwelling and a portion of the front yard. At 3pm, there is additional shadow on the dwelling roof and the front yard. It is important to note that the dwelling is currently heavily shaded by existing shadows whereby, the rear patio and yard are continuously in shade. As such, this property currently does not receive a compliant level of solar access due to its orientation. It would therefore be unreasonable to require further development to improve this situation. Given the proposed additional shadows fall predominantly on the roof and service areas, the solar access impacts to this property are considered reasonable.

C1.5 Visual Privacy

This control requires the following:

- *Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation (measured from a height of 1.7 metres above floor level).*
- *Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.*

Comment:

The outcomes of the control are:

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)*
- *A sense of territory and safety is provided for residents. (S)*

In relation to the adjoining western dwelling, 69A Elimatta Road, the proposal provides more than 9 metres of spatial separation to the living room windows and main private open space at the upper floor balcony. This property contains an attached secondary dwelling to which the proposal provides a minimum of 5.4 metres of spatial separation. It is noted that the proposal does not contain any windows on the ground floor level and the adjoining windows at the first floor level are limited to the walk-in-robe which will not cause unreasonable privacy impacts. The proposed first floor balcony is located 6 metres from the secondary dwelling at 69A Elimatta Road and a condition is recommended requiring a privacy screen to be installed on the western edge.

Similarly, the other adjoining western dwelling, 69 Elimatta Road, is well-separated from the proposed development by over 9 metres. The proposal provides more than 12 metres of spatial separation to the

swimming pool and more than 17 metres to the dwelling at this property.

In relation to the adjoining eastern dwellings, 65 and 65A Elimatta Road, there are 2 driveways between the site resulting in more than 9 metres of spatial separation from the proposed dwellings.

The proposal provides a minimum of 4 metres spatial separation to the swimming pool at the adjoining western dwelling, 23 Rowan Street. The living rooms and private open space areas of R6 and R7 are sited are the ground level where is limited opportunities for overlooking and vegetation to assist with screening. The lower use bedrooms are sited at the first floor level with a lesser privacy impact. Notwithstanding, R7 and R8 include several windows directly adjoining the swimming pool at 23 Rowan Street creating risks of overlooking impacts. As such, a condition is recommended requiring the first floor windows to the walk-in-robe and ensuite of R6 and the first floor windows of bed 01, walk-in-robe and ensuite of R7 to be obscure glazed or a have a sill height of 1.7m above FFL.

Additionally, to the northern adjoining property, the proposal provides a minimum of 5.5 metres spatial separation to the secondary dwelling at the rear of 21 Rowan Street. Again, the proposed dwellings are appropriately designed for privacy and amenity locating higher use rooms including the living room/kitchen/dining area at the ground floor level with lower use rooms including bedrooms at the first floor and attic level. Of note, the secondary dwelling is single storey whereby the first floor of R7 will sit higher with the windows having views only over its roof not into living areas or private open space areas. The same situation occurs where R9 is located in relation to the adjoining southern property 65B Elimatta Road. That is, the first floor windows sit at a higher level than the roof of the rear patio and dwelling at 65B Elimatta Road ensuring no direct viewing into living areas or private open space areas.

The proposal provides a minimum of 4.6 metres of spatial separation from R8 to the swimming pool at 19 Rowan Street. As above, higher use rooms including the living room/kitchen/dining area are located at the ground floor level with lower use rooms including bedrooms at the first floor and attic level. It is noted that the north-facing window at the eastern end of bed 02 directly adjoin the swimming pool creating risks of overlooking. As such, a condition is recommended requiring this window to be obscure glazed or have a sill height of 1.7m above FFL.

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

C1.7 Private Open Space

Description of non-compliance

This control requires the following:

- Minimum area of 15% of the floor area of the dwelling (not including the floor area of garages or internal laundries), with no dimension less than 2.5 metres and a grade no steeper than 1 in 10 (10%).
- Dwellings are to be designed so that private open space is directly accessible from living areas enabling it to function as an extension of internal living areas.
- Ground floor units are to have a minimum area of private open space of 30sq.m and with no dimension less than 4 metres.
- Private open space areas are to have good solar orientation (i.e. orientated to the north-east or north-west where possible). Where site or slope constrains this orientation, the private open space area must have access to some direct sunlight throughout the year (see Solar Access and Natural Light).

Each proposed dwelling has private open space areas of at least 30m² which is more than 15% of the floor area of each dwelling. However, the private open space areas have minimum dimensions of 3 metres at the ground level which is less than 4 metres.

Comment:

The outcomes of the control are:

- Dwellings are provided with a private, usable and well-located area of private open space for the use and enjoyment of the occupants. (S)
- Private open space is integrated with, and directly accessible from, the living areas of dwellings. (S)
- Private open space receives sufficient solar access and privacy. (En, S)

The private open space areas are located off the ground floor living area of each dwelling and are private, usable areas. The private open space areas have good solar orientation being located towards the north, north-east and north-west.

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

C7.2 Attached dwellings, multi dwelling housing, multi dwelling housing (terraces) and residential flat buildings

Requirement			Proposed	Compliant
Multi dwelling housing (terraces)	R1	Controls within the Pittwater 21 Development Control Plan that apply to 'multi dwelling housing' are to be applied to 'multi dwelling housing (terraces)'.	Terraces not proposed	N/A
	R2	Individual dwellings fronting a public road should have habitable rooms oriented towards the street with a clearly identifiable entry. Blank walls that limit opportunities for casual surveillance of the street, common areas, or internal pedestrian pathways should be avoided.	Pedestrian entries are clear, limited frontage to public street, front dwellings have entry to Elimatta Road street frontage	Yes
	R3	Pedestrian pathways are to be well-lit, separated from vehicular access, and provide a minimum 1 metre wide clear path. Individual dwelling entries should ensure safe access and easy wayfinding. Pedestrian entries are to be directly visible from the public street.	Pedestrian entries provided via through-site link.	Yes
	R4	All terraces are to face a public street. No terrace may be located behind another dwelling on the same lot.	Terraces not proposed	N/A
	R5	On sloping sites, each dwelling is to be stepped consistently along the slope.	Dwellings step down with slope.	Yes

Setbacks and Height	R6	In the R2 Low Density Residential zone:	For developments not subject to the Apartment Design Guide (ADG), where the wall height is 3 metres or less: The minimum side setback is 3 metres. For developments not subject to the ADG, where the wall height is more than 3 metres above ground level (existing): The minimum side setback is to be calculated using the formula: $S = 3 + \frac{H - 2}{4}$	East	R2: Ground Floor: 3.4m First Floor and Attic: 4.2m	Ground Floor: 4.6m First Floor: 4.6m Attic: 6.7m	Yes Yes Yes
					R3: Ground Floor: 3.0m First Floor and Attic: 4.2m	Ground Floor: 6.3m-7.3m First Floor: 6.9m-8.7m Attic: 7.8m-10.1m	Yes Yes Yes
					R4: Ground Floor: 3.4m First Floor and Attic: 4.2m	Ground Floor: 6.3m-7.3m First Floor: 6.9m-8.7m Attic: 7.8m-10.1m	Yes Yes Yes
					R5: Ground Floor: 3.0m First Floor and Attic: 4.2m	Ground Floor: 6.3m-7.3m First Floor: 6.9m-8.7m Attic: 7.8m-10.1m	Yes Yes Yes
					R8: Ground Floor: 3.4m First Floor and Attic: 4.2m	Ground Floor: 4.0m First Floor: 4.0m Attic: 5.4m-7.3m	Yes No Yes

					R9: Ground Floor: 3.0m First Floor and Attic: 4.0m	Ground Floor: 4.0m First Floor: 4.0m Attic: 5.4m-7.3m	Yes Yes Yes
--	--	--	--	--	--	---	-------------------

				West	R1: Ground Floor: 3.0m First Floor and Attic: 3.9m	Ground Floor: 1.2m First Floor: 1.2m Attic: 3.1m-5.1m	No No No
					R3: Ground Floor: 3.0m First Floor and Attic: 4.0m	Ground Floor: 3.0m First Floor: 4.0m-4.2m Attic: 4.5m-6.7m	Yes Yes Yes
					R4: Ground Floor: 3.0m First Floor and Attic: 4.1m	Ground Floor: 3.0m First Floor: 4.0m-4.2m Attic: 4.5m-6.7m	Yes No Yes
					R5: Ground Floor: 3.0m First Floor and Attic: 4.1m	Ground Floor: 3.0m First Floor: 4.0m-4.2m Attic: 4.5m-6.7m	Yes No Yes
					R6: Ground Floor: 3.0m First Floor and Attic: 4.0m	Ground Floor: 3.0m First Floor: 4.0m Attic: 5.8m-6.3m	Yes Yes Yes

			R7: Ground Floor: 3.0m First Floor and Attic: 4.0m	Ground Floor: 3.0m First Floor: 4.0m Attic: 5.8m-6.3m	Yes Yes Yes
		North	R7: Ground Floor: 3.0m First Floor and Attic: 4.1m	Ground Floor: 3.0m First Floor: 3.0m Attic: 4.5m	Yes No Yes
			R8: Ground Floor: 3.0m First Floor and Attic: 4.1m	Ground Floor: 3.0m First Floor: 3.0m Attic: 4.5m	Yes No Yes
		South	R9: Ground Floor: 3.0m First Floor and Attic: 3.9m	Ground Floor: 3.0m First Floor: 3.0m Attic: 4.5m	Yes No Yes
		For developments subject to the ADG, increased side setbacks continue to apply in accordance with ADG provisions.		Not subject to ADG	N/A
		Front and rear boundary setbacks specified in Part B continue to apply.		Front setbacks comply, no rear setback applies	Yes

	R7	Dwellings are to have a minimum 2 metre setback if fronting internal laneways or driveways unless it can be demonstrated that a reduced setback maintains landscaping, safe vehicle access, pedestrian safety, and adequate amenity.	R8: 1.6m, rest of dwellings: 3.0m	No
	R8	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.	Complies, basement level for parking to R1/R2	Yes
	R9	In the R2 Low Density Residential zone, developments are not to exceed 2 storeys.	3 storeys when including attic level (although wholly within roof) R1/R2 4 storeys when including basement and attic	No

Building and Landscape Design	R10	Minimum tree planting rates are to be in accordance with the Tables 1, 2 and 3 of C7.2. Existing prescribed trees may be counted towards the total number of required trees.	>12 trees	Yes
		At least one tree is to be provided within the front setback of each dwelling with a street frontage.	>1 tree in front setback	Yes
		Each tree shall be a locally native species.	Complies	Yes
	R11	The deep soil percentage as identified in Tables 4 to 6 of C7.2 is to be demonstrated.	25.9% (606.4m ²)	Yes
	R12	Each attached dwelling, terrace or townhouse dwelling is to have a minimum internal width of 6 metres.	>6m	Yes
	R13	End-of-row attached dwellings, townhouses or terraces are to provide windows on side walls to articulate the facade, provided they meet visual and acoustic privacy requirements.	N/A	N/A
	R14	The minimum floor to ceiling height in all living areas should be 2.7 metres.	Min. 2.7m	Yes
	R15	The depth of any habitable room should not exceed 8 metres from a source of daylight.	The depth of any habitable room does not exceed 8 metres from a source of daylight.	Yes
	R16	All habitable rooms are to be naturally ventilated.	All habitable rooms are naturally ventilated.	Yes
	R17	Dwellings are required to have the following minimum internal floor areas: a. Studio: 35 m ² b. 1 Bedroom: 50 m ² c. 2 Bedroom: 70 m ² d. 3 Bedroom: 90 m ²	The proposed dwellings have floor areas in excess of this requirement.	Yes
	R18	The minimum internal areas outlined in R17 only include one bathroom. The minimum area of each additional bathroom is 5m ² added onto the minimum dwelling area.	Complies	Yes
	R19	The minimum area of any additional bedroom to R17 is 12m ² added onto the minimum dwelling area.	Complies	Yes
	R20	Development located near noise-generating uses, such as employment zones, industrial land, main roads, or late-night venues, is to be designed to minimise noise intrusion.	N/A	N/A

	R21	For residential flat buildings, integrate playable elements free of trip hazards within the communal outdoor space, to encourage children and their families to use shared areas for play.	N/A	N/A
--	-----	--	-----	-----

Vehicle Access, Parking Design and Electric Vehicle (EV) Charging	R22	Vehicle access is to be consolidated and be integrated with the building design.	The proposed garages are integrated with the building design.	Yes
	R23	The total width of all garages, carports or hardstand areas, for all dwellings combined, facing a street frontage is not to exceed 50% of the lot frontage or 7 metres, whichever is the lesser.	Garages do not face the street.	N/A
	R24	The driveway and vehicle crossover are to be designed in accordance with the current policies and guidelines relating to driveways/vehicle crossovers, noting that all vehicles are to leave the site in a forward direction. Vehicle circulation is to comply with AS2890.1.	The proposal facilitates vehicle manoeuvring in a forward direction and complies with the requirements.	Yes
	R25	Basements are to remain within the building footprint and not extend into setback or deep soil areas.	Basements are within the building footprint.	Yes
	R26	Covered space is to be provided for the secure storage of at least 1 bicycle per dwelling.	Condition recommended	Yes, subject to condition
	R27	A minimum of one electric bicycle charge point (10A outlet) is to be provided for every four bicycle parking spaces. Where fewer than four bicycle parking spaces are provided, a minimum of one charge point must still be installed.	Condition recommended	Yes, subject to condition

	R28	Development is to incorporate electric vehicle (EV) charging infrastructure in accordance with the following provisions:	Condition recommended	Yes, subject to condition
	a.	All residential development is to provide EV charging or EV ready infrastructure for 100% of resident parking spaces, car share spaces and visitor parking.	Condition recommended	Yes, subject to condition
	b.	100% of visitor and car share parking spaces and 20% of resident parking spaces are to be fitted with a dedicated charging station (Level 2) prior to the issue of an Occupation Certificate.	Condition recommended	Yes, subject to condition
	c.	Wayfinding signage is to be provided within the development to guide users to EV charging stations, including those for electric bicycles.	Condition recommended	Yes, subject to condition
	d.	EV charging points are to be designed and installed in accordance with AS 2890 and other relevant standards.	Condition recommended	Yes, subject to condition

		e.	Total electricity load management and electrical fit out is to be considered at the design stage, including:	Condition recommended	Yes, subject to condition
		i.	The size and location of any necessary electricity substations.	Condition recommended	Yes, subject to condition
		ii.	The electrical distribution boards dedicated are to be fitted with a charging control system to manage and schedule the charging of EVs during off-peak periods, in response to total building demand and EV owner behaviour.	Condition recommended	Yes, subject to condition
		iii.	The location of electrical distribution boards so that any future EV charger will require a cable of no more than 5m from the parking bay to the connection point.	Condition recommended	Yes, subject to condition

		iv.	The provision for cable trays to support the future installation of 32A single-phase final subcircuits for each electric vehicle car parking space.	Condition recommended	Yes, subject to condition
		v.	The size and location of any necessary electricity substations.	Condition recommended	Yes, subject to condition
		f.	All EV charging infrastructure, including electrical distribution boards and EV charging points are to be identified on the Development Application plans, Construction Certificate plans and strata plans (if relevant).	Condition recommended	Yes, subject to condition

Description of non-compliance

As detailed within the built form compliance table above, the proposed development does not comply with all the required setbacks stipulated by R6 and R7 and the number of storeys stipulates by R9.

Comment:

The outcomes of the control are:

- *O1 To provide a variety of low-scale housing types that enhance diversity and choice, while ensuring alignment with the desired future character of the locality.*
- *O2 To ensure developments are designed to provide privacy, solar access and building separation.*
- *O3 To minimise building bulk and scale and enhance existing streetscapes through building articulation, materials, and setbacks.*
- *O4 To enhance the landscape setting, soften the visual impact of built form and increase canopy cover by including trees in deep soil areas.*
- *O5 To ensure high-quality design with a clear sense of address, featuring well-defined dwelling entries, casual surveillance along the street frontage, while also supporting safe pedestrian movement and integrated vehicular access.*

The proposal is for multi-dwelling housing providing nine dwellings pursuant to Chapter 6 of the Housing SEPP. This provides additional housing stock on the site in the form of medium density multi-dwelling housing which is consistent with the development typology envisaged by the LMR reforms. The proposed development complies with the non-discretionary height and FSR requirements of the Housing SEPP

and also provides sufficient landscaping in accordance with the Tree Canopy Guide for Low and Mid Rise Housing. As such, while the Mona Vale character statement does not envisage the development permissible by the Housing SEPP, the proposal has been appropriately designed to integrate with the locality and maintain the desired character of the Locality.

The proposal is sensitively designed with regards to privacy and solar access and amended plans have been provided increasing the separation of the proposed dwellings. The proposal appropriately locates higher-use living rooms and main private open space areas at the ground level where there are limited opportunities for overlooking. The bedrooms, being lower-use rooms, are located at the first floor and attic level where there is a greater risk of overlooking due to the elevated nature. Detailed assessments are provided under C1.4 Solar Access and C1.5 Visual Privacy of this report.

It is acknowledged that the proposed development is of a higher density being multi-dwelling housing providing nine dwellings, when compared to the surrounding single detached dwelling houses and dual occupancies. However, the proposed density is facilitated by Chapter 6 of the Housing SEPP. The proposal incorporates various architectural elements to enhance the streetscape. This includes the incorporation of varied roof forms, bay windows, dormer windows and varied front setbacks to Elimatta Road providing articulation. The proposal encapsulates a Hamptons architectural style comprising light grey cladding, white timber trims and a pitched roof which is commensurate with the coastal character commonly displayed in the Mona Vale area. The proposed attic levels are minor in size and incorporated into the roof form to reduce the appearance of a third storey. Additionally, the configuration of the dwellings is such that R1 and R2 front Elimatta Road to ensure consistency with the streetscape and reduce the appearance and scale of the development when viewed from the street.

The proposal provides sufficient deep soil area and tree plantings in accordance with the Tree Canopy Guide for Low and Mid Rise Housing.

The proposed dwellings have clear well-defined entries with separate pedestrian access from the site link. In relation to car parking, the development complies with the car parking requirements under the Housing SEPP. TfNSW and Council's Traffic Engineer are satisfied with the vehicular access arrangement, subject to conditions.

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

D9.3 Building colours and materials

Description of non-compliance

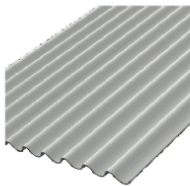
This control requires external colours and materials to be dark and earthy tones. White, light coloured red or orange roofs and walls are not permitted.

The proposal incorporates light grey and white external finishes as below.

MATERIAL FINISHES



WB
James Hardie Weatherboard or similar
Set horizontally,
Painted grey



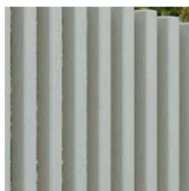
MDR
Custom Orb Roofing
Shale Grey



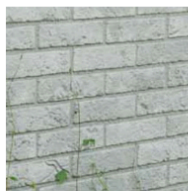
AL
Aluminium glazing system
Painted white



PT
Accents/Trims/Facade Decoration
Dulux
Painted white/ offwhite



FENCE
Colourbond
Light Grey



BK
Rustic-look Brickwork
Retaining wall
Grey

DESIGN INTENT DRAW

Figure 6 - Materials and Finishes

Comment:

The outcomes of the control are:

- *Achieve the desired future character of the Locality.*
- *The development enhances the visual quality and identity of the streetscape. (S)*
- *To provide attractive building facades which establish identity and contribute to the streetscape.*
- *To ensure building colours and materials compliments and enhances the visual character and its location with the natural landscapes of Pittwater.*
- *The colours and materials of the development harmonise with the natural environment. (En, S)*
- *The visual prominence of the development is minimised. (S)*
- *Damage to existing native vegetation and habitat is minimised. (En)*

While the proposed external colours are not strictly in accordance with this control, they are compatible with the external colours and finishes of surrounding development. Several surrounding properties incorporate light colours including light grey and white finishes. In particular, the surrounding properties 17, 19 and 21 Rowan Street and 69 Elimatta Road all incorporate light grey or white external cladding with white trims. This is reflective of the coastal character commonly seen around the Mona Vale area. The proposed colours and finishes are consistent with the streetscape and acceptable in the circumstance.

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

D9.9 Building envelopeDescription of non-compliance

This control requires building to be sited within a building envelope determined by projecting planes at 45 degrees from a height of 4.2 metres above ground level at the side boundaries.

The proposed development encroaches the western side building envelope at R1 as shown below.

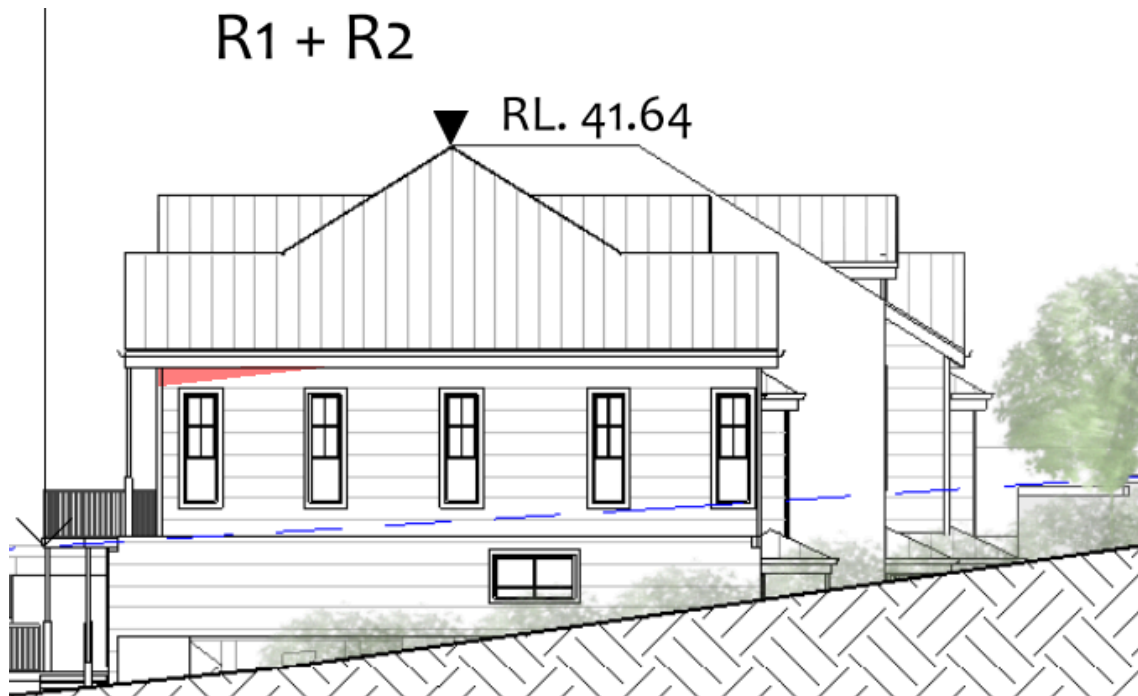


Figure 7 - Western elevation of R1 and R2 showing envelope encroachment in red

Comment:

The outcomes of the control are:

- *To achieve the desired future character of the Locality. (S)*
- *To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*
- *To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*
- *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 ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*
- *Vegetation is retained and enhanced to visually reduce the built form. (En)*

The proposal results in a minor encroachment to the western side building envelope at R1 as shown above. This dwelling and adjoining dwelling, R2, have been designed to front Elimatta Road providing a dual occupancy appearance to the street frontage. This ensures the street appearance is consistent with the surrounding streetscape comprising detached dwelling houses and dual occupancies. The proposal then transitions into the remaining dwellings orientated east to west with frontages to the internal laneway. Consequently, this orientation results in the floor plate of R1 and R2 stretching wider towards the side boundaries which has contributed to the envelope encroachment. Furthermore, the sloping topography of the site down towards the north also contributes to the envelope encroachment. Furthermore the proposed

dwellings are appropriately designed for privacy and amenity locating higher use rooms including the living room/kitchen/dining area at the ground floor level with lower use rooms including bedrooms at the first floor and attic level. The proposal is found to maintain reasonable view sharing as discussed under C1.3 of this report. Additionally, the proposal complies with the required building height, FSR and deep soil area (subject to the recommended conditions) prescribed by the Housing SEPP. As such, the scale of the development is appropriate in the context of the LMR provisions and what the Housing SEPP anticipates for the area.

The development is consistent with the outcomes 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 \$40,969 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,096,889.

CONCLUSION

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

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

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

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

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

PLANNING CONCLUSION

This proposal, for demolition works and construction of multi-dwelling housing, lot consolidation and strata subdivision has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to receiving more than ten submissions by way of objection.

Concerns raised in the objections predominantly relate to overdevelopment, privacy, view loss, setbacks, solar access, traffic and parking, and the nature of the development relating to the increased scale and density. Ultimately, the proposed development is permissible by virtue of Chapter 6 of the Housing SEPP which permits low and mid rise housing in areas in proximity to nominated town centres. As such, the proposal is subject to controls that permit higher density development of a greater height and scale.

Further information was requested in relation to the Shadow Diagrams, Setbacks and Building Separation, View Sharing, Scale, Built Form and Articulation, Development Engineering, Flooding, Waste Management and Urban Design. In response, the applicant lodged Amended Plans, Stormwater information, Flooding Information, and an Amended Waste Management Report. The amendments to the plans include a reduction in number of dwellings from 10 to 9, deletion of second driveway crossing to Elimatta Road and introduction of basement parking to R1 and R2, increased separation between dwellings to improve view corridors, deletion of northern and southern facing dormers to attic level of R3-R9 to reduce appearance of the third storey, and increased front setback to R1 and R2.

Assessment issues included setbacks and separation, visual privacy, view sharing and solar access. The proposed setbacks are considered appropriate for the proposal and a reasonable level of privacy, view sharing and solar access is provided in accordance with the relevant controls. The proposal is an appropriate outcome in response to the LMR controls of the Housing SEPP, and the context of the site and surrounding development.

It is therefore, recommended that the NBLPP grant approval to the development application, subject to 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 DA2025/1653 for Demolition works and construction of multi-dwelling housing, lot consolidation and strata subdivision on land at Lot 103 DP 709505, 19 A Rowan Street, MONA VALE, Lot 72 DP 5464, 67 Elimatta Road, 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
DA00.40	E	Site Plan	JKM Architects	2 April 2026
DA02.09	A	Proposed Basement Plan	JKM Architects	2 April 2026
DA02.10	D	Proposed Ground Plan_South	JKM Architects	2 April 2026
DA02.11	D	Proposed Ground Floor_North	JKM Architects	2 April 2026
DA02.12	D	Proposed 1F Plan_South	JKM Architects	2 April 2026
DA02.13	D	Proposed 1F Plan_North	JKM Architects	2 April 2026
DA02.14	D	Proposed Attic Plan_South	JKM Architects	2 April 2026
DA02.15	D	Proposed Attic Plan_North	JKM Architects	2 April 2026
DA02.16	D	Proposed Roof Plan_South	JKM Architects	2 April 2026
DA02.17	D	Proposed Roof Plan_North	JKM Architects	2 April 2026
DA03.10	D	Site Elevations	JKM Architects	2 April 2026
DA03.11	D	Site Elevations_with fence	JKM Architects	2 April 2026

DA03.21	D	Elevations	JKM Architects	2 April 2026
DA03.22	D	Elevations R6-R9	JKM Architects	2 April 2026
DA04.10	D	Site Sections	JKM Architects	2 April 2026
DA04.21	D	Sections 01	JKM Architects	2 April 2026
DA04.22	D	Sections 02	JKM Architects	2 April 2026
DA05.40	B	Materials and Finishes	JKM Architects	2 April 2026
DA05.50	C	Waste Management Plan	JKM Architects	2 April 2026
DA05.70	B	Strata Subdivision Plan	JKM Architects	2 April 2026
01	E	Site Plan	Outfield Landscape Architecture	24 July 2026
04	E	R1 & R2	Outfield Landscape Architecture	24 July 2026
05	E	R3, R4 and R5	Outfield Landscape Architecture	24 July 2026
07	E	R6 & R7	Outfield Landscape Architecture	24 July 2026
08	E	R8 & R9	Outfield Landscape Architecture	24 July 2026
09	E	Driveway	Outfield Landscape Architecture	24 July 2026
10	E	R1 & R2	Outfield Landscape Architecture	24 July 2026
11	E	R2, R4 & R5	Outfield Landscape Architecture	24 July 2026
13	E	R6 & R7	Outfield Landscape Architecture	24 July 2026
14	E	R8 & R9	Outfield Landscape Architecture	24 July 2026
15	E	Driveway	Outfield Landscape Architecture	24 July 2026
16	E	Plant Schedule and Images	Outfield Landscape Architecture	24 July 2026
Storm-1/B	-	Stormwater Management Plan	Taylor Consulting Engineers	3 March 2026
Storm-2/A	-	Stormwater Management Plan - Lot 1 to Lot 2	Taylor Consulting Engineers	27 October 2025
Storm-3/B	-	Stormwater Management Plan - Lot 3 to Lot 6	Taylor Consulting Engineers	3 March 2026
Storm-4/B	-	Stormwater Management Plan - Lots R7 to R10	Taylor Consulting Engineers	27 October 2025

Storm-5/A	-	Stormwater Management Details	Taylor Consulting Engineers	3 March 2026
-----------	---	-------------------------------	-----------------------------	--------------

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate	1819252M_02	Zhang Wei	16 April 2026
Operational Waste Management Plan	D	Elephants Foot Consulting	27 July 2026
Acoustic DA Assessment	SYD2025-1159-R001B	Acouras Consultancy	20 October 2025
Transport Impact Statement	02	PDC Consultants	27 October 2025
Arboricultural Impact Assessment Report	-	Jacksons Nature Works	29 October 2025
Flood Risk Management Plan	-	Taylor Consulting Engineers	27 October 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

(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 sewerred 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.

5. **Staff and Contractor Parking**

The applicant is to make provision on site for parking for all construction staff and contractors for the duration of the project.

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

FEES / CHARGES / CONTRIBUTIONS

6. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$40,968.89 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 \$4,096,889.00.

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	\$ 84,000 (7 new dwelling lots)
Total:	\$ 84,000

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

highest PPI number

consent PPI number

where—

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

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

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

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

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

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

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

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

Drainage Works

As security against any damage or failure to complete the construction of stormwater drainage works including the construction of an inlet pit in Rowan street required as part of this consent a bond of \$6000.

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

Reason: Protection of Council's infrastructure.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

10. **Flood effects caused by development**

There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 29.00m 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.

11. **Building components and structural soundness**

B1 - All new development below the Flood Planning Level of 30.30m AHD shall be designed and constructed from flood compatible materials.

B2 - All new development must be designed to ensure structural integrity up to the Flood Planning Level of 30.30m 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 30.80m 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.

12. Vehicle Driveway Gradients

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

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 Taylor Engineers , drawing number Storm 1/B,2/A, 3/B ,4/B (dated 27 Oct 2025), 5/A (3 March 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.

The drainage plans must address the following:

- The inlet pit in Rowan street is to be located within the property frontage and is to feature a V grate within the 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 2 vehicle crossing 3.5 metres wide along frontages of site in Elimatta Road and Rowan Street 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 are 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. **Detailed Design of Stormwater Treatment Measures**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the Stormwater plans from Taylor Consulting (dated 27 October 2025) and Council's Water Management for Development Policy.

The certificate shall be submitted to the Certifier prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

16. **Car Parking Standards**

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1:2004.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of a construction certificate.

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

17. **Car Parking Finishes**

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

18. **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.

19. 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.

20. **Vehicle Access & Parking**

All internal driveways, vehicle turning areas, garages and vehicle parking spaces must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

With respect to this, the following revision(s) must be undertaken;

- Each dwelling must be provided with 1 bicycle parking space. Location of bicycle parking spaces must be shown. All the proposed bicycle parking spaces must be in accordance with AS2890.3:2015.

Plans prepared by a suitably qualified Engineer shall be submitted to the Principal Certifier prior to the issue of a Construction Certificate.

Reason: To ensure compliance with Australian Standards, Council DCP and LMR DCP controls.

21. **Amendments to the approved plans**

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

- The architectural plans shall be amended to be consistent with the landscape plans prepared by Outfield Landscape Architecture Revision E dated 24 July 2026.
- A 1.7m high privacy screen (measured from Finished Floor Level (FFL)) is to be erected for the entire length of the outermost western edge of the first floor balcony of R1. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.
- The first floor west-facing windows to the walk-in-robe and ensuite of R6 shall be obscure glazed or have a sill height of 1.7m above FFL.
- The first floor west-facing windows of bed 01, walk-in-robe and ensuite of R7 to be obscure glazed or a have a sill height of 1.7m above FFL.
- The first floor north-facing window at the eastern end of bed 02 of R8 shall be obscure glazed or a have a sill height of 1.7m above FFL.

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.

22. **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.

23. Stormwater Drainage Application

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include Civil Engineering plans for the design of the stormwater inlet pit required in Rowan Street which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at www.northernbeaches.nsw.gov.au > Council Forms > Stormwater Drainage Application Form.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

24. Flood characteristics of the site

The rear of Lot R3 must to be lowered to R.L. 29.80 A.H.D, and the rear of Lot R4 is to be lowered to R.L. 29.60 A.H.D. so that there is at least 200mm freeboard to the ground floor levels of dwellings R3 and R4.

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.

25. 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.

26. External Finishes to Roof

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

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

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

construction certificate.

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

27. 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.

28. Geotechnical Report

Prior to the issue of the Construction Certificate, a Geotechnical Report is to be submitted to the satisfaction of the Certifying Authority.

The Geotechnical Report is to be prepared in accordance with the relevant requirements of the Geotechnical Risk Management Policy for Pittwater.

The Geotechnical Report may be a full assessment as set out in Section 6.5 or a Statement to the effect that the Structural Engineer has fully considered the Geotechnical issues into the design of the temporary and/or permanent structure to manage risk and safety to workers and/or occupants of the development.

The geotechnical engineer preparing the report must be satisfied that the design will achieve the "Acceptable Risk Management" level as defined in this Policy for the potential loss of both property and life.

Reason: To ensure the development is in accordance with the Geotechnical Risk Management Policy for Pittwater.

29. Ev charging or EV ready infrastructure

All off street car parking spaces including visitor parking spaces must provide EV charging or EV ready infrastructure.

A minimum of 3 electric bicycle charge point (10A outlet) should be provided.

All the EV charging infrastructure, including electrical distribution boards and points must be shown on the architectural plans.

Amended plans shall be provided to the Principal Certifier prior to release of a construction certificate to confirm that the above will be achieved.

Reason: To ensure compliance with Low and Mid rise Housing (LMR) DCP controls.

30. 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

31. Project Arborist

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 the Arboricultural Impact Assessment dated 29 October 2025 prepared by Jacksons Nature Works and AS4970-2025 Protection of trees on development sites.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Principal Certifier that all tree protection measures under AS4970-2025 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.

32. 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.

33. Road Occupancy Licence

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

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

34. **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

35. 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 the Project Arborist. 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.

36. 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 the Arboricultural Impact Assessment dated 29 October 2025 prepared by Jacksons Nature Works and 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 the Project Arborist,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with the Project Arborist,
- 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 the Project Arborist on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with the Project Arborist including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, the Project Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the 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 certified by the Project Arborist as compliant to AS4970-2025 Protection of trees on development sites.

Reason: Tree and vegetation protection.

37. 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 the Project Arborist 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.

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 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.

40. **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.

41. **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.

42. **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.

43. **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.

44. 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.

45. 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.

46. Waste/Recycling Requirements (Waste Plan Submitted)

Demolition and Construction Waste Management plan to be prepared and submitted to Council and details recorded with this condition.
During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

47. 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

48. Required Tree Planting

Trees shall be planted in accordance with the following:
A minimum of 12 Medium trees are to be provided across the site. Medium trees are to provide a minimum 8m diameter canopy spread and 50m² canopy area.

Tree planting shall be a minimum pre-ordered planting size of 75 litres; 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,

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

Reason: To maintain environmental amenity.

49. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plan(s), 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; 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 Plan(s),
- d) 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,
- e) where the property is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019.

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.

50. Condition of Retained Vegetation

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

51. 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. There has been no filling on the land other than what has been approved
2. Openings are provided in fencing where required for the free passage of flood waters

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.

52. Building Components and Structural Soundness

B2 - A suitably qualified structural engineer is to certify the structural integrity of the new development up to the Flood Planning Level of 30.80m 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 30.80m 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.

53. Certification of Council Drainage Works and Works as Executed Data in accordance with Local Government S68 Approval

The Applicant shall submit certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 68 approved plans. Works as Executed data (details overdrawn on a copy of the approved drainage plan) certified by a registered surveyor in relation to boundaries and/or relevant easements prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Stormwater Assets' within the subject site, shall be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

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

54. Stormwater Disposal

The stormwater drainage works and on site stormwater detention system shall be certified as compliant with all the approved plans and Councils Water Management for Development manual by the design engineer. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

55. **Certification for the Installation of Stormwater Treatment Measures**

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the construction certificate stormwater plan. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. The certificate shall be submitted to the Principal Certifier prior to the release of an Occupation Certificate.

Reason: Protection of the receiving environment.

56. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

57. **Stormwater Treatment Measures Operation and Maintenance Plan Summary**

An Operation and Maintenance Plan summary must be prepared to ensure the stormwater treatment measures continue to operate effectively.

The Plan must be attached to the Positive Covenant (and to the community or strata management statement, if applicable) and must be provided as a concise summary not exceeding two pages including:

Summary of stormwater treatment measures

- Simple plan showing locations
- Brief description of each measure and its purpose
- Summary of management responsibilities, funding, and contact details

Ongoing maintenance

- Summary of routine maintenance activities and frequency
- WHS considerations
- Waste disposal requirements
- Renewal/replacement expectations

- Requirement to keep maintenance records and provide them to Council on request
Details demonstrating compliance must be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.
Reason: Protection of the receiving environment.

58. **Works as Executed Drawings - Stormwater Treatment Measures**

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

59. **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.

60. **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.

61. **Reinstatement of Kerb**

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

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

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

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

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the

process can be found on Council's website using the following link:

<https://files-preprod-d9.northernbeaches.nsw.gov.au/nbc-prod-files/media/files/2023-12/guide-for-submitting-legal-documents.pdf?1756256223>

The form for the application can be found on Council's website using the following link:

<https://applications.northernbeaches.nsw.gov.au/T1PRProd/WebApps/eProperty/P1/eSubmit/Tr=WC.WEBGUEST&f=%24P1.ESB.TERMS.VIW&ReturnUrl=%2fT1PRProd%2fWebApps%2fe>

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

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

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

63. Site Flood Characteristics

The rear of Lot R3 has been lowered to R.L. 29.80 A.H.D, and the rear of Lot R4 is has been lowered to R.L. 29.60 A.H.D. so that there is at least 200mm freeboard to the ground floor levels of dwellings R3 and R4.

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.

64. Garbage and Recycling Facilities

All internal walls of the waste storage shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained.

The waste storage enclosure 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.

65. 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.

66. **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.

67. **EV charging or EV ready infrastructure**

All the parking spaces including visitor parking spaces must be fitted with a dedicated level 2 charging station and all EV charging infrastructure must be installed in accordance with approved Construction Certificate Plans prior to the issue of any Occupation Certificate for the development.

Reason: To ensure compliance with Low and Mid rise housing (LMR) DCP controls.

68. **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.

69. **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.

70. 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.

71. 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

72. 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 areas shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity.

73. Maintenance of Stormwater Treatment Measures - Major

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

74. Landscaping adjoining vehicular access

The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1m.

Reason: To maintain unobstructed sight distance for motorists.

75. Resident Parking Scheme Permits

Any residents and/or tenants of the subject site are not eligible for resident parking permits. This condition is to be provided on the property Title.

Reason: To ensure the residents/ tenants are aware that they are not entitled to a permit regardless if they are within a Resident Parking Scheme (RPS).

BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

76. 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.

77. 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.

78. Title Encumbrances

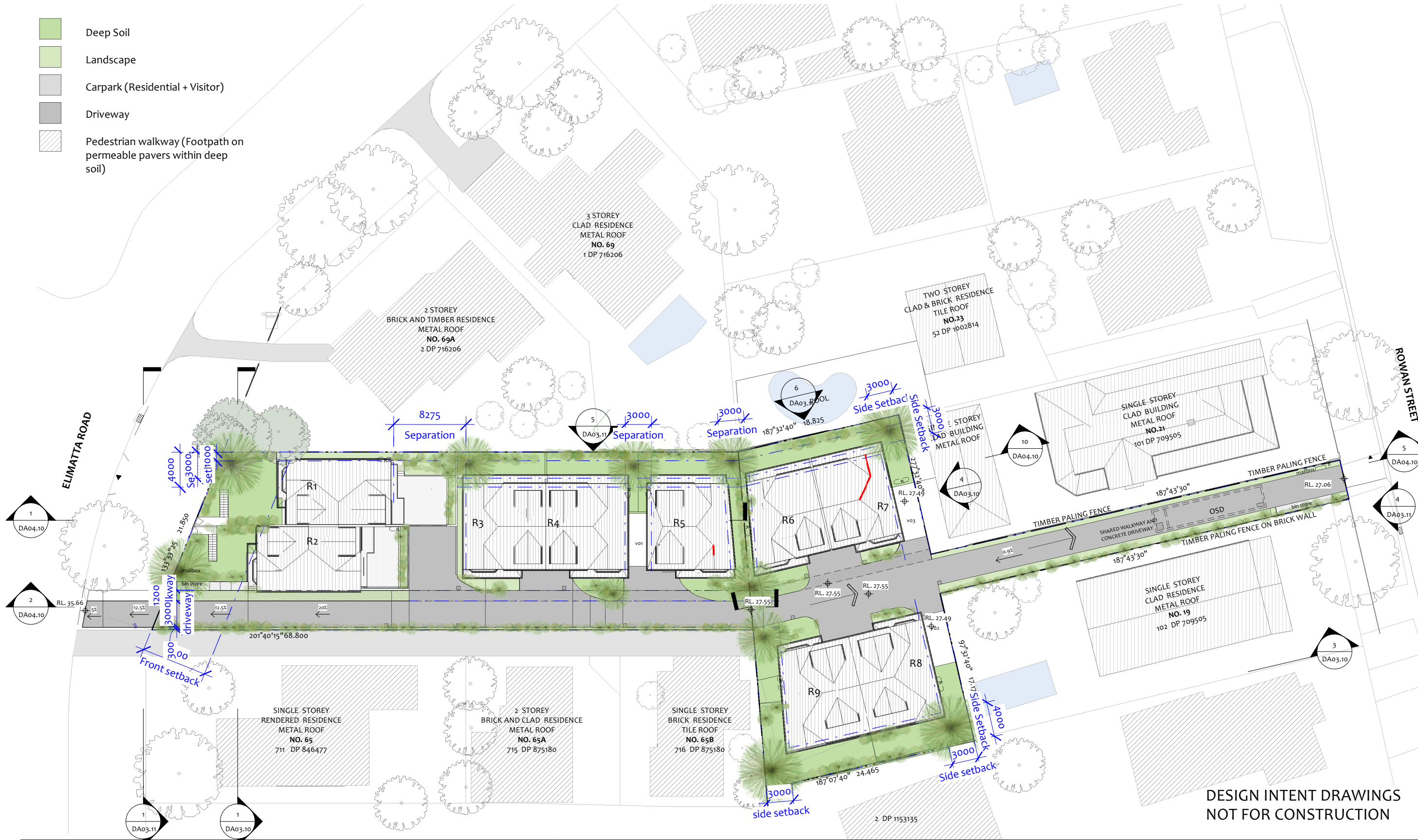
The Applicant shall ensure all easements, rights of carriageway, positive covenants and restrictions as to user as detailed on the plans and required by the development consent are to be created on the title naming Council as the sole authority empowered to release or modify.

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.

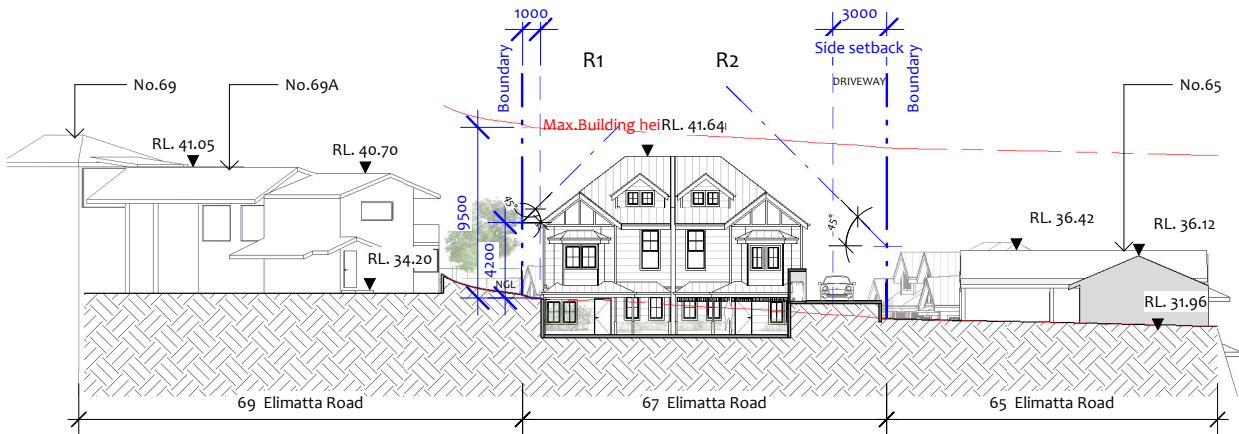
Key

- Deep Soil
- Landscape
- Carpark (Residential + Visitor)
- Driveway
- Pedestrian walkway (Footpath on permeable pavers within deep soil)

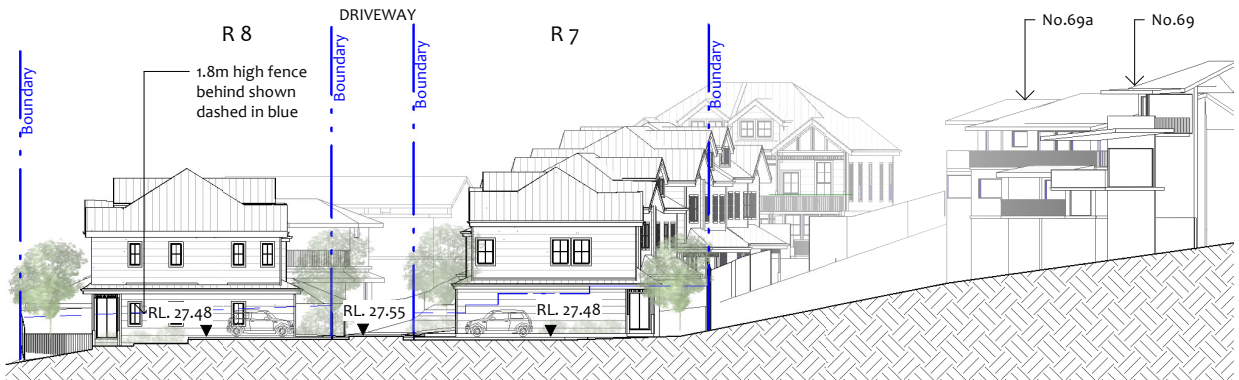


DESIGN INTENT DRAWINGS
NOT FOR CONSTRUCTION

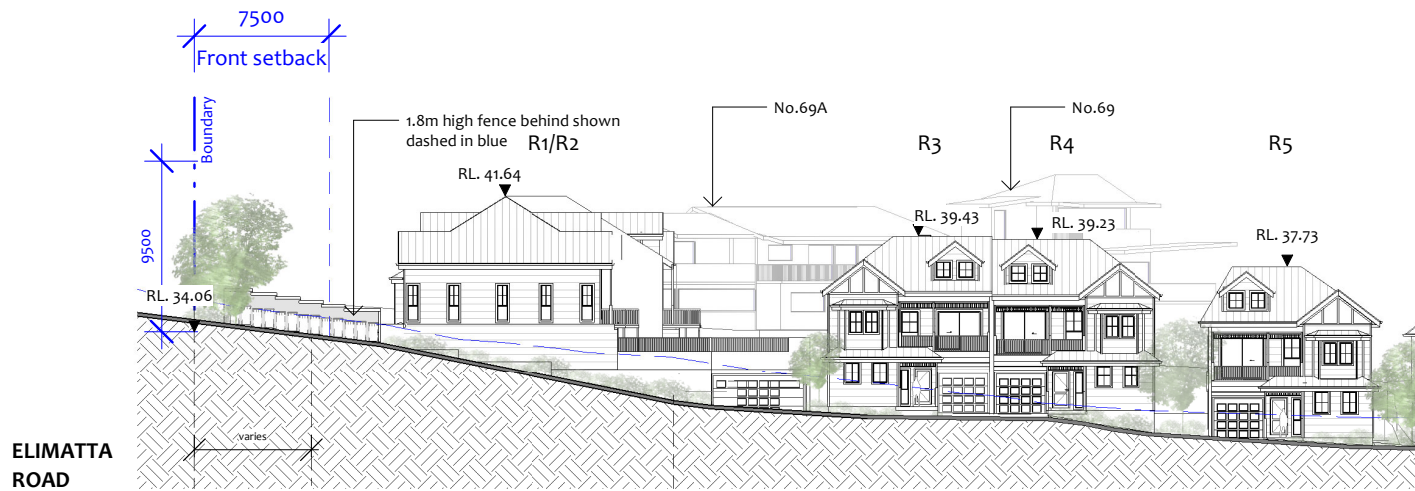
<p>Disclaimer:</p> <p>Information shown on this drawing should be read in conjunction with the specification and BASIX certificate where applicable. Comply with relevant authorities requirement. Comply with Building Code of Australia requirements. Comply with relevant Australian Standards for materials and construction practice. All drawn information should be sufficient for a reasonably competent and experienced builder to understand the design intent. Should this be not the case, the Client should be informed immediately for clarification. Some elements shown in this drawing may be subject to further advice from consultants/sub-consultants other than the architect. It is the responsibility of the consultants/sub-consultants/builder, and not the architect, to ensure that the design intent is met satisfactorily.</p>		<p>Check all dimensions, site conditions and RL's against survey prior to commencement of any work, the purchase or ordering of any materials, fittings, plant, services or equipment and the preparation of shop drawings and or the fabrication of any components. Do not scale drawings - Any discrepancies discovered shall immediately be referred to the Client for clarification. Copyright remains with the JKM Architects. The Client is licensed to use the documents and drawings to produce the project and site for which they were intended, provided that the JKM Architects has completed the extent of works for which they were commissioned, and all fees due to the JKM Architects has been paid.</p>		<p>Legend</p> <div></div>		<table><tr><th>Revision</th><th>Date</th><th>Description</th></tr><tr><td>A</td><td>09/09/2025</td><td>For Coordination</td></tr><tr><td>B</td><td>07/10/2025</td><td>For Coordination</td></tr><tr><td>C</td><td>16/10/2025</td><td>For Coordination</td></tr><tr><td>D</td><td>27/10/2025</td><td>Development Application</td></tr><tr><td>E</td><td>02/04/2026</td><td>Response to Council RFI</td></tr></table>	Revision	Date	Description	A	09/09/2025	For Coordination	B	07/10/2025	For Coordination	C	16/10/2025	For Coordination	D	27/10/2025	Development Application	E	02/04/2026	Response to Council RFI	<p>Architect</p> <p>JKM.a</p> <p>JKM Architects Pty Ltd Suite 3.14 / 55 Miller Street, Pyrmont, NSW 2009. ABN 98 651 373 483</p> <p>Nominated Architect Tai Kei Keith Ma NSW 9247</p>	<p>Client.</p> <p>OSC Property Group Pty Ltd</p>	<p>Project Name.</p> <p>Mona Vale Townhouse</p> <p>Project Address</p> <p>67 Elimatta Road & 19A Rowan Street, Mona Vale NSW 2130</p>	<p>Project No.</p> <p>2512</p> <p>Sheet Name</p> <p>Site Plan</p> <p>Drawing no.</p> <p>DA00.40</p>	<p>Status</p> <p>Development Application</p> <p>Scale</p> <p>1: 400 @ A3</p> <div><div>0</div><div>4</div><div>8</div><div>12</div><div>m</div></div> <p>Revision</p> <p>E</p>
Revision	Date	Description																											
A	09/09/2025	For Coordination																											
B	07/10/2025	For Coordination																											
C	16/10/2025	For Coordination																											
D	27/10/2025	Development Application																											
E	02/04/2026	Response to Council RFI																											



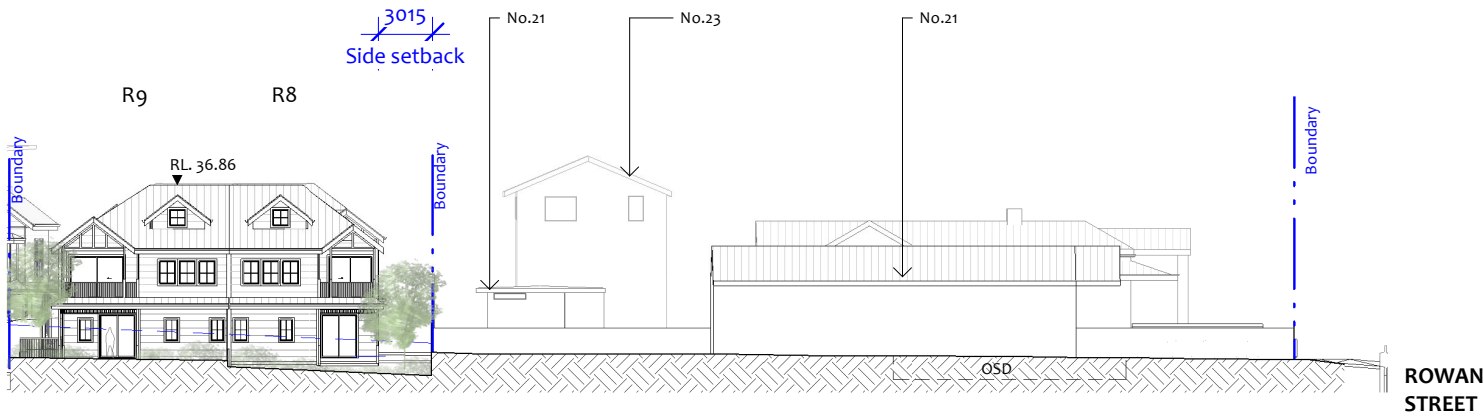
1 Elimatta Road Elevation (South)
1 : 400



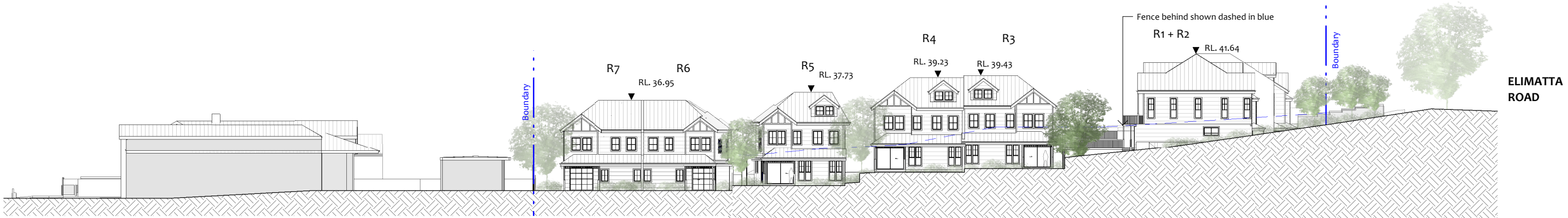
4 Elevation_North
1 : 400



2 East Elevation (R1-R5 Elevation)
1 : 400



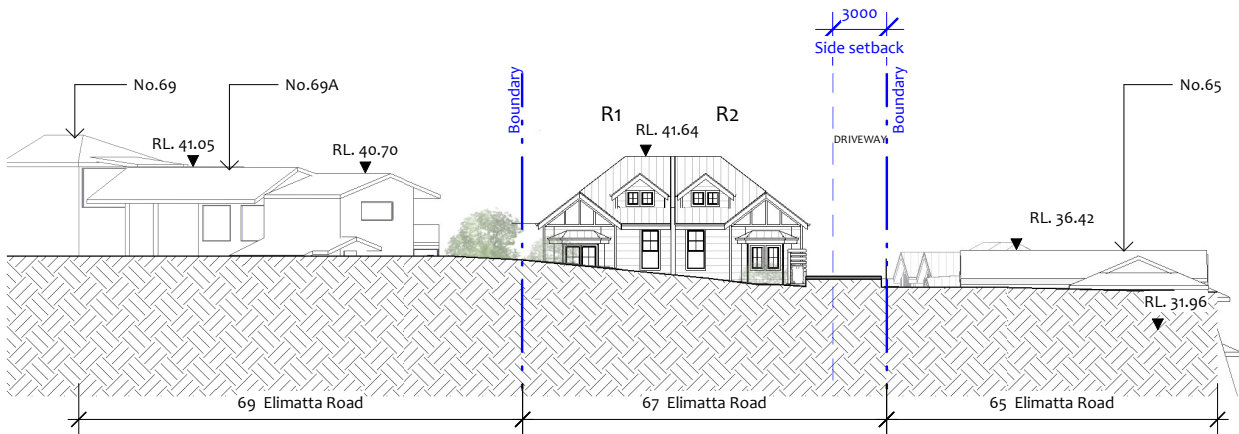
3 East Elevation (R8-R9 Elevation)
1 : 400



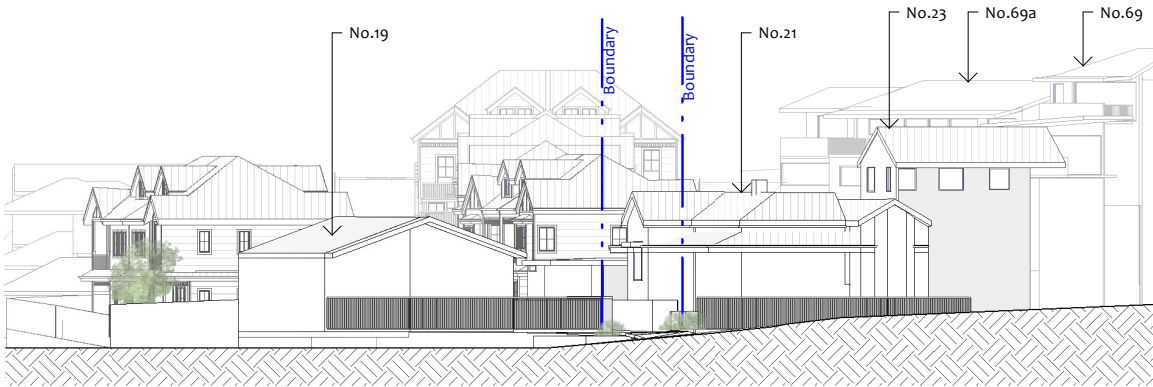
5 Site West Elevation (From Courtyard)
1 : 400

DESIGN INTENT DRAWINGS
NOT FOR CONSTRUCTION

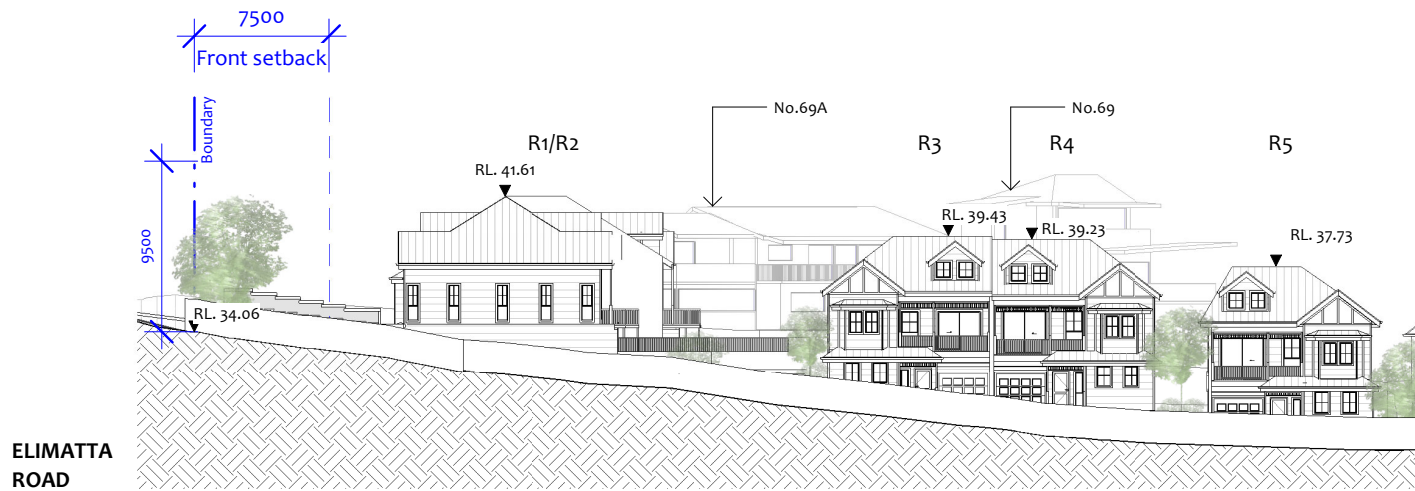
<p>Disclaimer:</p> <p>Information shown on this drawing should be read in conjunction with the specification and BASIX certificate where applicable. Comply with relevant authorities requirement. Comply with Building Code of Australia requirements. Comply with relevant Australian Standards for materials and construction practice. All drawn information should be sufficient for a reasonably competent and experienced builder to understand the design intent. Should this be not the case, the Client should be informed immediately for clarification. Some elements shown in this drawing may be subject to further advice from consultants/sub-consultants other than the architect. It is the responsibility of the consultants/sub-consultants/builder, and not the architect, to ensure that the design intent is met satisfactorily.</p>	<p>Check all dimensions, site conditions and RL's against survey prior to commencement of any work, the purchase or ordering of any materials, fittings, plant, services or equipment and the preparation of shop drawings and the fabrication of any components. Do not scale drawings - Any discrepancies discovered shall immediately be referred to the Client for clarification. Copyright remains with the JKMMarchitects. The Client is licensed to use the documents and drawings to produce the project and site for which they were intended, provided that the JKMMarchitects has completed the extent of works for which they were commissioned, and all fees due to the JKMMarchitects has been paid.</p>	<p>Legend</p>	<p>Revision Date Description</p> <table><tr><td>A</td><td>09/09/2025</td><td>For Coordination</td></tr><tr><td>B</td><td>16/10/2025</td><td>For Coordination</td></tr><tr><td>C</td><td>27/10/2025</td><td>Development Application</td></tr><tr><td>D</td><td>02/04/2026</td><td>Response to Council RFI</td></tr></table>	A	09/09/2025	For Coordination	B	16/10/2025	For Coordination	C	27/10/2025	Development Application	D	02/04/2026	Response to Council RFI	<p>Architect</p> <p>JKM.a</p> <p>JKMarchitects Pty Ltd Suite 3.14 / 55 Miller Street, Pyrmont, NSW 2009. ABN 98 651 373 483</p> <p>Nominated Architect Tai Kei Keith Ma NSW 9247</p>	<p>Client.</p> <p>OSC Property Group Pty Ltd</p>	<p>Project Name.</p> <p>Mona Vale Townhouse</p> <p>Project Address</p> <p>67 Elimatta Road & 19A Rowan Street, Mona Vale NSW 2130</p>	<p>Project No.</p> <p>2512</p> <p>Sheet Name</p> <p>Site Elevations</p> <p>Drawing no.</p> <p>DA03.10</p>	<p>Status</p> <p>Development Application</p> <p>Scale</p> <p>1: 400 @ A3</p> <div><div>0</div><div>4</div><div>8</div><div>12</div><div>m</div></div> <p>Revision</p> <p>D</p>
			A	09/09/2025	For Coordination															
			B	16/10/2025	For Coordination															
			C	27/10/2025	Development Application															
			D	02/04/2026	Response to Council RFI															



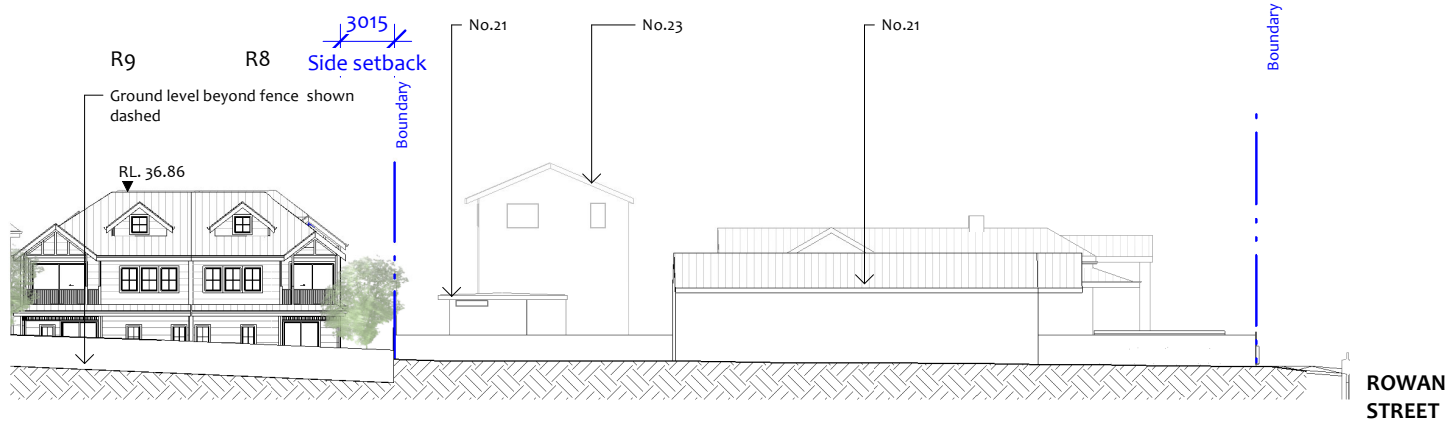
1 Elimatta Road Elevation (South) (On Road)
1 : 400



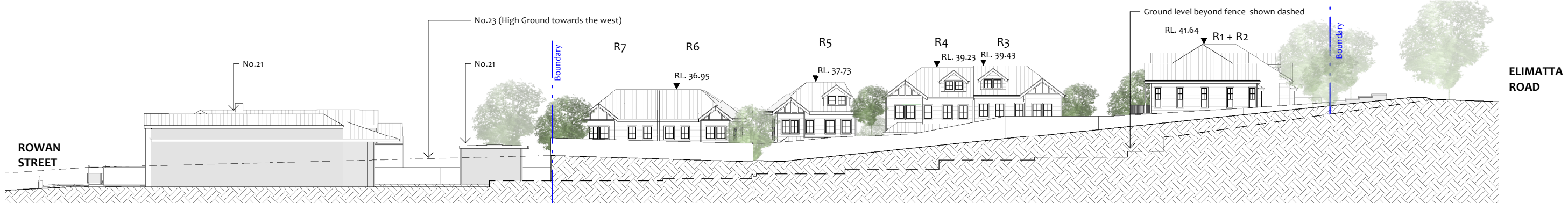
4 Elevation (North) (On Road)
1 : 400



2 East Elevation (R1-R5 Elevation) (Behind Fence)
1 : 400



3 East Elevation (R8-R9 Elevation) (Behind Fence)
1 : 400



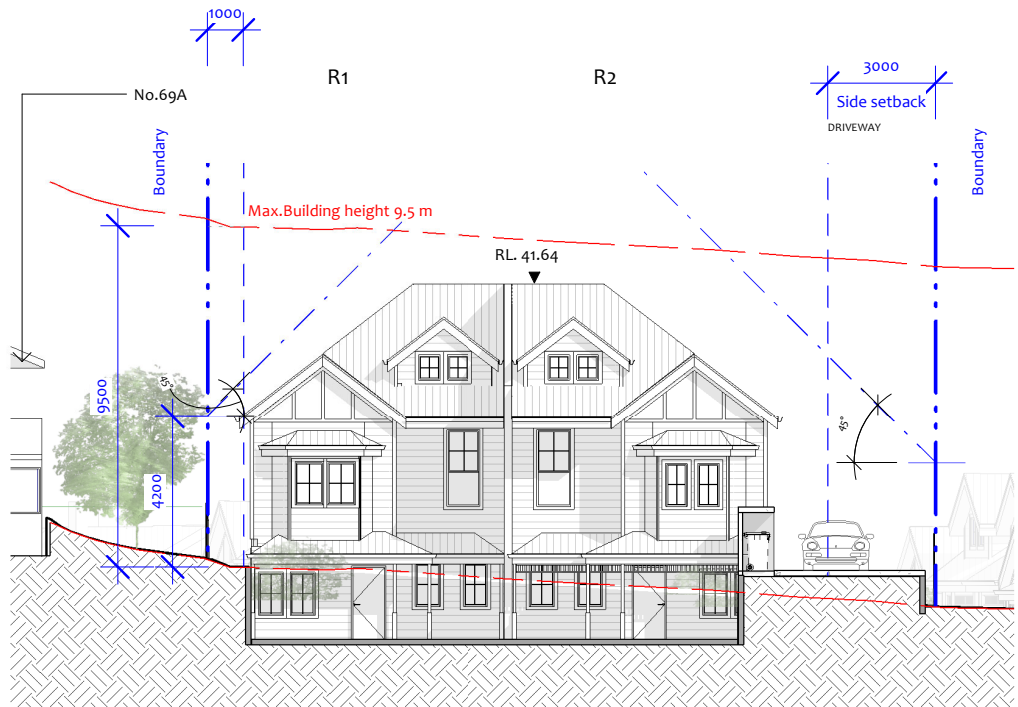
5 Site West Elevation (Behind Fence)
1 : 400

DESIGN INTENT DRAWINGS
NOT FOR CONSTRUCTION

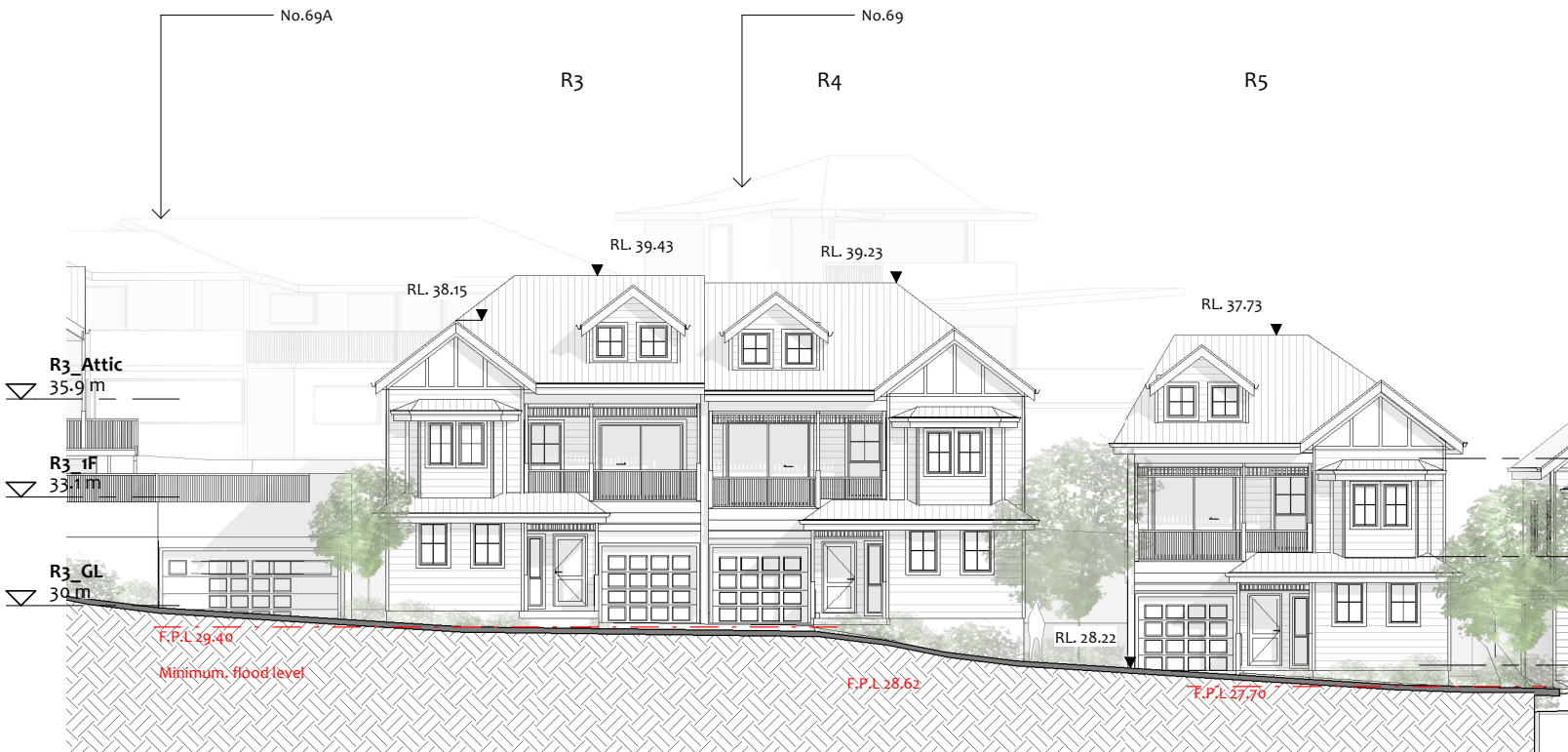
<p>Disclaimer:</p> <p>Information shown on this drawing should be read in conjunction with the specification and BASIX certificate where applicable. Comply with relevant authorities requirement. Comply with Building Code of Australia requirements. Comply with relevant Australian Standards for materials and construction practice. All drawn information should be sufficient for a reasonably competent and experienced builder to understand the design intent. Should this be not the case, the Client should be informed immediately for clarification. Some elements shown in this drawing may be subject to further advice from consultants/sub-consultants other than the architect. It is the responsibility of the consultants/sub-consultants/builder, and not the architect, to ensure that the design intent is met satisfactorily.</p>	<p>Check all dimensions, site conditions and RL's against survey prior to commencement of any work, the purchase or ordering of any materials, fittings, plant, services or equipment and the preparation of shop drawings and the fabrication of any components. Do not scale drawings - Any discrepancies discovered shall immediately be referred to the Client for clarification. Copyright remains with the JKMarchitects. The Client is licensed to use the documents and drawings to produce the project and site for which they were intended, provided that the JKMarchitects has completed the extent of works for which they were commissioned, and all fees due to the JKMarchitects has been paid.</p>	<p>Legend</p>	<table><tr><th>Revision</th><th>Date</th><th>Description</th></tr><tr><td>A</td><td>09/09/2025</td><td>For Coordination</td></tr><tr><td>B</td><td>16/10/2025</td><td>For Coordination</td></tr><tr><td>C</td><td>27/10/2025</td><td>Development Application</td></tr><tr><td>D</td><td>02/04/2026</td><td>Response to Council RFI</td></tr></table>	Revision	Date	Description	A	09/09/2025	For Coordination	B	16/10/2025	For Coordination	C	27/10/2025	Development Application	D	02/04/2026	Response to Council RFI	<p>Architect</p> <div></div> <p>JKMarchitects Pty Ltd Suite 3.14 / 55 Miller Street, Pyrmont, NSW 2009. ABN 98 651 373 483</p> <p>Nominated Architect Tai Kei Keith Ma NSW 9247</p>	<p>Client.</p> <p>OSC Property Group Pty Ltd</p>	<p>Project Name.</p> <p>Mona Vale Townhouse</p> <p>Project Address</p> <p>67 Elimatta Road & 19A Rowan Street, Mona Vale NSW 2130</p>	<p>Project No.</p> <p>2512</p> <p>Sheet Name</p> <p>Site Elevations _with fence</p> <p>Drawing no.</p> <p>DA03.11</p>	<p>Status</p> <p>Development Application</p> <p>Scale</p> <p>1: 400 @ A3</p> <div></div> <p>Revision</p> <p>D</p>
			Revision	Date	Description																		
			A	09/09/2025	For Coordination																		
			B	16/10/2025	For Coordination																		
			C	27/10/2025	Development Application																		
D	02/04/2026	Response to Council RFI																					



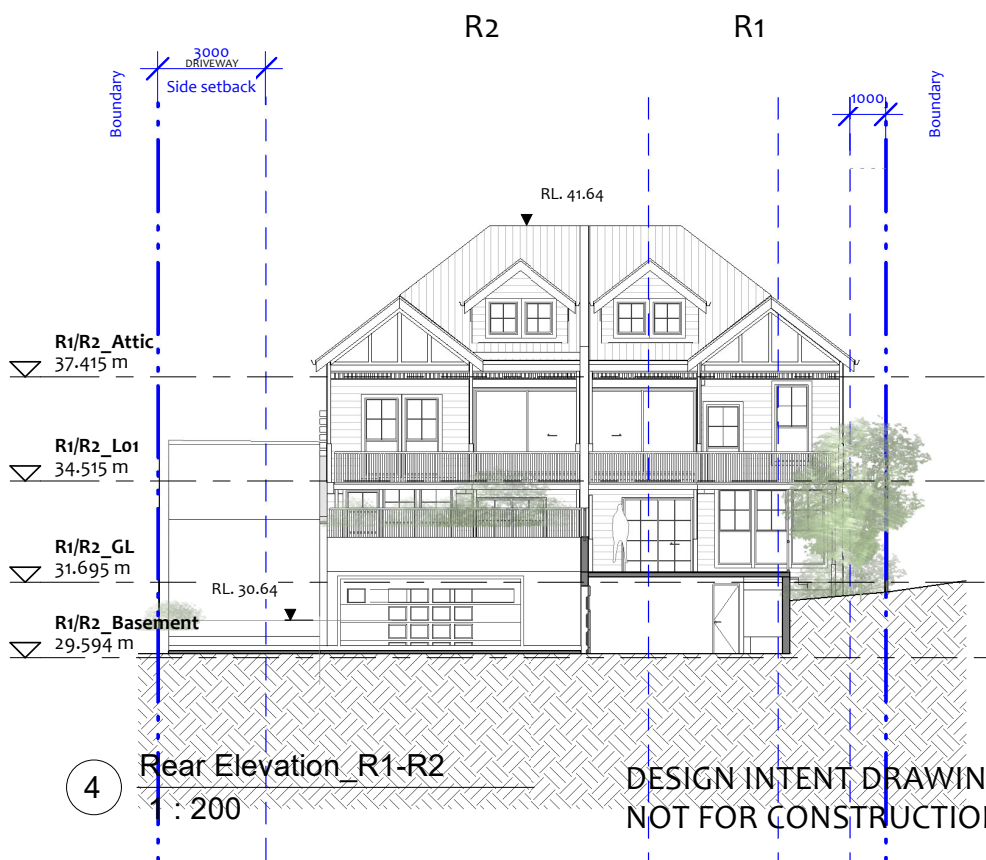
3 Rear Elevation_R3-R5
1 : 200



1 Front Elevation_R1-R2
1 : 200



2 Front Elevation_R3-R5
1 : 200



4 Rear Elevation_R1-R2
1 : 200

DESIGN INTENT DRAWINGS
NOT FOR CONSTRUCTION

Disclaimer:
Information shown on this drawing should be read in conjunction with the specification and BASIX certificate where applicable. Comply with relevant authorities requirement. Comply with Building Code of Australia requirements. Comply with relevant Australian Standards for materials and construction practice. All drawn information should be sufficient for a reasonably competent and experienced builder to understand the design intent. Should this be not the case, the Client should be informed immediately for clarification. Some elements shown in this drawing may be subject to further advice from consultants/sub-consultants other than the architect. It is the responsibility of the consultants/sub-consultants/builder, and not the architect, to ensure that the design intent is met satisfactorily.

Check all dimensions, site conditions and RL's against survey prior to commencement of any work, the purchase or ordering of any materials, fittings, plant, services or equipment and the preparation of shop drawings and or the fabrication of any components. Do not scale drawings - Any discrepancies discovered shall immediately be referred to the Client for clarification. Copyright remains with the JKM Architects. The Client is licensed to use the documents and drawings to produce the project and site for which they were intended, provided that the JKM Architects has completed the extent of works for which they were commissioned, and all fees due to the JKM Architects has been paid.

Legend

Revision	Date	Description
A	09/09/2025	For Coordination
B	16/10/2025	For Coordination
C	27/10/2025	Development Application
D	02/04/2026	Response to Council RF1

Architect
JKM.a

JKM Architects Pty Ltd
Suite 3.14 / 55 Miller Street,
Pyrmont, NSW 2009.
ABN 98 651 373 483
Nominated Architect Tai Kei Keith Ma NSW 9247

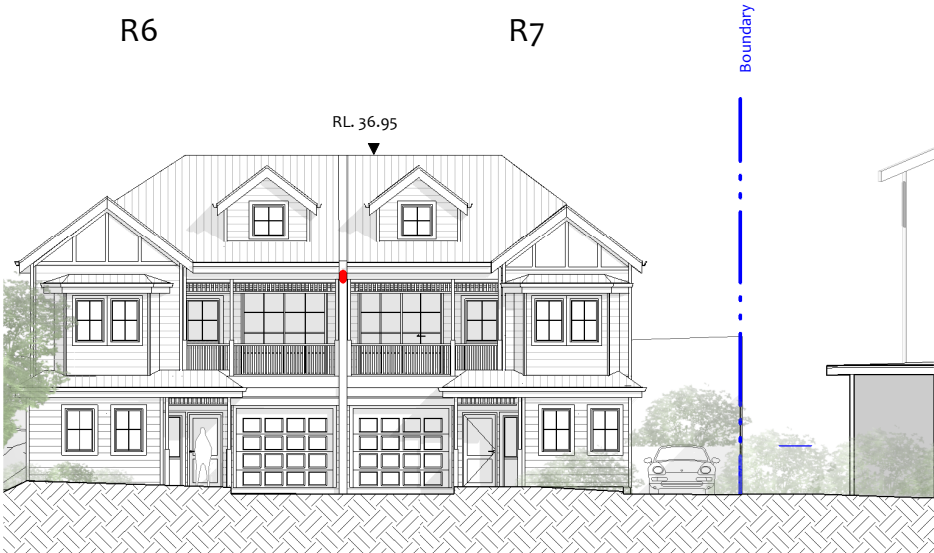
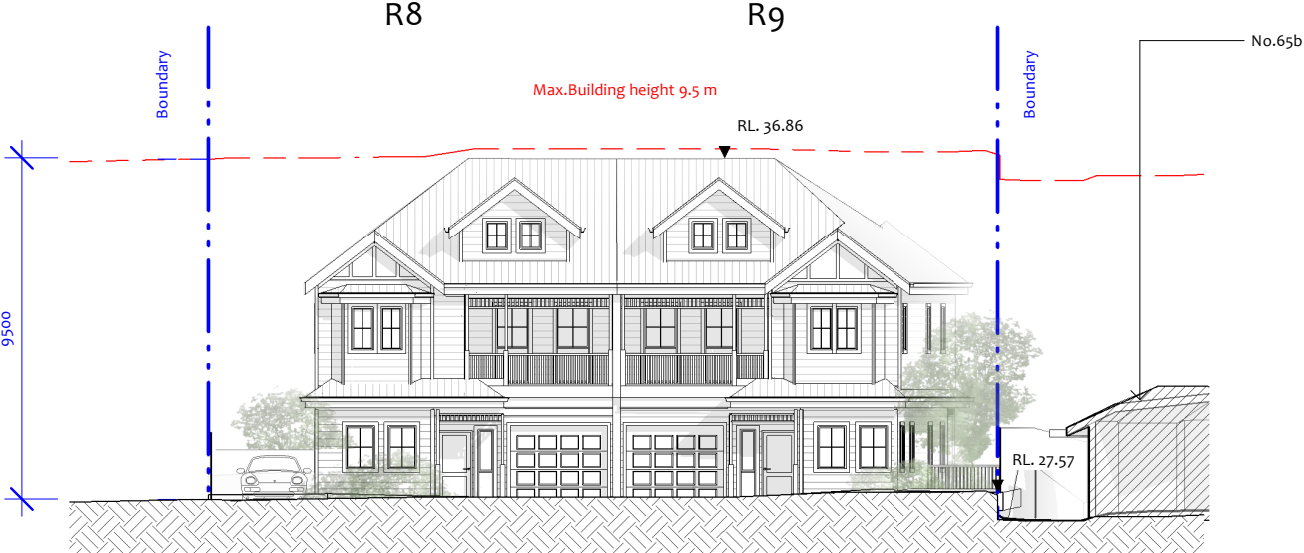
Client.
OSC Property
Group Pty Ltd

Project Name.
Mona Vale Townhouse
Project Address
67 Elimatta Road & 19A
Rowan Street, Mona Vale
NSW 2130

Project No.
2512
Sheet Name
Elevations
Drawing no.
DA03.21

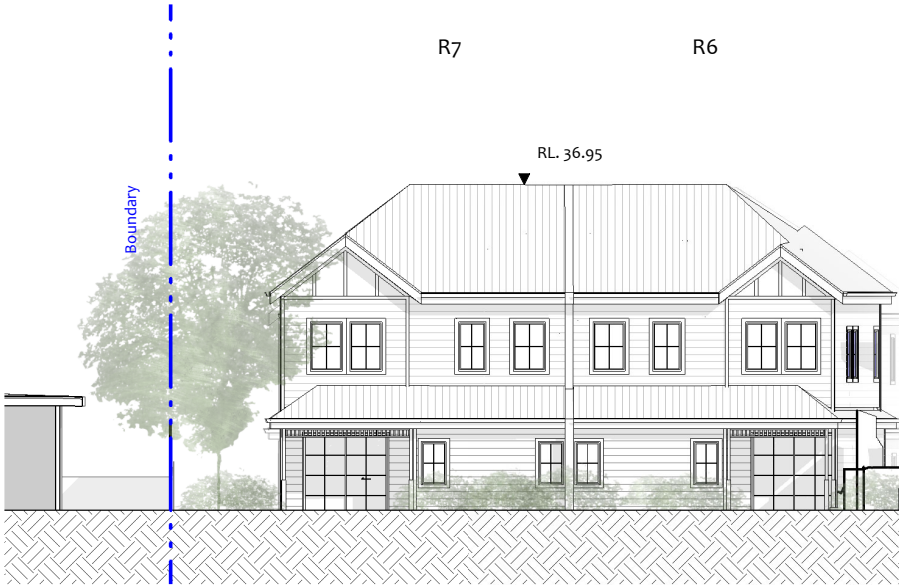
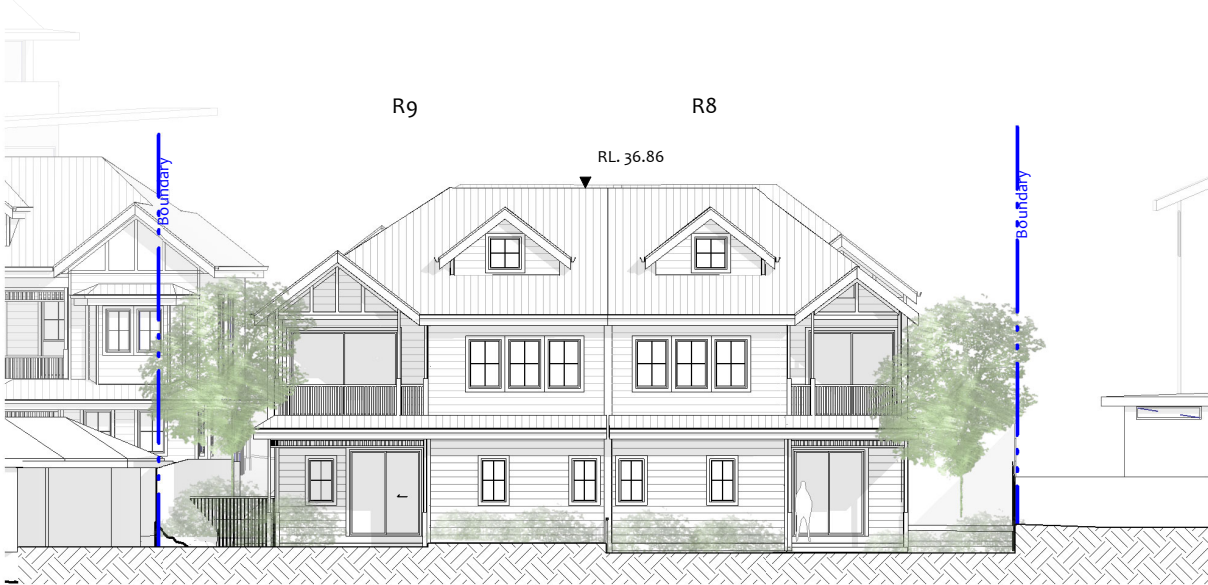
Status
Development Application

Scale
1: 200 @ A3
0 2 4 6 m
Revision
D



3 R6-R7 Front Elevation
1 : 200

1 R8-R9 Front Elevation
1 : 200



4 R6-R7 Rear Elevation
1 : 200

2 R8-R9 Rear Elevation
1 : 200

DESIGN INTENT DRAWINGS
NOT FOR CONSTRUCTION

<p>Disclaimer:</p> <p>Information shown on this drawing should be read in conjunction with the specification and BASIX certificate where applicable. Comply with relevant authorities requirement. Comply with Building Code of Australia requirements. Comply with relevant Australian Standards for materials and construction practice. All drawn information should be sufficient for a reasonably competent and experienced builder to understand the design intent. Should this be not the case, the Client should be informed immediately for clarification. Some elements shown in this drawing may be subject to further advice from consultants/sub-consultants other than the architect. It is the responsibility of the consultants/sub-consultants/builder, and not the architect, to ensure that the design intent is met satisfactorily.</p>	<p>Check all dimensions, site conditions and RL's against survey prior to commencement of any work, the purchase or ordering of any materials, fittings, plant, services or equipment and the preparation of shop drawings and or the fabrication of any components. Do not scale drawings - Any discrepancies discovered shall immediately be referred to the Client for clarification. Copyright remains with the JKMMarchitects. The Client is licensed to use the documents and drawings to produce the project and site for which they were intended, provided that the JKMMarchitects has completed the extent of works for which they were commissioned, and all fees due to the JKMMarchitects has been paid.</p>	<p>Legend</p>	<table><tr><th>Revision</th><th>Date</th><th>Description</th></tr><tr><td>A</td><td>09/09/2025</td><td>For Coordination</td></tr><tr><td>B</td><td>16/10/2025</td><td>For Coordination</td></tr><tr><td>C</td><td>27/10/2025</td><td>Development Application</td></tr><tr><td>D</td><td>02/04/2026</td><td>Response to Council RFI</td></tr></table>	Revision	Date	Description	A	09/09/2025	For Coordination	B	16/10/2025	For Coordination	C	27/10/2025	Development Application	D	02/04/2026	Response to Council RFI	<p>Architect</p> <p>JKM.a</p> <p>JKMarchitects Pty Ltd Suite 3.14 / 55 Miller Street, Pyrmont, NSW 2009. ABN 98 651 373 483</p> <p>Nominated Architect Tai Kei Keith Ma NSW 9247</p>	<p>Client.</p> <p>OSC Property Group Pty Ltd</p>	<p>Project Name.</p> <p>Mona Vale Townhouse</p> <p>Project Address</p> <p>67 Elimatta Road & 19A Rowan Street, Mona Vale NSW 2130</p>	<p>Project No.</p> <p>2512</p> <p>Sheet Name</p> <p>Elevations R6-R9</p> <p>Drawing no.</p> <p>DA03.22</p>	<p>Status</p> <p>Development Application</p> <p>Scale</p> <p>1: 200 @ A3</p> <p>0 2 4 6 m Revision</p> <p> </p>
Revision	Date	Description																					
A	09/09/2025	For Coordination																					
B	16/10/2025	For Coordination																					
C	27/10/2025	Development Application																					
D	02/04/2026	Response to Council RFI																					



DESIGN INTENT DRAWINGS
NOT FOR CONSTRUCTION

<div>Disclaimer: Information shown on this drawing should be read in conjunction with the specification and BASIX certificate where applicable. Comply with relevant authorities requirement. Comply with Building Code of Australia requirements. Comply with relevant Australian Standards for materials and construction practice. All drawn information should be sufficient for a reasonably competent and experienced builder to understand the design intent. Should this be not the case, the Client should be informed immediately for clarification. Some elements shown in this drawing may be subject to further advice from consultants/sub-consultants other than the architect. It is the responsibility of the consultants/sub-consultants/builder, and not the architect, to ensure that the design intent is met satisfactorily.</div>	<div>Check all dimensions, site conditions and RL's against survey prior to commencement of any work, the purchase or ordering of any materials, fittings, plant, services or equipment and the preparation of shop drawings and or the fabrication of any components. Do not scale drawings - Any discrepancies discovered shall immediately be referred to the Client for clarification. Copyright remains with the JKM.a.rchitects. The Client is licensed to use the documents and drawings to produce the project and site for which they were intended, provided that the JKM.a.rchitects has completed the extent of works for which they were commissioned, and all fees due to the JKM.a.rchitects has been paid.</div>	<div>Legend</div> <div></div>	<div>Revision A Date 27/10/2025 Description Development Application</div>	<div>Architect JKM.a JKM.a.rchitects Pty Ltd Suite 3.14 / 55 Miller Street, Pyrmont, NSW 2009. ABN 98 651 373 483 Nominated Architect Tai Kei Keith Ma NSW 9247</div>	<div>Client. OSC Property Group Pty Ltd</div>	<div>Project Name. Mona Vale Townhouse</div>	<div>Project No. 2512</div>	<div>Status Development Application</div>
			<div>Project Address 67 Elimatta Road & 19A Rowan Street, Mona Vale NSW 2130</div>	<div>Sheet Name Strata Subdivision Plan</div>	<div>Scale 1: 400 @ A3</div>			
			<div>Drawing no. DA05.70</div>	<div>0 4 8 12 m Revision A</div>				



Design + Sustainability Advisory Panel Meeting Report – Date 28th May 2026

Item 4 - DA2025 1653 – 19A Rowan Street & 67 Elimatta Road, MONA VALE

General

Site is zoned R2 and is situated within the LMR area in relation to Mona Vale Town Centre and SEPP (Housing) 2021. Proposal seeks to consolidate two blocks adjoining Rowan St and Elimatta Rd across a deep block. A central driveway gives address to nine (9) townhouses.

Strategic context, urban context: surrounding area character

Adjacent development consists of dwelling house and dual occupancy development, often accessed via 'battle axe' driveway arrangement. In this respect, the alignment of two blocks to form a continuous connection, serves to provide superior address to the proposed dwellings.

Scale, built form and articulation

The Panel is generally supportive of the scale of built form.

The proposal demonstrates a fairly considered arrangement of semi-detached and detached dwellings arranged around a new, central access way.

The proposal is of an appropriate height, notwithstanding some suggested changes to roof form herewith.

The site topography rises towards the South and is steeper towards the South of the site. The proposal, sensibly, locates garage entry from the central access way and pedestrian address to Elimatta Road, however, the particular response results in a large amount of subterranean development and a significant level change from the street to the dwelling entries. The Panel commented that a reduction on the internal accommodation of dwellings R1 and R2 may result in a more comfortable arrangement of space, oriented North and having a closer to grade street address from Elimatta Rd.

Recommendations

1. Reduce internal floor space to R1 and R2, orienting habitable spaces to north and establishing more level pedestrian entry via Elimatta Road.



Access, vehicular movement and car parking

Dwellings R3 through R9 gain pedestrian access via a vehicular access way spanning from Elimatta Road to Rowan Street. Each dwelling has individual garage accessed via the vehicular access way.

The Panel considers that due to the address to some dwellings being located a significant distance from public domain, that the new access way should:

- Cater for various modes of transport including dignified pedestrian access (see Landscaping comments).

Recommendations

2. Ensure dignified pedestrian-prioritised address and thoroughfare.
3. Establish high quality, sensitive landscape design to encourage slow traffic movements and prioritised pedestrian thoroughfare to improve quality and passive safety of residential address.

Landscape

The Landscape Plans indicate that twelve medium sized specimen trees are proposed to be planted over the site, with two in the frontage to the dwellings facing Elimatta Road. Based on the site size of 2344m², twelve medium sized trees are required under both the SEPP and Council controls. The proposal therefore complies.

Many proposed units have very small areas of open space. Outdoor settings and amenity need to be indicated on the landscape plan to demonstrate they can be utilised.

Small yards should be largely paving and soft landscape, not turf. Such spaces are inevitably paved for all weather use as this will be the likely outcome over time and such small pocket lawns should not be calculated into deep soil calculations.

The yards are all enclosed by 1.8m high privacy courtyard fences, plus they will be partially covered by the above balconies at some locations making them feel very enclosed small spaces.

The access driveways will be used by both vehicles and pedestrians alike with potential conflicts. Likewise; the limited space means unit front doors will open onto these common spaces and there is minimal opportunity to provide landscape buffers.

The panel recommends using Woonerf techniques, whereby the driveway is transformed to a social space where pedestrians are encouraged to make use of the entire roadway, move freely from one point to another and participate in recreational activities.

A Woonerf-designed street creates no division between vehicles and people. Hence, it is referred to as a “shared space” that is open for cars but is also catered to giving citizens a pedestrian-friendly and welcoming environment.

One necessary feature of Woonerf is landscaping. Through community gardens, plant boxes and thriving city trees, people have a better experience due to the calming and inviting natural elements that create a more pleasant ambience, encourage pedestrian interaction, and prioritize the well-being of individuals over vehicular traffic.

Selection of more detailed paving e.g. Unit pavers; calming humps and chicanes and other measures should replace the plain concrete driveway proposed.



Recommendations

4. Indicate adequate hardstand spaces and furnishings within outdoor terraces to demonstrate overall compliance and amenity.
5. Incorporate considered Woonerf street principles into access driveway to make street like space.
6. Incorporate more intricate paving materials and calming devices.

Amenity

Proposal offers generally acceptable levels of solar access, privacy and daylight to dwellings.

In the case of dwellings R3 through R7, private open spaces are small and offer little opportunity for outlook and furnishability (see also landscape comments).

R1 and R2 suffer from extent to which spaces are subterranean, including the private open space, which as a result is overlooked, overshadowed and has a poor address.

Entry and address off common access ways are relatively clear in dwellings R3 through R9, however, depend on utilising dedicated driveway spaces for pedestrian access and as such creating conflict between pedestrians and vehicles. The Panel considers that landscaping and Architectural elements can work in concert to make pedestrian entry clearer and more dignified.

Recommendations

7. Improve amenity to Private open space by incorporating adequately proportioned hardstand surfaces for furnishing and enjoyment of outdoor areas.
8. Consider ways to improve address to R1 and R2.
9. Reduce extent of subterranean development in R1 and R2, including private open space of these dwellings.
10. Improve clarity of pedestrian address of R3 through R9 incorporating Landscape and Architectural strategies/delineations.

Façade treatment/Aesthetics

Proposed dwelling facades are composed of materials including predominantly weatherboard cladding, aluminium windows and articulated timber trims and details, all in white/pale grey shades, which appear to be characterful and expressive of natural light, however, derive heavily from an imported coastal 'style'. The panel felt that consideration could be given to local character in conjunction with landscape materiality/form.

Consideration should be given to strength and clarity of address to each of the dwellings.

It was also considered that architectural elements such as bay windows could be designed to promote oblique views along the 'street' and thereby enhance passive surveillance as well as providing specific and meaningful Architectural character.

In some cases, such as between R3 and R4, the roof plane steps, creating unnecessary complications in the roof form. Likewise, the misalignment of R1 and R2, results in complicated reading of the buildings.



Prominence and layout of the bin storage areas detract from the quality of the development and the interstitial spaces. Consideration should be given to concealing/securing bins away from common access way so that the entries are welcoming and continuous with adjacent public domain.

Recommendations

11. Ensure specified materials are appropriate to the site conditions and for long term performance.
12. Consider how proposal may respond more directly to local character and materiality.
13. Consider implementing bay window elements promoting passive surveillance along axis of common access way.
14. Resolve complicated geometry of junctions between R1 and R2 as well as R3 and R4.
15. Provide designated, concealed bin storage areas.

Sustainability

The site orientation is difficult, but the passive design responds well to the constraints – the windows are of reasonable proportion, and northern orientation has been maximised where possible. R7 and R8 could potentially have more northern windows on the ground floor.

The detailed design of the construction for the attic rooms needs to be carefully considered. The walls of these spaces need to be treated as ceilings in terms of the amount of insulation required to mitigate heat gain and prevent the rooms from becoming saunas.

Electrify the services by replacing the hot water with heat pumps and providing induction cooktops. There is space around each dwelling to allow for a heat pump to be accommodated for each dwelling.

Provide solar panels to each home. A recent national study has shown solar can increase property prices by 2.6% on average, so there is good rationale both financially and environmentally to include solar.

Recommendations

16. Clean Energy
 - Use all-electric systems (avoid gas for cooking, heating, and hot water). Consider heat pumps for the hot water provision and induction cooktops.
 - Install rooftop solar panels to each home.
 - Hot water storage is a de facto battery if heated by PVs during the day.
17. Passive Design:
 - Improve the amenity of R7 and R8 by increasing northern windows and ensure good solar access to all other units.
18. EV Charging
 - Consider how EV charging will be provisioned to meet the Council requirements.
19. Embodied Carbon Reduction



The project is commended for using timber framing as a lower embodied carbon material.

Use lightweight materials instead of concrete wherever possible.

Reuse and/or recycle materials from any demolished buildings (e.g. masonry, timber, fittings, equipment).

Use fewer materials where possible (e.g. exposed concrete floors, reduced tiling).

Design for durability and adaptability over time, accounting for different systems and services.

Preference low-carbon or renewable materials (e.g. timber, recycled steel, low-carbon concrete).

PANEL CONCLUSION

The proposal represents a clever site-specific approach to increasing density of the subject land. Subject to adoption of the recommendations herewith, some which require redesign of built form and landscape elements, has the support of the Panel.

ITEM 4.2 DA2026/0418 - 580 BARRENJOEY ROAD AVALON BEACH - DEMOLITION WORKS AND CONSTRUCTION OF A DUAL OCCUPANCY (ATTACHED), INCLUDING 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

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2026/0418 for Demolition works and construction of a dual occupancy (attached), including strata subdivision at Lot 8 DP 20984, 580 Barrenjoey Road AVALON BEACHS for the reasons for refusal set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	1. Assessment Report [4.2.1 - 26 pages]
	2. Site Plans & Elevations [4.2.2 - 6 pages]
	3. Clause 4.6 [4.2.3 - 9 pages]

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2026/0418
----------------------------	-------------

Responsible Officer:	Anais Sarkissian
Land to be developed (Address):	Lot 8 DP 20984, 580 Barrenjoey Road AVALON BEACH NSW 2107
Proposed Development:	Demolition works and construction of a dual occupancy (attached), including strata subdivision
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:	Amde Construction Pty Ltd

Application Lodged:	08/04/2026
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	23/04/2026 to 07/05/2026
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and conservation zones: Lot 1: 56.9%; Lot 2: 55.9%
Recommendation:	Refusal

Estimated Cost of Works:	\$ 2,018,900.00
---------------------------------	-----------------

EXECUTIVE SUMMARY

This development application seeks consent for demolition of existing structures and construction of a two-storey attached dual occupancy development with strata subdivision.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the subdivision proposing a greater than 10% variation to the minimum subdivision lot size for strata plan schemes under

Clause 4.2A of the *Pittwater Local Environmental Plan 2014* (PLEP). Proposed Lots 1 and 2 have areas of 302m² and 309m² respectively, presenting variations of 56.9% and 55.9% to the minimum lot size of 700m². The application is accompanied by a Clause 4.6 written variation request. The proposed subdivision has been justified within the Clause 4.6 variation request on the basis that the proposed dual occupancy development is a permissible use on the land, complies with the minimum lot size of 800m² for dual occupancies under clause 4.1B, and the land will not be fragmented as a result of the strata subdivision.

The application was notified in accordance with the Northern Beaches Community Participation Plan (CPP) for 14 days. One submission was received in relation to the application concerning stormwater drainage and runoff.

The dual occupancy development proposes to discharge its stormwater into Council's stormwater pipe within the existing drainage reserve adjoining the site to the north via a new surface grated pit. However, it has been established that the drainage reserve land to which the stormwater pipe exists is not owned or vested in Council, but rather is owned by a private entity that has since passed away and not transferred the subject land to Council or any subsequent person. Owners consent to obtain a drainage easement for the proposed stormwater disposal system has therefore not been provided. As such, Council cannot be satisfied that stormwater drainage can be made available or connected in accordance with the preconditions of Clause 7.10 of the PLEP until the recommended investigations and searches have been completed and the necessary owner's consent is obtained or the transfer of land to Council is finalised.

Therefore this report concludes with a recommendation that the NBLPP refuse the development application.

PROPOSED DEVELOPMENT IN DETAIL

This development application is for demolition of the existing dwelling house, garage, shed and driveway, and construction of a two-storey attached dual occupancy development, including two-lot strata subdivision.

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
 Pittwater Local Environmental Plan 2014 - 5.21 Flood planning
 Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils
 Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
 Pittwater Local Environmental Plan 2014 - 7.10 Essential services
 Pittwater 21 Development Control Plan - B5.15 Stormwater
 Pittwater 21 Development Control Plan - C1.4 Solar Access
 Pittwater 21 Development Control Plan - C1.8 Dual Occupancy Specific Controls
 Pittwater 21 Development Control Plan - D1.5 Building colours and materials
 Pittwater 21 Development Control Plan - D1.8 Front building line

SITE DESCRIPTION

Property Description:	Lot 8 DP 20984 , 580 Barrenjoey Road AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Barrenjoey Road.</p> <p>The site is regular in shape with a frontage of 23.47 metres along Barrenjoey Road and a depth of 38.27 metres. The site has a surveyed area of 825.3m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a single storey dwelling house with attached single garage and detached metal shed.</p> <p>The site is relatively flat, with an approximately 1 metres drop from street level.</p> <p>The site contains expansive lawn areas, with some trees at the front and rear.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by 1-2 storey dwelling houses, varying in architectural style and design. Adjoining the site to the north is a parcel of land resembling a drainage reserve, but is privately owned. Directly in front of the site is a bus stop and associated shelter.</p>

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:

N0029/11

Development Application for secondary dwelling.
Approved 1 April 2011

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)	<p>Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters are capable of being addressed via a condition of consent.</p> <p>Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested on 1 June 2026 in relation to stormwater design, strata subdivision and overshadowing.</p> <p>Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter is capable of being addressed via a condition of consent.</p> <p>Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter is capable of being addressed via a condition of consent.</p> <p>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 is capable of being addressed via a condition of consent.</p>
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	<p>(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.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 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	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: 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 23/04/2026 to 07/05/2026 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	Address:
Mr Richard Edwin Barnard	44 Elaine Avenue AVALON BEACH NSW 2107

The issues raised within the submission are summarised and addressed as follows:

- **Flooding and stormwater runoff**

The submission raised concerns that the increased hard surfaces as a result of the proposed development will create considerable additional stormwater runoff that will flow either directly onto the neighbouring property to the east or into Careel Creek where it will serve to worsen an already serious problem.

Comment:

The proposed development is recommended for refusal on the grounds of insufficient stormwater management.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>Conditions recommended</p> <p>Landscape Referral raise no objections to the proposed development as described in reports and as illustrated on plans for: demolition works, the construction of a dual occupancy (attached) and associated works.</p> <p>The proposed development works do not require the removal of any prescribed trees within the property. All existing trees within adjoining properties and within the road reserve verge shall be protected and conditions shall be imposed.</p> <p>A Landscape Plan is submitted, and no concerns are raised with the landscape setting outcomes, subject to an additional canopy tree within the front central landscape area under the control requirement of C1.1 Landscaping, to soften the built form.</p>
NECC (Bushland and Biodiversity)	<p>Conditions recommended</p> <p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> • Pittwater DCP – Clause B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land <p>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.</p> <p>No objections in relation to biodiversity, subject to conditions.</p>
NECC (Coast and Catchments)	<p>No conditions required</p> <p>The property is not located within the Coastal Zone. An assessment of coastal processes and hazards is not required for the proposed works.</p>

Internal Referral Body	Comments
NECC (Development Engineering)	<p>Conditions recommended</p> <p>29/05/2026</p> <p><u>Council's Development Engineer requests additional information regarding the stormwater design.</u></p> <p>This proposal is for demolition works and construction of a dual occupancy (attached).</p> <p>Stormwater</p> <p>The site is located within flood affected zones.</p> <p><u>Council's Development Engineer requests additional information regarding the stormwater design as detailed below.</u></p> <ul style="list-style-type: none"> • The drainage reserve where the stormwater runoff from the subject site is to be disposed of to is owned by a private person. The applicant shall approach the private person to obtain a drainage easement for the proposed stormwater disposal system. • Any existing stormwater connection to the drainage reserve shall be investigated by a licensed plumber and shown on the stormwater plans. Any upgrade/replacement of the existing stormwater connection shall be shown on the stormwater plans. • Analysis shall be submitted to demonstrate that the drainage reserve can accommodate the additional flows from the subject site. <p>Site Access and Parking</p> <p>The proposed site access and parking are generally satisfactory subject to conditions.</p>

Internal Referral Body	Comments
NECC (Flooding)	<p>Conditions recommended</p> <p>The proposal is for the demolition of an existing dwelling and the construction of an attached, two-storey dual-occupancy including enclosed garages. The proposal is within a flood storage precinct with a floodway crossing the north-eastern corner of the site. Flood-free evacuation in a PMF event is not available, therefore a shelter-in-place refuge is required.</p> <p>The proposed dwellings do not infringe upon the floodway, and are to be set on raised footings as to not take up flood storage on the site. Subject to the following conditions, the proposal generally complies with Section B3.11 of the Pittwater DCP and Clause 5.21 of the Pittwater LEP.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Conditions recommended</p> <p>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.</p>
Roads and Maritime Service - Roads Act 1993, s138 (Non-integrated)	<p>Concurrence provided, subject to conditions</p> <p>The proposal was referred to Transport for NSW who provided a response stating that they provide concurrence to the proposed civil works on Barrenjoey Road, subject to compliance with conditions. These conditions will be included as a condition of consent.</p>

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. 1832760M dated 12 February 2026).

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

A condition can be required necessitating compliance with the commitments indicated in the BASIX Certificate.

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions.

Transport for NSW (TfNSW)

Section 2.119 - Development with frontage to classified road states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Comment:

This development application was referred to Transport for NSW, who provided concurrence to the development application on 11 May 2026, subject to several conditions.

Section 2.120 - Impact of road noise or vibration on non-road development states:

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—

(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,

(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Comment:

This development application is accompanied by a Traffic Noise Assessment, which contains recommendations for the building facade elements to control traffic noise ingress from Barrenjoey Road to within design levels recommended in the guideline and to comply with Clause 2.120. It is therefore satisfied that, subject to adherence with the recommendations, the development will ensure that the above noise levels are not exceeded.

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
Minimum lot sizes for dual occupancies	800m ²	Lot size: 825.3m ²	N/A	Yes
Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones	700m ²	Lot 1: 302m ²	56.9% (398m ²)	No
		Lot 2: 309m ²	55.9% (391m ²)	No
Height of Buildings:	8.5m (8m above FPL)	8.4m (7.2m above FPL)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.1B Minimum lot sizes for dual occupancies	Yes
4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and conservation zones	No
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	No

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: 700m²

Proposed: Lot 1 - 302m²; Lot 2 - 309m²

Percentage of variation: Lot 1 - 56.9%; Lot 2 - 55.9%

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:

- The proposal achieves the objective of the development standard, notwithstanding the numerical non-compliance, which is to ensure that land is not fragmented by subdivisions that would create additional dwelling entitlements.
- The proposed development of 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.
- Attached dual occupancies are a permissible land use in the R2 Low Density Residential zone.
- The proposed site meets the minimum lot size of 800m² for dual occupancies, which does not marry with the minimum subdivision lot size of 700m².

(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 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 involves the strata subdivision of a proposed attached dual occupancy which is a permissible development in the R2 Zone satisfying the requirements of Clause 4.1B.
- The proposed dual occupancy (attached) has been sensitively designed to achieve full compliance with relevant built form controls including the prescribed building height, setbacks, landscape area and side boundary envelope controls to ensure there will be no detrimental impacts to privacy, views, or solar access.
- 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 allotment. The creation of separate titles within an existing allotment in this regard does not alter the existing pattern of subdivision in the area.
- 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 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.

It is agreed that attached dual occupancy developments are permissible in the zone and the land meets the minimum lot size for dual occupancy development under clause 4.1B, with the proposed strata subdivision not fragmenting the land to create additional dwelling entitlements, or altering the existing pattern of subdivision in the area.

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.2A 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(g), (j) and (k) 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, that the proposed dual occupancy development is a permissible use on land that complies with the minimum lot size for dual occupancies and that the land will not be fragmented as a result of strata subdivision, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

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:

The proposed dwellings do not infringe upon the floodway, and are to be set on raised footings as to not take up flood storage on the site. Shelter-in-place refuge is required. The proposal is supported by Council's Flood Engineer, subject to recommended conditions.

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:

The proposed dwellings do not infringe upon the floodway, and are to be set on raised footings as to not take

up flood storage on the site. Shelter-in-place refuge is required. The proposal is supported by Council's Flood Engineer, subject to recommended conditions.

7.1 Acid sulfate soils

Clause 7.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map.

Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land is required to be assessed to determine if any impact will occur.

The proposed works are within 500m of adjacent Class 4 land and are below 5m AHD; however, the proposed dwellings are proposed to be constructed on footings and therefore significant excavation is not required, and as such, the watertable is unlikely to be lowered below 1m AHD. Thus, a Preliminary Acid Sulfate Soil Assessment is not required in this instance

7.2 Earthworks

The objective of Clause 7.2 - 'Earthworks' requires development 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.

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

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

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

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

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

Comment: The excavated material will be processed according to the Waste Management Plan for the development.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development.

(f) the likelihood of disturbing relics

Comment: The subject site does not contain any known relics.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment: Subject to conditions, the proposed development will minimise the impacts of the development.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

7.10 Essential services

Under this clause, 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:

The submitted Stormwater Management Plan proposes to discharge into Council's stormwater pipe within the existing drainage reserve adjoining the site to the north via a new surface grated pit (SW01, Revision A, dated 23 March 2026, prepared by Nastasi Consulting Group Pty Ltd). However, it has been established that the land to which the stormwater pipe exists is not owned or vested in Council, but rather is owned by a private

entity that has since passed away and not transferred the subject land to Council or any subsequent person. Owners consent to obtain a drainage easement for the proposed stormwater disposal system has therefore not been provided.

As such, Council cannot be satisfied that stormwater drainage can be made available or connected in accordance with clause 7.10 until the necessary owner's consent is obtained or the transfer of land to Council is finalised, as such this is a reason for refusal.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	10m	9.0m (stairs) 10m (porch)	10% (1.0m)	No
Rear building line	6.5m	6.6m	N/A	Yes
Side building line	South - 2.5m	3.2m	N/A	Yes
	North - 1.0m	3.5m	N/A	Yes
Building envelope	South - 3.5m	Within envelope	N/A	Yes
	North - 3.5m	Within envelope	N/A	Yes
Landscaped area	50% (412.7m ²)	50.7% (418.6m ²)	N/A	Yes
Floor space ratio	0.4:1 (330.12m ²)	0.42:1 (345.6m ²)	4.7% (15.48m ²)	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.15 Stormwater	No	No
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.8 Dual Occupancy Specific Controls	No	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	No	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	Yes	Yes
D1.13 Landscaped Area - General	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

B5.15 Stormwater

The Pittwater 21 DCP refers to and is supported by Council's Water Management for Development Policy. Section 5.5 of Council's Water Management for Development Policy aims to:

- *Manage overland flow, nuisance flooding and groundwater related damage caused by low level properties to adjacent downstream properties during storm events*
- *Manage the impact of stormwater runoff on Council's stormwater drainage infrastructure as a result of any development on a low level property and ensure low level properties drain to their natural downstream catchment*
- *Provide guidance for applicants with a property that naturally falls away from the street, for an appropriate drainage system and lawful point of discharge acceptable to Council.*

Section 5.5.1.3 applies to dual occupancy developments and requires stormwater disposal via a gravity fed pipeline where properties fall naturally away from the street. An easement to drain stormwater to Council's drainage infrastructure through the downstream property is required. Section 5.5.1.3 also provides that an application under Section 88K of the Conveyancing Act 1919 can be made to allow the Court to consider making an order to impose an easement over land if the easement is reasonably necessary for the effective use or development of other land that will have the benefit of the easement. However, where the above cannot be achieved, the development application will not be supported.

Council is unable to support a deferred commencement condition requiring the creation of a drainage easement in this instance due to the uncertainty regarding land ownership and the resulting inability to satisfy clause 7.10 of *Pittwater Local Environmental Plan 2014*.

Documentation and/or analysis has not been submitted to demonstrate that the drainage reserve can accommodate the additional flows from the subject site. Council is not satisfied that the proposed

stormwater design will provide appropriate drainage for the site, avoid adverse impacts of stormwater runoff on adjoining properties, or will appropriately protect downstream properties from stormwater inundation, thereby being inconsistent with Section 5.5 of Council's Water Management for Development Policy and failing to satisfy Section B5.15 of the Pittwater 21 Development Control Plan.

C1.4 Solar Access

Control:

Pursuant to Section C1.4 of the Pittwater 21 Development Control Plan, the main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st. Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).

Comment:

The outcomes of the control are:

- *Residential development is sited and designed to maximise solar access during mid-winter.*
- *A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development.*
- *Reduce usage and/dependence for artificial lighting.*

The submitted shadow diagrams demonstrate that the main private open space of the proposed dwellings and the adjoining dwelling at 578 Barrenjoey Road will receive at least 3 hours of solar access in mid-Winter between 9am and 12pm.

The living room, dining room and kitchen of the adjoining property are located at the southern half of the dwelling, and therefore the proposal will not materially affect solar access to these areas during mid-Winter.

It is also important to note that the proposal is compliant with the required building setback and envelope to the south.

As such, the proposal will maintain a reasonable level of solar access to existing residential properties, and skylights have been incorporated within the proposed development to reduce the dependence on artificial lighting.

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

C1.8 Dual Occupancy Specific Controls

Description of non-compliance

Pursuant to C1.8 of the Pittwater 21 Development Control Plan, dual occupancies shall have a maximum floor space ratio of 0.4:1, equating to a gross floor area of 330.12m².

The proposed dual occupancy development has a floor space ratio of 0.42:1 and a gross floor area of 345.6m², presenting a 4.7% (15.48m²) exceedance of the applicable maximum floor space ratio.

Comment

The outcomes of the control are:

- *Limitation of the visual bulk and scale of development.*
- *Provision of design flexibility for second storey development.*
- *Restriction of the footprint of development on site.*
- *Retention of the natural vegetation and facilitation of planting of additional landscaping.*
- *Provision of rental accommodation*

The proposal is largely compliant with the applicable setback controls, maximum building height, building envelope and landscaped area requirements. As such, the proposal does not present a building with excessive visual bulk, scale or development footprint.

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

D1.5 Building colours and materialsMerit assessment

Pursuant to Section D1.5 of the Pittwater 21 Development Control Plan, external building colours and materials shall be dark and earthy tones. White, light coloured, red or orange roofs and walls are not permitted.

The schedule of colours and materials submitted with the application indicates a natural white shade of wall paint at ground floor.

Comment:

The outcomes of the control are:

- *The development enhances the visual quality and identity of the streetscape.*
- *To provide attractive building facades which establish identity and contribute to the streetscape.*
- *To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater.*
- *The colours and materials of the development harmonise with the natural environment.*
- *The visual prominence of the development is minimised.*
- *Damage to existing native vegetation and habitat is minimised.*
- *An informal beachside appearance of the Avalon Beach Village.*

It is important to note that the neighbouring dwellings at 578 and 582 Barrenjoey Road are also painted in a light shade. As such, white or light-coloured dwelling houses are characteristic of the immediate surrounding area. It is also important to note that the white coloured walls are only proposed to the ground floor; the first floor is to be colorbond monument, which is what will be most visible from the streetscape.

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

D1.8 Front building lineDescription of non-compliance

It is important to note that the stairs are a low-lying structure and the remainder of the development and front facade are set back a compliant 10m from the front boundary (refer Figure 1).

The site plan illustrates the proposed building layout and surrounding infrastructure. Key features include:

- Parking Bay:** Located at the top right, with a rainwater tank (RWT) and a note stating "SIZE AND LOCATION OF RAINWATER TANK TO BE CONFIRMED BY HYDRAULIC ENGINEERS".
- Garages:** Two garages are shown, each with a floor level of RL 3.840. They are labeled "UNIT B GROUP" and "UNIT A GROUP".
- Bus Shelter:** Located on the left side of the plan.
- Driveway and Pathways:** A new concrete driveway and a concrete footpath are shown. A brick wall and a timber fence are also indicated.
- Setbacks and Dimensions:** Red lines and text indicate setbacks and dimensions:
 - 10 metres setback from the top boundary.
 - 9 metres setback from the left boundary.
 - 5.5 metres setback from the left boundary.
 - 0.5 metres setback from the left boundary.
 - 2 metres setback from the bottom boundary.
- Elevation Points (RL):** Various points are marked, including RL 3.209, RL 3.197, RL 3.234, RL 4.240, RL 3.290, and RL 3.323.
- Other Features:** A bus shelter, a rainwater tank (RWT), and a note stating "RED DATA INDICATOR OF FIRST FLOOR" are also shown.

- *To achieve the desired future character of the Locality.*
- *The amenity of residential development adjoining a main road is maintained.*
- *Vegetation is retained and enhanced to visually reduce the built form.*
- *Vehicle manoeuvring in a forward direction is facilitated.*

- *To encourage attractive street frontages and improve pedestrian amenity.*
- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

The proposal achieves the desired future character of the Avalon Beach locality by maintaining a two storey built form in a landscaped setting. The proposal allows for vehicle manoeuvring in a forward direction and responds sensitively to the spatial characteristics of the existing urban environment.

The development is consistent with the outcomes 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 \$20,189 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,018,900.

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

PLANNING CONCLUSION

This proposal, for demolition of existing structures and construction of a two-storey attached dual occupancy development with two-lot strata subdivision, has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to the resulting lots presenting variations of greater than 10% to the minimum strata subdivision lot size of 700m² under Clause 4.2A of the PLEP.

The application was notified in accordance with the Northern Beaches Community Participation Plan (CPP) for 14 days. One submission was received in relation to the application concerning stormwater drainage and runoff.

The assessment found that the proposed subdivision is consistent with the existing subdivision pattern of the locality and will not fragment the land.

However, the assessment also found that the adjacent drainage reserve in which the dual occupancy development proposes to discharge stormwater is privately owned by an entity that has since passed away and not transferred the subject land to Council or any subsequent person. Owners consent to obtain a drainage easement for the proposed stormwater disposal system has therefore not been provided, and as such, Council cannot be satisfied that stormwater drainage is available or that adequate arrangements have been made to make such drainage available when required, in accordance with Clause 7.10 of the LEP.

The proposal has therefore been recommended for refusal.

REASON FOR DETERMINATION

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 DA2026/0418 for the Demolition works and construction of a dual occupancy (attached), including strata subdivision on land at Lot 8 DP 20984,580 Barrenjoey Road, AVALON BEACH, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(i) and (iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with clause 7.10 Essential Services of the *Pittwater Local Environmental Plan 2014* and Section B5.15 Stormwater of the Pittwater 21 Development Control Plan.

Particulars:

- i. Clause 7.10 of the PLEP stipulates that development consent must not be granted to development unless the consent authority is satisfied that stormwater drainage is available or that adequate arrangements have been made to make such drainage available when required.
- ii. The Pittwater 21 DCP refers to and is supported by Council's Water Management for Development Policy. Section 5.5 of Council's Water Management for Development Policy aims to:
 - *Manage overland flow, nuisance flooding and groundwater related damage caused by low level properties to adjacent downstream properties during storm events*
 - *Manage the impact of stormwater runoff on Council's stormwater drainage infrastructure as a result of any development on a low level property and ensure low level properties drain to their natural downstream catchment*
 - *Provide guidance for applicants with a property that naturally falls away from the street, for an appropriate drainage system and lawful point of discharge acceptable to Council.*

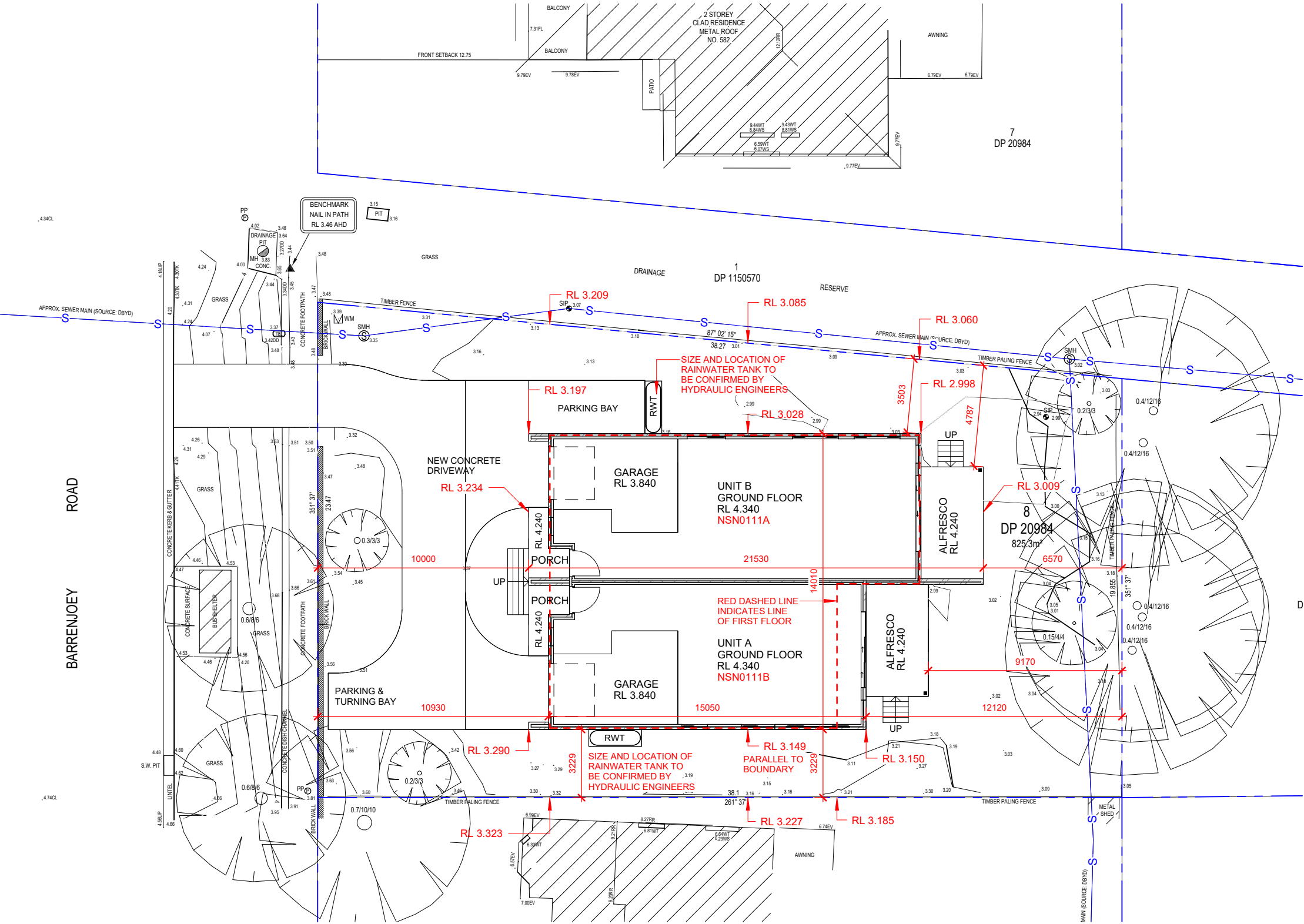
Section 5.5.1.3 applies to dual occupancy developments and requires stormwater disposal via a gravity fed pipeline where properties fall naturally away from the street. An easement to drain stormwater to Council's drainage infrastructure through the downstream property is required. Section 5.5.1.3 also provides that an application under Section 88K of the Conveyancing Act 1919 can be made to allow the Court to consider making an order to impose an easement over land if the easement is reasonably necessary for the effective use or development of other land that will have the benefit of the easement. However, where the above cannot be achieved, the development application will not be supported.

iii. The submitted Stormwater Management Plan proposes to discharge into Council's stormwater pipe within the existing drainage reserve adjoining the site to the north via a new surface grated pit (SW01, Revision A, dated 23 March 2026, prepared by Nastasi Consulting Group Pty Ltd). However, it has been established that the land to which the stormwater pipe exists is not owned or vested in Council, but rather is owned by a private entity that has since passed away and not transferred the subject land to Council or any subsequent person. Owners consent to obtain a drainage easement for the proposed stormwater disposal system has therefore not been provided.

iv. Council is unable to support a deferred commencement condition requiring the creation of a drainage easement in this instance due to the uncertainty regarding land ownership and the resulting inability to satisfy clause 7.10 of the PLEP.

v. Documentation and/or analysis has not been submitted to demonstrate that the drainage reserve can accommodate the additional flows from the subject site. Council is not satisfied that the proposed stormwater design will provide appropriate drainage for the site, avoid adverse impacts of stormwater runoff on adjoining properties, or will appropriately protect downstream properties from stormwater inundation, thereby being inconsistent with Section 5.5 of Council's Water Management for Development Policy and failing to satisfy Section B5.15 of the Pittwater 21 Development Control Plan.

DRAWING REVISION SCHEDULE			
No.	AMENDMENTS	DATE	BY
A	PRELIMINARY ISSUE		DJH
B	DUPLEX REDUCED IN SIZE FOR COMPLIANCE.	06/11/2025	DJH
C	ADDITIONAL REDUCTIONS FOR COMPLIANCE	21/11/2025	DJH
D	CHANGES AS PER EMAIL REC'D 27/11/2025 CONCEPT PLAN - FIRST ISSUE	02/12/2025	DJH
E	DA SET - FIRST ISSUE	19/01/2026	DJH
F	ADDED SKYLIGHT TO UNIT 2 RUMPUS; UNIT 2 GF BATH & FF ENSUITE LAYOUT REVISED	23/01/2026	DJH
G	ADDED ELEVATIONAL SHADOWS; CHANGED NAMING CONVENTION OF UNIT 1 & 2 TO UNIT A & B, ADDED BASIX	12/02/2026	DJH
H	ADJUSTED GARAGE FFL	13/02/2026	DJH
J	UPDATED TO MATCH LATEST SURVEY	19/03/2026	DJH
K	TREE REMOVAL UPDATED ON SITE AND DEMOLITION PLANS.	25/03/2026	DJH
L	CHANGES AS PER ADVICE FROM PLANNERS	01/04/2026	DJH



GROSS FLOOR AREAS (GFA)	
GROSS FLOOR AREA	336.28 m ²
TOTAL GFA:	336.28 m ²

SITE AREA	FSR
825.4 m ²	0.41

SETBACK NOTES:

- FRONT SETBACK IS TO BE AT LEAST: 10m
- SIDE SETBACK IS TO BE AT LEAST: 1.0m TO ONE SIDE 2.5m TO THE OTHER SIDE
- REAR SETBACK IS TO BE AT LEAST: 6.5m

1 SITE PLAN
1 : 200

DA APPLICATION - NOT FOR CONSTRUCTION

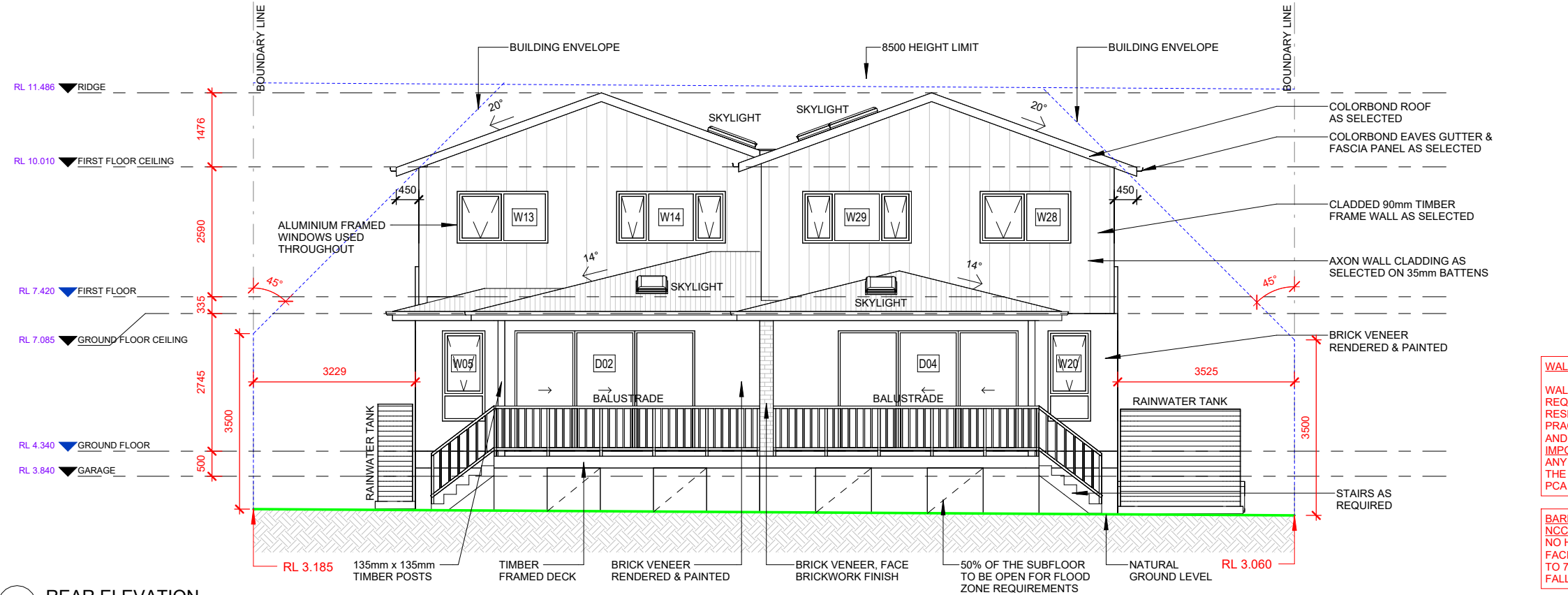
0m 1m 2m 3m 4m 5m 10m
SCALE BAR 1:200

</

REFER TO SPECIFICATION FOR COLOUR SELECTION, FINAL LAYOUT & FINISHES OF BATHROOM AND LAUNDRY

DRAWING REVISION SCHEDULE			
No.	AMENDMENTS	DATE	BY
A	PRELIMINARY ISSUE		DJH
B	DUPLEX REDUCED IN SIZE FOR COMPLIANCE.	06/11/2025	DJH
C	ADDITIONAL REDUCTIONS FOR COMPLIANCE	21/11/2025	DJH
D	CHANGES AS PER EMAIL REC'D 27/11/2025	02/12/2025	DJH
E	CONCEPT PLAN - FIRST ISSUE		
F	DA SET - FIRST ISSUE	19/01/2025	DJH
G	ADDED SKYLIGHT TO UNIT 2 RUMPUS; UNIT 2 GF BATH & FF ENSUITE LAYOUT REVISED	23/01/2025	DJH
H	ADDED ELEVATIONAL SHADOWS, CHANGED NAMING CONVENTION OF UNIT 1 & 2 TO UNIT A & B, ADDED BASIX	12/02/2026	DJH
I	ADJUSTED GARAGE FFL	13/02/2026	DJH
J	UPDATED TO MATCH LATEST SURVEY	19/03/2026	DJH
K	TREE REMOVAL UPDATED ON SITE AND DEMOLITION PLANS.	25/03/2026	DJH
L	CHANGES AS PER ADVICE FROM PLANNERS	01/04/2026	DJH

1 FRONT ELEVATION
1 : 100



2 REAR ELEVATION
1 : 100

DA APPLICATION - NOT FOR CONSTRUCTION



WINDOW SCHEDULE				
MARK	WIDTH	HEIGHT	SILL	HEAD
W01	850	1800	600	2400
W02	1210	600	950	1550
W03	1570	1800	600	2400
W04	3010	600	1800	2400
W05	850	1800	600	2400
W06	850	1370	730	2100
W07	850	1370	730	2100
W08	850	1370	730	2100
W09	2410	600	1500	2100
W10	1810	1030	1070	2100
W11	1570	1030	1070	2100
W12	2170	600	1500	2100
W13	1810	1030	1070	2100
W14	2170	1030	1070	2100
W15	850	1800	600	2400
W16	1810	1030	1370	2400
W17	1210	600	1800	2400
W18	2170	1800	600	2400
W19	2170	1800	600	2400
W20	850	1800	600	2400
W21	850	1370	730	2100
W22	850	1370	730	2100
W23	850	1370	730	2100
W24	2410	600	1500	2100
W25	1810	1030	1070	2100
W26	1810	1030	1070	2100
W27	2170	600	1500	2100
W28	1810	1030	1070	2100
W29	2170	1030	1070	2100
Grand Total: 29				

DOOR SCHEDULE		
MARK	WIDTH	HEAD
D01	1200	2400
D02	3588	2400
D03	1200	2400
D04	3588	2400
D05	820	2400
Grand Total: 5		

WALL & ROOF CLADDING.
WALL AND ROOF CLADDING TO BE COMPLIANT WITH THE REQUIREMENTS OF NCC VOLUME 2 - H1D7 PARTICULARLY WITH RESPECT TO THE REFERENCING ACCEPTABLE CONSTRUCTION PRACTICE AS DETAILED IN THE NCC FOR PRODUCT MATERIALS AND INSTALLATION.
IMPORTANT NOTE:
ANY PROPOSED PRODUCT CHANGES AFTER APPROVAL OF THE CC OR CDC IS TO BE IMMEDIATELY NOTIFIED TO THE PCA FOR CONCURRENCE.

BARRIERS AND HANDRAILS
NCC HOUSING PROVISIONS 11.3.4
NO HORIZONTAL ELEMENTS TO FACILITATE CLIMBING BETWEEN 150mm TO 760mm WHERE IT IS POSSIBLE TO FALL MORE THAN 4 METRES.

WINDOWS
PROVIDE 1.7m SILL HEIGHT OR CHILD SAFE LOCKS / SCREENS TO COMPLY WITH NCC HOUSING PROVISIONS 11.3.7

WATTLE COURT
HOMES BUILT FOR LIFE

CUSTOM DESIGN
COASTAL FACADE
© COPYRIGHT EXCLUSIVE
TO WATTLE COURT HOMES

DRAFTERS:
KJR
UNIT C4 - 3/29 BIRNIE AVENUE
LIDCOMBE NSW 2141
ABN 15 078 937 238
(02) 8883 4344
kjrdrafting@kjr.net.au

CLIENT: PROPOSED DUPLEX
MULLER & HARVEY
DRAWING TITLE:
ELEVATIONS

PROJECT:
**580 BARRENJOEY ROAD
AVALON BEACH NSW 2107**
SCALE: 1 : 100

SHEET SIZE: **A3**

SHEET No: **A07**

REVISION: **L**

DATE: **01/04/2026**

JOB NO: **NSN0111**

DRAWN: **DJH**

APPLICATION: **DA**

WCSN254

IWE HAVE CHECKED THE PLANS AND AGREE THEY ACCURATELY DEPICT THE HOUSE FOR CONSTRUCTION. ANY VARIATIONS REQUESTED AFTER SIGNING WILL INCUR A PROCESSING FEE IN ADDITION TO THE COST OF THE VARIATION ITEMS AND ANY FURTHER PLANS TO BE PREPARED.
OWNER SIGNED: _____ DATE: _____
OWNER SIGNED: _____ DATE: _____
BUILDER SIGNED: _____ DATE: _____

147

REFER TO SPECIFICATION FOR COLOUR
SELECTION, FINAL LAYOUT & FINISHES
OF BATHROOM AND LAUNDRY

DRAWING REVISION SCHEDULE

No.	AMENDMENTS	DATE	BY
A	PRELIMINARY ISSUE		DJH
B	DUPLEX REDUCED IN SIZE FOR COMPLIANCE.	06/11/2025	DJH
C	ADDITIONAL REDUCTIONS FOR COMPLIANCE	21/11/2025	DJH
D	CHANGES AS PER EMAIL REC'D 27/11/2025	02/12/2025	DJH
E	CONCEPT PLAN - FIRST ISSUE		
F	DA SET - FIRST ISSUE	19/01/2025	DJH
G	ADDED SKYLIGHT TO UNIT 2 RUMPUS; UNIT 2 GF BATH & FF ENSUITE LAYOUT REVISED	23/01/2025	DJH
H	ADDED ELEVATIONAL SHADOWS; CHANGED NAMING CONVENTION OF UNIT 1 & 2 TO UNIT A & B, ADDED BASIX	12/02/2026	DJH
I	ADJUSTED GARAGE FFL	13/02/2026	DJH
J	UPDATED TO MATCH LATEST SURVEY	19/03/2026	DJH
K	TREE REMOVAL UPDATED ON SITE AND DEMOLITION PLANS.	25/03/2026	DJH
L	CHANGES AS PER ADVICE FROM PLANNERS	01/04/2026	DJH

WINDOW SCHEDULE				
MARK	WIDTH	HEIGHT	SILL	HEAD
W01	850	1800	600	2400
W02	1210	600	950	1550
W03	1570	1800	600	2400
W04	3010	600	1800	2400
W05	850	1800	600	2400
W06	850	1370	730	2100
W07	850	1370	730	2100
W08	850	1370	730	2100
W09	2410	600	1500	2100
W10	1810	1030	1070	2100
W11	1570	1030	1070	2100
W12	2170	600	1500	2100
W13	1810	1030	1070	2100
W14	2170	1030	1070	2100
W15	850	1800	600	2400
W16	1810	1030	1070	2100
W17	1210	600	1800	2400
W18	2170	1800	600	2400
W19	2170	1800	600	2400
W20	850	1800	600	2400
W21	850	1370	730	2100
W22	850	1370	730	2100
W23	850	1370	730	2100
W24	2410	600	1500	2100
W25	1810	1030	1070	2100
W26	1810	1030	1070	2100
W27	2170	600	1500	2100
W28	1810	1030	1070	2100
W29	2170	1030	1070	2100
Grand Total: 29				

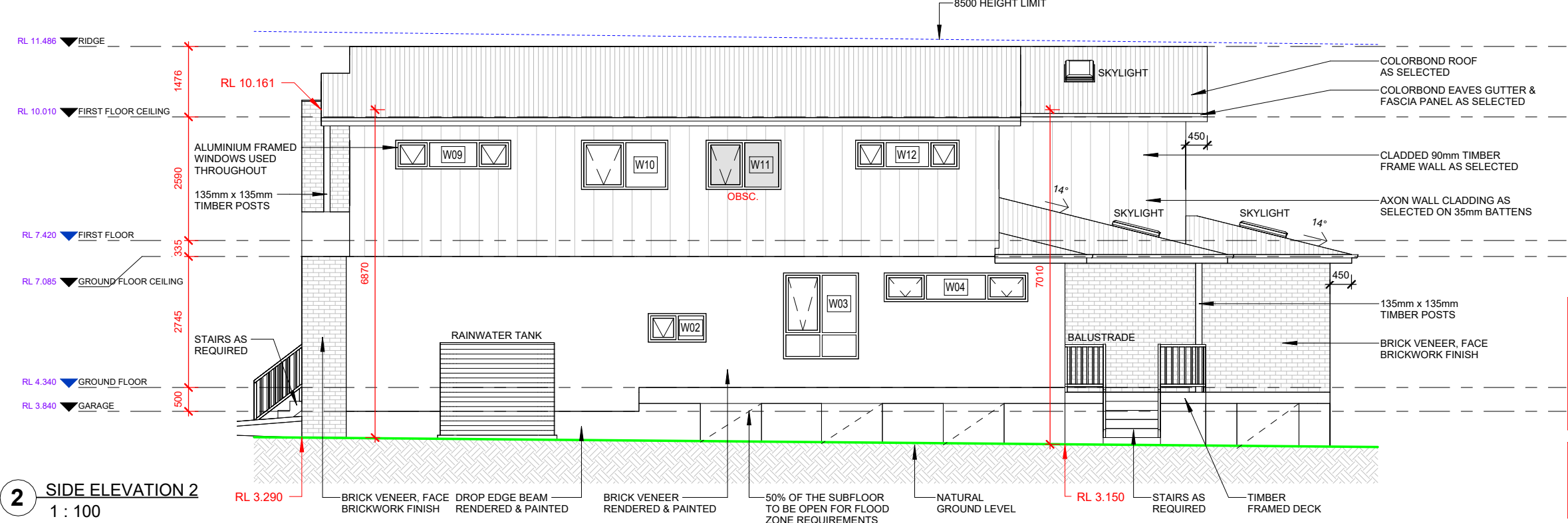
DOOR SCHEDULE		
MARK	WIDTH	HEAD
D01	1200	2400
D02	3588	2400
D03	1200	2400
D04	3588	2400
D05	820	2400
Grand Total: 5		

WALL & ROOF CLADDING.
WALL AND ROOF CLADDING TO BE COMPLIANT WITH THE REQUIREMENTS OF NCC VOLUME 2 - H1D7 PARTICULARLY WITH RESPECT TO THE REFERENCING ACCEPTABLE CONSTRUCTION PRACTICE AS DETAILED IN THE NCC FOR PRODUCT MATERIALS AND INSTALLATION.
IMPORTANT NOTE:
ANY PROPOSED PRODUCT CHANGES AFTER APPROVAL OF THE CC OR CDC IS TO BE IMMEDIATELY NOTIFIED TO THE PCA FOR CONCURRENCE.

BARRIERS AND HANDRAILS
NCC HOUSING PROVISIONS 11.3.4
NO HORIZONTAL ELEMENTS TO FACILITATE CLIMBING BETWEEN 150mm TO 760mm WHERE IT IS POSSIBLE TO FALL MORE THAN 4 METRES.

WINDOWS
PROVIDE 1.7m SILL HEIGHT OR CHILD SAFE LOCKS / SCREENS TO COMPLY WITH NCC HOUSING PROVISIONS 11.3.7

1 SIDE ELEVATION 1
1 : 100



2 SIDE ELEVATION 2
1 : 100

DA APPLICATION - NOT FOR CONSTRUCTION



WATTLE COURT
HOMES BUILT FOR LIFE

CUSTOM DESIGN
COASTAL FACADE

© COPYRIGHT EXCLUSIVE
TO WATTLE COURT HOMES

DRAFTERS:
KJR
UNIT C4 - 3/29 BIRNIE AVENUE
LIDCOMBE NSW 2141
ABN 15 078 937 238
(02) 8883 4344
kjrdrafting@kjr.net.au

CLIENT: PROPOSED DUPLEX
MULLER & HARVEY

DRAWING TITLE:
ELEVATIONS

PROJECT:
**580 BARRENJOEY ROAD
AVALON BEACH NSW 2107**

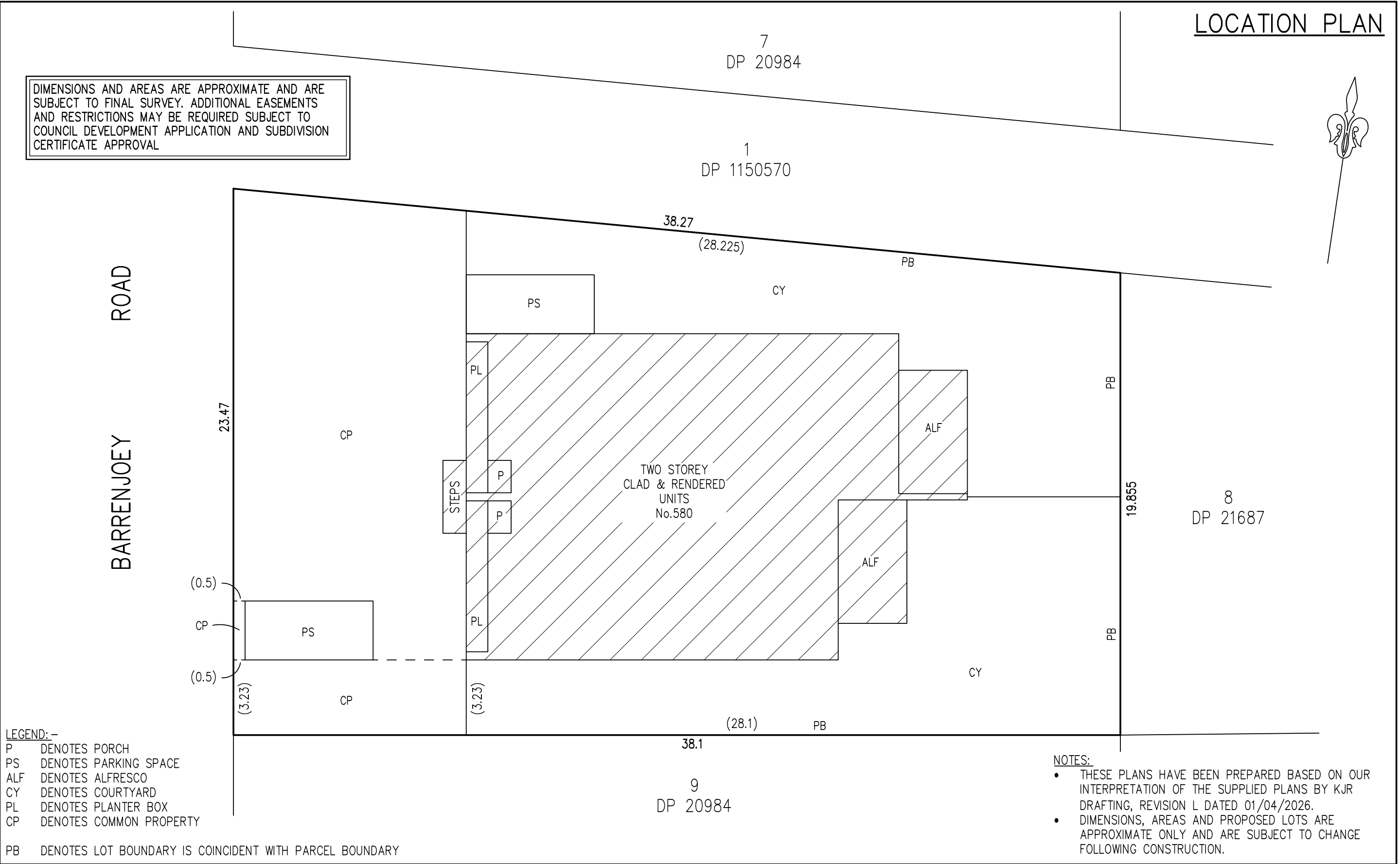
SCALE: 1 : 100

SHEET SIZE: **A3**
DATE: **01/04/2026**
JOB NO: **NSN0111**
DRAWN: **DJH**

SHEET No: **A08**
REVISION: **L**
APPLICATION: **DA**
WCSN254

IWE HAVE CHECKED THE PLANS AND AGREE THEY ACCURATELY
DEPICT THE HOUSE FOR CONSTRUCTION. ANY VARIATIONS
REQUESTED AFTER SIGNING WILL INCUR A PROCESSING FEE IN
ADDITION TO THE COST OF THE VARIATION ITEMS AND ANY
FURTHER PLANS TO BE PREPARED.
OWNER SIGNED: _____ DATE: _____
OWNER SIGNED: _____ DATE: _____
BUILDER SIGNED: _____ DATE: _____

148



SURVEYOR Name: Date: 30/04/2026 Reference: 250811-2	PLAN OF SUBDIVISION OF LOT 8 DP 20984 	LGA: NORTHERN BEACHES Locality: AVALON BEACH Reduction Ratio: 1:150 Lengths are in metres.	REGISTERED	Issued: 30/04/2026
---	---	--	-------------------	---------------------------

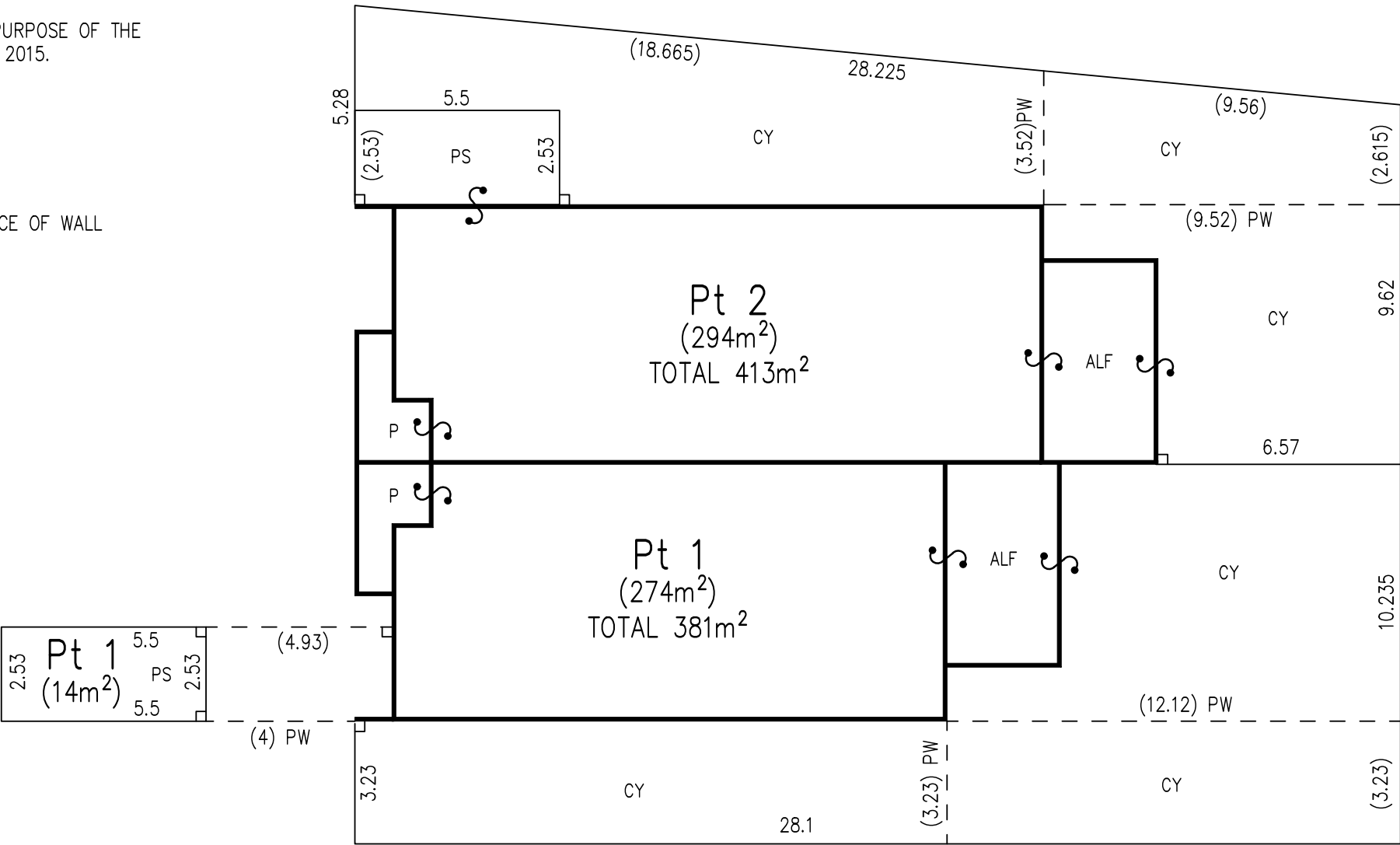
DIMENSIONS AND AREAS ARE APPROXIMATE AND ARE SUBJECT TO FINAL SURVEY. ADDITIONAL EASEMENTS AND RESTRICTIONS MAY BE REQUIRED SUBJECT TO COUNCIL DEVELOPMENT APPLICATION AND SUBDIVISION CERTIFICATE APPROVAL

GROUND FLOOR



AREAS ARE APPROXIMATE FOR THE PURPOSE OF THE STRATA SCHEMES DEVELOPMENT ACT 2015.

- LEGEND: -
- P DENOTES PORCH
 - ALF DENOTES ALFRESCO
 - PS DENOTES PARKING SPACE
 - CY DENOTES COURTYARD
 - PW DENOTES PROLONGATION OF FACE OF WALL
 - └ DENOTES RIGHT ANGLE



PORCHES ARE LIMITED IN HEIGHT TO 2.8 METRES ABOVE THE GROUND FLOOR LEVEL OF THEIR RESPECTIVE UNIT EXCEPT WHERE COVERED WITHIN THIS LIMIT.

ALFRESCOS ARE LIMITED IN HEIGHT TO 2.8 METRES ABOVE THE GROUND FLOOR LEVEL OF THEIR RESPECTIVE UNIT EXCEPT WHERE COVERED WITHIN THIS LIMIT.

COURTYARDS ARE LIMITED IN DEPTH TO 0.5 METRES BELOW AND 3 METRES ABOVE THE GROUND FLOOR LEVEL OF THEIR RESPECTIVE UNIT EXCEPT WHERE COVERED

- NOTES:
- THESE PLANS HAVE BEEN PREPARED BASED ON OUR INTERPRETATION OF THE SUPPLIED PLANS BY KJR DRAFTING, REVISION L DATED 01/04/2026.
 - DIMENSIONS, AREAS AND PROPOSED LOTS ARE APPROXIMATE ONLY AND ARE SUBJECT TO CHANGE FOLLOWING CONSTRUCTION.

SURVEYOR

Name:
Date: 30/04/2026
Reference: 250811-2

PLAN OF SUBDIVISION OF
LOT 8 DP 20984

TSS TOTAL SURVEYING
SOLUTIONS

LGA: NORTHERN BEACHES
Locality: AVALON BEACH
Reduction Ratio: 1:150
Lengths are in metres.

REGISTERED

Issued: 30/04/2026

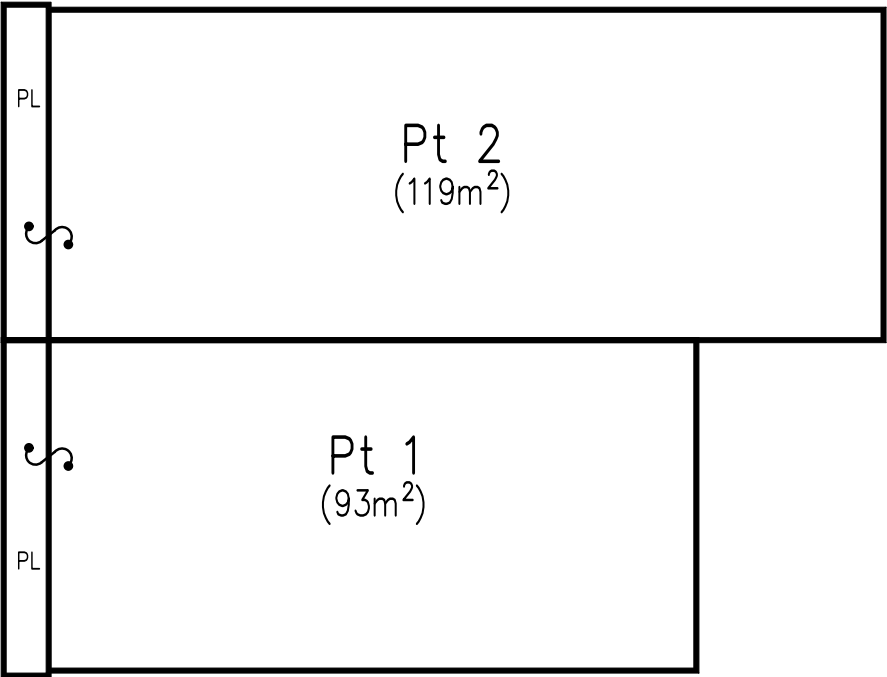
DIMENSIONS AND AREAS ARE APPROXIMATE AND ARE SUBJECT TO FINAL SURVEY. ADDITIONAL EASEMENTS AND RESTRICTIONS MAY BE REQUIRED SUBJECT TO COUNCIL DEVELOPMENT APPLICATION AND SUBDIVISION CERTIFICATE APPROVAL

FIRST FLOOR

AREAS ARE APPROXIMATE FOR THE PURPOSE OF THE STRATA SCHEMES DEVELOPMENT ACT 2015.

LEGEND:-
PL DENOTES PLANTER BOX

PLANTER BOXES ARE LIMITED IN HEIGHT TO 3 METRES ABOVE THE FIRST FLOOR LEVEL OF THEIR RESPECTIVE UNIT EXCEPT WHERE COVERED WITHIN THIS LIMIT.



- NOTES:
- THESE PLANS HAVE BEEN PREPARED BASED ON OUR INTERPRETATION OF THE SUPPLIED PLANS BY KJR DRAFTING, REVISION L DATED 01/04/2026.
 - DIMENSIONS, AREAS AND PROPOSED LOTS ARE APPROXIMATE ONLY AND ARE SUBJECT TO CHANGE FOLLOWING CONSTRUCTION.

<div>SURVEYOR</div> <div>Name:</div> <div>Date: 30/04/2026</div> <div>Reference: 250811–2</div>	<div>PLAN OF SUBDIVISION OF</div> <div>LOT 8 DP 20984</div> <div> TSS TOTAL SURVEYING SOLUTIONS</div>	<div>LGA: NORTHERN BEACHES</div> <div>Locality: AVALON BEACH</div> <div>Reduction Ratio: 1:150</div> <div>Lengths are in metres.</div>	<div>REGISTERED</div>	<div>Issued: 30/04/2026</div>
---	--	--	-----------------------	-------------------------------



**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 CONSERVATION
ZONES AS DETAILED IN CLAUSE 4.2A OF
THE PITTWATER LOCAL
ENVIRONMENTAL PLAN 2014**

**Demolition works, Construction of Dual
Occupancy (Attached), Associated Works
and Strata Subdivision**

**580 Barrenjoey Road,
Avalon Beach NSW 2107**

✉ mathew@fourtowns.com.au

☎ 0425232018

www.fourtowns.com.au

PO Box 361, Balgowlah NSW 2093

Demolition works, Construction of Dual Occupancy (Attached), Associated Works and Strata Subdivision

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:

Wattle Court Sydney North

9 June 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.

© Four Towns Pty Ltd

NOTE: This document is the property of Four Towns Pty Ltd (trading as Four Towns Planning). This document is Copyright, no part may be reproduced in whole or in part, without the written permission of Four Towns Pty Ltd.

Demolition works, Construction of Dual Occupancy (Attached), Associated Works and Strata Subdivision

Introduction

This written request under clause 4.6 of Pittwater Local Environmental Plan 2014 (PLEP 2014) accompanies a Development Application, seeking consent for demolition works, the construction of a dual occupancy (attached), associated works and a two (2) lot strata subdivision at 580 Barrenjoey Road, Avalon Beach.

The nature and extent of the contravention is as follows:

Requirement	700sqm
Proposed	Lot 1 – 381sqm Lot 2 – 413sqm
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 – 45.57% Lot 2 – 41%

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 conservation 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—

Demolition works, Construction of Dual Occupancy (Attached), Associated Works and Strata Subdivision

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.

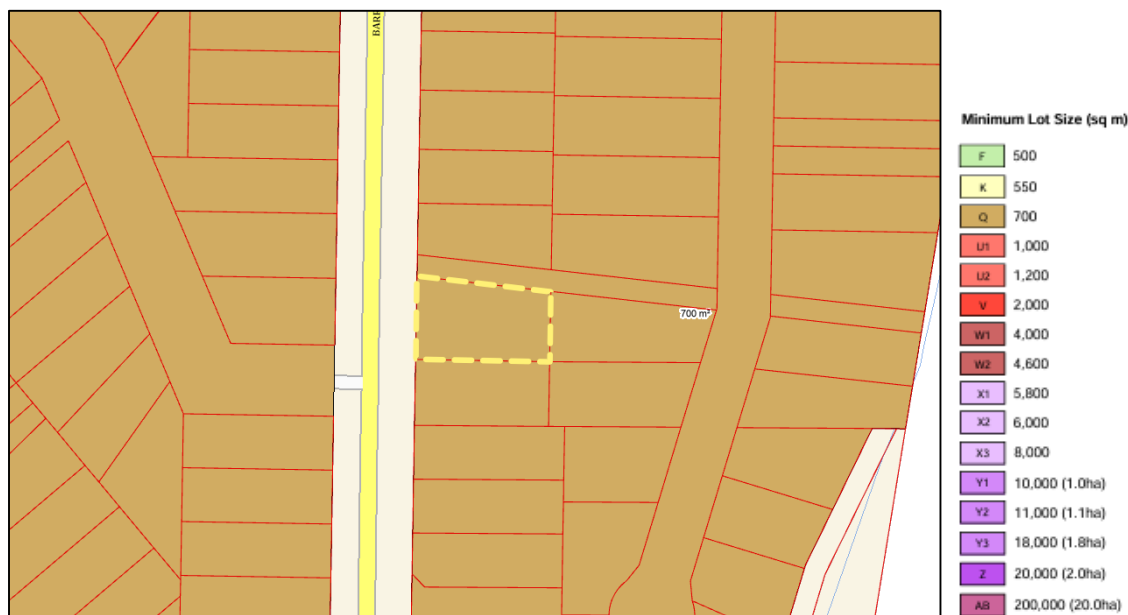


Figure 1: The site is subject to a minimum lot size of 700sqm under the PLEP 2014

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: A dual occupancy (attached) is a permissible land use within the R2 Low Density Residential zone with consent of Northern Beaches Council. The proposal for strata subdivision will not impact or change the low-density character of the area with the proposed dual occupancy (attached) sensitively designed to achieve compliance with relevant built form controls. The creation of additional dwelling entitlements meets the objectives of the zone by providing for the housing needs of the community.

Demolition works, Construction of Dual Occupancy (Attached), Associated Works and Strata Subdivision

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 with many undersize allotments commonplace throughout Barrenjoey Road, and is 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.*

Demolition works, Construction of Dual Occupancy (Attached), Associated Works and Strata Subdivision

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?

Demolition works, Construction of Dual Occupancy (Attached), Associated Works and Strata Subdivision

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 allotment for the purpose of a dual occupancy (attached), which is a permissible land use in the zone. The creation of separate titles within an existing allotment in this regard does not alter the existing pattern of subdivision in the area.

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 the strata subdivision of a proposed attached dual occupancy which is a permissible development in the R2 Zone satisfying the requirements of Clause 4.1B.
- The proposed dual occupancy (attached) has been sensitively designed to achieve full compliance with relevant built form controls including the prescribed building height, setbacks, landscape area and side boundary envelope controls to ensure there will be no detrimental impacts to privacy, views, or solar access.

Demolition works, Construction of Dual Occupancy (Attached), Associated Works and Strata Subdivision

- 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 allotment. The creation of separate titles within an existing allotment in this regard does not alter the existing pattern of subdivision in the area.
- 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 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.*

Demolition works, Construction of Dual Occupancy (Attached), Associated Works and Strata Subdivision

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 creation of separate titles within an existing allotment 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.

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 can 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 4.3 MOD2026/0160 - 35-39 BELGRAVE STREET MANLY - MODIFICATION OF DEVELOPMENT CONSENT DA2023/0987 GRANTED FOR DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A SHOP TOP HOUSING DEVELOPMENT

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 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, **approves** Application No. Mod2026/0160 for Modification of Development Consent DA2023/0987 granted for Demolition of existing structures and construction of a shop top housing development comprising of ground floor retail premises, 24 residential apartments and two levels of basement carparking, associated infrastructure and landscaping at Lot 1 DP 100633, 40 Belgrave Street MANLY, Lot 1 DP 104766, 41 Belgrave Street MANLY, Lot 1 DP 34395, 42 Belgrave Street MANLY, Lot 1 DP 719821, 9 Raglan Street MANLY and Lot A DP 368451, 35 - 39 Belgrave Street MANLY subject to the conditions set out in the Assessment Report.

Reporting manager:	Executive Manager Development Assessment
Attachments:	<ol style="list-style-type: none"> 1. Assessment Report [4.3.1 - 41 pages] 2. Site Plans & Elevations [4.3.2 - 6 pages]

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2026/0160
----------------------------	--------------

Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 1 DP 100633, 40 Belgrave Street MANLY NSW 2095 Lot 1 DP 104766, 41 Belgrave Street MANLY NSW 2095 Lot 1 DP 719821, 9 Raglan Street MANLY NSW 2095 Lot 1 DP 34395, 42 Belgrave Street MANLY NSW 2095 Lot A DP 368451, 35 - 39 Belgrave Street MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA2023/0987 granted for Demolition of existing structures and construction of a shop top housing development comprising of ground floor retail premises, 24 residential apartments and two levels of basement carparking, associated infrastructure and landscaping
Zoning:	Manly LEP2013 - Land zoned E1 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	T&P Manly Land No.1 Pty Ltd

Application Lodged:	08/04/2026
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	24/04/2026 to 08/05/2026
Advertised:	Not Advertised
Submissions Received:	29
Clause 4.6 Variation:	Nil
Recommendation:	Approval

EXECUTIVE SUMMARY

This application seeks consent for the modification of Development Consent DA2023/0987 granted for the demolition of existing structures and construction of a shop top housing development comprising of ground floor retail premises, 24 residential apartments and two levels of basement carparking,

associated infrastructure and landscaping.

The proposed changes include the addition of operable pergolas added to the private rooftop terraces of apartments 401, 402 and 403, the addition of changes to mechanical ducts associated with the retail kitchen exhaust on the rooftop, and other minor alterations.

The application was notified in accordance with the Northern Beaches Community Participation Plan and 29 submissions were received (27 received within the statutory notification period).

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the modification increasing the existing variation to the building height by more than 10% and the modification application having received more than 10 submissions of objection.

Concerns raised in the objections relate to increased height from the pergola structures, potential impacts on views from apartments to the east of the site in Whistler Street, potential privacy and visual impact from the improved usability of roof terraces (including if the terraces are enclosed) and potential fumes, noise and unsightliness of the larger commercial metal exhaust ducting proposed on the roof space.

Critical assessment issues included view impacts, amenity concerns of noise, privacy, ventilation odours and modification to consent conditions applied by the NSW Land and Environment Court.

The non-compliance with the height standard arises from the pergola structures being 1.41m higher than the current building height (RL24.41). The proposed variation is 33.4% or 5.02m above the 15m building height maximum.

The assessment has found that the pergolas should be limited to 2.4m clearance height (rather than 2.7m) which will reduce (minimise) the variation to 4.72m or 31.4%. This is reflected in a recommended condition.

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

PROPOSED DEVELOPMENT IN DETAIL

The modifications proposed to the approved development are as follows:

1. Operable pergolas added to the private rooftop terraces of apartments 401, 402 and 403.
2. Rooftop mechanical ducts associated with the retail kitchen exhaust revised.
3. Retractable awnings added to the north and west elevations of Apartment 402.
4. New glazed sliding door added to apartment 305(A) study room on the east elevation.
5. Apartment 402 kitchen glazed sliding door size revised on the northern elevation.
6. Apartment 305(A) bedrooms glazing configuration revised on the east side.
7. Apartment 403 media room glazing configuration revised on the east side.

(This proposal is a modification application, however the original DA has been previously modified and therefore the modification plans require the introduction of condition 1C to reference the new (further) modified plans and documents as well as the deletion or change to condition 87 relating to roof terrace structures and any ancillary conditions.)

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 E1 Local Centre

Manly Local Environmental Plan 2013 - 4.3 Height of buildings

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Local Environmental Plan 2013 - 6.13 Design excellence

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 3.4.3 Maintenance of Views

Manly Development Control Plan - 3.4.4 Other Nuisance (Odour, Fumes etc.)

Manly Development Control Plan - 3.9 Mechanical Plant Equipment

Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

Manly Development Control Plan - 4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)

Manly Development Control Plan - 4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre

SITE DESCRIPTION

Property Description:	Lot 1 DP 100633 , 40 Belgrave Street MANLY NSW 2095 Lot 1 DP 104766 , 41 Belgrave Street MANLY NSW 2095 Lot 1 DP 719821 , 9 Raglan Street MANLY NSW 2095 Lot 1 DP 34395 , 42 Belgrave Street MANLY NSW 2095 Lot A DP 368451 , 35 - 39 Belgrave Street MANLY NSW 2095
------------------------------	--

Detailed Site Description:

The subject site consists of five(5) allotments located on the southern side of Raglan Street, western side of Whistler Street and eastern side of Belgrave Street.

The site is irregular in shape with a 41.615m wide frontage to Belgrave Street, a 32.1m wide frontage to Raglan Street, a 24.41m wide frontage to Whistler Street to the east and a total area of 1060m².

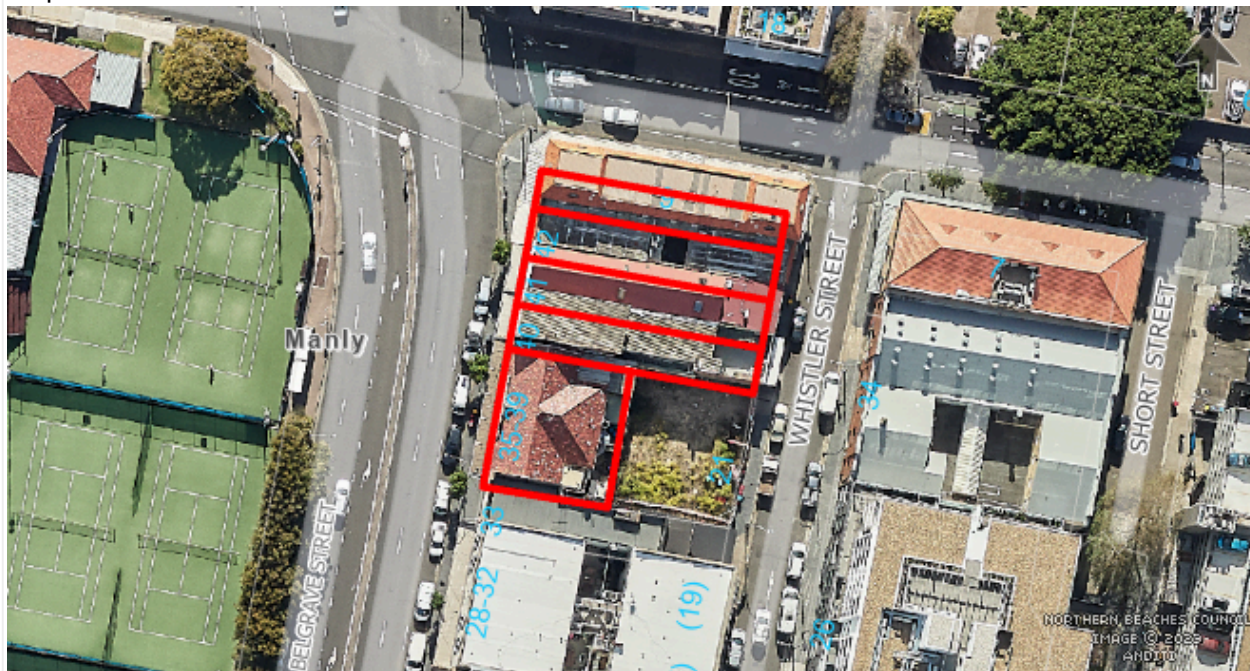
The site is located within the E1 Local Centre zone and accommodates a series of two and three storey mixed use developments..

The site is currently under progressive construction works for DA2023/0987 with 5 storey levels and basement in place.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by varying use, scale, density, age and architectural style. The surrounding development is primarily built up of commercial and residential development with Ivanhoe Park located directly to the west zoned as RE1 Public Recreation.

Map:

**SITE HISTORY**

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

- The original buildings on the site have been demolished and the development approved under DA2023/0987 is in the advanced stages of construction.
- **MOD2026/0291** to de-amalgamate apartment that was previously merged into 1 on level 3 in MOD2025/056 was approved on 18 Jul 2026.
- **MOD2025/0564** to make minor changes to various building elements (Condition 1B added) including PV panels.
- **MOD2024/0629** to address stormwater and OSD engineering requirements was approved to modify DA2023/0987, on 18 Dec 2024
- **DA2023/0987**: Demolition and construction of a shop top housing development with basement parking- approved by the NSW Land and Environment Court on 30 Jul 2024.
- **PLM2023/0054**: Demolition works and the construction of shop top housing with basement parking- meeting on 13 Jun 2023.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:
The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the LEC agreement (judgement) and assessment details for DA2023/0987, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.56 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.56 - Other Modifications	Comments
	A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

Section 4.56 - Other Modifications	Comments
<p>(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2023/0987 (NSW LEC Proceedings No.2024/51916) for the following reasons:</p> <p>Consideration of whether a development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted.</p> <p>The applicant has provided the following justification to support their argument that the modifications are substantially the same:</p> <ul style="list-style-type: none"> <i>The works are minor related to reconfiguring the roof top plant associated with ground floor commercial kitchen ventilation (stove range hood) and 3 open sided pergola structures for the private roof terraces.</i> <i>The overall use and appearance of the building remains consistent with the approved plans and is of minimal impact, subject to conditions.</i> <i>The work requires change to conditions and the approved plans from the NSW LEC consent. The principle reasons for granting approval for a building that is consistent with the objectives of the zone. The height of the main building in terms of the outer parapet height, roof level and enclosed building space will not change. .</i> <p>Reviewing the above comments it is concurred that the proposed modification is substantially the same as the development for which the consent was originally granted and can be considered under Section 4.56 of the Act, for the following reasons:</p> <ul style="list-style-type: none"> The overall use and appearance of the building remains consistent with the approved plans and is or minimal impact, subject to conditions, having had regard the original DA and reasons for granting approval outlined. The building bulk, scale, parking, storey heights and floor space remain consistent. While the building height is increasing this is measured to the open frame of the pergola structures which are not readily visible from street level and the vent ducting is co-located with other rooftop plant. Conditions are recommended to address general amenity considerations for rooftop areas (including visual amenity, noise, privacy, outlook and the like). Considerations of "substantially the same" in dealing with ("other modifications") the modification the changes area consistent with the assessment approach used by the NSW LEC in that overall the use, setbacks, streetscape appearance, major components and context of the building

Section 4.56 - Other Modifications	Comments
	<p>in its setting in the street is consistent with the original court approval.</p> <ul style="list-style-type: none"> Conditions are recommended to address amenity and visual impact to ensure the modified building remains consistent with the reasons for granting approval and consideration of the public interest.
<p>(b) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>Development Application DA2023/0987 did not require concurrence from the relevant Minister, public authority or approval body.</p> <p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.</p>
<p>(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and</p>	<p>Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of DA2023/0987.</p>
<p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p>	<p>See discussion on "Notification & Submissions Received" in this report.</p>

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining a modification application made, the consent authority must also take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Section 4.15(1) is addressed in the table below.

The reasons given by the consent authority for the grant of the consent that is sought to be modified is

discussed as follows:

Comment on reasons for determination of DA2023/0987

The reasons for the granting of the original consent have been considered in the assessment of this modification application. The proposed changes will result in a modified development that will not conflict with the original reasons for the granting of consent, in that modified conditions are being applied to address amenity concerns.

In summary, proposed changes will result in a modified development that required changes to condition/s applied relating to the structures on the roof terrace (pergola's) that increase height variation and affect the view outlook from nearby apartments that overlook the building. In considering and addressing those issues conditions are recommended to reduce the height of the pergola to the minimum normal height clearance (2.4m) to lessen view interference, ensure colours to blend with the landscape urban backdrop and conditions to ensure the structure is not infilled with side walls, and late night use is limited (details are provided in the recommended modification conditions of this report).

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	See detailed assessment under “DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS” below.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Mainly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.

Section 4.15 'Matters for Consideration'	Comments
<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)</p>	<p>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.</p> <p>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. The applicant has provided a statement from the architect addressing this provision of the regulations for the purposes of the modification of consent.</p> <p>Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p>Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This matter has been addressed via a condition of consent with the original consent.</p> <p>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 with the original consent.</p> <p>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 with the original consent.</p> <p>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 with the original consent.</p>
<p>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</p>	<p>(i) Environmental Impact The environmental impacts of the proposed modified development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed modified development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed modified development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>

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 modification, subject to conditions.
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. Matters raised in submissions in summary include, building height, view intrusion, privacy, noise, exhaust vent odours, roof plant appearance and changes to LEC conditions. Conditions are recommended to address amenity concerns (raised in submissions received) from adjacent apartments.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Northern Beaches Local Environmental Plan (Draft LEP) Definition(s):

Land Use Zone: E1 Local Centre

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 24/04/2026 to 08/05/2026 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 29 submission/s from:

Name:	Address:
Mrs Linda Adele De Mestre	35 Beatrice Street CLONTARF NSW 2093
Mr Nicholas Little	Address Unknown
Gregory Dodd Yanco	502 / 26 Whistler Street MANLY NSW 2095

Name:	Address:
Alice Helen Glachan	205 / 26 Whistler Street MANLY NSW 2095
DM Planning Pty Ltd	Po Box 471 BALGOWLAH NSW 2093
Marek Kopias	26 Whistler Street MANLY NSW 2095
Amelia Duffy	102 / 26 Whistler Street MANLY NSW 2095
Mr Simon Peter Waters	701 / 26 Whistler Street MANLY NSW 2095
Mr Gary Keith Brits	504 / 26 Whistler Street MANLY NSW 2095
Heather Joy Wilton	502 / 26 Whistler Street MANLY NSW 2095
Daniel Beuthner	501 / 26 Whistler Street MANLY NSW 2095
Rosemary Ann Rakowski	304 / 26 Whistler Street MANLY NSW 2095
Mr Mark Hayes	206 / 26 Whistler Street MANLY NSW 2095
Miss Rani Keys	101/231 Miller Street NORTH SYDNEY NSW 2060
Gerald Gregory Richard Santucci	19 Banvard Place CHAPMAN NSW 2611
Mr Dean McGrath	703 / 26 Whistler Street MANLY NSW 2095
Mrs Lynne Marie Ibbotson	603 / 26 Whistler Street MANLY NSW 2095
Andrew John Hourigan	302 / 26 Whistler Street MANLY NSW 2095
Dr Sue-Elyn Millson	703 / 26 Whistler Street MANLY NSW 2095
Mrs Jane Rosnell	306 / 26 Whistler Street MANLY NSW 2095
Mr Brian Duffy	102 / 26 Whistler Street MANLY NSW 2095
Scott Osmund McLachlan	108 / 26 Whistler Street MANLY NSW 2095
Anna Maria Duggan	704 / 26 Whistler Street MANLY NSW 2095
Ms Kerrie Christine Goodwin	105 / 26 Whistler Street MANLY NSW 2095
Catherine Susanne Smith	305 / 26 Whistler Street MANLY NSW 2095
Katherine Maree Hope	604 / 26 Whistler Street MANLY NSW 2095
Mr Chris Evans	503 / 26 Whistler Street MANLY NSW 2095
Jessica Clare Bowman	203 / 26 Whistler Street MANLY NSW 2095
Maciej Rakowski	Address Unknown

In summary the following issues were raised in the submissions (Multiple submissions from a single residence, or on behalf of, are 'counted' as a single submission).

- 1.View impact of pergola structures
- 2.Height change to building despite LEC conditions
- 3.Increased noise, light and privacy impact by the added usability of covered roof terraces
- 4.Visual impact of larger / reconfigured roof top exhaust vents
- 5.Potential smoke, noise and odour impact of commercial range hood exhaust vents

The above issues are addressed as follows:

1. Concern that the pergola structures will interfere with the view outlook for apartments in Whistler Street that have views across the roofspace of the subject site.

Comment:

This issue has been raised with the applicant and reviewed in context with the parent DA and LEC design amendments. District views toward Ivanhoe Park and the general urban outlook were impacted by the approved scheme with view sharing considerations having been made pursuant to the planning principles outlined in *Warringah v Tenacity*. A comprehensive view analysis was made by *Urbaine* consultants to demonstrate the view loss / view sharing impacts associated with the DA scheme. The consent was granted with a condition to restrict further structures (such as pergolas) being placed on the roof terraces that may impact views and the general amenity outlook from apartments nearby (to the east) in Whistler Street. The applicant seeks to modify this on the basis that the proposed pergola frames are open style, and despite technically increasing the maximum height, the pergola frames have a minimal visual impact. Reasoning for this minimal impact includes that the outlook and views are in the context of urban surroundings and not interfering with water views, beach or coastal / iconic views. The pergola frames will not have side walls and do not add visual bulk or block out part of an outlook or district view. To address this submission concern additional modification condition are recommended. Recommended appropriate conditions include consideration that:

- (i) The pergolas can be of appropriate colorbond colours to blend with the grey-brown dominant backdrop and so do not unreasonably interfere with skyline or silhouette views above the horizon.
- (ii) The structural frames not be enclosed with wall materials and any light fittings used minimises light spill.
- (iii) That a condition can be also applied to restrict the use of the roof terraces late at night in consideration of noise amenity.

In general roof terraces are not uncommon for newer style apartment buildings in the Manly CBD area and the installation of shade structures can subject to conditions to minimise view intrusion impacts. The image below provides an indication of the pergola and roof top space superimposed on the view. Site photos taken during inspection show only the building in partial construction (with incomplete height) and therefore the photomontage provides a more comparable representation.



Image 1: View outlook (photomontage) across central roof space westerly direction with pergola's and rooftop exhaust shown.



Image 2: View outlook (photomontage) across roof space northwest pergola's and rooftop exhaust shown.

2. Concern that the modification for fixed pergola structures on the roof contradicts conditions agreed by the applicant and imposed on the development by the NSW Land and Environment Court.

Comment:

Conditions of consent are not prohibitions on an approved development being able to be modified and any proposed changes being considered on merit. The works are minor components of the building which remains substantially the same building and additional or modified conditions are recommended to ensure minimal impact. The NSW LEC established that a modification of consent is not subject to the provisions of clause 4.6 and therefore elements that affect building height are considered on merit without the strict application of clause 4.6. The pergolas are shown as 2.745m high above the roof terrace floor however this is more than the minimum height needed or 2.1m for a non-habitable space or 2.4m for a habitable space. Considering the frame with and merit consideration of minimal change to the approved building height a standard 2.4m height, to the underside of the pergola, is recommended by condition (approx 300mm lower).

3. Concern that there will be added usability of the roof terraces due to their covered / operable pergola structures for all 3 roof terraces which will add to privacy and noise disturbance for apartment nearby since the roof terraces are open to their surroundings and may be used late at night (creating lighting glare), noise and direct view lines toward adjacent apartments that are at a similar height within No.26 Whistler Street.

Comment:

Separation distances to the roof apartments from No.26 Whistler Street exceed 30m and the roof terraces are partly screened on the sides by balustrades or landscape planter space. Part of the building plant equipment / exhaust ducting also occupy the central parts of the roof space with the terraces toward the outer edges. Roof ducting is required to comply with Australian Standards for mechanical exhaust vents to ensure noise compliance. Conditions are recommended to ensure appropriate lighting (fitted down lights) and restriction on use of the roof terraces to cease after 12:30am at night.

4. Concern that the larger roof top exhaust vents have an added visual impact and are unsightly elements on the roof space if not appropriately screened and designed.

Comment

In order to minimise visual amenity impact conditions are recommended for fitted screens adjacent the

roof exhaust ducts to screen any unsightly appearances when viewed from nearby apartments that have an outlook across the top of the building. This issue is addressed by conditions.

5. Concern that the roof top exhausts can transmit smoke, odour and noise using mechanical fan systems which will transmit cooking fumes, smell and noise from the commercial kitchen range hood on the ground floor of the building.

Comment

The roof top exhaust vents are required to comply with *Australian Standards* which includes smoke and odour filters, noise generation and vent placement requirements to minimise impacts on the surrounding environment. This issue is addressed by existing conditions of consent and NSW Environmental Health laws.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Food Premises, Skin Pen.)	<p>Supported without modified conditions.</p> <p>Review of the proposed modification has determined that the proposed configuration of mechanical exhaust is expected to change. On this basis condition 32 of DA2023/0987 was required to be satisfied prior to CC. CC2026/0341 has been lodged and as such a new condition must be placed onto any modification that investigation into any noise generation from mechanical plant is investigated and mitigated to prevent noise impact to surrounding residential receivers as per the acoustic report by E-LAB Consulting dated 28 March 2024 reference P00567 Revision 004.</p> <p>Fit out of potential future food premise with the commercial tenancy will be assessed by a future DA or CDC.</p> <p>The proposal is supported subject to conditions being imposed.</p> <p>Recommendation</p> <p>SUPPORTED.</p> <p>Condition 32 Mechanical Plant and Equipment applies as per existing conditions.</p>

Internal Referral Body	Comments
Strategic and Place Planning (Heritage Officer)	Supported with conditions.
	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>The proposal has been referred to Heritage as the subject site is located within the vicinity of a number of heritage items and a conservation area:</p> <p>Item I162 – Ivanhoe Park - Ivanhoe Park (bounded by Sydney Road, Belgrave St and Raglan St)</p> <p>Item I255 – Electricity substation No 15009 - 34A–36 Whistler St, Manly</p> <p>Item I254 - St Mary’s Church, presbytery and school - Whistler St (corner Raglan St), Manly</p> <p>C1 – Pittwater Road Conservation Area</p>
	Details of heritage items affected

Internal Referral Body	Comments
	<p>Item I162 – Ivanhoe Park</p> <p><u>Statement of Significance</u></p> <p>Ivanhoe Park (including Manly Oval) cultural landscape, is important in the course of New South Wales cultural history combining a 'pleasure garden' park, a traditional 'village green' community and sporting venue, and a passive recreational garden, demonstrating the principal characteristics of a Victorian-era park adapted to the Australian setting. This landscape is unique within New South Wales as a place with a combined history of Aboriginal heritage and 150 years of recreation, sport and community use.</p> <p>With its natural land formation of sandstone outcrops and overhangs and watercourse flowing into what was a low-lying swamp area, the site has high potential to reveal tangible Aboriginal heritage of the Kay-ye-my people, and with its close proximity to three identified aboriginal heritage sites the site relates to intangible cultural heritage of the local Aboriginal people. Ivanhoe Park is one of the few planned colonial era 'pleasure grounds' surviving in New South Wales. Since its establishment in the 1860s Ivanhoe Park has been an important destination for pleasure and healthy recreation for vast numbers of visitors to Manly from Sydney and beyond. The 'village green' oval and Ivanhoe Park pavilion became the centre of sporting and community functions and events, not just for Manly residents but for the region and NSW. Ivanhoe Park (including Manly Oval) cultural landscape, is a diverse and complex site with its natural sandstone outcrops and watercourse, Victorian 'gardenesque' plantings, rich diversity of native and planted tree species, war memorial garden, traditional 'village green' oval, and sporting complex. Combined, it demonstrates an unusual yet pleasing aesthetic.</p> <p>Item I255 – Electricity substation No 15009</p> <p><u>Statement of Significance</u></p> <p>The Manly Zone substation is a fine and robust, well detailed face brick purpose designed and built structure. It is an excellent and externally intact representative example of the Interwar Art Deco style. It is considered to be a rare example of this style and of State Significance.</p> <p><u>Physical Description</u></p> <p>The Manly Zone substation is a fine and robust, well detailed face brick two storey building built on the street alignment. Stylistic elements of Interwar Art Deco include the extensive use of face brick and brick detailing in the stepped parapet and base of the projecting first floor oriel windows and the use of bold linear motifs. Decorative elements include the use of curved bricks to form unusual framing around windows and doorways.</p> <p>Item I254 - St Mary's Church, presbytery and school</p> <p><u>Statement of Significance</u></p> <p>The listing covers a significant group of five religious and school buildings dating from circa 1890 to the 1950s, complementary in style. The group is of significance for Manly area for its historical,</p>

Internal Referral Body	Comments																					
	<p>aesthetic and social reasons, and for the rarity and representativeness. The site has a long and ongoing spiritual association with the local Roman Catholic community since c.1890 when the church building was created. The site is a major landmark visible from a distance from both Raglan Street and Whistler Street. The complex makes a major contribution to the streetscape and to the townscape character, augmented as the group of buildings are adjoining each other at the site. The Church building, the Presbytery and School are each representative of their respective type of building around the date of creation, and the complex as a whole is a rare collection of five fine buildings with spiritual associations in the local area.</p> <p>C1 – Pittwater Road Conservation Area</p> <p><u>Statement of Significance</u></p> <p>This street pattern is distinctive and underpins the urban character of the area. The streets remain unaltered in their alignment, although the names of Malvern, Pine and North Steyne are now names for what were Whistler, Middle Harbour and East Steyne respectively.</p> <p><u>Physical Description</u></p> <p>The streetscape of Pittwater Road is a winding vista of late 19th and early 20th century commercial and residential architecture of generally one or two floors - although there are exceptions such as the four storey private hotel. The streetscape provides a 19th century atmosphere due to it's scale, width and the number of extant Victorian structures. Within the streetscape there are a number of individually significant buildings which are listed separately. Adjacent streets generally comprise a consistent pattern of one and two story residential cottages, with the occasional terrace. Some streets have intermittent street plantings and remnant stone kerbs. The flat topography is accentuated by the escarpment to the west which provides an important visual, vertical and vegetated backdrop.</p> <table><tr><th colspan="3">Other relevant heritage listings</th></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></table> <p>Consideration of Application</p>	Other relevant heritage listings			SEPP (Biodiversity and Conservation) 2021	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register	No		RAIA Register of 20th Century Buildings of Significance	No		Other	No	
Other relevant heritage listings																						
SEPP (Biodiversity and Conservation) 2021	No																					
Australian Heritage Register	No																					
NSW State Heritage Register	No																					
National Trust of Aust (NSW) Register	No																					
RAIA Register of 20th Century Buildings of Significance	No																					
Other	No																					

Internal Referral Body	Comments
	<p>This proposal seeks consent to modify the existing LEC-approved DA2023/0987, which has been subsequently modified by Mod2024/0629 and Mod2025/0564. The requested changes with the current application include reconfiguration of the internal layout, minor modifications to approved fenestrations, and rooftop additions comprising new mechanical equipment on the rooftop and shading structures for the private roof terraces.</p> <p>These modifications are considered to not significantly alter the streetscape presentation of the development. While the shade structures (vergola structures) result in an increase in overall height, their visibility from the street level will be limited. As a result, the additional impact of on the significance of the surrounding heritage items or the conservation area are considered tolerable.</p> <p>Therefore, no objections are raised on heritage grounds and no conditions required.</p> <p><u>Consider against the provisions of CL5.10 of MLEP 2013.</u> 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</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Supported with conditions.</p> <p>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 for the modification as per the referral response dated 5.5.2026.</p>

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

An amended BASIX certificate has been submitted with the application (see Certificate No.1396814M_08 dated 1.4.2026).

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

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

SEPP (Housing) 2021**Chapter 4 Design of residential apartment development****144 Application of chapter**

"(1) In this policy, development to which this chapter applies is referred to as residential apartment development.

(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."

Comment:

Pursuant to clause 144 (3)(ii) the modification works and associated changes are substantially the same overall as per the "test" pursuant to the modified development being "essentially" or "materially" the same as the (currently) approved development, being generally consistent with the reasoned approach used in *Realize Architecture v Canterbury Bankstown Council* by the NSW LEC.

Therefore no further detailed assessment under *SEPP (Housing) 2021* or the *Apartment Design Guide* is required. In summary the works involve reconfiguration of the roof ducting (from the ground floor commercial kitchen exhaust) and inclusion of open sided pergola structures to the 3 roof terraces. The works are not visible from the adjacent street levels do not fundamentally affect landscaping, setbacks, streetscape. The roof pergola's seek to improve weather protection (sun/rain) considerations for the rooftop POS. No further detailed assessment is required pursuant to the SEPP. Considerations of noise, odour, views, privacy and operational use are addressed under the Manly DCP section of this report.

The applicant has provided design statement by and architect to demonstrate that proposed modification works remains consistent with the *Design Principles* of Schedule 9 and the ADG.

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 within the 21 day statutory period.

Other Service Authority Requirements

Referral is not required to *Transport for NSW* and no other infrastructure service authority issues are raised. Sydney Water manage their assets and development work by separate administrative processes directly with Sydney Water.

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 if the development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and coastal environmental values and natural coastal processes,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Manager coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands,
 - e) existing public open space and safe access to and along the foreshore, beach, headlands,
 - f) Aboriginal cultural heritage, practices and places,
 - g) the use of the surf zone.

Comment:

The parent DA assessment has addressed this part of the SEPP and the modification application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

- 2) Development consent must not be granted to development on land to which this clause applies unless:
- a) the development is designed, sited and will be managed to avoid an adverse impact referred to in sub-clause (b);
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to avoid that impact;
 - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The parent DA assessment has addressed this part of the SEPP and the modification application complies with the requirements of Chapter 2 of the SEPP.

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:
- a) the applicant has considered whether the proposed development is likely to cause an adverse impact referred to in sub-clause (b):
 - i) existing, safe access to and along the foreshore, beach, headland or rock platform;
 - ii) overshadowing, wind funnelling and the loss of views from public places to the foreshore;
 - iii) the visual amenity and scenic qualities of the coast, including coastal headland; and
 - iv) Aboriginal cultural heritage, practices and places, and
 - v) cultural and built environment heritage, and
 - b) the applicant is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an adverse impact referred to in sub-clause (a);
 - ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to avoid that impact;
 - iii) if that impact cannot be minimised—the development will be managed to mitigate that impact.
 - c) the applicant has taken into account the surrounding coastal and built environment, and the bulk, scale and appearance of the development.

Comment:

The parent DA assessment has addressed this part of the SEPP and the modification application complies with the requirements of Chapter 2.

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 parent DA assessment has addressed this part of the SEPP and the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

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 is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

The works are minor changes to selected glazing for apartments, exhaust vents on the roof and by the addition of 3 open sided pergola on the roof terraces of the building and do not raise any impact on the coastal management zone.

The parent DA assessment has addressed this SEPP and the modification application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

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

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Approved	Proposed	Complies
Height of Buildings:	15m	18.6m (RL24.41)	20.02m roof pergola* (Variation 5.02m 33.4% increase)	No*
Floor Space Ratio (Site area 671.8sqm)	FSR:3:1 (3,181sqm)	FSR: 3:1 (GFA 3,177sqm)	(No change)	Yes

The subject modified proposal maintains the previously approved roof parapet height of RL23.220m AHD and roof terrace balustrade height of RL 24.410m AHD. The pergola structures initially proposed create an overall maximum building height of RL 25.820 representing a 5.02m (33.4%) variation to the 15m building height standard*.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	N/A

Clause	Compliance with Requirements
4.6 Exceptions to development standards	N/A
5.8 Conversion of fire alarms	Yes
6.12 Essential services	Yes
6.13 Design excellence	Yes

Detailed Assessment**Zone E1 Local Centre**Merit assessment (Objectives of E1 Local Centre)

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To minimise conflict between land uses in the zone and adjoining zones and ensure amenity for the people who live in the local centre in relation to noise, odour, delivery of materials and use of machinery.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

Comment

- The modification changes proposed to the roof terraces, selected window/door openings, exhaust ducting, and retractable awnings are consistent with the occupancy for the building proposed to provide for the needs of retailing, businesses and residents who will live or work in the building.
- The building is in the advanced stages of construction and demonstrates investment in the local commercial centre.
- The changes to the roof exhaust vents are intended to meet the needs of the ground floor commercial use.
- In order to minimise adverse amenity impacts conditions are recommended to provide custom screening around the exhaust vents to reduce unsightliness of the metal vent systems when viewed from nearby apartments. Existing conditions, compliance with Australian Standards and NSW environmental health laws apply to commercial exhaust vents. Additionally, the pergola structures are to be of a suitable colour and not enclosed with site walls so that the visual impact of the pergola frames is minimised.
- The modification elements do not change the pedestrian street frontages of the building or public space around the building.
- The modification elements do not affect the urban form of the building and no change is proposed to landscape treatment. Conditions are recommended to address considerations of amenity impacts (visual, acoustic, odour and privacy) in context with neighbouring apartments.

The development is consistent with the objectives of the control and is acceptable on merit, subject to

conditions.

4.3 Height of buildings

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	15m
Proposed:	20.02m
Percentage variation to requirement:	33.4% (5.02m)

Assessment of request to vary a development standard:

Whilst the modification application will result in a building height that exceeds the maximum permitted by Clause 4.3 of the Manly LEP 2013, the application does not strictly need to address the requirements of Clause 4.6.

The application has been made under Section 4.56 of the Environmental Planning and Assessment (EPA) Act 1979, which is a free standing provision that in itself authorises the development to be approved notwithstanding any breach of development standards. Section 4.56 is subject to its own stand-alone tests (such as the 'substantially the same' test and consideration used in 4.55 modifications also and the relevant Section 4.15 matters, as appropriate) and does not rely upon having a Clause 4.6 variation in order to determine the modification application in the same way as a new DA.

Clause 4.6 regulates whether development consent may be granted, not whether an existing consent may be modified, and therefore does not apply to modification applications. As such, the applicant is not required to submit a written request adequately addressing the matters required to be demonstrated by cl 4.6(3).

Notwithstanding that Clause 4.6 does not strictly apply to Section 4.56 modification applications, the merits of the variation have been assessed with regard to the objectives of the height of buildings development standard and the underlying objectives of the E1 Local Centre zone. Notwithstanding that Clause 4.6 does not strictly apply, the assessment has also taken into consideration the relevant tests of the judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 in dealing with development proposals seeking to vary a development standard.

Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,

Comment:

- The elements are open framed structures for 3 roof terraces spaces and therefore have a limited impact in terms of the overall roofspace and building height. The pergolas are integrated within the terrace space and surrounded by landscape planter boxes and other roof top elements including exhaust plant, A/C motors, stair access points, balustrades and the like. Conditions to ensure minimal visual impact, including colours, frame height, retaining the open style, lighting and general use are recommended to minimise impact. Therefore compliance with the height standard for the pergola frames is unreasonable or unnecessary in the circumstances of conditions to address amenity concerns.

There are sufficient environmental planning grounds to justify contravening the development standard,

Comment:

- The pergolas are intended to provide shade protection during use of the roof terrace area with operable ('vergola' style) frame and battens. Amenity considerations are addressed by conditions to ensure no unreasonable impact on views, privacy, view line obstruction and general outlook gained by nearby apartments that overlook the subject site. From the public domain the roof terraces are not readily visible since they are setback from the building edge and partly concealed by landscape roof planter area and the overall approved building bulk and scale

The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

4.3 Height of buildings

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

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

Comment:

Roof terraces are not uncommon for newer apartment buildings within the Manly area. The visual appearance of the pergola structures and ensuring only a standard height of 2.4m used (to avoid unnecessary additional height non-compliance) for a non-habitable space is recommended with conditions to minimise the impact of roof forms and ancillary elements added to the roof. Screening for the metal exhaust vents is also recommended for visual amenity of the roofscape which is visible from adjacent apartments that overlook the subject building from Whistler Street and other higher buildings nearby.

b) to control the bulk and scale of buildings,

Comment:

The modified development remains compliant with the 3:1 floor space ratio development standard with the non-compliant building height elements providing for the appropriate servicing of the development in relation to retail mechanical exhaust and shading to the private roof terraces. The pergolas are integrated to the existing approved open space and therefore not part of an extra / added space to the roof top terrace areas expanding the approved open space area. The overall building bulk and scale is consistent with the approved building in its solid form and floor to floor heights and parapet levels.

c) to minimise disruption to the following—

(i) views to nearby residential development from public spaces (including the harbour and foreshores),

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

Comment:

The height of the building elements located above the 11m building height standard offensive, jarring or unsympathetic in a streetscape context nor the built form characteristics of development within the sites visual catchment. Accordingly it can be reasonably concluded that the proposal is compatible with its surroundings when viewed from the harbour, foreshore areas, public domain and surrounding properties.

- 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 pergola structures and associated height non-compliance will not impact solar access to any adjacent land.

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

Comment:

The height and open frame structures do not add visual bulk to the overall building when viewed from street level and do not impact any environmental protection zone or bushland vegetation.

The development is consistent with the objectives of the control and is acceptable on merit, subject to conditions.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the E1 Local Centre zone (as previously discussed).

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Comment:

The subject application is made under Section 4.56 of the EPA Act. As such, Clause 4.6 does not strictly apply and the concurrence of the Secretary is not required to be obtained.

4.6 Exceptions to development standards

Whilst the modification will result in a building height that contravenes the maximum permitted by Clause 4.3 of the MLEP 2013, the application does not strictly need to address the requirements of Clause 4.6.

The application has been made under Section 4.56 of the *Environmental Planning and Assessment Act 1979*, which authorises the development for which consent was granted to be modified, notwithstanding any breach of development standards. As such, no document pursuant to Section 35B of the *Environmental Planning and Assessment Regulation 2021* or Clause 4.6 is required.

The matters set out in Section 4.55(3) are addressed in the relevant sections of this report.

6.13 Design excellence

The objective of this clause is to deliver in Manly the highest standard of architectural and urban design of buildings and public spaces.

(2) This clause applies to development involving the erection of a new building or external alterations to an existing building:

- (a) on land in Zone B2 Local Centre, and
- (b) on land to which clause 6.19 applies (St Patrick Estate).

(3) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.

Comment:

- The resultant height change is attributed to a minor open sided pergola, with the overall building bulk, scale of the development remain consistent with the approved built form characteristics. The building is consistent with the established urban design relationship of nearby newer development within the Local Centre precinct of Manly.
- The roof top level modifications located above the 11m building height standard do not give rise to any unreasonable adverse residential amenity impacts in terms of context with view loss, overshadowing, privacy or visual bulk. Conditions are recommended to minimise impacts by way of screening devices for the metal roof ducting, colours and usage for the open terrace pergola space.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 1060.4sqm	Requirement	Approved	Proposed	Complies
4.1.1.1 Residential Density and Dwelling Size	Dwelling Size: 1 bedroom dwelling: 50sqm 2 bedroom dwelling: 70sqm 3 bedroom dwelling: 90sqm	All units meet the minimum requirements Units range from 83.1sqm to 291.1sqm	No change	Yes
4.1.2.1 Wall Height	15m	16.6m to top units wall eave 18.2m to roof terrace parapet wall	No change	No As approved under DA2023/0987

4.1.2.3 Roof Height	Height: 2.5m	0.3m	No change	Yes (roof slab)
	Parapet Height: 0.6m	0.7m to 0.9m (forms part balustrade for units / terraces)	No change	No As approved under DA2023/0987
	Pitch: maximum 35 degrees	1 degree or less	No change	Yes (roof slab)
4.1.4.1 Street Front Setbacks	Nil	Nil	No change	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	Nil setback	Nil	No change	Yes
	Windows: 3m	As per ADG	No change	No As approved under DA2023/0987
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area:	Total open space 50% of site area	Deep soil Nil due to commercial shop top CBD area	No deep soil at ground level.	No See LOS assessment
	Open space above ground max 40% of total open space	As per ADG and approved under DA2023/0987	No change	No As approved under DA2023/0987
4.1.5.2 Landscaped Area	Landscaping area 30% of total open space	As per ADG and approved under DA2023/0987	No change	No As approved under DA2023/0987
	3 native trees	0 trees	No change	No As approved under DA2023/0987
4.1.5.3 Private Open Space	12sqm per dwelling	All units comply	No change	Yes (As per ADG)
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	N/A for shop top housing / loading docks	No change	Yes

Schedule 3 Parking and Access	1 per Unit 0.2 per 2-bed Unit 0.5 per 3-bed Unit 0.25 per Unit Visitor parking	Minimum 1 spaces per Unit Resident: 35 spaces (incl.7 adaptable) Visitor : 4 (incl.1 accessible) Retail : 8 (Total 47)	No change	Yes As approved under DA2023/0987
-------------------------------	---	--	-----------	---

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	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
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)	No	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes
Schedule 2 - Townscape Principles	Yes	Yes

Detailed Assessment**3.4.2 Privacy and Security**Merit Assessment

The objectives of the control are:

- *To minimise loss of privacy to adjacent and nearby development by:
-appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings; and
-mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*
- *To increase privacy without compromising access to light and air.*
- *To balance outlook and views from habitable rooms and private open space.*
- *To encourage awareness of neighbourhood security.*

Comment:

- The proposed pergola structures are intended to provide shade protection from the sun within the rooftop terrace spaces and are open sided structures in order to minimise visual impact. Conditions are recommended to ensure the roof terraces are not used after 12:30am at nighttime for residential amenity.
- Separation distance exceeds 30m to apartments on the eastern side of Whistler Street and therefore visual and acoustic privacy is not unreasonable considering the densely developed urban environment.
- The pergola structures are designed to be open sided without enclosing walls to allow for view lines and minimise interference with existing views across the site.
- The modification elements proposed do not impact neighbourhood security.

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

3.4.3 Maintenance of Views

Merit Assessment

The addition of three fixed pergola structures for roof top private open space areas and reconfiguring part of the rooftop exhaust ducting is within the view lines and district outlook for apartments that have westerly or north westerly outlooks within No.26 Whistler Street. Apartments at similar height to the roof top have facing windows and balconies from which urban views are gained over the subject site.

The objectives of the control are:

- *To provide for view sharing for both existing and proposed development and existing and future Manly residents.*
- *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).*
- *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.

Merit Assessment of view loss and view sharing considerations:

1. The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (for example of the Opera House, the Harbour Bridge or North Head) are valued

more highly than views without icons. Whole views are valued more highly than partial views, for example a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

- No coastal, beach, harbour, ocean or water views area affected. Other significant iconic views such as headland, North Head (St Patrick's estate) Manly lagoon or city skyline views are not affected. The view of Ivanhoe Park and the westerly and northwesterly outlook is marginally affected by the pergola frame for Unit 401 on the site. The position of the pergolas for Units 402 and 403 are not in the direct view line of Ivanhoe Park but intrude on the northwesterly view of the urban outlook toward the escarpment near Kangaroo Street
- Site inspection allowed for viewing toward the subject site while the approved new building was in an advanced state of construction and views directly across the subject site and from both a downward and directly overlooking position. Site inspection combined with the detailed photomontages provide adequate view analysis to assess the potential impact.

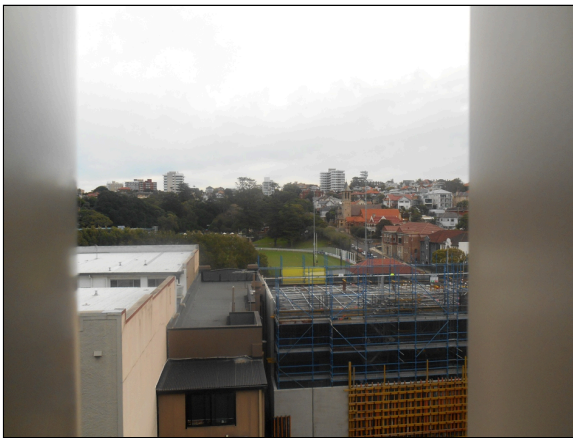


Image 3: View (standing) within Unit 302. (Window louvres on photo edge).



Image 4: View standing from Unit 501 and; Image 5: The view from sitting position on the balcony of Unit 501.



Image 6: Standing view from within living area in Unit 701 across site and; Image 7: Alternate view from living area northern window elevation.

(see additional site inspection photos on MOD file record if required)

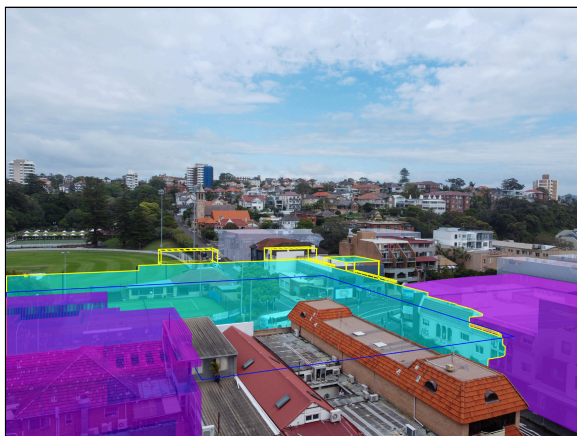


Image 8: General view impact analysis (Urbaine Design Group) to demonstrate existing and; Image 9: Overlaid completed building appearance with pergola and roof plant superimposed.

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

- View across the site are gained from living areas, bedrooms and balconies that are at a comparable height to the roof terrace or higher within apartments on the western elevation of No.26 Whistler Street. The applicant has provided a detailed view analysis to demonstrate the urban outlook with a series of photomontages of the completed building superimposed. Sitting and standing view lines have been considered from selected apartments within No.26 Whistler Street in order to appreciate the overall outlook and particular view characteristics with the assistance of site inspection carried out (see selected photos above).

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

sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

- The extent of the impact is considered to be minor considering the urban landscape to the west and north of the site and the open style frame of the structures. Conditions are further recommended to minimise the height of the pergolas in terms of their vertical intrusion above roof level (i.e it is unnecessary for the frames as non-habitable space to be 2.7m, and 2.4m high is adequate, there avoiding unnecessary intrusion), the concealment / screening of the metal exhaust vents and suitable colours to blend with the urban backdrop of the urban outlook.
- View loss qualitatively impact is rated as **minor** given the height non-compliance, proximity and urban landscape view.

4. The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

- The applicant has provided a detailed view analysis of the expected view impact created by the pergola additions and roof top exhaust duct changes. Site inspection within No.26 Whistler Street was undertaken at selected apartments and demonstrated that not all apartments are required to be inspected to reasonably evaluate view impacts. Mid level central and higher corner level apartments were visited and provided close and suitable appreciation of the various viewing angles and outlooks from bedroom and living areas (including POS), sitting and standing views.
- Conditions are recommended to ensure colours to blend better with the urban back drop (rather than white) and conditions to minimise the height non-compliance to standard height of 2.4m as a more skillful design response to minimising view impact intrusion and addressing reasonable view sharing.

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

3.4.4 Other Nuisance (Odour, Fumes etc.)

Merit Assessment

Consideration must be given to the protection and maintenance of public health and amenity in relation to any proposed development that involves the emission of odours to ensure compliance with legislation, for example food premises near residential accommodation. Council may require a report to be prepared by an air pollution consultant specifying odour control and other air impurity control methods.

Comment

- The exhaust ducting and outlets are required to comply with Australian Standards and environmental health requirements as per existing conditions of consent. The exhaust vents are approximately 20 from adjacent residences along Whistler Street and there have reasonable

separation distance. Service filters and directional venting apply for exhaust ducts to ensure minimal impact on surrounding land. The premises will be subject to routine Environmental Health inspections as a food premises to manage odour control and other air impurity control methods as applicable.

3.9 Mechanical Plant Equipment

Merit consideration:

Roof-top plant and lift towers must be inconspicuous and / or designed as an integral part of the building in such a way as to appear as an appropriate part of the overall townscape. Plant equipment is to be appropriately located and designed such that it is not apparent from the street level view or from other active pedestrian areas and must not compromise street character, landscaping or pedestrian amenity or conflict with townscape objectives of this plan.

External mechanical plant systems (for pools, air conditioning and the like) must be acoustically enclosed and located centrally and away from neighbours living areas of neighbouring properties and side and rear boundaries.

Comment

- The roof plant is recommended to be screened to minimise visual impact (be less conspicuous) across the roof space and is centrally located so the roof plant ducting is not readily visible street level. NSW state laws apply to mechanical plant under the POEO Act to ensure no nuisance noise that would otherwise disturb residential amenity.
- Existing conditions apply (condition No.32 and 34) for compliance with Australian Standards and general noise amenity as per the original consent.

The development is consistent with 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

The maximum building height measured to the top of the pergola structures is proposed to be 20.02m (variation of 5.02m / 33.4%).

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.

Comment:

- The prevailing height of the building roof span is unchanged and the pergolas are 3 open sided frame structures within the 3 private rooftop terraces. The height of the building when viewed from street level remains consistent since the pergola's are setback from the outer edge of the roof area.
- The overall appearance of building bulk remains consistent with the existing approved built form. The exhaust ducts are centrally located and conditions are recommended for low side screens to conceal the metal vent systems and reduce unsightliness from adjacent overlooking apartments (and from within the POS roof terraces of the subject building).
- The pergola structures from a minor interference with the district urban outlook with regard to westerly and northwesterly views from apartments that overlook the site from Whistler Street. In order to minimise view impacts conditions are recommended for the pergolas to be standard height (head clearance) of 2.4m (not 2.7m as proposed), of colorbond material to minimise visual contrast with the urban backdrop and remain open sided.
- View interference toward public open space of Ivanhoe Park and heritage buildings toward the west and north of the site is minimal, subject to conditions as recommended.
- The modification elements to the building do not affect solar access to adjacent apartments or public space.
- The modification elements to the building do not impact any environmental protection zone, existing vegetation or the topography of bushland or other land uses.

The development is consistent with the objectives of the control and is acceptable on merit, subject to conditions.

4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)

In determining whether to grant an exception to the LEP height standard, the environmental planning grounds to justify contravening the development standard (LEP clause 4.6(3)) may include consideration of the design principles at paragraph 3.1.3.1 Design Principles in this DCP.

Comment:

The provisions of clause 4.6 do not strictly apply to modification applications that seek to vary a development standard. Notwithstanding this established principle in addressing the assessment of a modification of consent, a merit assessment is provided to evaluate the impact and extent of the variation proposed within this report, including applicable objectives within the MDCP and MLEP.

4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre

Consideration of the appropriate heights within the maximum Building Height development standard and exceptions to the standard in the LEP includes the following:

a) Whether the final building height including any architectural embellishments adversely dominate the heights of end (corner) buildings in the same street block or that of adjoining buildings.

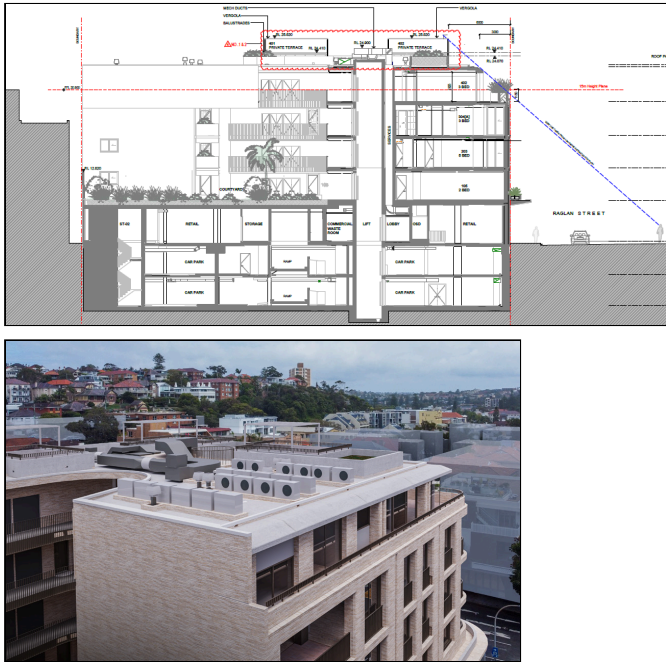
b) Whether the proposed development successfully demonstrates the most appropriate relationship to adjoining development in terms of fulfilling the Council's townscape objectives. New development provides opportunities to achieve the maximum height of building in the centre of the street blocks to obtain views and outlook over buildings on the block edge at a lower height.

c) Whether new development should be constructed to the same building envelope as existing buildings on a site in order to maintain interest and variety, provided the other objectives and requirements (including FSR) of this plan are achieved.

d) Whether new buildings equate with both the overall height as well as the level of each floor of adjoining buildings and in relation to particular architectural details like parapet details and with particular regard to important end-buildings in the particular street block.

Comment:

- The embellishment of the pergola frames over the roof terraces are not readily visible from the street (ground) level in the vicinity of the site. The pergolas and roof plant are visible from adjacent apartments of a similar height in Whistler street that have a westerly outlook across No.40 Belgrave Street. Since the pergola's and roof plant are setback from the edge of the building they do not block or dominate adjoining buildings when viewed from the public domain.
- The changes to the roof top are minor structures and do not adversely impact the overall townscape of Manly, or more localised townscape along Belgrave Street, Whistler Street and Pittwater Road near the site, including adjacent heritage considerations.
- The modification to the building does not affect FSR and does not have any significant impact on the building envelope, setbacks or spatial separation of the building. The roof terraces are toward the northern and western edges the roof space zone and maintain reasonable privacy separation to adjacent buildings due to the width of Whistler Street and Belgrave Streets. The re-development of No.21 Whistler Street has not raised any submissions from this adjoining building since it is currently under construction.
- The building is in an advanced state of construction and the floor levels cannot change. The "end-building" appearance is illustrated below in the photomontage to demonstrate that the rooftop plant equipment and pergola structures are not readily visible. A roof top view is also presented below to illustrate the outlook across the roof area which is considered as per section 3.9 of the Manly DCP within this report.



- *Image 10: Section view of roof structure and ground view line, and; Image 11: Roof top area photomontage of plant equipment, vents and pergolas.*

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

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- 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 modification of consent to DA2023/0987 has been referred to the *Northern Beaches Local Planning Panel* (NBLPP) due to exceeding the "height of buildings" development standard by more than 10%. Additionally, the modification application received more than 10 submissions of objection within the notification period.

The concerns raised in the objections have been addressed by conditions to minimise impacts associated with roof top elements. This includes limiting the roof pergolas to standard height, recommending colours to reduce visual contrast, conditions to limit use and ensure the structures retain appearance of open sided frame pergolas as proposed. Additionally, screening is recommended to conceal view of the re-configured metal exhaust ducting proposed on the roof area.

The critical assessment issues of view impact, noise, privacy and compliance with Manly DCP requirements for roof top structures which have been addressed. Clause 4.6 does not strictly apply to modification applications, however the modification creates a technical non-compliance with the height of buildings development standard which has been considered against the relevant objectives.

Overall, the development is of an acceptable design quality, that when evaluated 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, subject to 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 Northern Beaches Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2026/0160 for Modification of Development Consent DA2023/0987 granted for Demolition of existing structures and construction of a shop top housing development comprising of ground floor retail premises, 24 residential apartments and two levels of basement carparking, associated infrastructure and landscaping on land at Lot 1 DP 100633,40 Belgrave Street, MANLY, Lot 1 DP 104766,41 Belgrave Street, MANLY, Lot 1 DP 719821,9 Raglan Street, MANLY, Lot 1 DP 34395,42 Belgrave Street, MANLY, Lot A DP 368451,35 - 39 Belgrave Street, MANLY, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
MOD2026/0160 PAN-626774	Date of this notice of determination	Modification to add pergola structures and reconfigure roof top exhaust ducts Condition 1D added - Amended architectural plans and documents Condition 87 amended. Conditions 87A and 87B added.
MOD2026/0291 PAN-643564	18.7.2026	Modification to de-amalgamate previously merged Units. Condition 1C added - Amended architectural plans and documents Condition 2A added - Ausgrid referral response
MOD2025/0564 PAN-576694	19.12.2025	Modification for minor changes to various building elements Condition 1B added - Amended architectural plans and document Condition 32B added - PV panels
MOD2024/0629 PAN-487672	18.12.2024	Modification to stormwater and OSD design Condition 1A Added - Amended engineering plans
DA2023/0987 (NSW LEC 2024/051916 PAN-353329	30.7.2024	Demolition and construction of a shop top housing development with basement parking.

Modified conditions**A. Add Condition No.1D - Modification of Consent - Approved Plans and supporting**

documentation, to read as follows:

"1D. Modification of Consent - 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-0115	11	Floor Plan Level 3 (annotations in red outline only)	SJB Architects	20.3.2026
DA-0117	16	Floor Plan Roof	SJB Architects	20.3.2026
DA-1401	11	Elevation North	SJB Architects	20.3.2026
DA-1402	10	Elevation East	SJB Architects	20.3.2026
DA-1403	11	Elevation South	SJB Architects	20.3.2026
DA-1404	10	Elevation West	SJB Architects	20.3.2026
DA-1502	4	Section B-B	SJB Architects	20.3.2026

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate	1396814M_08	E-LAB Consulting	1.5.2026

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."

B. Modify Condition 87 Roof terraces structures, to read as follows:

"87. Roof terraces structures

The operable pergola structures (vergola style) must comply with the following requirements:

- (i) Be a maximum height of 2.4m to the underside of the ceiling top frame beam; and
- (ii) Not have any fixed enclosing side walls and remain open style structures; and
- (iii) Be of "woodland grey" or "windspray" or "shale grey" standard 'colorbond' colour, in order to minimise visual contrast with the landscaped roof terrace space, and
- (iv) Use only integrated "down lights" to limit light spill / glare.

Reason: Minimize view impact amenity to from adjacent existing apartments pursuant to MDCP. "

C. Add Condition 87A Roof terrace usage, to read as follows:

"87A Roof terrace usage

The roof terraces are to have a restriction on use within the by-laws of the building Body Corporate Strata management to limit the occupation of the roof terraces so that use of the roof terraces is restricted to cease after 12:30am at night time.

Reason: Noise amenity."

D. Add Condition 81A Roof exhaust duct screening, to read as follows:

"87B Roof exhaust duct screening

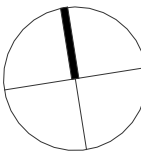
Louvre screening is to be provided around the exterior of the metal exhaust ducting on the roof to shield its external appearance from nearby apartments (from No.26 Whistler Street) that overlook the roofspace of the approved building. The screen panels shall be similar or matching colour to the pergolas or other screening structures and be 0.8m to 1.8m high (measured from RL23.075) to match the height of the exhaust duct sections being screened.

Details to be provided to the satisfaction of the Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Screening of roof plant pursuant to MDCP."



In accepting and utilising this document the recipient agrees that SJB Architecture (NSW) Pty. Ltd. ACN 081 004 724 T/A SJB Architects, retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against SJB Architects resulting from unauthorised changes; or to reuse the document on other projects without prior written consent from SJB Architects. Under no circumstances shall transfer of this document be deemed a sale. SJB Architects makes no warranties of fitness for any purpose. The Builder/Contractor shall verify job dimensions prior to any work commencing. Use figured dimensions only. Do not scale drawings.
Nominated Architects: Adam Haddow-7188 | John Pradel-7004



0 1 2 5m
1:100 @A1

Rev	Date	Revision	By	Chk.
2	2023/05/29	FOR COORDINATION	TD	EW
3	2023/06/20	FOR COORDINATION	TD	EW
4	2023/06/28	FOR DA APPROVAL	TD	EW
5	2024/05/14	FOR S34 - REDUCE LV4 GLAZING AWNING HEIGHT	TD	EW
6	2025/05/07	MOD FOR COORDINATION	TK	EW
7	2025/06/03	MOD FOR REVIEW	TK	EW
8	2025/07/25	MOD FOR REVIEW	TK	EW
9	2025/08/15	MOD FOR REVIEW	TK	EW
10	2025/09/22	FOR INFORMATION	SS	SC
11	2026/03/20	(S4.55) MODIFICATION 2	LT	GS

Client

TIME & PLACE

Project

Belgrave St - Manly
35-43 Belgrave Street, Manly NSW 2095

Drawing Name

FLOOR PLAN - LEVEL 3

Date

2026/03/20 1 : 100

Drawn

TD

Drawing No.

DA-0115

Scale

1 : 100

Chk.

SC

Sheet Size

@ A1

Job No.

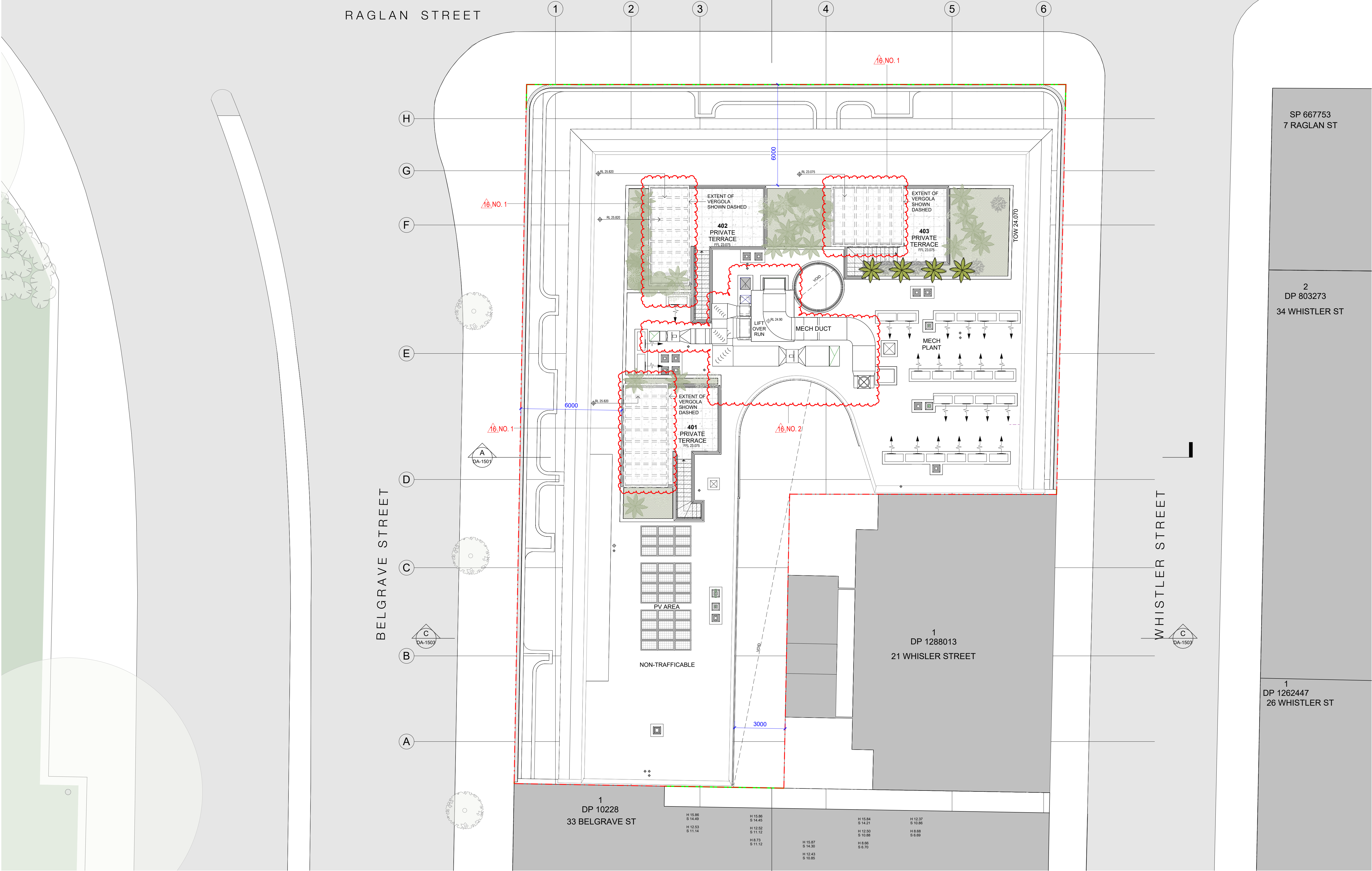
6693

Revision

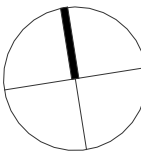
/ 11

SJB Architects
Level 2, 490 Crown St
Surry Hills NSW
2010 Australia
T 61 2 9380 9911
www.sjb.com.au





In accepting and utilising this document the recipient agrees that SJB Architecture (NSW) Pty. Ltd. AGN 081 084 724 T/A SJB Architects, retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against SJB Architects resulting from unauthorised changes; or to reuse the document on other projects without prior written consent from SJB Architects. Under no circumstances shall transfer of this document be deemed a sale. SJB Architects makes no warranties of fitness for any purpose. The Builder/Contractor shall verify job dimensions prior to any work commencing. Use figured dimensions only. Do not scale drawings.
Nominated Architects: Adam Haddow-7188 | John Pradel-7004



0 1 2 5m
1:100 @A1

Rev	Date	Revision	By	Chk.
7	2023/11/27	RESPONSE TO COUNCIL'S RFI	TD	EW
8	2024/04/22	FOR S34	TD	EW
9	2024/05/07	FOR S34 - REDUCE ROOF OVERHANG	TD	EW
10	2024/05/14	FOR S34 - REDUCE LV4 GLAZING AWNING HEIGHT	TD	EW
11	2024/03/11	S34 - ROOF AWNING REVISED	TD	EW
12	2025/05/27	MOD FOR COORDINATION	TK	EW
13	2025/06/03	MOD FOR REVIEW	TK	EW
14	2025/07/25	MOD FOR REVIEW	TK	EW
15	2025/08/15	MOD FOR REVIEW	TK	EW
16	2026/03/20	(S4.55) MODIFICATION 2	LT	GS

Client

TIME & PLACE

Project

Belgrave St - Manly
35-43 Belgrave Street, Manly NSW 2095

Drawing Name

FLOOR PLAN - ROOF

Date

2026/03/20 1 : 100

Drawn

TD

Drawing No.

DA-0117

Scale

1 : 100

Chk.

SC

Sheet Size

@ A1

Job No.

6693

Revision

/ 16

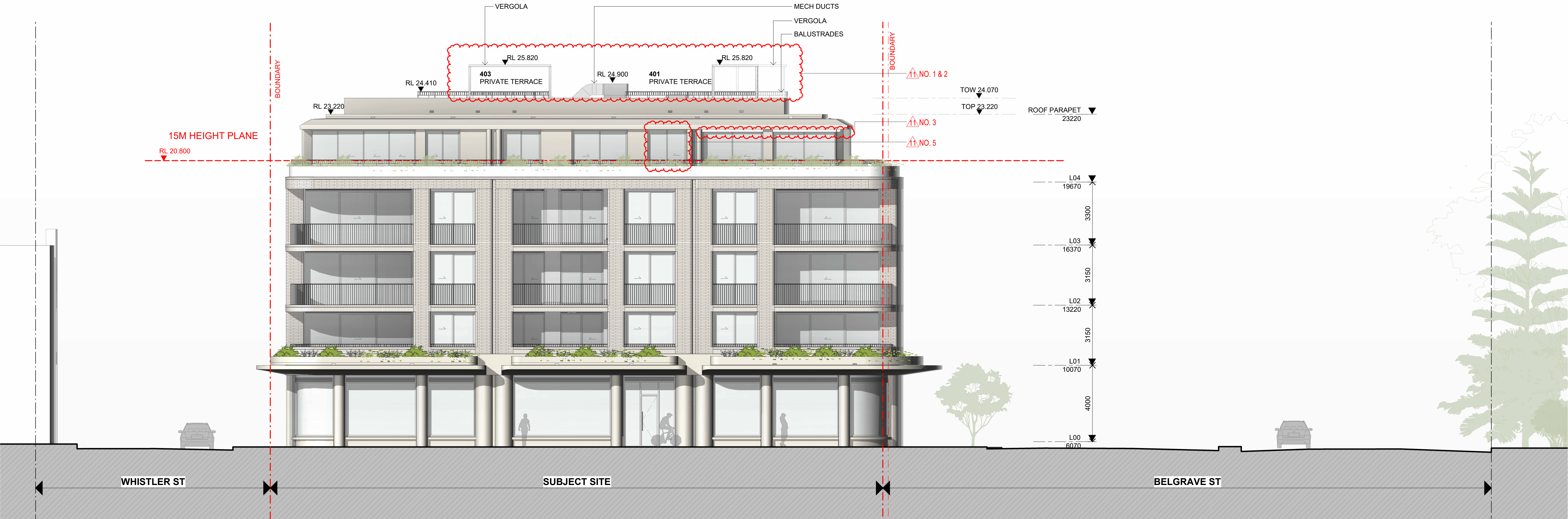
SJB Architects
Level 2, 490 Crown St
Surry Hills NSW
2010 Australia
T 61 2 9380 9911
www.sjb.com.au



SP 667753
7 RAGLAN ST

2
DP 803273
34 WHISTLER ST

1
DP 1262447
26 WHISTLER ST



1 ELEVATION
NORTH ELEVATION (DA)

SCALE 1 : 100

CONCRETE

C01

CONCRETE TEXTURE
WARM FINISH



BRICKWORK

BR01

BRICKWORK
WARM COLOR



METALWORK

M01

METAL PALISADE BALUSTRADE
PROTECTIVE COATING
WARM COLOR / BRONZE



METALWORK

M02

METAL LOUVRES - PROTECTIVE COATING
MATCH CONCRETE COLOR



GLAZING

GL01

VISION GLAZING - AS PER BASIX - CLEAR

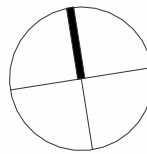


LIST OF AMENDMENTS

- Vergolas added to the private rooftop terraces of apartments 401, 402 and 403.
- Rooftop mechanical ducts associated with the retail kitchen exhaust revised
- Retractable awnings added to the north and west elevations of Apartment 402.
- New glazed sliding door added to apartment 305(A) study room on the east elevation.
- Apartment 402 kitchen glazed sliding door size revised on the northern elevation
- Apartment 305(A) bedrooms glazing configuration revised on the east side
- Apartment 403 media room glazing configuration revised on the east side

REVISION NUMBER
NO. 2
AMENDMENT NUMBER

In accepting and utilising this document the recipient agrees that SJB Architecture (NSW) Pty. Ltd. ACN 081 084 724 T/A SJB Architects, retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use to waive all claims against SJB Architects resulting from unauthorised changes; or to reuse the document on other projects without prior written consent from SJB Architects. Under no circumstances shall transfer of this document be deemed a sale. SJB Architects makes no warranties of fitness for any purpose. The Builder/Contractor shall verify job dimensions prior to any work commencing. Use figured dimensions only. Do not scale drawings.
Nominated Architects: Adam Haddow-7188 | John Pradel-7004



0 1 2 5m
1:100 @A1

Rev	Date	Revision	By	Chk.
2	2023/06/20	FOR COORDINATION	TD	EW
3	2023/06/28	FOR DA APPROVAL	TD	EW
4	2023/11/27	RESPONSE TO COUNCIL'S RFI	TD	EW
5	2024/04/22	FOR S34	TD	EW
6	2024/05/14	FOR S34 - REDUCE L14 GLAZING AWNING HEIGHT	TD	EW
7	2024/03/11	S34 - ROOF AWNING REVISED	TD	EW
8	2025/06/03	MOD FOR REVIEW	TK	EW
9	2025/07/25	MOD FOR REVIEW	TK	EW
10	2025/08/15	MOD FOR REVIEW	TK	EW
11	2026/03/20	(S4.55) MODIFICATION 2	LT	GS

Client

TIME & PLACE

Project

Belgrave St - Manly
35-43 Belgrave Street, Manly NSW 2095

Drawing Name

ELEVATION NORTH

Date

2026/03/20 As indicated

Drawn

Chk.

TD

SC

DA-1401

Scale

As indicated

Job No.

6693

Revision

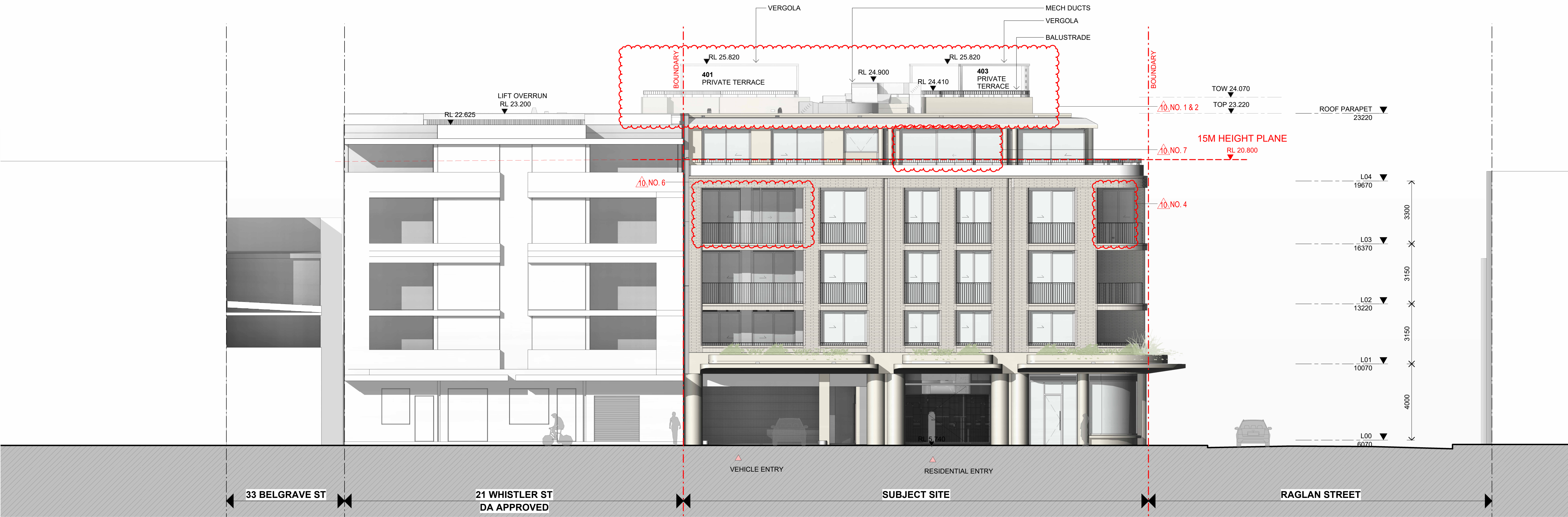
/ 11

Sheet Size

@ A1

SJB Architects
Level 2, 490 Crown St
Surry Hills NSW
2010 Australia
T 61 2 9380 9911
www.sjb.com.au





1 ELEVATION
EAST ELEVATION (DA)

SCALE 1:100

CONCRETE

C01

CONCRETE TEXTURE
WARM FINISH



BRICKWORK

BR01

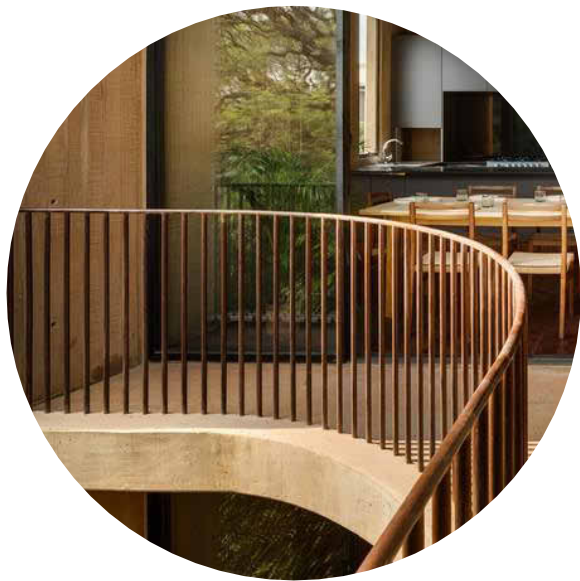
BRICKWORK
WARM COLOR



METALWORK

M01

METAL PALISADE BALUSTRADE
PROTECTIVE COATING
WARM COLOR / BRONZE



METALWORK

M02

METAL LOUVRES - PROTECTIVE COATING
MATCH CONCRETE COLOR



GLAZING

GL01

VISION GLAZING - AS PER BASIX - CLEAR

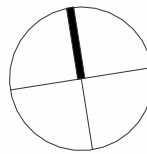


LIST OF AMENDMENTS

- Vergolas added to the private rooftop terraces of apartments 401, 402 and 403.
- Rooftop mechanical ducts associated with the retail kitchen exhaust revised
- Retractable awnings added to the north and west elevations of Apartment 402.
- New glazed sliding door added to apartment 305(A) study room on the east elevation.
- Apartment 402 kitchen glazed sliding door size revised on the northern elevation
- Apartment 305(A) bedrooms glazing configuration revised on the east side
- Apartment 403 media room glazing configuration revised on the east side

REVISION NUMBER
NO. 2
AMENDMENT NUMBER

In accepting and utilising this document the recipient agrees that SJB Architecture (NSW) Pty. Ltd. ACN 081 084 724 T/A SJB Architects retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use to waive all claims against SJB Architects resulting from unauthorised changes; or to reuse the document on other projects without prior written consent from SJB Architects. Under no circumstances shall transfer of this document be deemed a sale. SJB Architects makes no warranties of fitness for any purpose. The Builder/Contractor shall verify job dimensions prior to any work commencing. Use figured dimensions only. Do not scale drawings.
Nominated Architects: Adam Haddow-7188 | John Pradel-7064



0 1 2 5m
1:100 @A1

Rev	Date	Revision	By	Chk.
1	2023/05/29	FOR COORDINATION	TD	EW
2	2023/06/20	FOR COORDINATION	TD	EW
3	2023/06/28	FOR DA APPROVAL	TD	EW
4	2024/04/22	FOR S34	TD	EW
5	2024/05/14	FOR S34 - REDUCE L14 GLAZING AWNING HEIGHT	TD	EW
6	2024/03/11	S34 - ROOF AWNING REVISED	TD	EW
7	2025/06/03	MOD FOR REVIEW	TK	EW
8	2025/07/25	MOD FOR REVIEW	TK	EW
9	2025/08/15	MOD FOR REVIEW	TK	EW
10	2026/03/20	(S4.55) MODIFICATION 2	LT	GS

Client

TIME & PLACE

Project

Belgrave St - Manly
35-43 Belgrave Street, Manly NSW 2095

Drawing Name

ELEVATION EAST

Date

2026/03/20 As indicated

Drawn

TD

Drawing No.

DA-1402

Scale

As indicated

Chk.

SC

Revision

/ 10

Sheet Size

@ A1

Job No.

6693

Revision

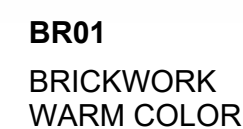
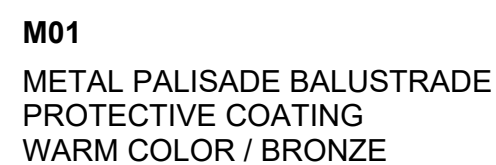
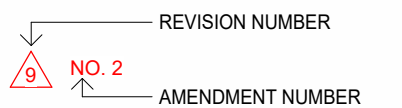
/ 10

SJB Architects
Level 2, 490 Crown St
Surry Hills NSW
2010 Australia
T 61 2 9380 9911
www.sjb.com.au





C01
CONCRETE TEXTURE
WARM FINISH

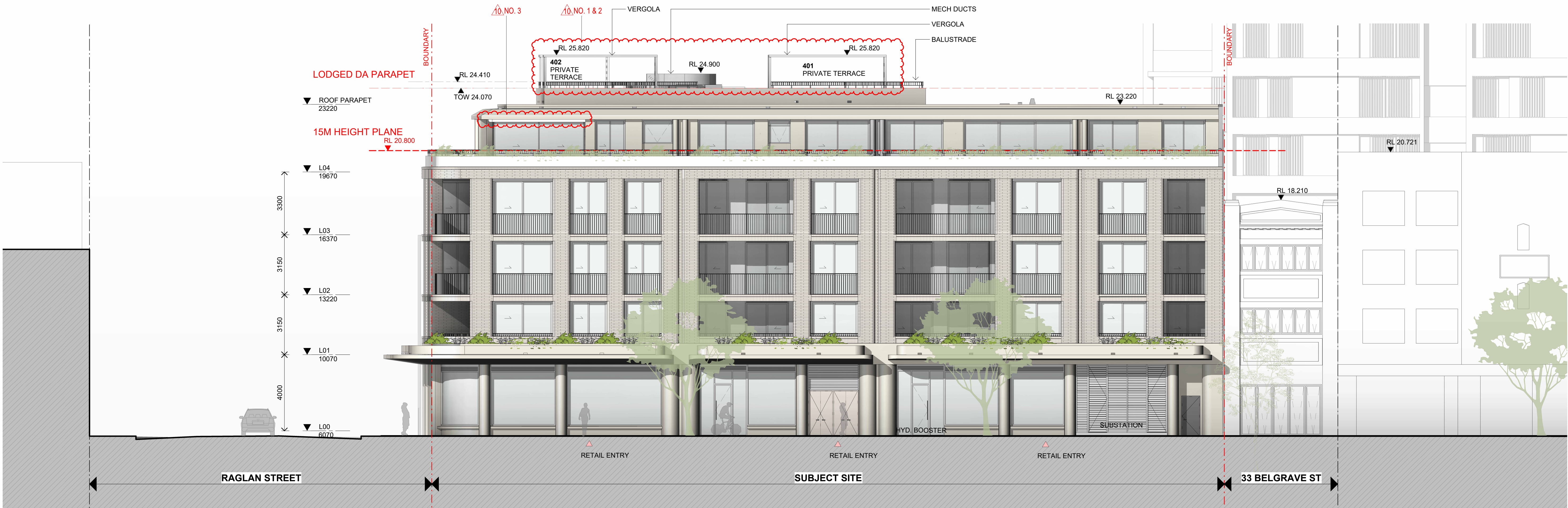


Client

ELEVATION SOUTH

SJB Architects
Level 2, 490 Crown St
Surry Hills NSW
2010 Australia
T 61 2 9380 9911
www.sjb.com.au





1 ELEVATION
WEST ELEVATION (BELGRAVE STREET) (DA)

SCALE 1 : 100

CONCRETE

C01

CONCRETE TEXTURE
WARM FINISH



BRICKWORK

BR01

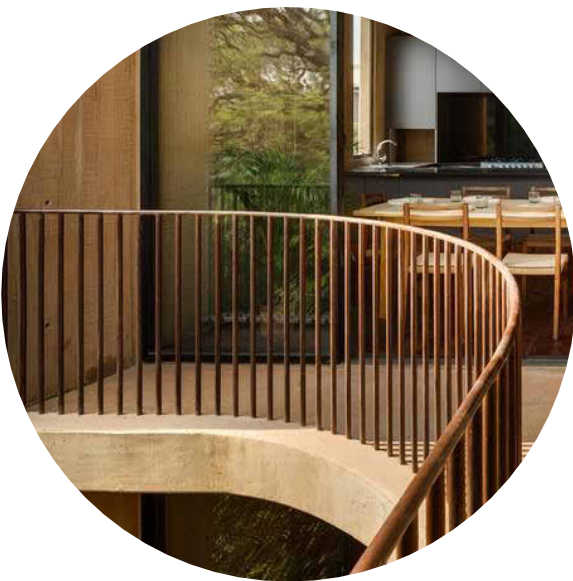
BRICKWORK
WARM COLOR



METALWORK

M01

METAL PALISADE BALUSTRADE
PROTECTIVE COATING
WARM COLOR / BRONZE



METALWORK

M02

METAL LOUVRES - PROTECTIVE COATING
MATCH CONCRETE COLOR



GLAZING

GL01

VISION GLAZING - AS PER BASIX - CLEAR

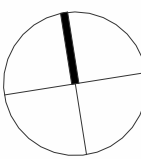


LIST OF AMENDMENTS

- Vergolas added to the private rooftop terraces of apartments 401, 402 and 403.
- Rooftop mechanical ducts associated with the retail kitchen exhaust revised
- Retractable awnings added to the north and west elevations of Apartment 402.
- New glazed sliding door added to apartment 305(A) study room on the east elevation.
- Apartment 402 kitchen glazed sliding door size revised on the northern elevation
- Apartment 305(A) bedrooms glazing configuration revised on the east side
- Apartment 403 media room glazing configuration revised on the east side

REVISION NUMBER
NO. 2
AMENDMENT NUMBER

In accepting and utilising this document the recipient agrees that SJB Architecture (NSW) Pty. Ltd. ACN 081 064 724 T/A SJB Architects, retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against SJB Architects resulting from unauthorised changes; or to reuse the document on other projects without prior written consent from SJB Architects. Under no circumstances shall transfer of this document be deemed a sale. SJB Architects makes no warranties of fitness for any purpose. The Builder/Contractor shall verify job dimensions prior to any work commencing. Use figured dimensions only. Do not scale drawings.
Nominated Architects: Adam Haddow-7188 | John Pradel-7004



0 1 2 5m
1:100 @A1

Rev	Date	Revision	By	Chk.
1	2023/06/20	FOR COORDINATION	TD	EW
2	2023/06/28	FOR DA APPROVAL	TD	EW
3	2023/11/27	RESPONSE TO COUNCIL'S RFI	TD	EW
4	2024/04/22	FOR S34	TD	EW
5	2024/05/14	FOR S34 - REDUCE L14 GLAZING AWNING HEIGHT	TD	EW
6	2024/03/11	S34 - ROOF AWNING REVISED	TD	EW
7	2025/06/03	MOD FOR REVIEW	TK	EW
8	2025/07/25	MOD FOR REVIEW	TK	EW
9	2025/08/15	MOD FOR REVIEW	TK	EW
10	2026/03/20	(S4.55) MODIFICATION 2	LT	GS

Client

TIME & PLACE

Project

Belgrave St - Manly
35-43 Belgrave Street, Manly NSW 2095

Drawing Name

ELEVATION - WEST

Date

2026/03/20 As indicated

Drawn

TD

Drawing No.

DA-1404

Scale

As indicated

Chk.

SC

Revision

/ 10

Sheet Size

@ A1

Job No.

6693

SJB Architects
Level 2, 490 Crown St
Surry Hills NSW
2010 Australia
T 61 2 9380 9911
www.sjb.com.au



5 NON-PUBLIC MEETING ITEMS

ITEM 5.1 DA2026/0175 - 30 KENTWELL ROAD ALLAMBIE HEIGHTS - SUBDIVISION OF ONE LOT INTO TWO LOTS INCLUDING ALTERATIONS AND ADDITIONS TO EXISTING DWELLING HOUSE

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 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. DA2026/0175 for Subdivision of one lot into two lots including alterations and additions to existing dwelling house at Lot B DP 405016, 30 Kentwell Road ALLAMBIE HEIGHTS subject to the conditions set out in the Assessment Report.

Reporting manager: Executive Manager Development Assessment

Attachments:

1. Assessment Report [5.1.1 - 48 pages]
2. Site Plans & Elevations [5.1.2 - 5 pages]
3. Clause 4.6 [5.1.3 - 14 pages]

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2026/0175
----------------------------	-------------

Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot B DP 405016, 30 Kentwell Road ALLAMBIE HEIGHTS NSW 2100
Proposed Development:	Subdivision of one lot into two lots including alterations and additions to an existing dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Charles John Vallelonga

Application Lodged:	20/02/2026
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	02/03/2026 to 16/03/2026
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	4.1 Minimum subdivision lot size: 19.1%
Recommendation:	Approval

Estimated Cost of Works:	\$ 341,018.00
---------------------------------	---------------

EXECUTIVE SUMMARY

This development application seeks consent for the Torrens Title subdivision of one allotment into two lots, including the partial demolition, relocation, alterations and additions to the existing dwelling house, together with a new carport, driveway, and stormwater management infrastructure.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) because it seeks to vary the development standard for minimum subdivision lot size under Clause 4.1 of the Warringah Local Environmental Plan 2011 (WLEP 2011) by more than 10% (up to 19.1%).

The assessment concludes that the applicant's Clause 4.6 Written Request adequately demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the variation. The proposal achieves the objectives of Clause 4.1 and the R2 Low Density Residential zone, notwithstanding the numerical non-compliance.

The proposed subdivision is considered compatible with the established character of the locality and the prevailing pattern, size and configuration of surrounding allotments, including existing battle-axe subdivisions within the immediate vicinity. The proposal also complies with the relevant subdivision controls contained within Part C1 – Subdivision of the Warringah Development Control Plan 2011 (WDCP 2011), demonstrating that each proposed lot is capable of accommodating an appropriately designed detached dwelling.

In accordance with Council's Community Participation Plan, the application was publicly exhibited, and two (2) submissions were received. The submissions raised concerns regarding stormwater management, existing stormwater impacts on the adjoining property at 28A Kentwell Road, existing rear yard levels, and the potential future development of the rear allotment. These matters have been considered and addressed within this assessment report.

While the proposal contains minor departures from certain built form controls of the WDCP 2011, these variations are considered acceptable on planning merit and do not detract from the orderly development of the land or the amenity of the surrounding area.

Therefore, the proposed development is considered to be in the public interest and worthy of approval.

It is recommended that the Northern Beaches Local Planning Panel grant development consent, subject to the recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the Torrens Title subdivision of one (1) allotment into two (2) residential lots, including the partial demolition, relocation, and alterations and additions to the existing dwelling house on proposed Lot 1.

The subdivision will create the following lots:

Proposed Lot 1

- Site Area: 542.9m² (485.6m² excluding right-of-way)
- Width: 13.49m to 21.945m
- Depth: 31.59m to 48.9m

Proposed Lot 2

- Site Area: 539m² (485.6m² excluding right-of-way)
- Width: 15.245m
- Depth: 31.675m

The existing dwelling house is proposed to be relocated to a compliant position on Lot 1 and will undergo alterations and additions, including reconfiguration of internal rooms, a new living area, an additional bedroom, laundry, and ensuite. External works include a two-car carport, a reconfigured front porch, a

north-facing covered alfresco area, and a new driveway and vehicle crossover.

No dwelling is proposed on Lot 2 as part of the current application.

Amended Information Received by Council and Request for Further Information (RFI)

15 May 2026, Council issued a Request for Further Information (RFI) to the applicant seeking amendments and additional information to address matters identified during the assessment of the application, including:

Planning

- Provide additional landscaping along the western side of the proposed driveway to improve the streetscape presentation and enhance the interface with the adjoining property to the west.
- Amend the approved roof form from a pitched roof to a skillion roof to reduce visual bulk and improve the streetscape outcome.
- Demonstrate compliance with Clause D1 – Landscape Open Space and Bushland Setting of the *Warringah Development Control Plan 2011*.

Development Engineering

- Address matters relating to the proposed stormwater drainage system, driveway access arrangements and the proposed subdivision plan.

Following the Request for Further Information, the applicant submitted amended documentation to address the matters raised by Council.

30 June 2026: Council received amended Architectural and Engineering Plans addressing the planning and engineering matters identified in the RFI.

14 July 2026: Council received further amended Engineering Plans to address the remaining engineering issues raised in the RFI.

22 July 2026: Council's Development Engineer completed the assessment of the amended engineering documentation and advised support for the proposal, subject to the recommended conditions of consent.

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 - 4.1 Minimum subdivision lot size

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential

Warringah Development Control Plan - B7 Front Boundary Setbacks

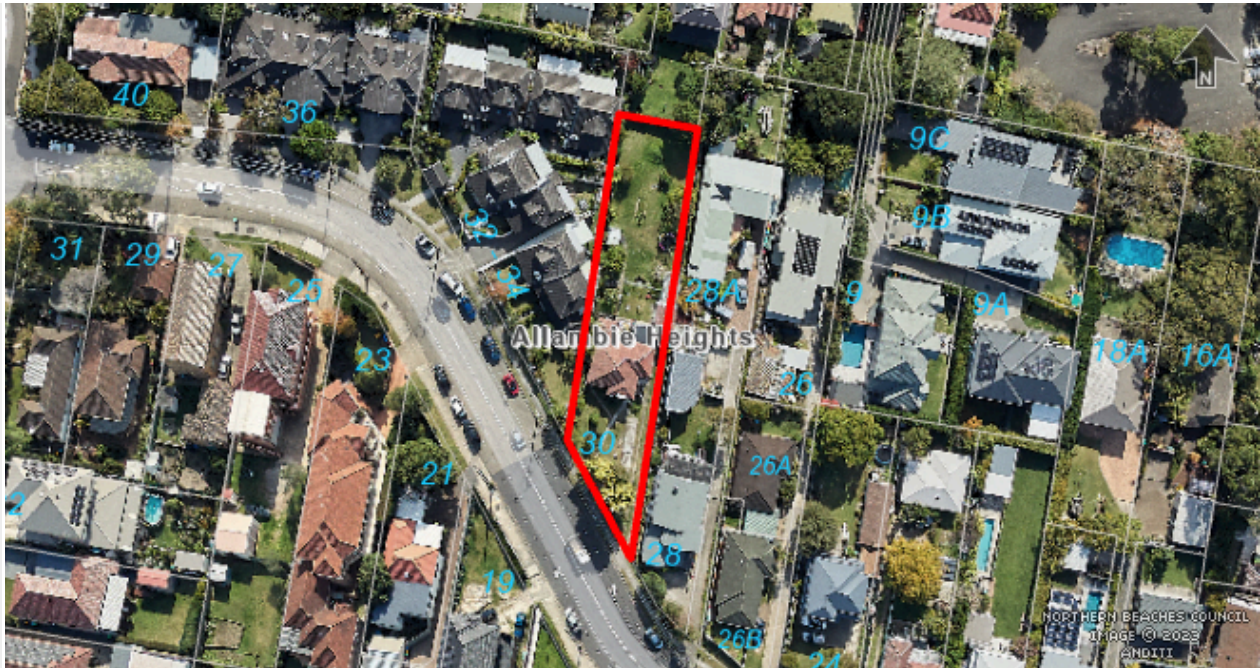
Warringah Development Control Plan - C1 Subdivision

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

SITE DESCRIPTION

Property Description:	Lot B DP 405016 , 30 Kentwell Road ALLAMBIE HEIGHTS NSW 2100
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Kentwell Road.</p> <p>The site is an irregularly shaped allotment with a frontage of 24.795m to Kentwell Road, narrowing to 15.245m at the building line. It has an eastern side boundary of 80.575m, a western side boundary of 61.4m, and a rear (northern) boundary of 15.245m, resulting in a total site area of 1,081m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a single-storey clad dwelling with a tiled roof. Vehicular access is provided via an existing driveway located at the eastern end of the Kentwell Road frontage.</p> <p>The land is relatively level, with an approximate 1m fall across the site from west to east.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>The surrounding locality is characterised by a mix of dwelling houses, dual occupancies, multi-dwelling housing developments, and seniors housing, generally ranging from one to two storeys in height and scale. Battle-axe allotments are a common subdivision pattern within the immediate area. Shop-top housing developments are also located further north along Kentwell Road, between Cornwell Road and Allambie Road.</p>

Map:



SITE HISTORY

DF2026/0458 - Private Drainage Investigation - Current investigation being undertaken by Council's Environmental Health Team.

PLM2025/0060 - Subdivision of one lot into two lots and alterations and additions to a dwelling.

Main Issues Identified at the Pre-lodgement Meeting

- Lodgement of a Clause 4.6 Written Request to address the variation to Clause 4.1 of the Warringah Local Environmental Plan 2011.
- Relocation of the existing dwelling.
- Demonstration that a compliant dwelling house can be constructed on the proposed rear lot.

The pre-lodgement meeting concluded with the following comments:

"The proposed development is generally supported for lodgement as a development application. Any submission will require a detailed Clause 4.6 Written Request that justifies the proposed variation to Clause 4.1 – Minimum Subdivision Lot Size."

The current development application has adequately addressed the matters identified during the pre-lodgement process. In particular, a detailed Clause 4.6 Written Request has been submitted to justify the proposed variation to Clause 4.1 of the Warringah Local Environmental Plan 2011.

The proposed subdivision is considered to be consistent with the pattern of subdivision and lot sizes within the surrounding locality. Furthermore, the proposed rear allotment has sufficient area and dimensions to accommodate a future dwelling house that can comply with the applicable planning controls, thereby achieving an orderly and reasonable planning outcome.

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)(iia) – Provisions of any planning agreement	Non-applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p>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.</p> <p>Pursuant to Clauses 36 and 94 of the Environmental Planning and Assessment Regulation 2021, Council requested additional information to address concerns relating to the proposed architectural design and engineering details. The applicant submitted the requested amended information on 30 June and 14 July 2026, and this material has been reviewed and forms part of the assessment of the application.</p> <p>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.</p> <p>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.</p> <p>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.</p>
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	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>

Section 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 202X (Draft LEP)****Definition(s):** Subdivision and Dwelling House*"Dwelling house means a building containing only one dwelling."***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 02/03/2026 to 16/03/2026 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 2 submission/s from:

Name:	Address:
Mr Michael James Ecob Ms Susanne Patricia Ecob	28 A Kentwell Road ALLAMBIE HEIGHTS NSW 2100
Mrs Sharne Meredith Ritenis	8 / 32 - 34 Kentwell Road ALLAMBIE HEIGHTS NSW 2100

The following issues were raised in the submissions and are addressed below:

Future Development of the Rear Allotment

Concerns were raised regarding the potential for future development on the proposed rear allotment.

Comment: Any future development on the rear allotment would be most likely subject to a separate development application and assessed on its own merits, having regard to the relevant planning controls applicable at that time. Any such application would be notified in accordance with the Northern Beaches Community Participation Plan, providing adjoining and surrounding landowners with an opportunity to make submissions for Council's consideration as part of the assessment process. Alternatively, a Complying Development Certificate could be issued for a dwelling house.

Raised Backyard Levels and Stormwater

Concerns were raised that works, including retaining walls, filling and drainage works, were undertaken on the site in late 2024 prior to the lodgement of the current application.

Comment: A search of Council's records has not identified any previous approvals or complaints relating to those works at the time they were undertaken. Notwithstanding, Council is currently investigating the drainage works following complaints received from the owners of 28A Kentwell Road.

With respect to the current application, a new stormwater drainage system is proposed to collect and convey stormwater, including overland flows, to the lawful point of discharge in Kentwell Road via gravity drainage. The proposed stormwater design has been assessed by Council's Development Engineer and is considered satisfactory, subject to the recommended conditions of consent.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p data-bbox="536 353 1098 385">RECOMMENDED CONDITIONS PROVIDED</p> <p data-bbox="536 421 1378 483">The application as described in reports and as illustrated on plans is supported by Landscape Referral, subject to conditions.</p> <p data-bbox="536 519 1417 784">It is noted that the landscape area for both proposed lot 1 and lot 2 achieves the minimum requirement of 40%, which will permit the establishment of landscape setting outcomes to satisfy Warringah DCP control D1, including to provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building. and enhance privacy between buildings.</p> <p data-bbox="536 819 1417 981">It is noted that there are no prescribed trees within the property and the three existing exempt species (by species type and by species height) may be managed or removed without Council consent. All existing trees and vegetation within adjoining properties shall be retained and conditions shall be imposed.</p> <p data-bbox="536 1016 1362 1178">The proposed alterations and additions upon lot 1 are documented however no landscape plan is submitted, and minimum landscape setting outcomes shall be the subject of conditions, including one native tree to the front and rear of the lot and garden bed planting across the front boundary, to satisfy Warringah DCP control D1.</p>

Internal Referral Body	Comments
NECC (Development Engineering)	<p data-bbox="536 353 1098 387">RECOMMENDED CONDITIONS PROVIDED</p> <p data-bbox="536 421 1324 517">The proposal includes the relocation of the existing dwelling, demolition of some structures, alterations and additions and the subdivision into two lots.</p> <p data-bbox="536 555 679 584">Stormwater</p> <ol data-bbox="603 589 1417 2056" style="list-style-type: none"> <li data-bbox="603 589 1417 1014">1. The applicant has included two separate sets of plans for the management of stormwater from each proposed lot. Proposed Lot 2 includes a junction pit in the south eastern corner of the lot with a drainage line along the eastern boundary of proposed Lot 1 to a junction pit at the front boundary with a connection to the kerb. The plans indicate some adjustment of the Council reserve to achieve gravity fall. There is no detail shown and as these works may adjust the verge, details of any adjustment must be provided. As the existing driveway crossing is to be reinstated, it is considered that the regrading must be limited to the area to be reinstated. These details are to be provided on the driveway plans and updated on the stormwater plan. <li data-bbox="603 1019 1417 1384">2. There is an existing drainage pit along the eastern boundary of proposed Lot 2 with an invert of RL30.72. A letter from the adjoining property owner indicates that this pit may drain into the existing sewer line and there has been some drains cut into the site which intercept flows from the upstream property and direct it into this pit. In this regard, the applicant's Engineer is to review the submission and provide a revised design for the drainage of proposed Lot 2 to remove the rear pit and ensure any overland flows are adequately collected and connected to the proposed inter-allotment pit. <li data-bbox="603 1388 1417 1485">3. The plan also indicates a hobbled walkway along the proposed easement through proposed Lot 1 however there is no detail which must be shown. <li data-bbox="603 1489 1417 1619">4. The plans for proposed Lot 1 have included OSD but it is unclear from the calculation sheet if the pre-development discharge has been calculated using an impervious fraction of 0%. <li data-bbox="603 1624 1417 1686">5. The outlet for this site must be relocated to be 15 metres offset from the proposed outlet for proposed Lot 2. <li data-bbox="603 1691 1417 1854">6. The plans indicate a high point in the proposed driveway with a grated drain at the rear boundary. It is considered that the proposed driveway is to be graded entirely towards the boundary to avoid a trapped low point on the common boundary. <li data-bbox="603 1859 1417 1989">7. It is unclear if the overland flow for the site is to be directed along the proposed easement on the eastern boundary or if there is to be a separate flow path. Details of each of the swales are to be shown. <li data-bbox="603 1993 1417 2056">8. The proposed access driveway is split between proposed lots 1 and 2. Drainage of proposed lot 2 through proposed

Internal Referral Body	Comments
	<p>lot 1 will require drainage easements. This issue is to be reviewed by the engineer to determine if the driveway can be designed to ensure no drainage easements will be required and the plans updated to suit.</p> <p>Driveway Access</p> <ol style="list-style-type: none"> 1. As noted above, the driveway is to be redesigned to ensure fall is directed to the road boundary and ensure drainage for each lot within the driveway is achieved. 2. There is an existing RHS outlet that discharges into the kerb within the proposed driveway crossing. The engineer is to locate the outlet to determine if the width of the crossing at the kerb can be reduced to clear the outlet or details to relocate the outlet must be shown. 3. As noted above, details and sections for the reinstatement of the existing crossing to show the required regrading to be shown. <p>Subdivision</p> <p>The subdivision plan is to be amended to include the drainage easements.</p> <p>Development Engineering require additional information to address stormwater, access and subdivision in accordance with clauses C1, C2 and C4 of the DCP.</p> <p>Amended plans submitted 14/07/2026</p> <p>The amended plans have addressed the previous issues raised and are acceptable subject to conditions.</p> <p>As the proposal includes construction work and subdivision works, it is considered that all these works must be completed prior to the issue of the subdivision certificate. In this regard, Planning must provide a condition requiring the occupation certificate to be issued prior to the release of the subdivision certificate to ensure all works have been completed.</p> <p>The proposal meets the objectives of the DCP controls, subject to conditions as recommended.</p>

Internal Referral Body	Comments
NECC (Flooding)	<p>RECOMMENDED NO CONDITIONS REQUIRED</p> <p>This proposal is for the Torrens Title Subdivision of one lot into two, and alterations and additions to the existing dwelling on the site.</p> <p>The proposal is outside of the Flood Planning Area.</p> <p>The proposal generally complies with Section E11 of the Warringah DCP and Clause 5.21 of the Warringah LEP.</p>
NECC (Water Management)	<p>RECOMMENDED NO CONDITIONS REQUIRED</p> <p>The proposal is for subdivision of one lot into two, and alterations and additions to the existing dwelling.</p> <p>Water management for proposed Lot 2 to be addressed at individual lot stage.</p>
External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>RECOMMENDED CONDITIONS PROVIDED</p> <p>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.</p>

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 creation of one new residential allotment. As such, the contribution is \$13,000.71

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. A1823520 dated 25 November 2025).

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

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been

included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been 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
Minimum subdivision lot size	Min. 600m ²	Lot 1: 542.9m ² (485.6m ² excluding access handle)	19.1%	No
		Lot 2: 485.6m ²	19.1%	No
Height of Buildings	8.5m	7.3m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision - consent requirements	Yes
2.7 Demolition requires consent	Yes
4.1 Minimum subdivision lot size	No (see detail under Clause 4.6 below)
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.9 Dwelling house or secondary dwelling affected by natural disaster	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment**Zone R2 Low Density Residential**

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The subject site is currently developed with a single detached dwelling house. The proposed development increases the opportunity for housing stock to support the needs of the community. The proposed development is demonstrably of low impact, given its compliance with applicable built form and subdivision controls of the WDCP 2011.

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

Comment:

Not applicable. The proposed development retains the residential use of the site.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The proposed subdivision allows for near compliant landscaped open space on each proposed lot, of sufficient dimensions to be planted with a suitable variety of vegetation types and sizes. The proposed development is consistent with the character of the Allambie Heights locality and is in harmony with the natural environment of the area.

4.6 Exceptions to development standards

The application seeks consent to vary the minimum lot size development standard as follows:

Development Standard: Clause 4.1 Minimum Subdivision Lot Size

Requirement: Min. 600m²

Proposed: **Lot 1:** 542.9m²
(excluding access handle 485.6m²)
Lot 2: 485.6m²

Percentage Variation: **Lot 1:** 19.1%
Lot 2: 19.1%

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 4.1 Minimum Subdivision Lot Size 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 4.1 is unreasonable or unnecessary in the circumstances of this application because the proposed development is consistent with the objectives of Clause 4.1 and the objectives of the R2 Low Density Residential zone. Assessment of these objectives is detailed in the relevant sections of this assessment report.

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

Comment:

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

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

including the objects in s 1.3 of the EPA Act.'

The Clause 4.6 Request argues, verbatim:

"Ground 1 - Prevailing Subdivision Pattern

The proposal is consistent with the pattern, size and configuration of the existing lots within the locality noting numerous undersized battle-axe arrangements in close vicinity to the site with large access handles. It is our professional opinion that the proposal is consistent with the established subdivision pattern in the immediate locality.

The proposed subdivision will achieve two (2) allotments which directly conform to the prevailing subdivision pattern. Accordingly, the subject sites unique size and location, in the context of properties in the immediate area, render strict compliance with the principal development standard unreasonable and unnecessary in the circumstances of the case.

Ground 2 – Proposed and Potential Building Footprints and Amenity

The new allotments resulting from the subdivision will accommodate two (2) dwellings, each of which can satisfy the requirements for parking, landscaped area, and private open space. A compliant two (2) storey development can be accommodated on each lot, in addition to parking and access.

Ground 3 - Orderly And Economic Development of Land

Given the suitability of the site and the lack of impact arising from the development, the proposal is consistent with object (c) of the EP& Act 1979 to promote the orderly and economic development of land. As set out in 'Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118', the aforementioned environmental planning grounds do not rely on the benefits of the development as a whole, but rather they directly relate to the proposed Lot Size aspect that contravenes the development 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, 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

- The proposed subdivision introduces an appropriate and compatible lot size within the locality, which promotes the orderly & economic use of the land (cl 1.3(c)).*
- The proposed subdivision layout is consistent with the prevailing subdivision pattern in the immediate locality. The proposed subdivision reflects this established character by creating two lots that maintain the rhythm and form of development in the locality.*
- The subdivision plan confirms that each lot can accommodate dwellings that avoid unreasonable impacts on the amenity of neighbouring properties.*

Future development on each lot can also be undertaken to ensure privacy and overshadowing can be adequately serviced in accordance with Council's requirements."

Assessing Officer's Comment:

Council is satisfied that the applicant has adequately demonstrated sufficient environmental planning grounds to justify the contravention of Clause 4.1 – Minimum Subdivision Lot Size. The proposed subdivision is consistent with the established character of the locality and the prevailing pattern, size and configuration of surrounding allotments.

In particular, the following is noted:

- The minimum subdivision lot size applicable to the site is 600m². The subject site has an area of 1,081.9m², representing a 9.8% variation from the minimum area required for two compliant lots (including the proposed right-of-carriageway). The existing allotment is not perceptibly smaller than a compliant 1,200m² site, and the proposed lots will present as compliant when viewed from the public domain.
- The resulting allotments are consistent with the established subdivision pattern within the locality, including the numerous battle-axe allotments in the surrounding area. This conclusion is supported by the Clause 4.6 Written Request prepared by Fours Towns Planning (Matthew Quattroville).

In addition, the following matters support the variation:

- The proposed subdivision complies with the requirements of Part C1 – Subdivision of the Warringah Development Control Plan 2011, with each lot capable of accommodating a compliant detached dwelling house that satisfies the applicable built form controls and landscaped open space requirements.
- There are numerous examples of undersized allotments within the surrounding locality, particularly in close proximity to the subject site, demonstrating that the proposed subdivision is compatible with the established development pattern.

Extract from Clause 4.6 variation prepared by Four Towns Planning dated 12 February 2026



Legend

Red Star – Undersized Lot

Green Star – Battle-axe Lot

Yellow Star – Townhouses

Surrounding lot sizes and development context**Lot sizes by street**

Street	Properties / Lot Sizes
Kentwell Road (North)	4 (575sqm), 4A (520sqm), 6 (520sqm), 12 (515sqm), 14 (580sqm), 26B (375sqm), 26A (315sqm)
Kentwell Road (South)	1 (590sqm), 3 (555sqm), 6 (520sqm), 21A (365sqm)
Sloane Avenue	14 (440sqm), 14A (360sqm), 16 (535sqm)
Condamine Street	381A (460sqm), 383 (390sqm), 385 (500sqm)
Cornwell Road	16 (470sqm), 16A (520sqm), 18 (510sqm), 18A (250sqm), 18B (25sqm), 22 (520sqm), 24 (500sqm), 25 (330sqm), 25A (270sqm), 26 (515sqm)
James Street	7 (525sqm), 11 (475sqm)
Peronne Parade	1 (570sqm), 2 (310sqm), 3 (595sqm), 9 (475sqm), 11 (470sqm), 13 (470sqm), 15 (470sqm), 17 (470sqm), 21 (470sqm)
Orara Road	1 (510sqm), 6 (530sqm), 6A (590sqm), 8 (590sqm), 8A (590sqm); eastern side Nos. 3–23 are undersized lots
Smith Avenue	Western side Nos. 4–26 and eastern side Nos. 3–25 comprise undersized lots

Battle-axe configurations in the immediate area

Street	Battle-axe Properties
Kentwell Road (North)	16 & 16A, 18 & 18A, 26/26A/26B, 28 & 28A
Kentwell Road (South)	21 & 21A
Orara Road	6 & 6A, 8 & 8A
James Street	9, 9A, 9B & 9C
Cornwell Road	16 & 16A, 18/18A/18B, 25 & 25A, 2 & 1A

Medium density development in the immediate area

Property	Development Type
32–34 Kentwell Road	Seniors housing townhouses (adjoining west of subject site)
36 Kentwell Road	Seniors housing townhouses
23 Kentwell Road	Townhouses

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 as outlined above and the resulting development will maintain and be more consistent with the character of the immediate vicinity, as well as the pattern, size and configuration of existing lots in the locality, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

Warringah Development Control PlanBuilt Form Controls

The development application seeks consent to move the existing dwelling house and proposed alterations and additions to the dwelling house including a new carport on Proposed Lot 1 and Lot 2 will be a vacant allotment.

An assessment has been provided as follows:

Proposed Lot 1 - Alterations and additions to the existing dwelling

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	4.6m	-	Yes
B3 Side Boundary Envelope	4m	E: Within envelope	-	Yes
		W: Within envelope	-	Yes
B5 Side Boundary Setbacks	0.9m	E: Min. 0.95m	-	Yes
		W: Min. 3.97m	-	Yes
B7 Front Boundary Setbacks	6.5m	5.893m – 8.367m (Dwelling)	Nil – 9.3%	No
		4.297m - 9.1m (Carport)	Nil - 33.9%	No
B9 Rear Boundary Setbacks	6m	6.3m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (194.2m ²)	39.2% (190.3m ²)	2% (3.9m ²)	No

Proposed Lot 2 (Vacant lot - Indicative Building Envelope Only)

Built Form Control	Requirement	Proposed	% Variation*	Complies
B5 Side Boundary Setbacks	0.9m	E: 2m	-	Yes
		W: 1m	-	Yes
		S: 6.5m	-	Yes
B9 Rear Boundary Setbacks	6m	8.7m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (194.2m ²)	49.9% (242.4m ²)	-	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
C1 Subdivision	Yes	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
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
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**

Clause B7 of the Warringah Development Control Plan 2011 requires a minimum front setback of 6.5m. The proposal involves the following:

- A two-vehicle carport with a minimum setback of 4.297m from the front boundary; and
- The relocation of the existing dwelling house to a minimum setback of 5.893m from the front boundary.

Accordingly, the proposed development does not comply with the required front setback control and is assessed below.

Comment:

The objectives of the control are to:

- *"create a sense of openness;*
- *maintain the visual continuity and pattern of buildings and landscape elements;*
- *protect and enhance the visual quality of streetscapes and public spaces; and*
- *achieve reasonable view sharing."*

The proposal involves relocating the existing dwelling house to the front of the site, which involves a breach of the front setback with a lightweight two-vehicle carport over the proposed parking spaces. The non-compliance is considered acceptable as it maintains the established streetscape character, with a number of surrounding properties containing carports within the front setback area that are integrated with substantial landscaped front gardens.

The proposed carport will comprise a lightweight roof structure supported by four posts, maintaining visual permeability and a sense of openness within the front setback. The development will not obstruct view corridors or adversely affect public views. Furthermore, the proposed landscaping will complement the parking arrangement and enhance the presentation of the site to Kentwell Road.

Accordingly, the proposal satisfies the objectives of the control and is considered acceptable on planning merit.

C1 Subdivision

Component	Requirement	Proposed	Compliant
Lot requirements	a) Minimum width: 13 metres	Lot 1: Min. 15.245m	Yes
		Lot 2: Min. 15.245m	Yes
	b) Minimum depth: 27 metres	Lot 1: Min. 29.3m	Yes
		Lot 2: Min. 31.675m	Yes
	c) Minimum building area: 150m ²	Lot 1: 231.1m ²	Yes
		Lot 2: 160m ²	Yes

Access	Motor vehicle access to each residential allotment is required from a constructed and dedicated public road.	Each lot is to be accessed via Kentwell Road.	Yes
	Where access is proposed to a section of unconstructed public road, then the subdivision will need to provide legal, constructed access to the Council's satisfaction.	Not applicable	N/A
	Access for Council service vehicles, emergency vehicles and garbage collection vehicles must be provided.	Each of the two lots can be accessed for the purpose of emergency services via the conceptual driveway.	Yes
	Driveways, accessways, etc, to allotments should have a gradient not exceeding 1:4 and allow for transitions at a minimum length of 1.5m and at a grade no steeper than 1:10.	Conceptual driveway is of compliant gradients.	Yes
	Driveways in excess of 200 metres will not be allowed for residential development.	Conceptual driveway is less than 200m in length.	Yes
	Driveways that are 30m or more in length require a passing bay to be provided every 30m. To provide a passing bay, driveways shall be widened to 5.0m for a distance of at least 10m.	The conceptual driveways are each less than 30m in length.	Yes
	Passing bays should have regard to sight conditions and minimise vehicular conflict.	Not applicable - No passing bays required or proposed.	N/A
	Vehicular ingress/egress points to internal lots may be used as passing/turning bays, subject to extension of a right-of-carriageway over the passing/turning bay.	An internal lot proposed, however no passing bay or turning bay is required.	Yes
	Rights-of-carriageway should be located so as to accommodate all vehicle turning facilities.	Not applicable - No rights of carriageway are required or proposed.	Yes
	Width of accessway is to be minimum 3.5 metres for a subdivision of 1-5 lots.	The proposed accessway has a minimum width of 3.5m and will provide minimum width of 0.5m for services.	Yes
	Provision of services in rights of carriageway is to be a minimum width of 500 millimetres for up to 3 lots.		

Design and construction	All roads, rights of carriageway, drainage design and construction is to be in accordance with Council's policy requirements including; AUSPEC 1 - Council's Specification for Engineering Works, Development Engineering Minor Works Specification, On Site Stormwater Detention (OSD) Technical Specification and Council's Water Sensitive Urban Design Policy. Additionally, internal roads must be designed in accordance with the relevant Australian Standards.	The proposed development has been reviewed by Council's Development Engineer, who is supportive of the proposed development, subject to recommended conditions of consent.	Yes
	Subdivision design needs to maximise and protect solar access for each dwelling by considering factors such as orientation, shape, size and lot width.	The proposed configuration of lots is suitable for maximisation of solar access.	Yes
Drainage	Provision should be made for each allotment to be drained by gravity to a Council-approved drainage system. The topography of the land should not be altered to adversely affect the natural drainage patterns. Stormwater should drain directly to a Council-approved drainage system and not via adjoining properties unless via a formalised interallotment drainage system. The proposed allotments are to be drained to the direction of the natural fall of the land. Interallotment drainage easements will be required through adjoining properties to adequately drain land to Council's downstream system.	The proposed subdivision is supported by a stormwater drainage system that drains with gravity via proposed easement from proposed Lot 2 along proposed Lot 1 to Kentwell Road, in accordance with Council's Water Management for Development Policy.	Yes
Restrictions	Any easement, right-of-carriageway, or other restriction that is placed on the title of any land as a requirement of the approval of the subdivision is to be protected by a positive covenant or like instrument with the Council nominated as a party.	The proposed development includes an easement for vehicular access and drainage of water and provision of services on proposed Lot 1. Conditions of consent are included in the recommendation of this report in accordance with this requirement.	Yes

Environmentally constrained land	In areas subject to constraints such as flooding, tidal inundation, threatened species, landslip risk, bushfire or any other matter, adequate safe area for building, where the risk from hazard is minimised, is to be provided within an allotment.	The site is classified as Area A on the Landslip Risk Map, being an area of low-risk and gentle-gradient sloping land. The site is not classified as subject to any other risks or hazards.	Yes
	Where possible, lot boundaries should utilise natural land features such as creeks, escarpments and rock outcrops.	The subject site is not classified as environmentally constrained. The proposed lot boundaries are suitable for the site.	N/A
Bushfire	Subdivision should be designed to minimise the risk from potential bushfire. Asset protection zones should be contained within the property boundaries of the new subdivision.	Not applicable - The subject site is not classified as bushfire prone land.	N/A

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

Proposed Lot 1 has a landscaped open space of 39.2% (190.3m²) and a minor variation of 2% (3.9m²) to the requirement of 40% (194.2m²).

It is noted that proposed Lot 2 has a surplus of landscaped open space of 49.9% (242.4m²).

Council's Landscape Officer has also reviewed the application and raised no objection to approval, subject to recommended conditions of consent.

As a result, the minor departure from the control shall not create an unreasonable or adverse landscape outcome and the proposal is acceptable in this context.

Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*

Comment:

The proposed works will not impact on the site's ability to maintain and enhance opportunities for planting to the front of the setback.

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

Comment:

The LOS will not impact on indigenous vegetation, topographical features or habitat for wildlife.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

The landscaped open space will continue to be appropriately dimensioned with sufficient capacity to enable the establishment of suitable plant species of varying sizes.

- *To enhance privacy between buildings.*

Comment:

Privacy between buildings will be maintained.

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

Comment:

The proposal will provide suitable recreational opportunities.

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

Comment:

Service functions will not be impacted.

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

Comment:

Water management, including infiltration of stormwater will not be negatively impacted.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

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

A monetary contribution of \$3,410 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$341,018.

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 4.1 Minimum Subdivision Lot Size 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 development application seeks consent for the Torrens Title subdivision of a single allotment into two lots, including the partial demolition, relocation, alterations and additions to the existing dwelling house, together with the construction of a new carport, driveway and stormwater management

infrastructure.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as it seeks to vary the development standard prescribed by Clause 4.1 (Minimum Subdivision Lot Size) of the Warringah Local Environmental Plan 2011 (WLEP 2011), with a maximum variation of 19.1%.

In accordance with Council's Community Participation Plan, the application was publicly notified and two submissions were received. The submissions raised concerns regarding stormwater management, existing drainage impacts affecting the adjoining property at 28A Kentwell Road, historical filling and retaining works, and the future development potential of the proposed rear allotment. These matters have been fully considered and are addressed within this assessment report.

The accompanying Clause 4.6 written request has been comprehensively assessed and is considered to satisfy the requirements of Clause 4.6 of the WLEP 2011. The written request demonstrates that strict compliance with the minimum subdivision lot size development standard is both unreasonable and unnecessary in the circumstances of the case and provides sufficient environmental planning grounds to justify the proposed variation. The objectives of Clause 4.1 and the R2 Low Density Residential zone are achieved notwithstanding the numerical non-compliance.

Although the proposal includes minor departures from certain built form and subdivision-related provisions of the Warringah Development Control Plan 2011 (WDCP 2011), these matters have been assessed on their individual merits and are considered acceptable. Importantly, both proposed lots are capable of accommodating appropriately designed dwelling houses that can achieve compliance with the applicable built form controls of the WDCP 2011 through any future development application.

The proposed subdivision is compatible with the established character of the locality, including the prevailing pattern, size and configuration of surrounding allotments, and will not result in unreasonable impacts on adjoining properties, the public domain or the natural environment. Subject to the recommended conditions of consent, the proposal represents an orderly and appropriate form of development. The recommended conditions are standard in nature and do not include any matters requiring special consideration by the Panel.

Accordingly, the application is recommended for approval.

REASONS FOR DETERMINATION

The proposed subdivision, notwithstanding the variation to Clause 4.1 (Minimum Subdivision Lot Size) of the WLEP 2011 is satisfactory having regard to the following specific reasons:

- is consistent with the established and desired character of the locality, including the prevailing pattern, size, frontage widths and configuration of surrounding allotments;
- achieves the underlying objectives of Clause 4.1 of the WLEP 2011, notwithstanding the numerical variation to the minimum lot size development standard;
- complies with the applicable subdivision controls relating to lot width, lot depth, building area, access and servicing;
- provides two lots capable of accommodating appropriate future residential development without resulting in unacceptable environmental, built form or amenity impacts;

- is supported by a well-founded Clause 4.6 written request that demonstrates that compliance with the development standard is unreasonable and unnecessary and provides sufficient environmental planning grounds to justify the variation;
- will not establish an undesirable planning precedent, having regard to the unique characteristics of the site and the absence of comparable allotments within the locality; and
- represents an orderly and appropriate planning outcome that is in the public interest.

It is therefore considered that the proposed development satisfies the relevant provisions of the Environmental Planning and Assessment Act 1979, the Warringah Local Environmental Plan 2011 and the Warringah Development Control Plan 2011 and is suitable for approval subject to the recommended conditions of consent.

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 4.1 Minimum Subdivision Lot Size, 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 DA2026/0175 for Subdivision of one lot into two lots including alterations and additions to an existing dwelling house on land at Lot B DP 405016, 30 Kentwell Road, ALLAMBIE HEIGHTS, 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
2/14	E	SITE PLAN	DANEIL ATTARD DESIGNS	19/05/26
3/14	E	SITE PLAN	DANIEL ATTARD DESIGNS	19/05/26
4/14	E	DEMOLITION PLAN	DENIEL ATTARD DESIGNS	19/05/26
6/14	E	PROPOSED FLOOR PLAN	DANIEL ATTARD DESIGNS	19/05/26
7/14	E	E3 & E4 ELEVATION	DANIEL ATTARD DESIGNS	19/05/26
8/14	E	E1 & E2 ELEVATION	DANIEL ATTARD DESIGNS	19/05/26
9/14	E	SECTION A-A	DANIEL ATTARD DESIGNS	19/05/26
10/14	E	EROSION SEDIMENT CONTROL PLAN/SITE MANAGEMENT PLAN	DANIEL ATTARD DESIGNS	19/05/26
11/14	E	LANDSCAPE CONCEPT PLAN	DANIEL ATTARD DESIGNS	19/05/26

D01	B	STORMWATER DRAINAGE GENERAL NOTES	NB CONSULTING ENGINEERS	19/06/26
D02	C	GROUND FLOOR	NB CONSULTING ENGINEERS	19/06/26
D03	A	ROOF STORMWATER DRAINAGE PLAN	NB CONSULTING ENGINEERS	13/11/25
D10	B	STORMWATER DRAINAGE DETAILS & SECTIONS SHEET 1	NB CONSULTING ENGINEERS	19/06/26
D11	A	STORMWATER DRAINAGE DETAILS & SECTIONS SHEET 2	NB CONSULTING ENGINEERS	19/06/26
D20	A	STORMWATER DRAINAGE EASEMENT PLAN	NB CONSULTING ENGINEERS	13/11/25
D21	C	LOT 1 OSD CATCHMENT PLAN	NB CONSULTING ENGINEERS	19/06/26
D101	B	STORMWATER DRAINAGE GENERAL NOTES	NB CONSULTING ENGINEERS	19/06/26
D102	C	LOT 2 DRAINAGE EASEMENT PLAN	NB CONSULTING ENGINEERS	19/06/26
D110	B	LOT 2 EASEMENT LONGITUDIAL SECTION	NB CONSULTING ENGINEERS	19/06/26
PAGE 1 OF 1	B	PLAN OF PROPOSED SUBDIVISION	WATERVIEW SURVEYING SERVICES	14/01/25

Approved Reports and Documentation			
Document Title	Version Number	Prepared/Submitted By	Date of Document
Capability Report	-	McDonald Contracting	-
Arboricultural Impact Assessment (AIA) Report	-	Raintree Consulting	9/12/25
Waste Management Plan	-	Four Towns Planning	18/02/26
BASIX Certificate	A1823520	Energy Advance	25/11/25

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	2/3/2026

(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) 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 \$3,410.18 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 \$341,018.00.

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.

7. **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	\$13,000.71
Total:	\$13,000.71

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

highest PPI number

consent PPI number

where—

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

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

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

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

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

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

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 NB Consulting Engineers, drawing number 2408102 D01B, D02C, D03A, D10B, D11A, D20A and D21C, dated 13/11/2025, 9/12/25 and 19/05/26 respectively. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

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

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

9. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for proposed lot 2 within this development consent in accordance with the approved Civil Engineering drawings approved, 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 propose lot. Stormwater shall be conveyed from the site to the inter-allotment drainage easement within proposed lot 1 including an overflow swale, to the kerb in Kentwell Road.

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. **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 5.5 metres wide along frontage of site in Kentwell Road in accordance with Northern Beaches Council's Standard Normal Profile and the Civil Engineering plans by NB Consulting Engineers, drawing number 2408102 Issue C dated 26/06/26 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 Kentwell Road is 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.

11. **Off Street Parking and Access Handle Driveway Design**

The Applicant shall submit a design for the parking facility and access handle driveway in accordance with the Civil Engineering drawings by NB Consulting Engineers, drawing number 2408102 Issue C dated 26/06/2026 and the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

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. **Utilities Services**

Prior to the issue of the Construction Certificate, written evidence of the following service provider requirements must be provided to the Principal Certifier:

- a) a letter from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity,
- b) a response from Sydney Water as to whether the proposed works subject to this consent would affect any Sydney Water infrastructure, and whether further requirements need to be met, and
- c) other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.

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

Reason: To ensure relevant utility and service providers' requirements are provided to the Principal Certifier.

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 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

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

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

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

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. 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.

19. **Road Reserve**

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

Reason: Public safety.

20. **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.

21. **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.

22. 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

23. Landscape completion (Lot 1)

Landscape works are to be implemented in accordance with the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) one native tree to the front of the property and one native tree to the rear of the property shall be installed,
- c) all tree planting shall be a minimum pre-ordered planting size of 45-75 litres or as otherwise scheduled if greater in size; selected from Northern Beaches Council's Native Plant Species Guide, or Council's Tree Guide; to achieve at least 6.0 metres height at maturity; 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 in a 0.9 metre width garden bed shall be installed along the front boundary within the property consisting of planting at a minimum 1.0 metre intervals for shrubs of a minimum 200mm container size at planting, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting, and shall be in garden beds prepared with a suitable free draining soil mix and minimum 75mm depth of mulch.

Prior to the issue of an Occupation Certificate, details 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.

24. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by an appropriately qualified and practicing Civil or Hydraulic Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG).

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.

25. **Reinstatement of Kerb**

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

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

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

26. **Certification of Off Street Parking and Access Handle Driveway Works**

The Applicant shall submit a certificate from a suitably qualified Civil Engineer certifying that the parking facility and internal access driveway were constructed in accordance within this development consent and the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Sections 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

27. **Removal of All Temporary Structures/Material and Construction Rubbish**

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

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

Reason: To ensure bushland management.

28. **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.

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

29. **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.

The approved landscape area 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.

BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

30. Easement Creation

The Applicant shall create an easement for drainage (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision, to accompany the Section 88B instrument to ensure all drainage infrastructure is located within the appropriate easement(s).

The Applicant shall create an easement for services (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision, to accompany the Section 88B instrument to ensure all utility services are located within the appropriate easement(s).

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

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.

31. Positive Covenant for On-site Stormwater Detention

A positive covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the final plan of subdivision and accompanying 88B instrument, requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, which are available from Northern Beaches Council. Northern Beaches Council shall be nominated as the sole authority empowered to release, vary or modify such covenant.

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

Reason: To ensure ongoing maintenance of the on-site detention system.

32. 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.

33. Right of Carriageway

The Applicant shall create a right of carriageway (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision and accompanying 88B instrument, to include all vehicular access and manoeuvring areas.

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

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919.

34. Restriction as to User (On-site Stormwater Detention)

The Applicant shall create a restriction as to user (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision and accompanying 88B instrument for the on-site stormwater detention system, restricting any alteration or additions to the system. The terms of such restriction are to be prepared to Council's standard requirements. Council shall be nominated as the party to release, vary or modify such restriction.

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

Reason: To ensure no modification to the on-site stormwater detention structure without Council's approval.

35. Restriction as to User (Vehicular Access)

The Applicant shall create a restriction as to user (under the provisions of Section 88B of the Conveyancing Act) to be incorporated on the title of Lot 1. The restriction shall preclude that lot from utilising its frontage for vehicular traffic except for the section created as a Right of Carriageway. The wording of the restriction of use is to be prepared by a surveyor, with terms acceptable to Council.

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

Reason: To ensure compliance with Council policy for vehicular access.

36. Certification of On-site Detention System (New Subdivision)

A Certificate is to be submitted by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and has appropriate experience and competence in the related field confirming to the satisfaction of the Principal Certifier that the on-site stormwater detention system has been constructed in accordance with the approved subdivision works certificate and relevant conditions of Development Consent. The Subdivision Certificate will not be released until this certification has been submitted and the Principal Certifier has confirmed that this condition has been satisfied.

Reason: To ensure the On-site Detention System has been built to the appropriate standard.

37. Sydney Water Compliance Certification

The Applicant shall submit a Section 73 Compliance Certificate under the Sydney Water Act 1994 issued by 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 fees to be paid. Please make early contact with the coordinator, 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 the Subdivision Certificate.

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

38. **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.

39. **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.

40. **Approved Works and Construction**

All works approved under this consent, including the relocation of the existing dwelling house, all associated alterations and additions, the access handle driveway, inter-allotment drainage works, and all other approved civil and building works, are to be completed, and an Occupation Certificate issued for the building works, prior to the issue of the Subdivision Works Certificate.

Reason: To ensure the orderly sequencing and completion of the approved development prior to the issue of the Subdivision Works Certificate.

[illegible]

SITE PLAN
1:300

DO NOT SCALE - USE FIGURED DIMENSIONS ONLY



Notes:

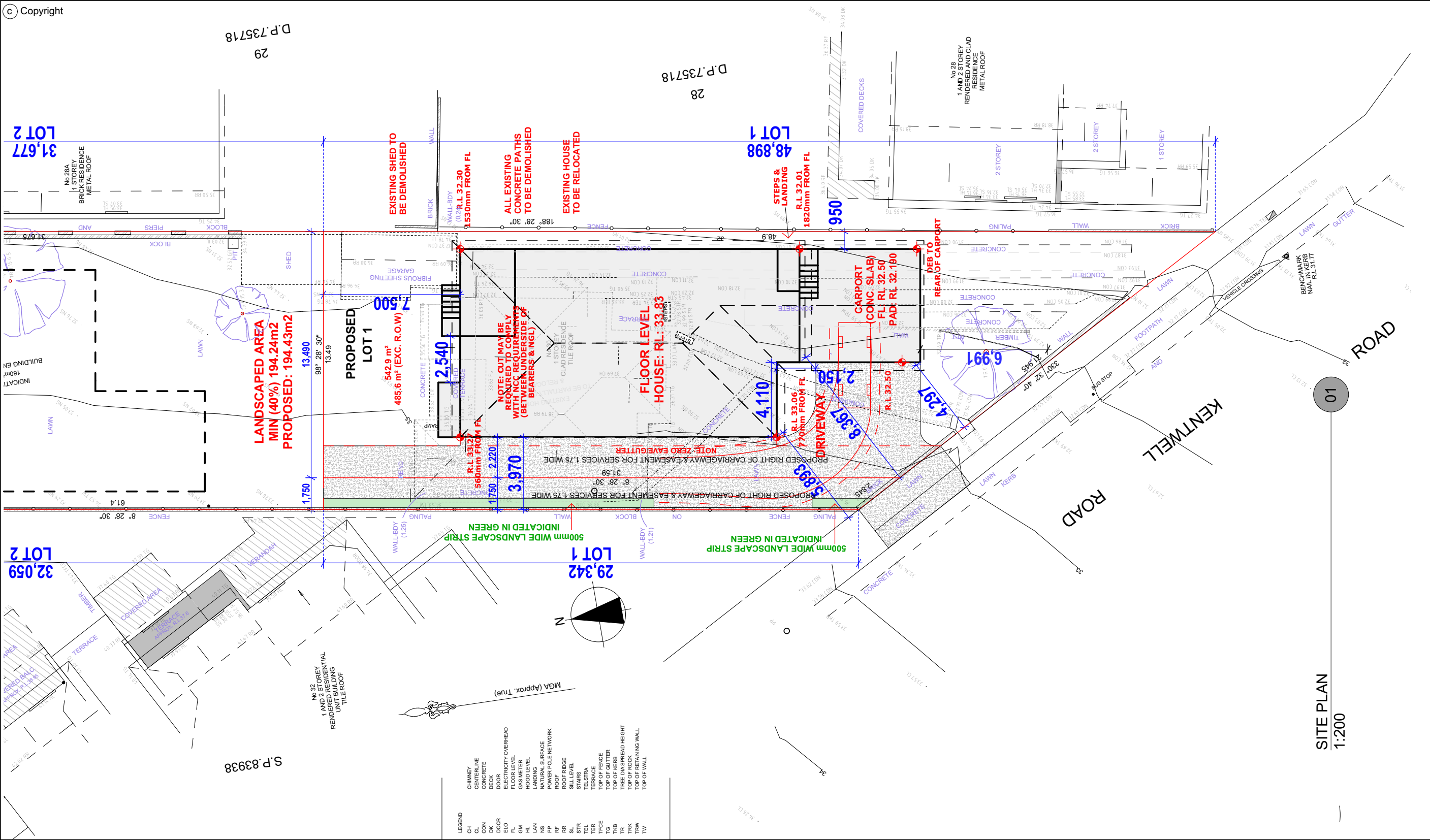
- * Provide hot water temperature limiting in accordance with statutory requirements
- * Provide temporary fencing to block to meet safety requirements.
- * Provide sediment control measures including trade waste receptacle in accordance with E.P.A. requirements.
- * Provide Builders on site chemical treated sanitary service.
- * Provide Termite protection in accordance with Australian standard AS 3660.1995.

FLOOR AREAS:	
GROUND FLOOR	169.70
ALFRESCO	14.34
PORCH	2.77
CARPORT	41.11
	227.92 m ²

Rev	Amendments:	Date
A	PRELIMINARY PLANS	3/09/25
B	PRELIM D.A PLANS	7/09/25
C	D.A PLANS	10/12/25
D	D.A PLANS	19/02/26
E	COUNCIL REQUESTS	19/05/26

Client:					
Charles & Justine Vallenga					
Address:					
B/-/DP405016					
30 Kentwell Road Allambie Heights, NSW 2100					
Date:	Drawn:	Checked:	Project No:	Revision:	DWG No:
3/09/25	DA	DA	XXXXXX		2/14

COPYRIGHT: These plans and variations of same are the copyright of this firm. Amendments to these plans do not eliminate copyright and legal proceedings will be instigated should there be an infringement.



DO NOT SCALE - USE FIGURED DIMENSIONS ONLY

RIDGE RL 39.747⁵

3.128

CEILING RL 36.620

2.790

GROUND FLOOR RL 33.830

TILED ROOFING OVER TIMBER TRUSSES @ APPROX. 29.5° PITCH

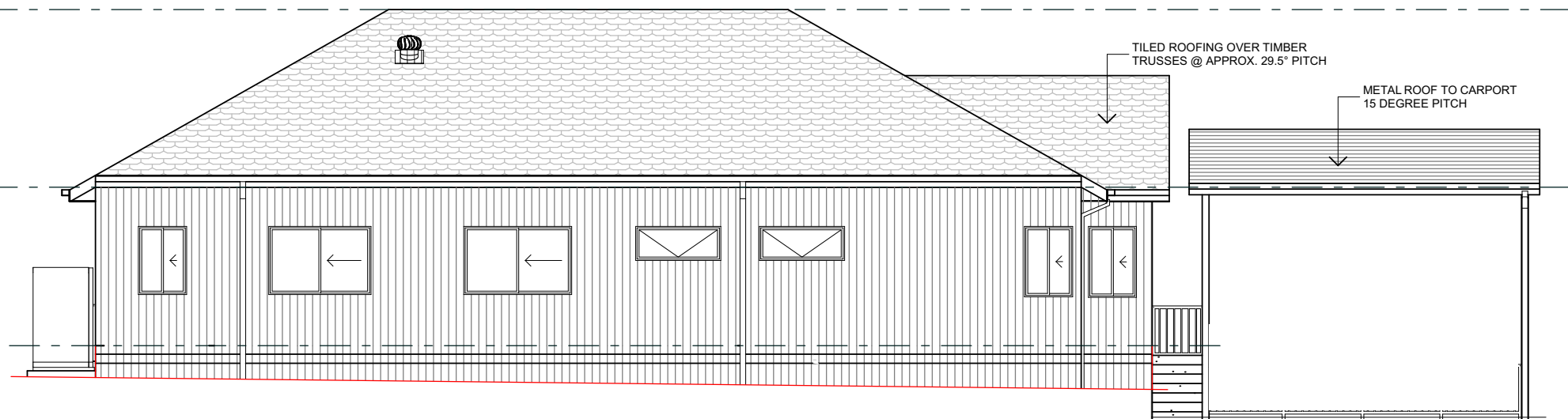
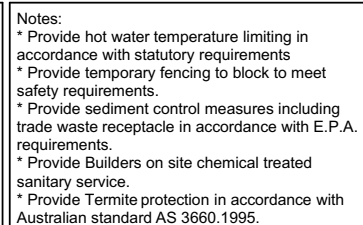
METAL ROOF TO CARPORT 15 DEGREE PITCH

1.330

CARPORT RL 32.500

WINDOW SCHEDULE					
FLOOR	WINDOW CODE	WINDOW NAME	HEIGHT	WIDTH	NOTES
Ground Floor					
	EXISTING	Sliding window	1,250	845	
	EXISTING	Sliding window	955	1,460	
	EXISTING	Sliding window	1,240	850	
	EXISTING	Sliding window	1,240	1,910	
	W01	Awning window	600	1,500	
	W02	Awning window	600	1,500	
	W03	Sliding window	1,200	1,900	
	W04	Sliding window	1,200	1,800	
	W05 - OBS	Sliding window	1,200	850	
	W06	Sliding window	1,200	1,500	
	W07	Awning window	2,100	850	
	W08	Awning window	2,100	850	
W09	Sliding window	930	1,420		

EXTERNAL DOOR SCHEDULE					
FLOOR	Door Code	Door Type	Height	Width	NOTES
Ground Floor					
	D01 - ENTRY DOOR	Swinging door	2,040	1,200	
	D02	Sliding glass door	2,100	1,500	
	D03	Sliding Stacker Door 12	2,100	4,200	

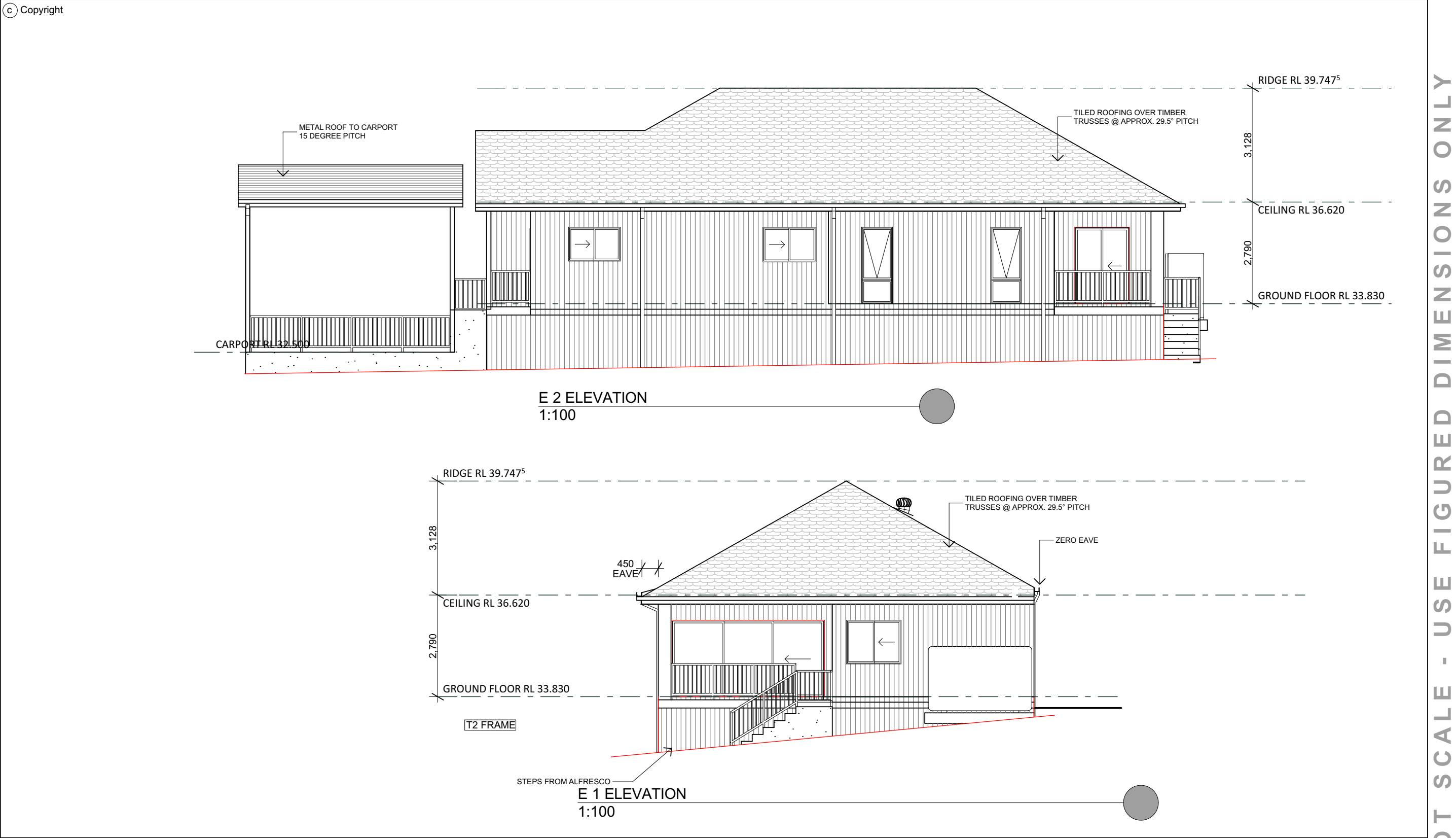


FLOOR AREAS:	
GROUND FLOOR	169.70
ALFRESCO	14.34
PORCH	2.77
CARPORT	41.11
	227.92 m ²

Rev	Amendments:	Date
A	PRELIMINARY PLANS	3/09/25
B	PRELIM D.A PLANS	7/09/25
C	D.A PLANS	10/12/25
D	D.A PLANS	19/02/26
E	COUNCIL REQUESTS	19/05/26

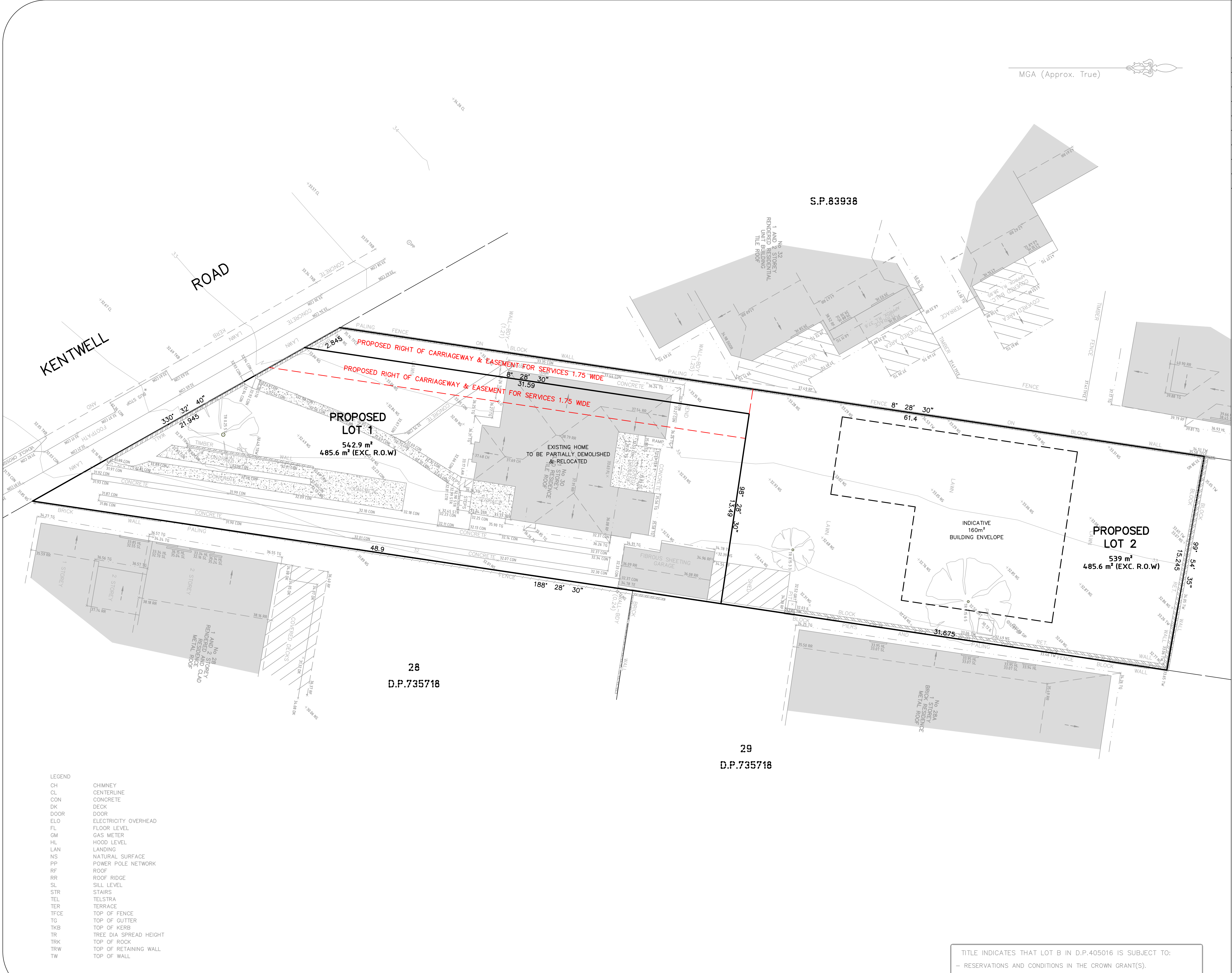
Client:		Charles & Justine Vallelonga			
Address:		B/-/DP405016 30 Kentwell Road Allambie Heights, NSW 2100			
Date:	Drawn:	Checked:	Project No:	Revision:	DWG No:
3/09/25	DA	DA	XXXXXX		7/14
COPYRIGHT: These plans and variations of same are the copyright of this firm. Amendments to these plans do not eliminate copyright and legal proceedings will be instigated should there be an infringement.					

DO NOT SCALE - USE FIGURED DIMENSIONS ONLY



<div><div>DA</div><div>DANIEL ATTARD DESIGNS</div></div>	<div>Notes: * Provide hot water temperature limiting in accordance with statutory requirements * Provide temporary fencing to block to meet safety requirements. * Provide sediment control measures including trade waste receptacle in accordance with E.P.A. requirements. * Provide Builders on site chemical treated sanitary service. * Provide Termite protection in accordance with Australian standard AS 3660.1995.</div>	<div>FLOOR AREAS: <div><div>GROUND FLOOR</div><div>ALFRESCO</div><div>PORCH</div><div>CARPORT</div></div><div><div>169.70</div><div>14.34</div><div>2.77</div><div>41.11</div></div><div>227.92 m²</div></div>	Rev	Amendments:	Date	Client: Charles & Justine Vallelonga					
			A	PRELIMINARY PLANS	3/09/25	Address: B/-/DP405016 30 Kentwell Road Allambie Heights, NSW 2100					
			B	PRELIM D.A PLANS	17/09/25						
			C	D.A PLANS	10/12/25						
			D	D.A PLANS	19/02/26						
			E	COUNCIL REQUESTS	19/05/26	Date:	Drawn:	Checked:	Project No:	Revision:	DWG No:
			3/09/25	DA	DA	XXXXXX		8/14			
COPYRIGHT: These plans and variations of same are the copyright of this firm. Amendments to these plans do not eliminate copyright and legal proceedings will be instigated should there be an infringement.											

DO NOT SCALE - USE FIGURED DIMENSIONS ONLY



A	DRAFT ISSUE	08/07/25

- A FIELD SURVEY OF THE BOUNDARIES HAS BEEN UNDERTAKEN. OFFSETS FROM STRUCTURES TO BOUNDARY SHOULD NOT BE USED FOR CONSTRUCTION SETOUT.
- IF CONSTRUCTION ON OR NEAR BOUNDARIES IS UNDERTAKEN THE BOUNDARIES OF THE LAND SHOULD BE MARKED OR THE WORKS SETOUT BY A REGISTERED SURVEYOR.
- TREE SIZES ARE ESTIMATES ONLY.
- THIS PLAN HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF CHARLES VALLELONGA
- RELATIONSHIP OF IMPROVEMENTS TO BOUNDARIES IS DIAGRAMMATIC ONLY. WHERE OFFSETS ARE CRITICAL THEY SHOULD BE CONFIRMED BY FURTHER SURVEY.
- EXCEPT WHERE SHOWN BY DIMENSION LOCATION OF DETAIL WITH RESPECT TO BOUNDARIES IS INDICATIVE ONLY.
- ONLY VISIBLE SERVICES HAVE BEEN LOCATED. UNDERGROUND SERVICES HAVE NOT BEEN LOCATED. DIAL BEFORE YOU DIG SERVICES (ph 100) SHOULD BE USED AND A FULL UTILITY INVESTIGATION, INCLUDING A UTILITY LOCATION SURVEY, SHOULD BE UNDERTAKEN BEFORE CARRYING OUT ANY CONSTRUCTION ACTIVITY IN OR NEAR THE SURVEYED AREA.
- CRITICAL SPOT LEVELS SHOULD BE CONFIRMED WITH SURVEYOR.
- THIS PLAN IS ONLY TO BE USED FOR THE PURPOSE OF DESIGNING NEW CONSTRUCTIONS.
- CONTOURS SHOWN DEPICT THE TOPOGRAPHY, EXCEPT AT SPOT LEVELS SHOWN. THEY DO NOT REPRESENT THE EXACT LEVEL AT ANY PARTICULAR POINT. ONLY SPOT LEVELS SHOULD BE USED FOR CALCULATIONS OF QUANTITIES WITH CAUTION.
- CONTOUR INTERVAL - 0.5 metre. - SPOT LEVELS SHOULD BE ADOPTED.
- POSITION OF RIDGE LINES ARE DIAGRAMMATIC ONLY (NOT TO SCALE).
- THE INFORMATION IS ONLY TO BE USED AT A SCALE ACCURACY OF 1:100.
- DO NOT SCALE OFF THIS PLAN / FIGURED DIMENSIONS TO BE TAKEN IN PREFERENCE TO SCALED READINGS.
- IF ACCURATE TRUE NORTH IS REQUIRED A FURTHER SURVEY WOULD BE NECESSARY.
- COPYRIGHT WATERVIEW SURVEYING SERVICES
- NO PART OF THIS SURVEY MAY BE REPRODUCED, STORED IN A RETRIEVAL SYSTEM OR TRANSMITTED IN ANY FORM, WITHOUT THE WRITTEN PERMISSION OF THE COPYRIGHT OWNER EXCEPT AS PERMITTED BY THE COPYRIGHT ACT 1968.
- ANY PERMITTED DOWNLOADING, ELECTRONIC STORAGE, DISPLAY, PRINT, COPY OR REPRODUCTION OF THIS SURVEY SHOULD CONTAIN NO ALTERATION OR ADDITION TO THE ORIGINAL SURVEY.
- THIS NOTICE MUST NOT BE ERASED.

.....MICHAEL K JOYCE.....
REGISTERED SURVEYOR I.D. 8268



1A Mona Street Mona Vale NSW 2103
ACN 610 583 572
michael@wvsurveying.com.au
0474 843 180

Vertical Datum
DATUM: AUSTRALIAN HEIGHT DATUM (AHD)
B.M. SSM 4854
R.L. 30.192
SOURCE: S.C.I.M.S. 19/07/2022

Client Details
CHARLES VALLELONGA
30 KENTWELL ROAD
ALLAMBIE HEIGHTS NSW 2100

Drawing Title
PLAN OF PROPOSED SUBDIVISION
30 KENTWELL ROAD
ALLAMBIE HEIGHTS NSW 2100
BEING LOT B IN DP.405016

PROJECT: 1586	PAGE 1 QF 1
Date of survey 15/07/2022 & 14/01/25	Drawing No. 1586proposed subdivision 1
Scale 1:200 @ A1	Rev. B



**WRITTEN REQUEST PURSUANT TO
CLAUSE 4.6 OF WARRINGAH
ENVIRONMENTAL PLAN 2011**

**VARIATION OF A DEVELOPMENT
STANDARD REGARDING MINIMUM
SUBDIVISION LOT SIZE AS DETAILED IN
CLAUSE 4.1 OF THE WARRINGAH
ENVIRONMENTAL PLAN 2014**

**Torrens Title Subdivision from One (1)
Lot into Two (2) Lots including
Alterations and Additions to Existing
Dwelling and Moving the Dwelling into a
Compliant Position on Proposed Lot 1**

**30 Kentwell Road,
Allambie Heights NSW 2100**

✉ mathew@fourtowns.com.au

☎ 0425232018

www.fourtowns.com.au

PO Box 361, Balgowlah NSW 2093

Torrens Title Subdivision from One (1) Lot into Two (2) Lots including Alterations and Additions to Existing Dwelling and Moving the Dwelling into a Compliant Position on Proposed Lot 1

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:

Charles Vallelonga

12 February 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.

© Four Towns Pty Ltd

NOTE: This document is the property of Four Towns Pty Ltd (trading as Four Towns Planning). This document is Copyright, no part may be reproduced in whole or in part, without the written permission of Four Towns Pty Ltd.

Torrens Title Subdivision from One (1) Lot into Two (2) Lots including Alterations and Additions to Existing Dwelling and Moving the Dwelling into a Compliant Position on Proposed Lot 1

Introduction

This written request under clause 4.6 of Warringah Local Environmental Plan 2011 (WLEP 2011) accompanies a Development Application, seeking consent for Torrens Title subdivision from one (1) lot into two (2) lots including alterations and additions to existing dwelling and moving the dwelling into a compliant position on Lot 1 at 30 Kentwell Road, Allambie Heights, being Lot B within Deposited Plan 405016.

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 Warringah LEP 2011, 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 WLEP 2011, seeking a variation to the minimum subdivision lot size as detailed under Clause 4.1 of the WLEP 2011.

Clause 4.1 notes:

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

- (a) to protect residential character by providing for the subdivision of land that results in lots that are consistent with the pattern, size and configuration of existing lots in the locality,*
- (b) to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development,*
- (c) to protect the integrity of land holding patterns in rural localities against fragmentation,*
- (d) to achieve low intensity of land use in localities of environmental significance,*
- (e) to provide for appropriate bush fire protection measures on land that has an interface to bushland,*
- (f) to protect and enhance existing remnant bushland,*
- (g) to retain and protect existing significant natural landscape features,*
- (h) to manage biodiversity,*
- (i) to provide for appropriate stormwater management and sewer infrastructure.*

(2) *This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Plan.*

(3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.*

(3A) *For the purposes of subclause (3), in calculating the size of a lot the area of any access corridor (including any right of carriageway, access way or other area that provides for vehicle access) is to be excluded, whether the access corridor is to be created or is in existence at the time of the application for development consent for the subdivision.*

(4) *This clause does not apply in relation to the subdivision of any land—*

- (a) by the registration of a strata plan or strata plan of subdivision under the [Strata Schemes Development Act 2015](#), or*
- (b) by any kind of subdivision under the [Community Land Development Act 1989](#).*

A minimum subdivision lot size of 600sqm 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 Warringah LEP 2011 is required.

Torrens Title Subdivision from One (1) Lot into Two (2) Lots including Alterations and Additions to Existing Dwelling and Moving the Dwelling into a Compliant Position on Proposed Lot 1



Figure 1: The site is subject to a minimum lot size of 600sqm under the WLEP 2011

The nature and extent of the contravention is as follows:

Requirement	600sqm
Proposed	Lot 1 – 542.9sqm (485.6sqm exc. R.O.W) Lot 2 – 539sqm (485.6sqm exc. R.O.W)
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	19.066% variation (exc. R.O.W) to the prescribed minimum lot size for each lot

Warringah Local Environmental Plan 2011 (“WLEP”)

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: The provision of an additional lot which accommodates an additional dwelling, resulting from a two-lot Torrens title land subdivision, encourages additional housing in strategic locations, housing affordability, whilst also providing for the housing needs of the community within low-density residential environment.

Torrens Title Subdivision from One (1) Lot into Two (2) Lots including Alterations and Additions to Existing Dwelling and Moving the Dwelling into a Compliant Position on Proposed Lot 1

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 provided facilities or services to meet the day to day needs of residents.

To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.

Comment: The proposed development is sympathetic to the qualities of the built and natural environment. The proposed subdivision plan shows that landscaping can be accommodated on-site to comply with the 40% requirement under WDCP.

The proposed subdivision is consistent with an established subdivision pattern, noting many lots within the immediate locality under the 600sqm requirement, as demonstrated by Figure 2 below.



Source: Nearmaps

Legend

- Red Star – Undersized Lot
- Green Star – Battle-axe Lot
- Yellow Star – Townhouses

Figure 2: This aerial photograph demonstrates that the proposed subdivision is consistent with the pattern of subdivision within the area, noting the number of lots, which are of similar size and configuration to the proposed subdivision.

Torrens Title Subdivision from One (1) Lot into Two (2) Lots including Alterations and Additions to Existing Dwelling and Moving the Dwelling into a Compliant Position on Proposed Lot 1

2.3 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of WLEP 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 WLEP 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 4.1(3) is not excluded from the operation of clause 4.6 by clause 4.6(8) or any other clause of the WLEP.

Clause 4.6(3) Of WLEP 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 minimum lot size for subdivision development standard, as prescribed under Clause 4.1 of the LMLEP 2014, however strict compliance is

Torrens Title Subdivision from One (1) Lot into Two (2) Lots including Alterations and Additions to Existing Dwelling and Moving the Dwelling into a Compliant Position on Proposed Lot 1

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.

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 4.1(3) of WLEP 2011 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 4.1(3) of WLEP2011 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 4.1(3) relates to a minimum subdivision lot size. Accordingly, clause 4.1(3) is a development standard.

4.2 Is compliance with clause 4.1(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, site characteristics and the provision of an appropriate building footprint for each site should be considered when assessing a suitable lot size for the site. Given the proposed subdivision is consistent with the pattern of subdivision 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 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 Northern Beaches LGA.

Torrens Title Subdivision from One (1) Lot into Two (2) Lots including Alterations and Additions to Existing Dwelling and Moving the Dwelling into a Compliant Position on Proposed Lot 1

The First Method

The proposal is consistent with the objectives of Clause 4.1(3), as outlined below:

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

- (a) to protect residential character by providing for the subdivision of land that results in lots that are consistent with the pattern, size and configuration of existing lots in the locality,*
- (b) to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development,*
- (c) to protect the integrity of land holding patterns in rural localities against fragmentation,*
- (d) to achieve low intensity of land use in localities of environmental significance,*
- (e) to provide for appropriate bush fire protection measures on land that has an interface to bushland,*
- (f) to protect and enhance existing remnant bushland,*
- (g) to retain and protect existing significant natural landscape features,*
- (h) to manage biodiversity,*
- (i) to provide for appropriate stormwater management and sewer infrastructure.*

The proposal is consistent with the above stated objectives as follows:

(a) to protect residential character by providing for the subdivision of land that results in lots that are consistent with the pattern, size and configuration of existing lots in the locality,

The proposal is consistent with the pattern, size and configuration of the existing lots within the locality noting numerous undersized battle-axe arrangements in close vicinity to the site with large access handles. It is our professional opinion that the proposal is consistent with the pattern of subdivision in the immediate locality, therefore the proposed variations are acceptable and can be supported by Council as submitted.

A thorough review of the subdivision pattern, lot sizes and configuration is provided on the following page:

Torrens Title Subdivision from One (1) Lot into Two (2) Lots including Alterations and Additions to Existing Dwelling and Moving the Dwelling into a Compliant Position on Proposed Lot 1



Legend

- Red Star – Undersized Lot
- Green Star – Battle-axe Lot
- Yellow Star – Townhouses

Undersized Lots in immediate area around subject site:

North Side of Kentwell Road

- 4 Kentwell Road – approx. 575sqm
- 4A Kentwell Road – approx. 520sqm
- 6 Kentwell Road – approx. 520sqm
- 12 Kentwell Road – approx. 515sqm
- 14 Kentwell Road – approx. 580sqm
- 26B Kentwell Road – approx. 375sqm
- 26A Kentwell Road – approx. 315sqm

South side of Kentwell Road

- 21A Kentwell Road – approx. 365sqm
- 3 Kentwell Road – approx. 555sqm
- 1 Kentwell Road – approx. 590sqm
- 6 Kentwell Road – approx. 520sqm
- 6 Kentwell Road – approx. 520sqm

Torrens Title Subdivision from One (1) Lot into Two (2) Lots including Alterations and Additions to Existing Dwelling and Moving the Dwelling into a Compliant Position on Proposed Lot 1

Sloane Avenue

- 14 Sloane Ave – approx. 440sqm
- 14A Sloane Ave – approx. 360sqm
- 16 Sloane Ave – approx. 535sqm

Condamine Street

- 385 Condamine St – approx. 500sqm
- 383 Condamine St – approx. 390sqm
- 381A Condamine St – approx. 460sqm

Cornwell Road

- 16 Cornwell Road – approx. 470sqm
- 16A Cornwell Road – approx. 520sqm
- 18 Cornwell Road – approx. 510sqm
- 18A Cornwell Road – approx. 250sqm
- 18B Cornwell Road – approx. 25sqm
- 22 Cornwell Road – approx. 520sqm
- 24 Cornwell Road – approx. 500sqm
- 26 Cornwell Road – approx. 515sqm
- 25 Cornwell Road – approx. 330sqm
- 25A Cornwell Road – approx. 270sqm

James Street

- 7 James Street – approx. 525sqm
- 11 James Street – approx. 475sqm

Peronne Parade

- 1 Peronne Parade – approx. 570sqm
- 2 Peronne Parade – approx. 310sqm
- 3 Peronne Parade – approx. 595sqm
- 9 Peronne Parade – approx. 475sqm
- 11 Peronne Parade – approx. 470sqm
- 13 Peronne Parade – approx. 470sqm
- 15 Peronne Parade – approx. 470sqm
- 17 Peronne Parade – approx. 470sqm
- 21 Peronne Parade – approx. 470sqm

Orara Road

- 1 Orara Road – approx. 510sqm
- 6 Orara Road - approx. 530sqm
- 6A Orara Road - approx. 590sqm
- 8 Orara Road - approx. 590sqm
- 8A Orara Road – approx. 590sqm
- Entire eastern side of Orara Road from 3 to 23 Orara Road – undersized lots

Smith Avenue

- Western side between 4 to 26 Smith Avenue – undersized lots
- Eastern side between 3 to 25 Smith Avenue – undersized lots

Torrens Title Subdivision from One (1) Lot into Two (2) Lots including Alterations and Additions to Existing Dwelling and Moving the Dwelling into a Compliant Position on Proposed Lot 1

Battle-axe Configurations in immediate area around subject site:

North Side of Kentwell Road

- 16 + 16A Kentwell Road
- 18 + 18A Kentwell Road
- 26, 26A + 26B Kentwell Road
- 28 + 28A Kentwell Road (adjoining to east of subject site)

South side of Kentwell Road

- 21 + 21A Kentwell Road

Orara Road

- 6 + 6A Orara Road
- 8 + 8A Orara Road

James Street

- 9, 9A, 9B, 9C James Street

Cornwell Road

- 25 + 25A Cornwell Road
- 18, 18A + 18B Cornwell Road
- 16 + 16A Cornwell Road
- 2 + 1A Cornwell Road

Medium Density Land Uses in immediate area around subject site:

- 32-34 Kentwell Road (adjoining to west of subject site) – seniors housing town houses
- 36 Kentwell Road – seniors housing town houses
- 23 Kentwell Road – townhouses

Notwithstanding the minor Lot size variation proposed the geometry of the existing lot as viewed from Kentwell Road is unaltered. Based on the previous image, I am satisfied that notwithstanding the minor Lot size variations that the resultant Lots are consistent with the pattern, size and configuration of existing lots in the locality and accordingly this objective is achieved.

(b) to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development,

Not applicable – the proposal relates to residential development within the R2 low density residential zone. No commercial or industrial land uses are proposed.

(c) to protect the integrity of land holding patterns in rural localities against fragmentation,

Not applicable – the proposal does not relate to development within a rural locality.

(d) to achieve low intensity of land use in localities of environmental significance,

Not applicable – the proposal does not relate to development within a locality of environmental significance, noting the area is not located within a biodiversity or wildlife corridor, or land designated as native vegetation or threatened or high conservation habitat. The proposal will not intensify the land use noting that the development relates to land within the R2 low density residential zone and includes works which are permissible within the zone.

Torrens Title Subdivision from One (1) Lot into Two (2) Lots including Alterations and Additions to Existing Dwelling and Moving the Dwelling into a Compliant Position on Proposed Lot 1

(e) to provide for appropriate bush fire protection measures on land that has an interface to bushland,

Not applicable – the subject site is not identified as bush fire prone land, nor does it have an interface with any bushland.

(f) to protect and enhance existing remnant bushland,

The existing vegetation on the site is not appropriately described as remnant bushland and accordingly this objective is achieved notwithstanding the minimum subdivision lot size variation proposed.

(g) to retain and protect existing significant natural landscape features,

The proposal has been sensitively designed to minimise any site disturbances and to preserve the natural features of the site where possible by reducing the extent of excavation and cut and fill works required. The proposed development will not have a detrimental impact on any significant natural landscape features and can be supported by Council as submitted.

(h) to manage biodiversity,

The proposal will retain all significant natural features on site where possible and will include a new landscaping approach to the site to enhance opportunities for new plantings and to protect any biodiversity values on site.

(i) to provide for appropriate stormwater management and sewer infrastructure.

The proposal is supported by a Stormwater Management Plan prepared by NB Consulting Engineers which complies with Councils Water Management Policy.

The proposed variations to the minimum lot size requirement are considered to be acceptable on merit, noting that the proposal is consistent with the “inconsistent” subdivision pattern within the immediate vicinity of the subject site. The locality is characterised with numerous undersized lots, battle-axe arrangements, and medium density lots, therefore the proposal is not inconsistent and can be supported by Council on merit.

It is acknowledged Council has held that there are sufficient environmental planning grounds to support variations to the minimum lot size control, and a quick review of Councils records notes the following recent approvals granted:

DA2024/1501

90 Brighton Street, Freshwater – variations both 3.08%. Right of Carriageway varying 3.885m in width. Both lots non-compliant with subdivision width requirements

DA2023/1655

102 Taiyul Road North Narrabeen – variations Lot 1 26.24% and Lot 2 8.76%. Right of Carriageway 3.5m in width

DA2016/0401

63 Allambie Road, Allambie Heights

The above approvals are important as not only do they vary Clause 4.1 of WLEP2011, they also require other variations to WDCP controls such as lot width and access handle requirements.

Torrens Title Subdivision from One (1) Lot into Two (2) Lots including Alterations and Additions to Existing Dwelling and Moving the Dwelling into a Compliant Position on Proposed Lot 1

Having regard to the above, the non-compliant lots sizes 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 minimum subdivision lot size standard. Given the developments consistency with the objectives of the minimum subdivision lot size standard strict compliance has been found to be both unreasonable and unnecessary under the circumstances. It is our professional opinion that that the proposed subdivision meets the objectives of Clause 4.1 and is consistent with the subdivision pattern of the surrounding locality; therefore, Council can support the proposed variations to the minimum lot size requirement as submitted.

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. 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 are sufficient grounds to justify the variation to the minimum lot size development standard for the following reasons:

Ground 1 - Prevailing Subdivision Pattern

The proposal is consistent with the pattern, size and configuration of the existing lots within the locality noting numerous undersized battle-axe arrangements in close vicinity to the site with large access handles. It is our professional opinion that the proposal is consistent with the established subdivision pattern in the immediate locality

The proposed subdivision will achieve two (2) allotments which directly conform to the prevailing subdivision pattern. Accordingly, the subject sites unique size and location, in the context of properties in the immediate area, render strict compliance with the principal development standard unreasonable and unnecessary in the circumstances of the case.

Ground 2 – Proposed and Potential Building Footprints and Amenity

The new allotments resulting from the subdivision will accommodate two (2) dwellings, each of which can satisfy the requirements for parking, landscaped area, and private open space. A compliant two (2) storey development can be accommodated on each lot, in addition to parking and access.

Ground 3 - Orderly And Economic Development of Land

Given the suitability of the site and the lack of impact arising from the development, the proposal is consistent with object (c) of the EP& Act 1979 to promote the orderly and economic development of land. As set out in ‘Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118’, the aforementioned environmental planning grounds do not rely on the benefits of the development as

Torrens Title Subdivision from One (1) Lot into Two (2) Lots including Alterations and Additions to Existing Dwelling and Moving the Dwelling into a Compliant Position on Proposed Lot 1

a whole, but rather they directly relate to the proposed Lot Size aspect that contravenes the development 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, 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

- The proposed subdivision introduces an appropriate and compatible lot size within the locality, which promotes the orderly & economic use of the land (cl 1.3(c)).
- The proposed subdivision layout is consistent with the prevailing subdivision pattern in the immediate locality. The proposed subdivision reflects this established character by creating two lots that maintain the rhythm and form of development in the locality.
- The subdivision plan confirms that each lot can accommodate dwellings that avoid unreasonable impacts on the amenity of neighbouring properties. Future development on each lot can also be undertaken to ensure privacy and overshadowing can be adequately serviced in accordance with Council's requirements.

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.

The proposed lots represent an orderly and economic use of the site, with no adverse environmental impacts above and beyond that of a compliant lot size. Based on the above, there are sufficient environmental planning grounds to permit the proposed subdivision 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 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 minimum lot size variation in this instance.

ITEM 5.2 DA2026/0701 - 119 FLORENCE TERRACE SCOTLAND ISLAND - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

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 limited development on foreshore area Development Standard of Clause 7.8 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. DA2026/0701 for Alterations and additions to a dwelling house at Lot 4 DP 1063057 and Lot LIC 387241, 119 Florence Terrace SCOTLAND ISLAND subject to the conditions set out in the Assessment Report.

Reporting manager: Executive Manager Development Assessment

Attachments:

1. Assessment Report [5.2.1 - 39 pages]
2. Site Plans & Elevations [5.2.2 - 5 pages]
3. Clause 4.6 [5.2.3 - 8 pages]

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2026/0701
----------------------------	-------------

Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 4 DP 1063057, 119 Florence Terrace SCOTLAND ISLAND NSW 2105 Lot LIC 387241, 119 Florence Terrace SCOTLAND ISLAND NSW 2105
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	C3 Environmental Management W1 Natural Waterways
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Adam Feigl

Application Lodged:	02/06/2026
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	19/06/2026 to 03/07/2026
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	7.8 Limited development on foreshore area
Recommendation:	Approval

Estimated Cost of Works:	\$ 77,550.00
---------------------------------	--------------

EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to a dwelling house, specifically, the installation of a sauna, external shower and privacy screen on an existing timber deck and associated minor changes to a section of the existing access stairs to the foreshore.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the building works

being located within the foreshore building area, thereby contravening the non-numerical development standard of *Clause 7.8 of the Pittwater Local Environmental Plan 2014* (PLEP 2014).

In support of the variation a written Clause 4.6 variation request has been submitted which justifies that compliance with the development standard is considered unreasonable in the circumstances of this case. Critically, the proposed sauna is sited on an existing elevated deck and requires no changes to the landform. No trees are proposed to be removed, as such, there are no changes to the landscape setting of the foreshore. The proposal complies with the built form controls and the appearance of the low-scale development, from the waterway and foreshore, is compatible with the character of the surrounding area. Subject to conditions, the proposal will not result in any impacts on the special ecological, scientific or aesthetic values of the area and is consistent with the objectives of both the C3 Environmental Management zone and clause 7.8 Limited Development on foreshore area.

The proposed development was notified in accordance with the Northern Beaches Community Participation Plan (CPP). No submissions have been received and the proposal will not result in unreasonable amenity impacts to neighbouring properties.

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

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to an existing dwelling. In detail the proposal includes:

- The installation of a detached sauna (2.2 metres in length x 2.3 metres in width x 2.5 metres in height) to be sited on an existing timber deck.
- Minor changes to the existing foreshore access stairs and the addition of a new landing to provide access to the existing deck.
- New balustrade around the existing deck.
- Outdoor shower with associated 1.9 metres high privacy screen.

Materials and external colours: Vertical timber panelling painted dark grey or similar

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 C3 Environmental Management

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation

Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area

Pittwater 21 Development Control Plan - D8.9 Landscaped Area

SITE DESCRIPTION

Property Description:	Lot 4 DP 1063057 , 119 Florence Terrace SCOTLAND ISLAND NSW 2105 Lot LIC 387241 , 119 Florence Terrace SCOTLAND ISLAND NSW 2105
------------------------------	--

Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Florence Terrace. The site is associated with Crown Licence LIC 387241 for development seaward of the Mean High Water Mark, of which is owned by the Department of Planning, Industry and Environment - Crown Lands and is located within the <i>W1 Natural Waterways Zone</i> from the <i>Pittwater LEP 2014</i>. Note: No work is proposed within this part of the site.</p> <p>The site is irregular in shape with a frontage of 10.97 metres along Florence Terrace and a depth of between 65.42 metres and 67.27 metres. The site has a surveyed area of 868m².</p> <p>The site is located within the <i>C3 Environmental Management zone</i> from <i>Pittwater LEP 2014</i> and accommodates a detached two storey split level dwelling with a separate garage accessed via Florence Street. Stairs are located along the northern boundary which provide access to the foreshore and a jetty. An existing timber deck is located to the north of the dwelling within the foreshore area.</p> <p>The site falls steeply from south (street frontage) to north (Pittwater waterway) with a level change of approximately 22.58 metres and is densely vegetated.</p> <p>The site mapped as bushfire prone, biodiversity value and Geotechnical Hazard H1.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a mixture of older and newer dwelling in landscaped waterfront settings. Waterway facilities, such as boat sheds and jetties characterise the waterway frontage.</p>
-----------------------------------	--

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:

N0632/05

On 7 November 2005, N0632/05 approved the construction of a jetty, ramp and pontoon.

History of subject application

On 19 June 2026, a Request for Further Information (RFI) was sent to the Applicant requesting the submission of a Clause 4.6 Variation to Clause 7.8 Limited Development on foreshore area.

On 6 July 2026, the Applicant uploaded the requested Clause 4.6 variation to the Planning Portal.

Note: In accordance with the Northern Beaches Community Participation Plan (CPP) re-notification was not required for the application as the additional information results in no changes to the proposal.

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 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p>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.</p> <p>Clause 29 of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation is not required to be submitted with the subject application.</p> <p>Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. A clause 4.6 variation was requested for the work within the foreshore area.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>

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	<p>(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.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 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): Dwelling House

Land Use Zone: C3 Environmental Management

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 Planning for Bushfire Protection Pty Ltd, dated 13 May 2026) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 19/06/2026 to 03/07/2026 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Unsewered Lands)	<p><i>Supported, subject to conditions</i></p> <p><u>General Comments</u></p> <p>This application is seeking consent for alterations and additions to an existing dwelling. The alterations involve:</p> <p>Installation of a sauna on the existing timber deck, which is detached from the main dwelling, minor adjustment of the existing stairs along the side of the dwelling, with the addition of a new landing to provide access to the existing deck, new balustrading around the existing deck; and a new outdoor shower with associated privacy screening.</p> <p>There is an existing wastewater system on the property servicing the dwelling. The water within the sauna cannot be discharged to the existing wastewater system onsite nor can it be discharged into Pittwater. The existing AWTS onsite requires a current approval to operate.</p> <p>The water from the outdoor shower will need to be connected to the existing wastewater system.</p> <p><u>Recommendation</u></p> <p>SUPPORTED - subject to conditions</p>

Internal Referral Body	Comments
Landscape Officer	<p><i>Supported, subject to conditions</i></p> <p>Landscape Referral raise no concerns with the proposed development as described in reports and as illustrated on plans. The recommendations of the submitted Arborist Report are noted and conditions shall be imposed. The landscape setting character is maintained and as such the landscape objectives of land zone C3 Environmental Management.</p>
NECC (Bushland and Biodiversity)	<p><i>Supported, subject to conditions</i></p> <p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> • NSW Biodiversity Conservation Act 2016 • NSW Biodiversity Conservation Regulation 2017 • SEPP (Resilience and Hazards) 2021 – Coastal Environment Area • Pittwater LEP – Clause 7.6 Biodiversity Protection • Pittwater DCP – Clause B4.7 Pittwater Spotted Gum Forest – Endangered Ecological Community <p>Portions of the site are identified on the NSW Governments Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, 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). Whilst the proposed works may be minimally located within the BV mapped area, no native vegetation is proposed for removal. The area is also within a highly modified and landscaped area adjoining a built structure and is largely proposed within the current footprint. No native canopy trees are required for removal. Therefore, the proposed development will not trigger entry into the BOS.</p> <p>According to the Arboricultural Impact Assessment (Blues Bros Arboriculture, May 2026), no trees will require removal and there will be no long term impact on the health of the trees due to the proposed development.</p> <p>No objections in relation to biodiversity, subject to conditions.</p>

Internal Referral Body	Comments
NECC (Coast and Catchments)	<p><i>Supported, subject to conditions</i></p> <p>The applicant seeks development consent to undertake the following:</p> <ul style="list-style-type: none"> • installation of a sauna on the existing timber deck, which is detached from the main dwelling • minor adjustment of the existing stairs along the side of the dwelling, with the addition of a new landing to provide access to the existing deck; • new balustrading around the existing deck; and • a new outdoor shower with associated privacy screening. <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • 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. <p>Coastal Management Act 2016</p> <p>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.</p> <p>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.</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021</p> <p>The subject land has been included on the 'Coastal Use' and 'Coastal Environmental 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.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Untapped Planning dated May 2026 the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p>

Internal Referral Body	Comments
	<p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>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. Comment: In this situation, the EPL for this property is 2.69 m AHD. Given the proposed development should not be affected by the Estuarine Hazard, an Estuarine Hazard Report is not required. As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP</p>
NECC (Riparian Lands and Creeks)	<p>Supported, subject to conditions</p> <p>The Catchment Team has reviewed the proposal and raises no objection from a Creek and Riparian perspective.</p>
Parks, reserves, beaches, foreshore	<p>Supported, subject without conditions</p> <p>The development site adjoins Pittwater 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.</p> <p>The 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.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Supported, subject to conditions</p> <p>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.</p>

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 (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 5.0 metres of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30 metres of a structure supporting an overhead electricity transmission line and/or within 5.0 metres 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 proposed sauna is located on an existing deck which is setback 13.7m from the Mean High Water Mark (MHW). The proposal does not require any significant earthworks or the removal of trees. The proposal is low scale and integrates with the existing landform and foreshore landscape character. Council's relevant referral officers have reviewed the proposal and are in support of the development, subject to conditions, which will ensure that the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological and coastal environment are maintained. The proposal will not impact on public access to the foreshore and a standard condition requires work to stop should it be suspected that any Aboriginal item / site has been discovered. In summary, subject to conditions, Council is satisfied that the proposed development is unlikely to cause an adverse impact on the matters listed above under sub-clause 1 (a) - (g).

- 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 above, Council is satisfied that the proposed sauna is designed and sited so as to unlikely to adversely impact matters listed 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:

The proposed sauna will be installed on the existing timber deck which is setback from the foreshore and other minor work. As such, the proposal is unlikely to cause an adverse impact access to the foreshore, overshadowing, visual amenity and scenic quality or heritage, subject to conditions. Council is therefore satisfied that the development is designed, sited and managed to avoid impact to the matters listed in paragraph (a) and the bulk, scale and height of the structure is assessed as acceptable and will not impact on the scenic quality of the coastal and built environment.

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 application was referred to Council's Coastal Officer who offered no objections to the proposal subject to conditions. Council is therefore satisfied that the proposal is unlikely to cause an increase risk of coastal hazard.

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.

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	Complies
Height of Buildings:	8.5m	4.2m	Yes

Compliance Assessment

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

Detailed Assessment

Zone C3 Environmental Management

The proposed works consist of the installation of an ancillary structure associated with the existing dwelling, namely, a sauna and associated minor works. The proposal is assessed against the objectives of the zone:

- ***To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.***

Comment: The site is environmentally sensitive being classified H1 and portions of the site are identified

on the NSW Government Biodiversity Values Map. The proposed sauna, which is sited on an existing deck, and the minor reconfiguration of the existing stairs and a new landing are considered to be of low impact for the reasons set out in this report, and subject to compliance with conditions.

The application has been reviewed by the following officers in Council's Landscape and Parks, Biodiversity, Coastal, Riparian and Environmental Health. All referrals offer no objections to the proposal subject to conditions. A condition is also included required work to stop if Aboriginal Heritage items are discovered. Subject to these conditions, Council is satisfied that the proposal protects and manages the special ecological, scientific, cultural and aesthetic values of the area.

- ***To provide for a limited range of development that does not have an adverse effect on those values.***

Comment: The proposed sauna is considered to be a minor ancillary structure which will enhance the amenity of the existing dwelling. Subject to conditions, it is unlikely that the siting, scale and design of the proposal will adversely affect the special ecological, scientific, cultural or aesthetic values.

- ***To provide for residential development of a low density and scale, integrated with the landform and landscape and not visually prominent.***

Comment: The proposal is of a low scale, a small sauna that sits on an existing deck and minor associated changes to a section of the existing access stairs to the foreshore. The proposal integrates with the existing landform and all existing trees will be retained which will help screens the development as viewed from Pittwater waterway.

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

Comment: As above, no trees will be removed and subject to compliance with the arborist report and conditions recommended by Council's Landscape and Biodiversity Officers there will be no unreasonable impact on foreshore vegetation and wildlife corridors.

- ***To ensure the continued viability of ecological communities and threatened species.***

Comment: As above, subject to conditions the proposal will ensure the continued viability of ecological communities and threatened species.

4.6 Exceptions to development standards

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

Development standard: Clause Limited development on foreshore area

Requirement: Landward of Foreshore Building Line

Proposed: Sauna, outdoor shower and privacy screen and changes to access stairs to foreshore seaward of the Foreshore Building Line

Percentage of variation: N/A - non-numerical standard

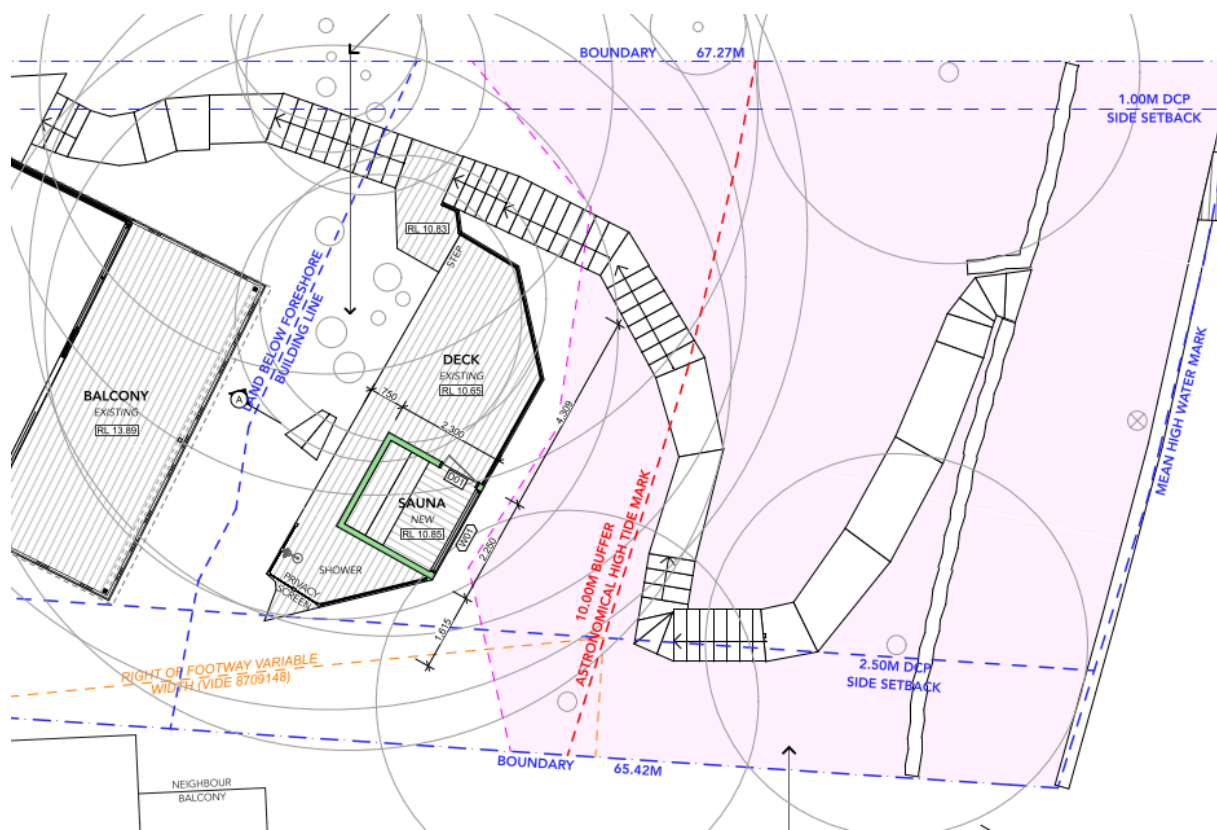


Figure 1 Blue dashed line showing the foreshore building line relative to the proposed sauna on the existing timber deck

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 satisfied that the Applicant has demonstrated that compliance with Clause 7.8 Limited development on foreshore area is unreasonable or unnecessary in the circumstances of this application for the following reasons (excerpt from the submitted Clause 4.6 Request):

- *Strict compliance would be unreasonable and unnecessary given the existing character of the locality and the similar scale of the development to adjacent dwellings. Note: The Applicant specifically references the location of the balcony to the adjoining property which is seaward of the FBL.*
- *The variation is minor in nature and does not require the increase of the developed site area, the modification of any coastal process or the removal of vegetation.*
- *The existing site vegetation and proposed dark colours will mask the development from view and the steep vegetated nature of the site will aid in the small sauna blending into the natural backdrop.*
- *There does not appear to be any clear benefit from modifying the addition to rectify the minor departure and strict compliance in this instance is both unreasonable and unnecessary.*

(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 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 (excerpt of the submitted Clause 4.6 Request):

- *The development is consistent in terms of bulk, scale, siting and setback to other residential developments in the immediate area.*

- *The variation is minor in nature and does not result in any new areas of site disturbance or vegetation removal.*
- *The development will have no adverse impacts to surrounding allotments in terms of;*
 - o *Foreshore Character viewed from the waterway*
 - o *Coastal Process*
 - o *Site modification*
 - o *Overshadowing*
 - o *Privacy*
 - o *Visual Dominance*
 - o *Streetscape and Character*
 - o *View Loss*
- *It is further recognised that the development is consistent with the character and bulk and scale of other development in the street and will not have an adverse streetscape impacts.*
- *The development is generally compliant with the remainder of the LEP and DCP requirements.*

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 7.8 Limited development on foreshore area for the following reasons:

The Applicant's justification as to why compliance with Clause 4.6 Limited development on foreshore area is unreasonable or unnecessary in the circumstance area noted and generally supported. The small sauna and associated shower and privacy screen are sited on an existing elevated timber deck requiring no excavation, refer to figure 1 above and figure 2 below.



Figure 2: Existing timber deck to contain the sauna, outdoor shower and privacy screen (source Clause 4.6 Variation)

The low scale structure is painted in a dark recessive colour which will help the development blend with the landscape setting as viewed from the waterway, refer to figure 3 below.



Figure 3 Subject site as viewed from the waterway

The minor changes to the existing stairs will not result in the removal of any native trees, as such, the low scale ancillary development integrates into the existing landform and foreshore landscape resulting in no unreasonable impacts on the scenic quality of the foreshore. The proposal will not impact on neighbouring amenity. Conditions are included to ensure that there is no impact on ecological, scientific, cultural, or scenic values of the locality.

The proposal complies with all built form controls and generally all other controls of the Pittwater LEP and Pittwater DCP.

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 described above, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

5.10 Heritage conservation

(8) Aboriginal places of heritage significance The consent authority must, before granting development consent under this section to the carrying out of development in an Aboriginal place of heritage significance—

(a) conduct an adequate investigation and assessment, which may involve consideration of a heritage impact statement, and

- (b) consider the effect of the proposed development on the heritage significance of—
- (i) the place, and
- (ii) any Aboriginal object known to be, or reasonably likely to be, located at the place.

Comment:

The site is mapped as having the potential for Aboriginal Heritage, as such, in accordance with sub-clause 8(b) of the PLEP 2014 consideration has been given to the effects of the proposed development on the heritage significance of the place / potential item. The proposal includes the installation of a sauna on an existing elevated timber deck which is set back 13.7m from Pittwater watercourse and the minor reconfiguration of a small section of the access stairs to the foreshore. The proposal does not require any tree removal or significant excavation. Given the siting of the low scale of the proposal the application does not trigger a referral to the Aboriginal Heritage Officer and it is considered that it is unlikely that the proposal will have an adverse impact on Aboriginal Heritage. To safeguard this, a condition is included in the recommendation requiring all work to cease should Aboriginal Heritage items be discovered.

7.8 Limited development on foreshore area

Under Clause 7.8 Limited Development on Foreshore Area, development consent must not be granted for development on land in the foreshore area except for the following purposes:

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

Comment

The proposed development consists of the installation of a sauna, external shower, privacy screen and associated minor changes to a section of the external waterway access stairs. Such development contravenes the requirements of Clause 7.8. The development, however, is found to be acceptable for the reasons as set out in Clause 4.6 exceptions to development standards, found elsewhere in this report. Importantly, the sauna, external shower and privacy screen are proposed to be sited on an existing elevated timber deck which is located seaward of the foreshore building line. The siting of the development requires no changes to the landform or landscape.

The proposed development is assessed against the controls of 7.8 below.

Development consent must not be granted under this clause unless the consent authority is satisfied that:

- *the development will contribute to achieving the objectives for the zone in which the land is located, and*
- *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- *the development will not cause environmental harm such as:*
 - *pollution or siltation of the waterway, or*
 - *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
 - *an adverse effect on drainage patterns, or*
 - *the removal or disturbance of remnant riparian vegetation, and*

- *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- *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 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*
- *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.*

Comment

The proposed development is consistent with the objectives of the C3 Environmental Management zone, as detailed below.

The appearance of the proposed development, from both the waterway and adjacent foreshore areas, is compatible with the surrounding area. The development is of a low-scale and will be finished in dark earthy colours that will assist the structure blending with the natural environment. Furthermore, no trees are proposed to be removed which will further assist the integration of the development with the landscape. The sauna is proposed to be sited on an existing elevated deck, as such, it will integrate with the existing landform.

Subject to conditions, the proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats, drainage patterns or remnant riparian vegetation.

The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway. The proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. The proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

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:

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*
- *public access to link with existing or proposed open space,*
- *public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- *public access to be located above mean high water mark,*
- *the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment:

The proposed development will retain continuous public access to and along the foreshore. The proposed development does not impact upon any public access. The proposed development is acceptable in relation to the foreshore character and the existing environmental conditions.

Pittwater 21 Development Control PlanBuilt Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	24.7m (unaltered)	N/A	Yes
Side building line	2.5m South	3.5m	N/A	Yes
	1m	1.6m	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	Maximum area not used for Landscaped Area 26% or 225.7m ²	28.4% (246.7m ²)	9.3%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.8 Lower Western Foreshores and Scotland Island Locality	Yes	Yes
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
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	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
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D8.1 Character as viewed from a public place	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D8.3 Building colours and materials	Yes	Yes
D8.5 Front building line	Yes	Yes
D8.6 Side and rear building line	Yes	Yes
D8.8 Building envelope	Yes	Yes
D8.9 Landscaped Area	No	Yes
D8.13 Stormwater overflow	Yes	Yes
D8.15 Site disturbance	Yes	Yes
D8.16 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment**D8.9 Landscaped Area**Description of non-compliance

The control requires that, for sites between 850-899m², the maximum area not provided as landscaped area is limited to 26% or 225.7m².

The proposal provides a hard surface area of 246.7m² (28.4% of the site), which exceeds the prescribed numerical maximum and represents a variation of approximately 9.3%. The proposed development increases the existing hard surface area (245.1m²) by 1.6m² (0.2%).

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)*
- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties. (En, S)*
- *Vegetation is retained and enhanced within 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 including tree canopy. (En)*
- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)*
- *To ensure the distribution of height and mass preserves, and enhances neighbourhood amenity and has regard to site characteristics and environmental constraints.*
- *To conserve significant natural features of the site and contribute to effective management of biodiversity.*
- *The area of site disturbance is minimised. (En)*
- *Soft surface is maximised. (En, S)*

The proposal achieves the intended outcomes of the landscaped area control by reinforcing the future

character of the locality and preserving its bushland 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. The proposal conserves existing natural vegetation, supports biodiversity outcomes, and improves stormwater performance through increased infiltration and reduced runoff, thereby limiting erosion and impacts on natural drainage systems. Overall, the development preserves and enhances the bushland 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.

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 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

This proposal, for alterations and additions to a dwelling including the installation of a sauna, external shower, privacy screen and associated changes to a section of the access stairs to the foreshore. The proposal has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to the work being located seaward of the foreshore building line. Critically, the work is sited on an existing elevated timber deck which is located within the foreshore area.

The proposed development was notified in accordance with the Northern Beaches Community Participation Plan (CPP). No submissions have been received.

The critical assessment issues relate to the works within the foreshore area and included a detailed analysis of the variation to Clause 7.8 of the PLEP 2014. On balance, the Clause 4.6 variation is supported given that the low scale development which integrates with the existing landform and foreshore landscape. Subject to conditions, the proposal will not result in unreasonable impacts on the special ecological, scientific, cultural or scenic quality of the foreshore and waterway.

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

REASON FOR DETERMINATION

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2026/0701 for Alterations and additions to a dwelling house on land at Lot 4 DP 1063057, 119 Florence Terrace, SCOTLAND ISLAND, Lot LIC 387241, 119 Florence Terrace, SCOTLAND ISLAND, 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
DA000	-	Cover Page	Progressive Plans	30/04/2026
DA04	A	Site, Waste and Sediment Plan	Progressive Plans	30/04/2026
DA05	A	Existing Lower Ground Floor Plan	Progressive Plans	30/04/2026
DA06	A	Proposed Lower Ground Floor Plan	Progressive Plans	30/04/2026
DA07	A	Existing Roof Plan	Progressive Plans	30/04/2026
DA08	A	Proposed Roof / Concept Stormwater Plan	Progressive Plans	30/04/2026
DA09	A	North Elevation	Progressive Plans	30/04/2026
DA10	A	South Elevation	Progressive Plans	30/04/2026
DA11	A	East Elevation	Progressive Plans	30/04/2026
DA12	A	West Elevation	Progressive Plans	30/04/2026
DA13	A	Section A	Progressive Plans	30/04/2026

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Geotechnical Assessment Letter Ref: AG 26165	-	AscentGeo	16/05/2026

Arboricultural Impact Assessment	2	Blue Bros Arboriculture	13/05/2026
Bushfire Risk Assessment Ref: 1535	-	Planning for Bushfire Protection	13/05/2026
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 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	15/06/2026

(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) 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) If proposing to undertake works on Council property, a "Road Opening Permit" will need to be applied for from Council, and all applicable charges paid, prior to the commencement of any work. 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. Please contact Road Restorations Team at Council if unsure whether a Road Opening Permit is required.
- (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 sewerred areas or managed on-site in unsewerred 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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

5. Footing design near trees to be retained

- a) Pier footing locations shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture, and a qualified Structural Engineer, following a tree root investigation by the Arborist near existing trees T30 to T34 as identified in the approved Arborist Report, to locate critical tree roots and recommend pier footing design and locations for the nearby construction works.
- b) the Arborist shall review, comment, recommend design revision as required and approve the footing layout, to ensure the locations of footings will be manageable in terms of tree protection measures.
- c) the Arborist shall submit certification to the Certifier, that the locations of the footings are accepted.
- d) the agreed footing structural layout plans shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate.

Reason: Tree protection.

6. 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.

7. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as

identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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 Certifier.

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.

8. **Stormwater Management**

Stormwater shall be disposed of in accordance with Council's Policy. A stormwater management plan is to be implemented to ensure that there is no increase in stormwater pollutant loads arising from the approved development. Water quality is not to be reduced from pre-development conditions and water quantity is not to be increased from pre-development levels.

Details demonstrating compliance are to be prepared by a registered professional stormwater engineer with chartered professional status (CP Eng) and who has an appropriate level of professional indemnity insurance and must be submitted to the Principal Certifier for approval prior to issue of the Construction Certificate.

Reason: To ensure that the generation of additional stormwater discharge from the site, due to increases in impervious surfaces, does not adversely impact receiving waters.

9. **External Finishes to Roof**

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

10. **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

11. 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, including trees and vegetation nominated for retention on the approved Arborist Report
 - 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, and any recommendations of an approved Arborist Report
 - 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 Arborist Report and/or Project Arborist as applicable.

Reason: Tree and vegetation protection.

12. 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.

13. 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.

14. 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.

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. 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.

18. 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.

19. Aboriginal Heritage

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

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

Reason: Aboriginal Heritage Protection.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

20. Condition of retained vegetation

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

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,

c) any subsequent remedial works required to ensure the long-term retention of the vegetation.

Reason: Tree and vegetation protection.

21. **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 and Wagstaffe Spotted Gum Forest Endangered Ecological Community listing.

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.

22. **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.

23. **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.

24. **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.

25. **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.

26. **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) Geotechnical Assessment Letter Ref: AG 26165, prepared by AscentGeo, dated 16/05/2026
- (b) Arboricultural Impact Assessment Version 2, prepared by Blue Bros Arboriculture dated 13/05/2026
- (c) Bushfire Risk Assessment Ref: 1535, prepared by Planning for Bushfire Protection, dated 13/05/2026
- (d) Waste Management Plan

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.

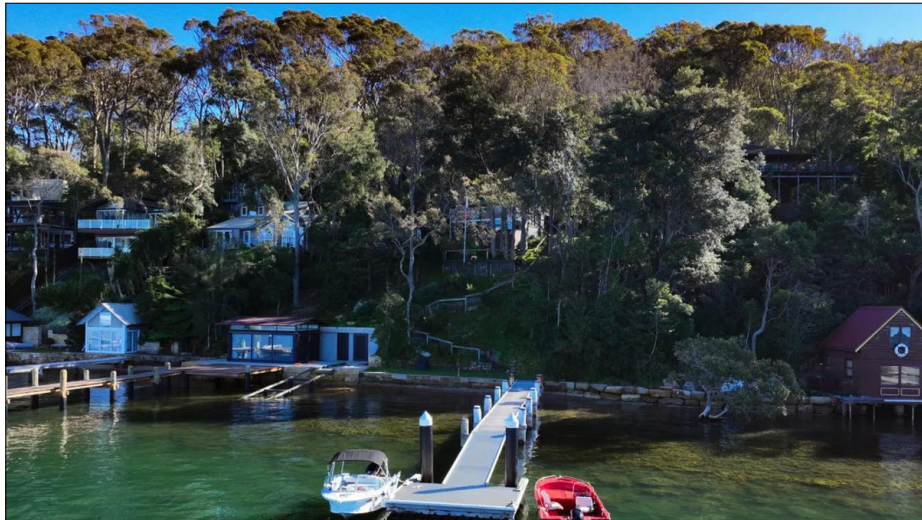
27. **Wastewater System**

Prior to the issuing of an Occupation Certificate, a copy of a s68 (Local Government Act 1993) approval to operate the wastewater system, and the wastewater system must be activated and effectively operating to the satisfaction of the Principal Certifier.

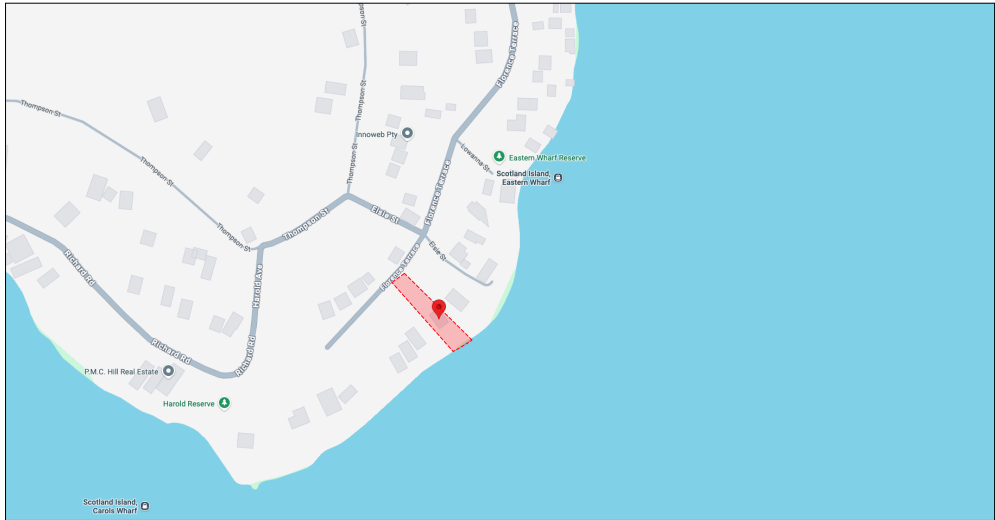
The outdoor shower is to be connected to the existing AWTS by a suitably qualified person prior to OC.

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

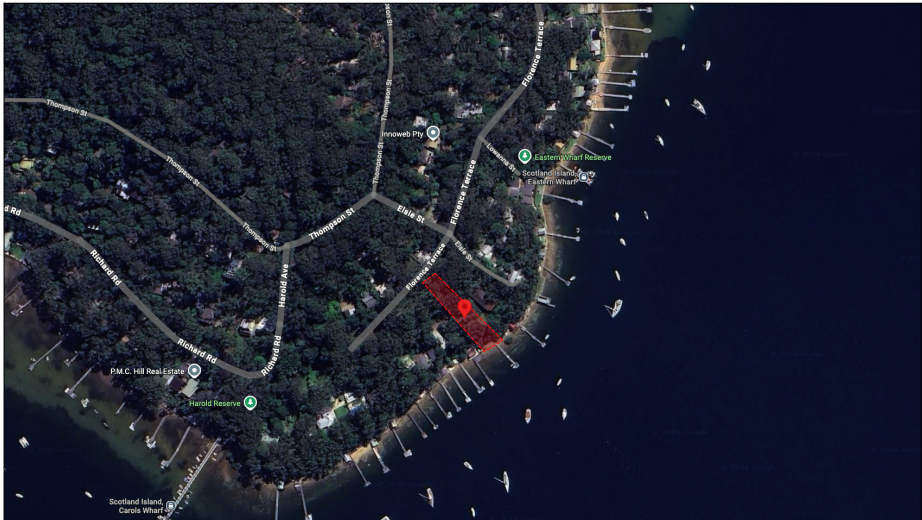
Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.



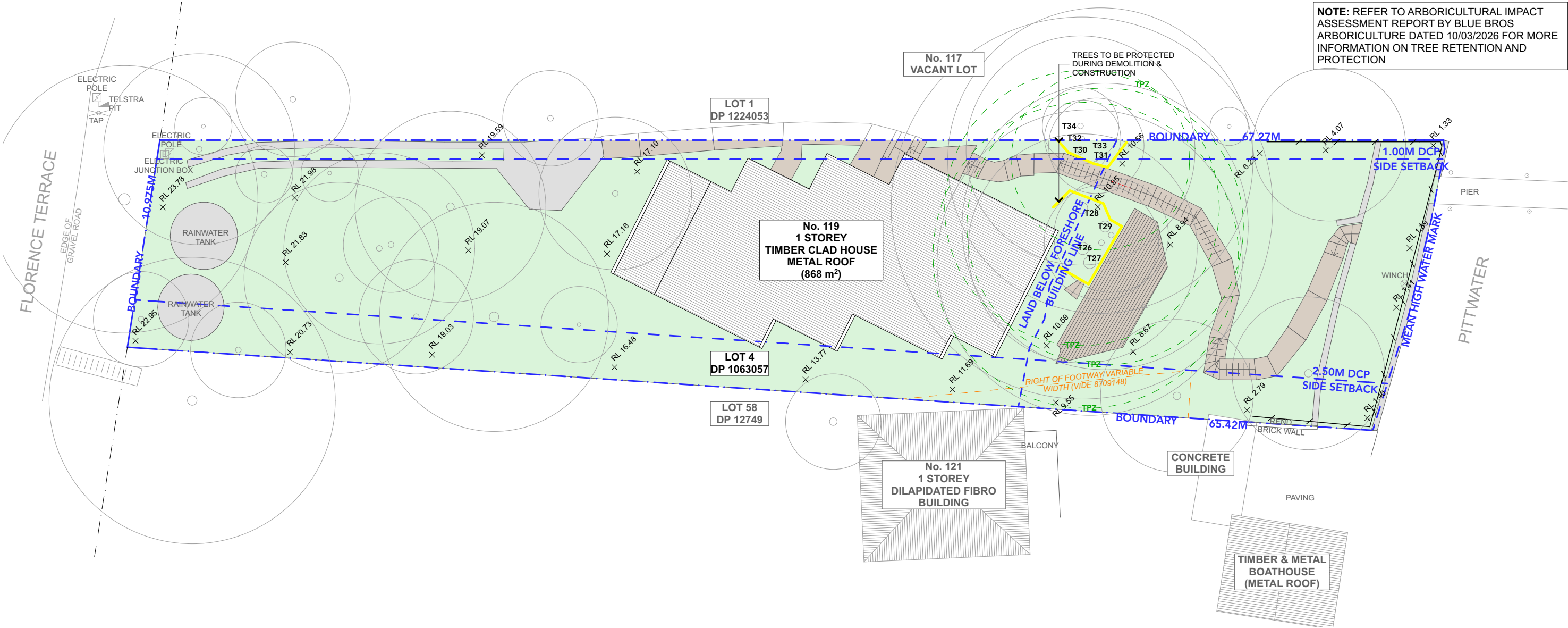
EXTERNAL VIEW



LOCATION MAP



AERIAL MAP



NOTE: REFER TO ARBORICULTURAL IMPACT ASSESSMENT REPORT BY BLUE BROS ARBORICULTURE DATED 10/03/2026 FOR MORE INFORMATION ON TREE RETENTION AND PROTECTION

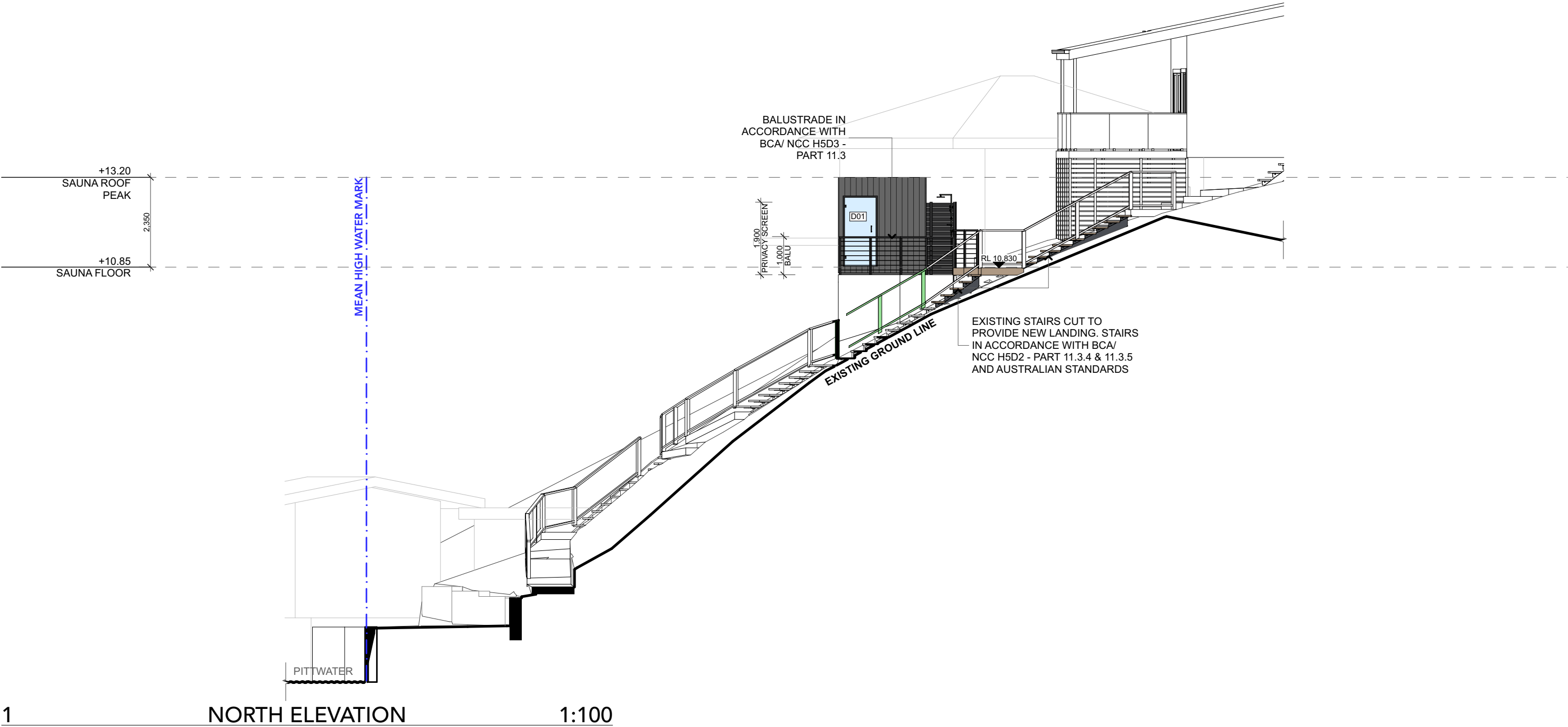
NOTE: ALL DEMOLITION WORK TO BE CARRIED OUT IN ACCORDANCE WITH AS2601-2001

1

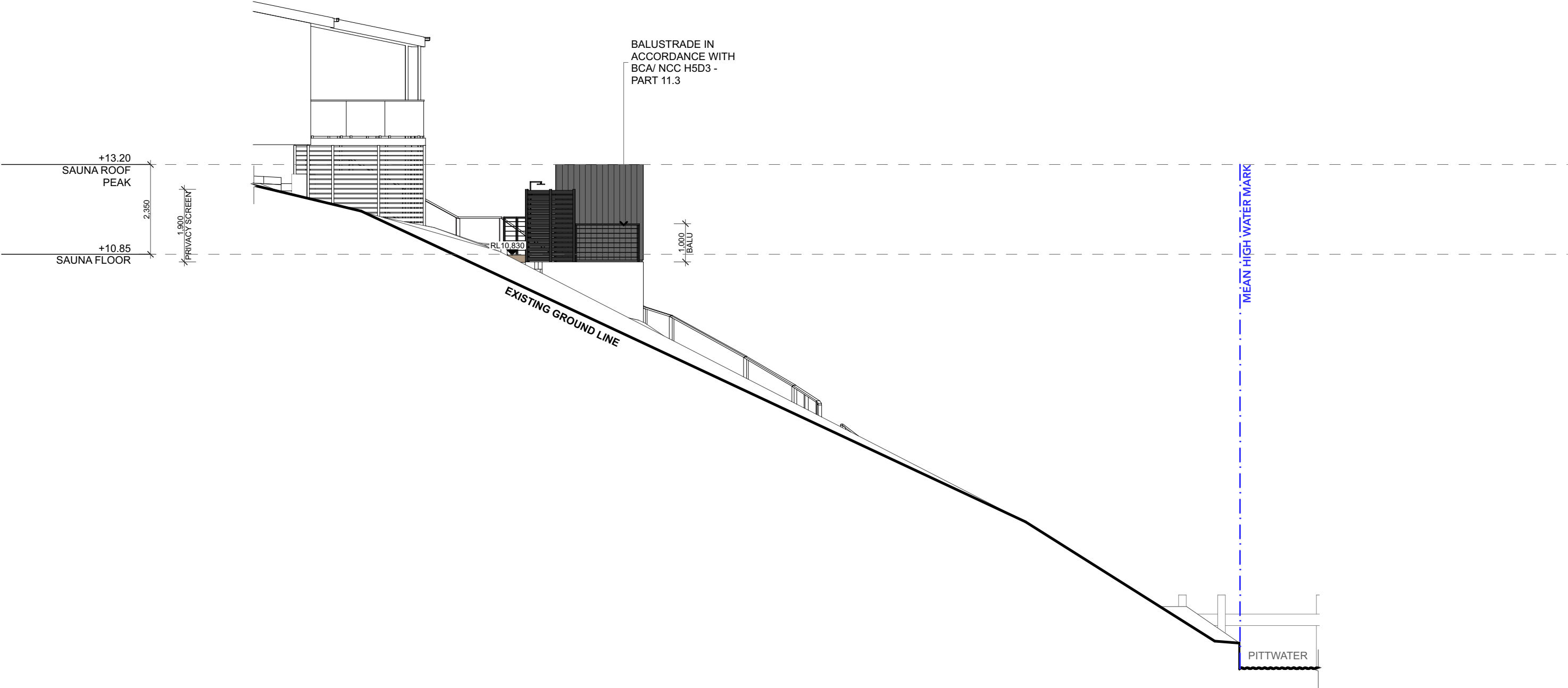
SITE ANALYSIS

1:200

 <p>progressive plans</p> <p>0400 699 850 16 BOWLING GREEN LANE AVALON BEACH, NSW, 2107 HELLO@PROGRESSIVEPLANS.COM.AU WWW.PROGRESSIVEPLANS.COM.AU</p>	<p>NOTES</p> <p>THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS AND VERIFY ALL ERRORS AND OMISSIONS TO THE DRAFTING OFFICE. DO NOT SCALE THE DRAWING.</p> <p>DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY THE DRAFTING OFFICE FOR CONSTRUCTION AND NOTED ON THE TITLE BLOCK.</p> <p>THE WORK MUST BE VERIFIED BY STRUCTURAL ENGINEER BEFORE WORK COMMENCES.</p>	REV.	NOTES.	INITIAL	DATE	<p>LEGEND</p> <div> <div>  EXISTING  LANDSCAPE / GRASS </div> <div>  DEMOLISHED  CONCRETE / PAVERS </div> <div>  EXISTING ROOF  TIMBER DECK </div> <div>  PROPOSED ROOF  POOL / WATER </div> <div>  SEDIMENT EROSION FENCE </div> </div> <p>ABBREVIATIONS</p> <p>DP: DEPOSIT PLAN RL: REDUCED LEVEL SP: STRATA PLAN TPZ: (TREE PROTECTION ZONE) NRZ: (NOTATIONAL ROOT ZONE)</p>	<p>NORTH POINT</p> 	<p>CLIENTS:</p> <p>NICHOLAS ZIPFINGER & CAROLA WIKSTEN</p> <p>SITE ADDRESS:</p> <p>119 FLORENCE TERRACE SCOTLAND ISLAND, NSW, 2105</p>	<p>DRAWING TITLE:</p> <p>SITE ANALYSIS</p>	
									<p>SCALE:</p> <p>1:200 @ A3</p>	<p>DATE:</p> <p>30/4/2026</p>
									<p>PROJECT NO:</p> <p>1262</p>	<p>DRAWING NO:</p> <p>DA03</p>

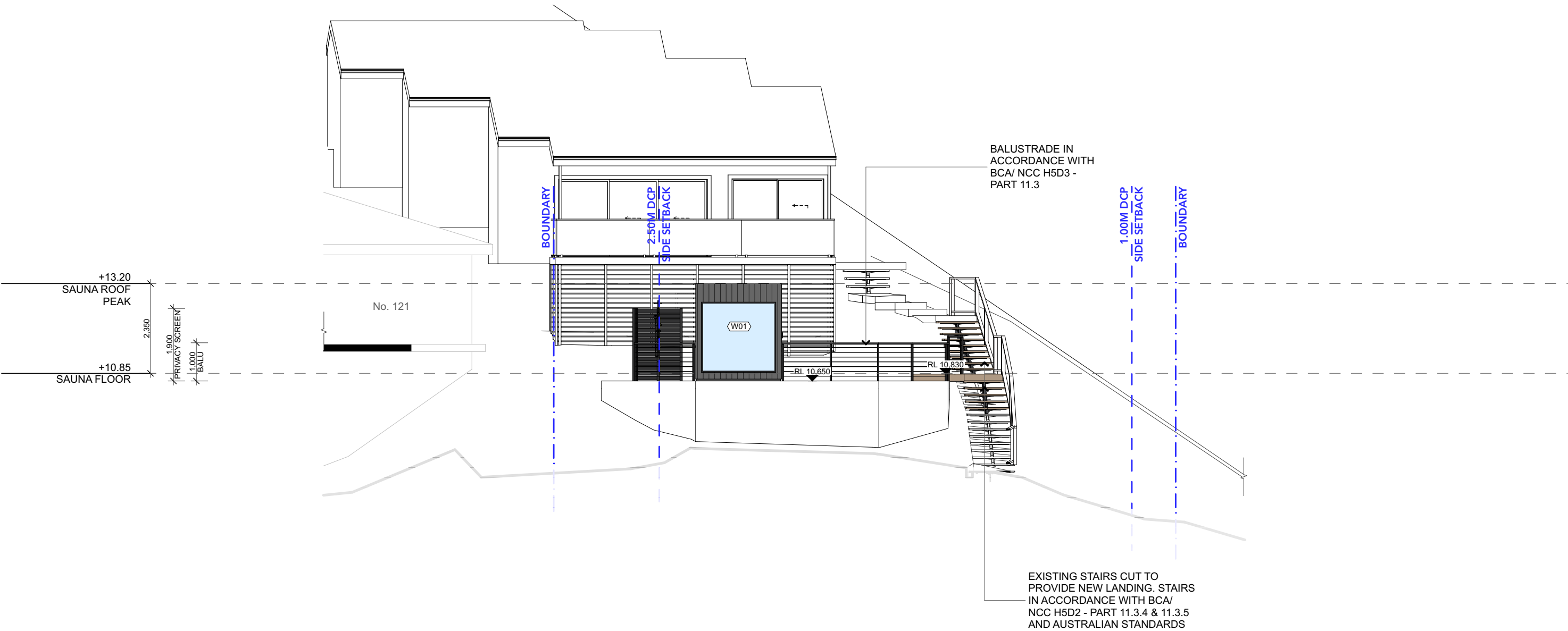


 <div>progressive plans 0400 699 850 16 BOWLING GREEN LANE AVALON BEACH, NSW, 2107 HELLO@PROGRESSIVEPLANS.COM.AU WWW.PROGRESSIVEPLANS.COM.AU</div>	NOTES THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS AND VERIFY ALL ERRORS AND OMISSIONS TO THE DRAFTING OFFICE. DO NOT SCALE THE DRAWING. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY THE DRAFTING OFFICE FOR CONSTRUCTION AND NOTED ON THE TITLE BLOCK. THE WORK MUST BE VERIFIED BY STRUCTURAL ENGINEER BEFORE WORK COMMENCES.	REV.	NOTES.	INITIAL	DATE	LEGEND <div>EXISTING</div> <div>DEMOLISHED</div> <div>VERTICAL TIMBER PANELING DARK OR SIMILAR</div> <div>PAINT DARK GREY OR SIMILAR</div> <div>GLASS</div> <div>TIMBER DECKING TO MATCH EXISTING</div>	ABBREVIATIONS CPD: CUPBOARD DP: DOWNPIPE DPS: DOWN PIPE SPITTER DPRH: DOWN PIPE RAIN HEAD FFL: FINISHED FLOOR LEVEL HWS: HOT WATER SYSTEM RL: REDUCED LEVEL	CLIENTS: NICHOLAS ZIPFINGER & CAROLA WIKSTEN SITE ADDRESS: 119 FLORENCE TERRACE SCOTLAND ISLAND, NSW, 2105	DRAWING TITLE: ELEVATION - NORTH SCALE: 1:100 @ A3 DATE: 30/4/2026 PROJECT NO: 1262 DRAWING NO: DA09
		A	DA SET	AF	30.04.26				



1 SOUTH ELEVATION 1:100

 <div>progressive plans 0400 699 850 16 BOWLING GREEN LANE AVALON BEACH, NSW, 2107 HELLO@PROGRESSIVEPLANS.COM.AU WWW.PROGRESSIVEPLANS.COM.AU</div>	NOTES THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS AND VERIFY ALL ERRORS AND OMISSIONS TO THE DRAFTING OFFICE. DO NOT SCALE THE DRAWING. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY THE DRAFTING OFFICE FOR CONSTRUCTION AND NOTED ON THE TITLE BLOCK. THE WORK MUST BE VERIFIED BY STRUCTURAL ENGINEER BEFORE WORK COMMENCES.	REV.	NOTES.	INITIAL	DATE	LEGEND <div>EXISTING</div> <div>DEMOLISHED</div> <div>VERTICAL TIMBER PANELING DARK OR SIMILAR</div> <div>PAINT DARK GREY OR SIMILAR</div> <div>GLASS</div> <div>TIMBER DECKING TO MATCH EXISTING</div>	ABBREVIATIONS CPD: CUPBOARD DP: DOWNPIPE DPS: DOWN PIPE SPITTER DPRH: DOWN PIPE RAIN HEAD FFL: FINISHED FLOOR LEVEL HWS: HOT WATER SYSTEM RL: REDUCED LEVEL	CLIENTS: NICHOLAS ZIPFINGER & CAROLA WIKSTEN SITE ADDRESS: 119 FLORENCE TERRACE SCOTLAND ISLAND, NSW, 2105	DRAWING TITLE: ELEVATION - SOUTH SCALE: 1:100 @ A3 DATE: 30/4/2026 PROJECT NO: 1262 DRAWING NO: DA10
		A	DA SET	AF	30.04.26				



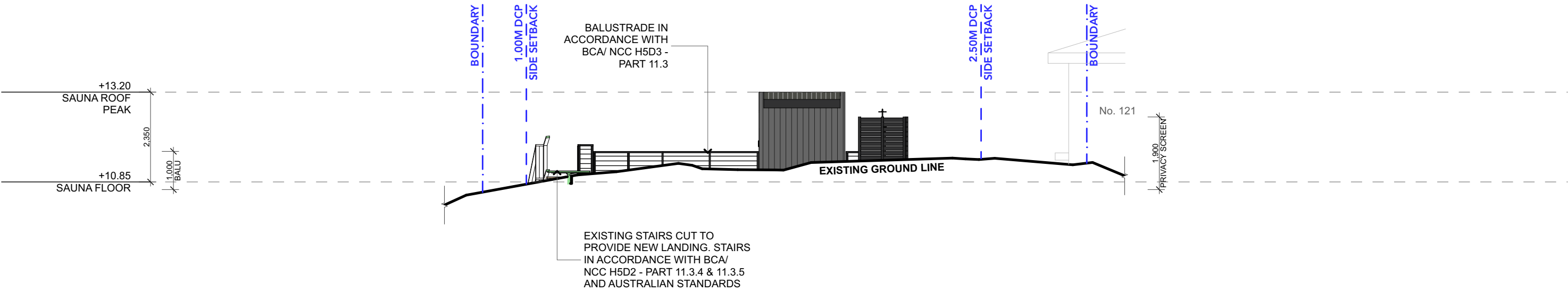
1

EAST ELEVATION

1:100

NOTE: BOUNDARIES & SETBACKS ARE BEST VIEWED AND ASSESSED ON THE FLOOR PLANS

 <div>progressive plans 0400 699 850 16 BOWLING GREEN LANE AVALON BEACH, NSW, 2107 HELLO@PROGRESSIVEPLANS.COM.AU WWW.PROGRESSIVEPLANS.COM.AU</div>	NOTES THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS AND VERIFY ALL ERRORS AND OMISSIONS TO THE DRAFTING OFFICE. DO NOT SCALE THE DRAWING. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY THE DRAFTING OFFICE FOR CONSTRUCTION AND NOTED ON THE TITLE BLOCK. THE WORK MUST BE VERIFIED BY STRUCTURAL ENGINEER BEFORE WORK COMMENCES.	REV.	NOTES.	INITIAL	DATE	LEGEND <div>EXISTING</div> <div>DEMOLISHED</div> <div>VERTICAL TIMBER PANELING DARK OR SIMILAR</div> <div>PAINT DARK GREY OR SIMILAR</div> <div>GLASS</div> <div>TIMBER DECKING TO MATCH EXISTING</div>	ABBREVIATIONS CPD: CUPBOARD DP: DOWNPIPE DPS: DOWN PIPE SPITTER DPRH: DOWN PIPE RAIN HEAD FFL: FINISHED FLOOR LEVEL HWS: HOT WATER SYSTEM RL: REDUCED LEVEL	CLIENTS: NICHOLAS ZIPFINGER & CAROLA WIKSTEN SITE ADDRESS: 119 FLORENCE TERRACE SCOTLAND ISLAND, NSW, 2105	DRAWING TITLE: ELEVATION - EAST	
		A	DA SET	AF	30.04.26				SCALE: 1:100 @ A3	DATE: 30/4/2026
									PROJECT NO: 1262	DRAWING NO: DA11



1 WEST ELEVATION 1:100

NOTE: BOUNDARIES & SETBACKS ARE BEST VIEWED AND ASSESSED ON THE FLOOR PLANS

 <div>progressive plans 0400 699 850 16 BOWLING GREEN LANE AVALON BEACH, NSW, 2107 HELLO@PROGRESSIVEPLANS.COM.AU WWW.PROGRESSIVEPLANS.COM.AU</div>	NOTES THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS AND VERIFY ALL ERRORS AND OMISSIONS TO THE DRAFTING OFFICE. DO NOT SCALE THE DRAWING. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY THE DRAFTING OFFICE FOR CONSTRUCTION AND NOTED ON THE TITLE BLOCK. THE WORK MUST BE VERIFIED BY STRUCTURAL ENGINEER BEFORE WORK COMMENCES.	REV.	NOTES.	INITIAL	DATE	LEGEND <div><div></div> EXISTING</div> <div><div></div> DEMOLISHED</div> <div><div></div> VERTICAL TIMBER PANELING DARK OR SIMILAR</div> <div><div></div> PAINT DARK GREY OR SIMILAR</div> <div><div></div> GLASS</div> <div><div></div> TIMBER DECKING TO MATCH EXISTING</div>	ABBREVIATIONS CPD: CUPBOARD DP: DOWNPIPE DPS: DOWN PIPE SPITTER DPRH: DOWN PIPE RAIN HEAD FFL: FINISHED FLOOR LEVEL HWS: HOT WATER SYSTEM RL: REDUCED LEVEL	CLIENTS: NICHOLAS ZIPFINGER & CAROLA WIKSTEN SITE ADDRESS: 119 FLORENCE TERRACE SCOTLAND ISLAND, NSW, 2105	DRAWING TITLE: ELEVATION - WEST	
		A	DA SET	AF	30.04.26				SCALE: 1:100 @ A3	DATE: 30/4/2026
									PROJECT NO: 1262	DRAWING NO: DA12

untapped **PLANNING**

Statement of Environmental Effects

“Clause 4.6 Variation – Foreshore Building Line”

119 Florence Terrace, Scotland Island

Lot 4 DP 1063057

Prepared for: Nicholas Zipfinger

Date: June 2026

Introduction

Untapped Planning has been commissioned by Nicholas Zipfinger to prepare a Clause 4.6 Variation for a foreshore building line encroachment relating to the alterations and additions to an existing dwelling on Lot 4 DP 1063057 at 119 Florence Terrace, Scotland Island..

This document serves as a request to vary Clause 7.8 Limited Development on the Foreshore Area.

Clause 4.6 Exceptions to Development Standards

Clause 4.6 of the Pittwater Local Environmental Plan 2014 allows for variations to development standards contained within the plan.

Clause 4.6 states;

(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 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.*

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

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

(5) In deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

(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 E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition or Zone R5 Large Lot Residential.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(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,
- (ca) clause 8.1 or 8.2.

In addressing a variation to a development control in the standard instrument the following questions are to be addressed

1. What is the name of the Environmental Planning Instrument that applies to the land?

The Environmental Planning Instrument relevant to this development is the Pittwater Local Environmental Plan 2014.

2. What is the zoning of the land?

The site is zoned C3 – Environmental Management under the provisions of the Pittwater Local Environmental Plan 2014.

3. What are the objectives of the zone?

The C3 Environmental Management zone objectives are;

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that 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 and not visually prominent.
- To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.
- To ensure the continued viability of ecological communities and threatened species.

The proposed development is considered to be consistent with the zone objectives in that it will enhance residential development without adverse impacts to the landscape or being visually prominent.



Figure 1: Deck to contain Sauna and Outdoor Shower

As the proposed sauna is located on an existing deck, refer Figure 1, it will integrate with the existing landform. Figure 2 shows the site viewed from the waterway. The proposed sauna will be sited adjacent to the flagpole.



Figure 2: Deck to contain Sauna and Outdoor Shower

As can be seen in Figure 2, the development is sympathetic to the scenic, aesthetic and cultural heritage of the locality. Being a low scale structure it will blend into the site masked by existing vegetation and visible through only limited view corridors. The existing decks blend into the backdrop provided by the slope and vegetation. The proposed Sauna will be similarly coloured (CB Monument or similar) to assist the development blending into the backdrop.

No vegetation is proposed for removal. Given this and the fact that the landscape will not be modified, the development will not have any adverse impact on ecological, scientific, cultural or aesthetic values.

4. What is the development standard being varied?

It is proposed to vary the development standard pertaining to Foreshore Building Line applying to the site.

5. Under what clause is the development standard listed in the environmental planning instrument?

The development standard relating to Foreshore Building Line is Clause 7.8 of the Pittwater Local Environmental Plan 2014.

6. What are the objectives of the development standard?

The objectives of clause 7.8 are;

- (1) *The objectives of this clause are as follows—*
 - (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,*
 - (b) *to ensure continuous public access along the foreshore area and to the waterway.*

The development as proposed is considered to not contravene the objectives of the Clause.

The proposed sauna will have no impact on the natural foreshore processes and as shown in figure 2 will be largely screened by existing vegetation and have no adverse impacts on the amenity or significance of the area.

The variation to the Foreshore Building Line is minor in nature and the works are sited such that they will not be largely screened from view having minimal impact on adjoining properties.

7. What is the numeric value of the development standard in the Environmental Planning Instrument?

The development standard as indicated in the Pittwater Local Environmental Plan Foreshore Building Line map has no numerical standard, rather is dictated by a line on the Foreshore Building Line map with no specified dimension.

The foreshore building line is mapped at approximately 18m.

8. What is the proposed numerical value of the development standard in your development application?

The development as proposed has a foreshore setback of 13.5m in line with the existing deck structure that the sauna will be constructed upon.

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

The variation of 4.5m represents a 25% variation.

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

As outlined above in the development standard objectives, strict adherence to the development standard in this instance is unreasonable and unnecessary in that the proposed additions are minor in scale, located within the footprint of existing site development and will not require the modification to the natural landscape and topography.

It is noted that the main building and associated balcony of 121 Florence Terrace also encroach within the Foreshore Building Line to a similar amount. The proposed sauna is a structure of significantly less bulk.

The development in its current form, with the requested Foreshore Building Line Setback variation, is consistent with surrounding dwellings in terms of build form, bulk and scale and will not have any adverse impacts on surrounding development in terms of;

- Modification of the coastal processes
- Access to the foreshore
- Overshadowing
- Privacy
- Visual Dominance
- Streetscape and Character
- Views

It is noted that the development will be sited within the existing developed footprint of the site. This footprint is elevated relative to the foreshore reducing any potential impacts directly to the foreshore. The existing deck is coloured in a dark colour and blends in with the natural backdrop (refer Figure 2). The proposed sauna will be similarly coloured to reduce any potential visual impacts.

The development is generally compliant with all other controls contained in the LEP and DCP and in this instance, due to the existing character of the street and the fact that the development will not adversely impact upon adjoining development, it is considered appropriate to allow a variation to the Foreshore Building Line.

11. How would strict compliance hinder the attainment of the objectives specified in Section 5(a)(i) and (ii) of the Act.

The objectives contained within Section 5(a)(i) and (ii) of the Act state;

The objects of this Act are:

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,*

As has been noted earlier in the report, the general character of the area is residential in nature sited within a vegetated foreshore area. The proposal is consistent in setback to adjacent dwellings and will not increase the developed footprint of the subject site.

Strict compliance with the development standard would not increase the social or economic welfare of the community or have any impact on the orderly development of land.

The proposal in its current form does not dominate the site visually when viewed from the waterway. Further the development overshadow or visually dominate adjoining dwellings, so strict adherence to the foreshore setback control in this instance will not result in any net public benefit.

The proposal will not alter the coastal processes or further restrict access to the foreshore area. If is further considered that the proposal will not have any adverse visual impacts on the locality.

Approval of the development in its current form will not hinder the attainment of the objectives contained within Section 5(a)(i) and (ii) of the Act.

12. Is the development standard a performance-based control? Give details.

No, the development standard is not performance based.

13. Would strict compliance with the standard, in your particular case be unreasonable or unnecessary? Why?

Strict compliance would be unreasonable and unnecessary given the existing character of the locality and the similar scale of the development to adjacent dwellings.

The variation is minor in nature and does not require the increase of the developed site area, the modification of any coastal process or the removal of vegetation.

The existing site vegetation and proposed dark colours will mask the development from view and the steep vegetated nature of the site will aid in the small sauna blending into the natural backdrop.

There does not appear to be any clear benefit from modifying the addition to rectify the minor departure and strict compliance in this instance is both unreasonable and unnecessary.

14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give Details.

As has been demonstrated above, the development is consistent in terms of bulk, scale, siting and setback to other residential developments in the immediate area. The variation is minor in nature and does not result in any new areas of site disturbance or vegetation removal. The development will have no adverse impacts to surrounding allotments in terms of;

- Foreshore Character viewed from the waterway
- Coastal Process
- Site modification
- Overshadowing
- Privacy
- Visual Dominance
- Streetscape and Character
- View Loss

It is further recognised that the development is consistent with the character and bulk and scale of other development in the street and will not have an adverse streetscape impacts.

The development is generally compliant with the remainder of the LEP and DCP requirements. Given this compliance with other planning controls and the lack of physical and environmental impacts from the development, it is considered that there is grounds to justify contravening the development standard.

Requiring the development to be modified to comply with the Foreshore Building Line standards, will not lessen impacts or improve the amenity of adjoining neighbors, nor will it make a perceivable positive impact to the streetscape.

For these reasons it is considered that there is sufficient merit in granting a variation to the Foreshore Building Line standard.

6 MEETING CLOSURE