

AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

Notice is hereby given that a Meeting of the Northern Beaches Local Planning Panel will be held in the Council Chambers, Civic Centre, Dee Why on

WEDNESDAY 6 JUNE 2018

Beginning at 1.00PM for the purpose of considering and determining matters included in this agenda.



Peter Robinson
Executive Manager Development Assessment

Panel Members

Peter Biscoe	Chair
Marcus Sainsbury	Environmental Expert
Brian Kirk	Town Planner
Nick Lawther	Community Representative

Quorum

A quorum is three Panel members

Conflict of Interest

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

**Agenda for a Meeting of the Northern Beaches Local Planning Panel
to be held on Wednesday 6 June 2018
in the Council Chambers, Civic Centre, Dee Why
Commencing at 1.00PM**

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4.0	REVIEW OF DETERMINATIONS	
	Nil	
5.0	PLANNING PROPOSALS	
	Nil	

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 16 MAY 2018

RECOMMENDATION

That the Panel note that the Minutes of the Northern Beaches Local Planning Panel held 16 May 2018 were adopted by the Chairperson and have been posted on Council's website.

3.0 DEVELOPMENT APPLICATIONS

ITEM 3.1	DA2017/0614 - 183 WARRINGAH ROAD, BEACON HILL - SUBDIVISION OF ONE LOT INTO TWO LOTS
REPORTING OFFICER	STEVE FINDLAY
TRIM FILE REF	2018/326160
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan and Subdivision Plan

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, **approves** Application No. DA2017/0614 for subdivision of one lot into two lots at Lot 2171 DP 752038, 183 Warringah Road, Beacon Hill subject to the conditions and for the reasons set out in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/0614
Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 2171 DP 752038, 183 Warringah Road BEACON HILL NSW 2100
Proposed Development:	Subdivision of one lot into two lots
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Local Planning Panel
Land and Environment Court Action:	No
Owner:	Karamat Ali
Applicant:	Shahid Ali
Application lodged:	26/06/2017
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	29/06/2017 to 17/07/2017
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval
Estimated Cost of Works:	\$ 0.00

ASSESSMENT INTRODUCTION

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

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



- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.1 Minimum subdivision lot size
Assessment - Integrated Development – NSW Roads and Maritime Service (Proposal physically impacts on RMS Road)
Warringah Development Control Plan - C1 Subdivision

SITE DESCRIPTION

Property Description:	Lot 2171 DP 752038 , 183 Warringah Road BEACON HILL NSW 2100
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Warringah Road.</p> <p>The site is regular in shape with a frontage of 20.1m along Warringah Road and a depth of 60.235m. The site has a surveyed area of 1210m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a two (2) storey dwelling located on the northern (front) portion of the site. A detached garage and shed are located in the rear yard which are to be demolished as part of this application.</p> <p>An easement to drain water (1m wide) is located in the rear portion of the site.</p> <p>The site falls to the front northern boundary down to rear southern boundary with a slope of 8% grade.</p> <p>The site has no significant vegetation.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by single and double storey dwellings with associated outbuildings/structures with landscaped gardens. It is noted there are four (4) similar subdivisions located between Beacon Hill Road and Willandra Road along this part of Warringah Road.</p>

Map:



SITE HISTORY

PLM2016/0093 - Subdivision of land (1 lot into 2 lots)

A pre-lodgement meeting was held on 27 September 2016 in relation to a proposed subdivision of the subject site into two allotments, one of 603.5sqm (Lot 1) and one of 606.25sqm (Lot 2) – 456sqm (excluding the access handle).

Advice provided:

"The proposed subdivision pattern cannot be supported in its current form as it does not meet the minimum lot size requirements as per Part 4.1 of the Warringah Local Environment Plan 2011 (the 'LEP')."

The inconsistency with the numerical requirements on the control inter alia associated issues result in Council forming the recommendation that the pattern of subdivision be reconsidered and amended to achieve better compliance with the minimum lot size control of 600 square metres per allotment."

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the subdivision of the existing single allotment (1210.9sqm) into two lots as follows:

- **Proposed Lot A** - 670.76m² (518.87m² excluding the access handle). This lot is the front (northern) lot which will accommodate the existing dwelling. This proposed lot has a street frontage of 14.1m and a depth of 32.997m. Two (2) carparking spaces are provided on the existing concrete slab located at the rear of the existing dwelling. The existing dwelling will maintain an area of private open space at the rear of the building.



- **Proposed Lot B** - 540.14m². This is the new rear (southern) lot which will be a vacant lot. This proposed lot has a width of 20.1m and a depth of 27.299m. A building envelope of 150m² has been shown on the plans to demonstrate that construction of a dwelling house on this lot can be carried out in accordance with the built form controls. Carparking and an onsite turning area for a new dwelling house on the rear lot can be provided as part of a future application.
- Right of way access driveway (150m² in area) providing access to both lots from Warringah Road, including a passing bay at the entry, both of which will be constructed as part of this subdivision application.
- All collected stormwater from proposed Lots A & B will discharge to the existing drainage easement to Willandra Road.
- Works also require the demolition of the existing garage and metal shed at the rear of the site.

Reasons for Delay in Assessment and Determination

The reasons for the delay in the finalisation of the assessment relates to the issues raised by Council's Development Engineers in regards to the management of stormwater and the requirement for concurrence from the Roads and Maritime Services (RMS).

Both these issues have now been addressed and suitably conditioned and the application is ready for determination.

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 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	None applicable.
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	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.



Section 4.15 Matters for Consideration'	Comments
Regulation 2000 (EP&A Regulation 2000)	<p>Clauses 54 and 109 of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. Additional information was requested for Stormwater and clarification between the Statement of Environment Effects and plans submitted (lot sizes). Additional information was received and Development Engineers have recommended approval subject to conditions.</p> <p>Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<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. In summary the impacts are satisfactory.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the residential character of the proposal in a residential zone.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the existing and proposed land use in a residential zone.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development given that the resultant lots will be consistent with the surrounding subdivision pattern. Access to the site will be via Warringah Road (via a widened driveway to allow for safer vehicular access) and stormwater will be directed to Willandra Road via the existing interallotment drainage easement ensuring that the existing and future development is suitable for the site.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received in response to the notification.



Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (e) – the public interest	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p> <p>The proposal is generally consistent with the planning controls under the Warringah Local Environmental Plan 2011 (WLEP 2011) and Warringah Development Control Plan (WDCP) and there were no submissions made by surrounding landowners in response to the public exhibition.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition of the application Council received no submissions.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	<p>(1) ORIGINAL ASSESSMENT (1/08/2017)</p> <p>A review of the submitted information indicates that there is inconsistency between the statement of environmental effects, the architectural plans and the subdivision plan in terms of the lot areas and driveway design in terms of the provision of a passing bay. In this regard it is considered that the application must be amended to ensure consistency. It is considered that the proposed rear lot should be designed to meet the minimum lot area with a maximum of 10% reduction i.e. 540 square metres and the front lot include the right of way (ROW). This will require the creation of an easement for services to be included on the subdivision plan in the access handle. This issue must be assessed by Council's Planning Assessment Officer.</p> <p>The architectural plans show a passing bay at the frontage which is considered acceptable. The right of way on the subdivision plan is to be amended to include the passing bay. A review of the manoeuvring for vehicles on lot B indicates that they will not be able to exit the site in a forward direction. In order to improve the access, a 1.5 metre minimum splay on the south western corner of lot A is required. The ROW will need to be amended to suit the splay.</p>



Internal Referral Body	Comments
	<p>In terms of the drainage for the site, the applicant's hydraulic engineer must provide a capacity check for the existing pipe within the interallotment easement. The pipeline is to achieve the 1 in 20 year ARI capacity for the catchment area upstream of the site. Where this pipe is under capacity, a design to upgrade the line must be submitted with the application. Also as lot A exceeds 40% impervious area of the proposed site area, an on-site stormwater detention (OSD) system must be provided for this lot in accordance with Council's Streamlined Method in Council's On-site Stormwater Detention Technical Specification.</p> <p>Not supported for approval due to inadequate information to address proposed lot areas, access and drainage in accordance with clauses C1 and C4 of Council's DCP.</p> <p>(2) FURTHER ASSESSMENT (23/11/2017)</p> <p>Development Engineers have reviewed the information submitted (trim no.2017/472417) and advise the proposal cannot be supported due to the following reasons.</p> <p><u>Original Issue:</u></p> <p><i>1. A review of the submitted information indicates that there is inconsistency between the statement of environmental effects, the architectural plans and the subdivision plan in terms of the lot areas and driveway design in terms of the provision of a passing bay. In this regard it is considered that the application must be amended to ensure consistency. It is considered that the proposed rear lot should be designed to meet the minimum lot area with a maximum of 10% reduction i.e. 540 square metres and the front lot include the right of way (ROW). This will require the creation of an easement for services to be included on the subdivision plan in the access handle. This issue must be assessed by Council's Planning Assessment Officer.</i></p> <p><u>Engineers updated response Original Issue:</u></p> <p>The details on the additional submitted information appear to contradict the Statement of Environmental Effects and should be assessed by Council's Planning Assessment Officer.</p> <p><i>2. The right of way on the subdivision plan is to be amended to include the passing bay. A review of the manoeuvring for vehicles on lot B indicates that they will not be able to exit the site in a forward direction. In order to improve the access, a 1.5 metre minimum splay on the south western corner of lot A is required. The ROW will need to be amended to suit the splay. The plans now indicate the provision of the 1.5 metre splay on the south western corner of proposed Lot A.</i></p> <p><u>Engineers updated response Original Issue</u></p> <p>This is now satisfactory and acceptable to Development Engineers.</p>



Internal Referral Body	Comments
	<p>3. In terms of the drainage for the site, the applicant's hydraulic engineer must provide a capacity check for the existing pipe within the interallotment easement. The pipeline is to achieve the 1 in 20 year ARI capacity for the catchment area upstream of the site. Where this pipe is under capacity, a design to upgrade the line must be submitted with the application.</p> <p><u>Engineers updated response Original Issue:</u></p> <p>Development Engineers are not in receipt of the above requested information and are not able to adequately assess the stormwater drainage component of this assessment.</p> <p>4. Also as lot A exceeds 40% impervious area of the proposed site area, an on-site stormwater detention (OSD) system must be provided for this lot in accordance with Council's Streamlined Method in Council's On-site Stormwater Detention Technical Specification.</p> <p><u>Engineers updated response Original Issue</u></p> <p>No stormwater drainage plans incorporating an on-site stormwater detention (OSD) system were submitted to Development Engineers. Development Engineers are not able to adequately assess the stormwater drainage component of this assessment.</p> <p>Not supported for approval due to lack of information to address:</p> <p><u>Conclusions on Further Assessment</u></p> <ul style="list-style-type: none"> • Stormwater drainage for the development in accordance with clause C4 Stormwater of the DCP • Clarity of proposed subdivision with clause C1 Subdivision of the DCP <p>(3) <u>FINAL ASSESSMENT</u> (19.03.2018)</p> <p>As instructed by the Development Assessment Officer, Development Engineers have reviewed the stormwater drainage proposal with respect to the proposed lot dimensions as shown on pp. 2 of trim no.2018/107611. This proposal does not include the construction of the dwelling on proposed Lot B. In this regard, the OSD tank for proposed Lot B can be designed and constructed when proposed Lot B is developed, that is, as a separate application. OSD plans have been provided for proposed Lot A and are satisfactory.</p> <p>A passing bay (5m wide) is proposed with the front setback area of proposed Lot A. To provide sufficient space for vehicles to pass each other safely, the existing driveway and layback will need to be re-constructed at 5 m wide. The existing layback in Warringah Road is under RMS' care and control. In this regard, written concurrence from RMS is required prior to the activation of the Development Consent. A</p>



Internal Referral Body	Comments
	condition is issued to address the above requirement. No objections are raised with regards to the proposal subject to conditions.
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Integrated Development – NSW Roads and Maritime Service (Proposal physically impacts on RMS Road)	The Roads and Maritime Services (RMS) have provided concurrence via letter dated 26 April 2018, which requires the conditions of that concurrence to be imposed on the consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Infrastructure) 2007

Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).



- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

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

Warringah Local Environmental Plan 2011

Is the development permissible?	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:	600sqm	Lot A: 518.87sqm	13.52%	No
		Lot B: 540.14sqm	9.98%	No

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Part 2 Permitted or prohibited development	Yes
2.6 Subdivision - consent requirements	Yes
Land Use Table	Yes
Part 4 Principal development standards	Yes
4.1 Minimum subdivision lot size	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
Part 6 Additional Local Provisions	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards



The following assessment of the variation to Clause 4.1 - Minimum subdivision lot size development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	600sqm
Proposed:	Lot A: 518.87sqm (excluding the access handle) Lot B: 540.14sqm
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	Lot A: 13.52% Lot B: 9.98%

The proposal must satisfy the objectives of Clause 4.1 - Minimum subdivision lot size, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the WLEP 2011. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Minimum subdivision lot size limitation pursuant to Clause 4.1 of the WLEP 2011 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.1 – 'Minimum subdivision lot size' of the WLEP 2011 are:

(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.

Comment: The subject site sits within the streetblock bounded by Warringah Road to the north, Willandra Road to the west, Chalmers Avenue to the south and Kalianna Crescent to the east. Lots within this streetblock are variable in size, width and depth. Historically, the lots fronting Warringah Road between Willandra Road and Kalianna Crescent are larger lots (1,000m² to 1,200m²), but most have been subdivided into lots around 600m².

The subdivision pattern for the 10 lots fronting Warringah Road in this streetblock is a mixture of larger full depth lots (original lots), smaller road frontage lots (4), and smaller internal lots (4). This has created a distinct pattern of development, whereby there is a row of dwellings fronting Warringah Road and a secondary row of dwellings behind. The proposal to create another internal lot is consistent with this established pattern.

Additionally, the area generally to the south of this streetblock, in the area comprising the southern side of Chalmers Avenue, Kalianna Avenue, Wedgewood Crescent, Warekila Road, Kandra Road, Elliot Street and Crawford Place, contains a significant number of lots which are below 600m² (approximately 550m²) as demonstrated in the table below and taking an area wide consideration of the existing subdivision layout.



The analysis reveals that the proposed lot sizes in the current application are not dissimilar to many of the smaller lots nearby and for this reason the creation of the proposed subdivision will not alter the residential character of the locality.

Subdivision Character Analysis

Property	Lot Size	Excluding access handle	Variation
175 Warringah Road	615.2sqm	506.1sqm	15.65%
175A Warringah Road	599sqm		0.2%
177 Warringah Road	607.3sqm		
177A Warringah Road	607.1sqm	471.4sqm	21.4%
179 Warringah Road	981.4sqm		
179A Warringah Road	815.2sqm		
181 Warringah Road	630.3sqm		
185 Warringah Road	550.7sqm	427.5sqm	28.75%
185A Warringah Road	662.2sqm		
10 Chalmers Avenue	570.3sqm		5%
12 Chalmers Avenue	541.9sqm		9.7%
1 Chalmers Avenue	484.6sqm		19.2%
3 Chalmers Avenue	493.2sqm		17.8%
5 Chalmers Avenue	471.6sqm		21.4%
7 Chalmers Avenue	493.2sqm		17.7%
9 Chalmers Avenue	438.7sqm		26.9%
11 Chalmers Avenue	455.3sqm		24.1%
11 Kalianna Crescent	597.4sqm		4.3%
15 Kalianna Crescent	556.4sqm		7.3%
16 Kalianna Crescent	556.4sqm		7.3%
17 Kalianna Crescent	550.4sqm		8.3%
19 Kalianna Crescent	543.8sqm		9.4%
19A Kalianna Crescent	522.3sqm		13%
21 Kalianna Crescent	493.2sqm		17.8%
23 Kalianna Crescent	502.3sqm		16.3%
100 Beacon Hill Road	581.7sqm		3.1%
18 Willandra Road	506.9sqm	409.7sqm	31.7%
18A Willandra Road	559.7sqm		6.7%

(b) to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development.

Comment: The proposal is not for commercial or industrial development.

(c) to protect the integrity of land holding patterns in rural localities against fragmentation.

Comment: The proposal is not within a rural locality.

(d) to achieve low intensity of land use in localities of environmental significance.



Comment: The development is within a low intensity residential environment but is not within an area zoned for, or otherwise identified as, being of environmental significance.

(e) to provide for appropriate bush fire protection measures on land that has an interface to bushland.

Comment: The land is not identified as being bushfire prone or on the interface of a bushland area.

(f) to protect and enhance existing remnant bushland.

Comment: There is no remnant bushland on the site with some moderate to large sized vegetation at the northern end (frontage) of the site.

(g) to retain and protect existing significant natural landscape features.

Comment: The existing trees at the front of the site will remain unaltered by the proposed development. There are no outcrops or other unique environmental features.

(h) to manage biodiversity.

Comment: The site is not identified as having significant biodiversity assets or existing natural features that warrant environmental protection.

(i) to provide for appropriate stormwater management and sewer infrastructure.

Comment: The site has an existing easement to drain stormwater at the rear of site which drains to Willandra Road. Additionally, the sewer is also located at the rear of the site to dispose of waste water from the existing and future development.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R2 Low Density Residential zone.

- *To provide for the housing needs of the community within a low density residential environment.*

Comment: The proposal will enable the further development of the site for detached housing in a low density residential environment within a landscaped setting.

It is considered that the development satisfies this objective.

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

Comment: The proposal does not involve any other permitted land uses within the subject land.

It is considered that the development satisfies this objective.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*



Comment: It is considered that the proposed allotments, notwithstanding they are undersized, are consistent with this objective for future residential development on the proposed lots by ensuring there is sufficient land area to provide an appropriate landscape setting for the existing dwelling on Lot A and future dwelling on Lot B.

It is considered that the development satisfies this objective.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the WLEP 2011?

(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.

Comment: The development standard to be varied is the 600sqm minimum lot size applying in the zone. There are a significant number of smaller lots in the vicinity of the site and it is considered that the resultant allotments notwithstanding they don't comply, will be consistent with the surrounding allotment configuration. The proposed two lots will be marginally smaller in area compared to the minimum lot size, however it is considered that an appropriate degree of flexibility should be exercised as the non-compliant lots will be consistent with the surrounding subdivision pattern and pattern of built form and will not compromise the residential amenity, landscaped open space, solar access, privacy, view lines, setback and a sense of openness.

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

Comment: The proposal will achieve a subdivision of land that will otherwise be a larger under-developed parcel of land that is not contributing to housing supply when it is capable of doing so in a manner consistent with the other planning controls. The marginally undersized lots can be developed in a manner that provides a better outcome in this regard.

(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.

Comment: The applicant submitted a formal variation request to this development standard (Clause 4.1 Minimum subdivision lot size) via the submission of a Clause 4.6 Exceptions to development standard and stated the following in support of the proposed development: -

- "The proposal will provide for additional housing stock in the locality. The proposed allotments



are each capable of supporting dwelling houses that are comparable to the existing surrounding housing which is low density.

- Each allotment can support a dwelling house that is compatible with the environment and allows for retention of trees and ample area for additional landscaping. The allotments can provide dwellings that provide for setbacks and landscaped area similar to the existing surrounding development as is depicted in the indicative building footprints.
- The subdivision and future development of the land will not be visible from the public domain and will not detract from the existing streetscape.
- The proposed subdivision is compatible with the existing subdivision pattern.
- The existing parcel of land is relatively level and has an area of 1210m² which is larger than the majority of allotments in the immediate locality.
- The proposed allotments are of sufficient area and dimension to accommodate a dwelling house that complies with Council's LEP and DCP controls whilst also retaining significant vegetation.
- The subdivision and any future development of the new rear allotment will not be visible from the street or public domain."

The applicant also stated in the following justification for the variation to the development standard:-

"The proposal produces an appropriate development outcome. The variation to the minimum allotment size control is appropriate given the existing subdivision pattern and that it has been demonstrated that each allotment can support a dwelling house that meets the requirements of Council's LEP and DCP. It is important to note that the variation would be indiscernible from the public domain. Furthermore, the subdivision satisfies the zone objectives and the objectives of the development standard.

Therefore, we request that council support the variation on the basis that there are sufficient environmental planning grounds to justify a variance to the development standard."

Given the above and reviewing the existing subdivision pattern in the locality (in particular the southern section of Warringah Road between Beacon Hill Road and Willandra Road) it is considered this variations to the development standard is not unreasonable and supported. The resultant lots will allow for the construction of a reasonable size dwelling house on either lot and maintain a landscape setting with consistent setbacks to adjacent land. The environmental constraints of the site are not such that it would prevent development of the site for a dwelling house consistent with the WLEP 2011 and WDCP 2011, including compliance with the built form controls.

(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

Comment: The applicant has provided a written request to address matters under subclause 3.

"The proposal provides for the Torrens Title subdivision of one lot into two. Each allotment is capable of supporting a single detached house that can meet the development controls



of the LEP (height) and the requirements of the DCP. The plan of proposed subdivision provide an Indicative Building Footprint for proposed Lot B. The plans provide for development calculations which demonstrate compliance with the DCP in terms of landscaped area and boundary setbacks. The indicative building footprint has a floor area of 150m² which is considered a dwelling size that is expected within the locality.

It is considered that proposed subdivision does not detract from the existing subdivision pattern, rather it reflects the predominant subdivision pattern. There is a variety of allotment sizes within the locality. This is clearly depicted in the aerial photograph.

For the above reasons, we are of the view that the variation requested and the resultant development is consistent with the objectives of the development standard."

The proposed subdivision is consistent with the existing subdivision pattern in the area and demonstrates lots which are capable for residential development. This written request to adequately address this clause and is supported.

(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.

Comment: For reasons detailed above, the proposal is considered to be consistent with the public interest, subject to condition and the objectives of the R2 Low Density Residential zone in the WLEP 2011.

The applicant has addressed objectives (both the standard and zone) of the R2 Low Density Residential zone as follows: -

"It is unreasonable and unnecessary to require strict compliance with the development standard given the existing subdivision pattern and that each allotment can support a dwelling house that can comply with Council's LEP and DCP controls.

For the above reasons, it would therefore be unreasonable and unnecessary to cause strict compliance with the standard.

- *The proposal will provide for additional housing stock in the locality. The proposed allotments are each capable of supporting dwelling houses that are comparable to the existing surrounding housing which is low density.*
- *Each allotment can support a dwelling house that is compatible with the environment and allows for retention of trees and ample area for additional landscaping. The allotments can provide dwellings that provide for setbacks and landscaped area similar to the existing surrounding development as is depicted in the indicative building footprints.*
- *The subdivision and future development of the land will not be visible from the public domain and will not detract from the existing streetscape.*
- *The proposed subdivision is compatible with the existing subdivision pattern."*

For reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone in the WLEP 2011.

(b) the concurrence of the Director-General has been obtained



Comment: As the variation exceeds 10% it is not possible to assume the concurrence of the Director-General. Concurrence can now only be assumed if the consent authority has first considered the following matters:

- *Whether contravention of the development standard raises any matter of significance for state or regional environmental planning.*

Council is of the opinion that there are no matters of significance for State or regional environmental planning as a consequence of the variation.

- *The public benefit of maintaining the development standard.*

The applicant has provided the following in respect of this matter:

"The proposal produces an appropriate development outcome. The variation to the minimum allotment size control is appropriate given the existing subdivision pattern and that it has been demonstrated that each allotment can support a dwelling house that meets the requirements of Council's LEP and DCP. It is important to note that the variation would be indiscernible from the public domain. Furthermore, the subdivision satisfies the zone objectives and the objectives of the development standard.

As there is no material impact on adjoining properties or the public domain arising from the variation to the minimum allotment size development standard and the objectives of the control are satisfied, it is considered that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case."

The above is supported given that the proposal demonstrates consistency with the existing lots within the vicinity and the written request from the applicant supporting this argument.

The other consideration is whether there are any other matters which are required to be taken into consideration before granting consent. In the opinion of Council's staff, there are not considered to be any other matters that are required to be taken into consideration.



Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B5 Side Boundary Setbacks	0.9m (west)	(Existing Dwelling - Lot A) - 5.8m (Concept Building Envelope on Lot B) - 1.2m	N/A	Yes
	0.9m (east)	(Existing Dwelling - Lot A) - 1.528m (Concept Building Envelope on Lot B) - 1.5m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	(Existing Dwelling - Lot A) - 8.83m	N/A	Yes
B9 Rear Boundary Setbacks	6m	(Existing Dwelling - Lot A) - 8.3m (Concept Building Envelope on Lot B) - 9.5m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	(Lot A) - 44% (Lot B) - 49.6%	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Built Form Controls	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
Side Setbacks - R2	Yes	Yes
Side Setback Exceptions - R2	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
Front Boundary Setbacks - R2	Yes	Yes
Front Boundary Exceptions - R2	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
Rear Boundary Setbacks - R2	Yes	Yes
Part C Siting Factors	Yes	Yes
C1 Subdivision	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
C5 Erosion and Sedimentation	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
Part D Design	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D14 Site Facilities	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
Part E The Natural Environment	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

C1 Subdivision

Component	Requirement	Proposed	Compliant
Lot requirements	R2 Low Density Residential zone requirements:	<u>Lot Width:</u> Lot A: 14.1m Lot B: 20.1m	Yes
	Proposed new allotments:	<u>Lot Depth:</u> Lot A: 32.997m Lot B: 27.238m	Yes
	a) Minimum width: 13 metres b) Minimum depth: 27 metres; and c) Minimum building area: 150m ²	<u>Building Area:</u> Lot B: 150sqm	Yes
Access	Motor vehicle access to each residential allotment is required	Each allotment is provided with vehicular access via the	Yes

	from a constructed and dedicated public road.	proposed right of carriage way.	
	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	Yes
	Access for Council service vehicles, emergency vehicles and garbage collection vehicles must be provided.	There is sufficient width to allow for service and emergency vehicles to the site. Garbage collection will be undertaken from Warringah Road.	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.	Compliant	Yes
	Driveways in excess of 200 metres will not be allowed for residential development.	Compliant	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.	A passing bay will be provided at the entry/exit point to ensure safe movement of vehicles.	Yes
	Passing bays should have regard to sight conditions and minimise vehicular conflict.	The passing bay has regard to the site conditions and is considered to minimise vehicular conflict.	Yes
	Vehicular ingress/egress points to internal lots may be used as passing/turning bays, subject to extension of a	Not applicable	
		The right of carriageway allows for sufficient turning areas for vehicles.	
		Number of lots to be serviced: 1-5 = 3.5m + 0.5m for services.	

right-of-carriageway over the passing/turning bay.	
Rights-of-carriageway should be located so as to accommodate all vehicle turning facilities.	
Width of accessways are to be as follows:	
Number of lots to be serviced	Width of clear constructed accessway (m)
1 - 5	3.5
6 - 10	5.0
in excess of 10	Access is to be provided by a private or public road constructed with a width that is in accordance with Council standard specifications for engineering works (AUSPEC 1)
Provision of services in rights of carriageway are as follows:	
Number of lots to be serviced	Additional width to be provided in Right of Carriageway (m)
Up to 3 lots	0.5
4 or more lots	1.0



construction	<p>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.</p> <p>Subdivision design needs to maximise and protect solar access for each dwelling by considering factors such as orientation, shape, size and lot width.</p>	The proposed design and suitable conditions will ensure appropriate construction.	Yes
Drainage	<p>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</p>	<p>The site is benefited by a drainage easement which disposes to Willandra Road. Both allotments will connect to this existing easement.</p> <p>An easement will be created over Lot B to permit drainage from Lot A.</p>	Yes

	adjoining properties to adequately drain land to Council's downstream system.		
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.	Appropriate conditions of consent will ensure this outcome.	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. Where possible, lot boundaries should utilise natural land features such as creeks, escarpments and rock outcrops.	The site is identified as Area B for Landslip and any future development will need to be accompanied by a preliminary geotechnical report.	Yes
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.	The site is located outside the Bush Fire Prone Land Buffer and therefore is not affected by bushfire risk.	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES



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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

The proposed subdivision has been considered against Clause 4.1 Minimum subdivision lot size of the Warringah Local Environmental Plan 2011 (WLEP 2011). The Clause 4.6 Exception to the development standard lodged by the applicant is well founded and concurred within this report after a detailed analysis of the surrounding subdivisions in the vicinity (in particular on the southern side of Warringah Road between Beacon Hill Road and Willandra Road) are consistent in configuration and size with the proposed subdivision.

The issues of concurrence from the Road & Maritime Services (RMS) have now been granted. Additionally, issues over stormwater, lot size and access have now been addressed by the applicant and suitable conditions will included to ensure this outcome.

On balance, it is recommended that approval be granted by the panel.

CONCLUSION

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

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

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

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

- Consistent with the objectives of the DCP



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

Conclusions on Assessment

The proposed subdivision has been assessed against the relevant controls under the Warringah Local Environmental Plan 2011 (WLEP 2011) and the Warringah Development Control Plan 2011.

A detailed analysis of the pattern, size and configuration of lots in the surrounding area was undertaken, which revealed a significant level of variability in lot sizes. Whilst the proposed lots are undersized compared to other lots in the streetblock, the resultant pattern of lots and pattern of future residential development will be compatible with the surrounding subdivision character and the existing pattern of residential development. In this regard, the proposal is consistent with the distinct pattern of development established over time by two rows of dwellings, one fronting Warringah Road and other generally sitting behind on internal lots.

Additionally, the nearby residential areas extending to the south of the site contain a significant number and density of smaller lots which are similar in size to the proposed lots in the current application.

The Applicants Clause 4.6 Exception to the minimum lot size development standard is concurred with and is well founded for the reasons discussed in this report.

The issue in relation to the lack concurrence from the Roads & Maritime Services (RMS) has been resolved with the granting of the concurrence.

Additionally, issues in relation to the lack of information regarding stormwater management (including OSD) and safety concerns associated with the need for a passing bay at the entry to the site from Warringah Road and have now been resolved and suitable supporting conditions have been imposed.

On balance, it is considered that the proposal satisfies the relevant planning controls, the variation to the minimum lot size has been justified and the proposed lots can be developed in accordance with the built form controls. Therefore, the application is recommended for approval.

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2017/0614 for Subdivision of one lot into two lots on land at Lot 2171 DP 752038, 183 Warringah Road, BEACON HILL, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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



a) Approved Plans

Engineering Plans		
Drawing No.	Dated	Prepared By
D1	09.02.18	Dovovan Associates
D2	09.02.18	Dovovan Associates
D3	09.02.18	Dovovan Associates
D4	09.02.18	Dovovan Associates
D5	09.02.18	Dovovan Associates
D6	09.02.18	Dovovan Associates
D7	09.02.18	Dovovan Associates
D8	09.02.18	Dovovan Associates
D9	09.02.18	Dovovan Associates

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary Geotechnical Assessment	11 January 2017	White Geotechnical Group

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

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

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

2. **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
Roads and Maritime Services	Response Roads and Maritime Services Referral	26 April 2018

(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 Department, Authority or Body's. (DACPLB02)

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 Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)



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) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is



- dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following:

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

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

5. On-site Stormwater Detention Compliance Certification

Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's "On-site Stormwater Detention Technical Specification" and the concept drawing by Donovan Associates, drawing number E299426 D1 to D6, revision A dated 09.02.2018 on proposed Lot A.

Stormwater drainage design must be amended to comply with the following:



1. Minimum Site Storage Required (SSR) for proposed Lot A is 10.40 cubic metres.
2. Total discharge from Lot A (bypass flow plus controlled flow) must not exceed 20.8 litres per second for the 1 in 100 year ARI storm event.

A suitably experienced and qualified civil engineer is to certify the stormwater drainage design and plans comply with all of the above requirements.

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

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (DACENC03)

6. **Submission of engineering plans**

Engineering plans are to be submitted to the Certifying Authority for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of access driveway, passing bay, drainage pits and pipes, and associated works 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 and or Council's Minor Works Policy.

Minimum clear width of the access driveway must be 3.5 metres. Minimum clear width of the passing bay must be 5 metres.

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

Reason: To ensure compliance with Council's specification for engineering works. (DACENC08)

7. **Vehicle Crossings Application Formwork Inspection**

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

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

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

8. **Waste Management Plan**

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

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

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

9. **Compliance with Standards**

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



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

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

10. Sewer / Water Quickcheck

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

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

- o Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- o Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- o Or telephone 13 20 92.

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

12. Property Boundary Levels

The property boundary levels shall match the existing levels except where modified for the vehicular crossing. The applicant shall design and construct having regard for the existing levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve. (DACENE01)

13. Vehicle Crossings

The provision of one vehicle crossing five metres wide in accordance with Warringah Council Drawing No A4-3330/3 Normal Low and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior



to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

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

14. **Layback Construction**

A layback five metres wide (excluding the wings) is to be constructed in accordance with Roads Maritime Services specifications.

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

15. **Maintenance of Road Reserve**

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

Reason: Public Safety. (DACENE09)

16. **Waste Management During Development**

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

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

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

17. **Installation and Maintenance of Sediment Control**

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

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

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

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

18. **Removal of All Temporary Structures/Material and Construction Rubbish**

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

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

Reason: To ensure bushland management. (DACPLF01)

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

Reason: Proper identification of buildings. (DACPLF04)

20. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

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

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLF08)

CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE

22. **Positive Covenant for Onsite Stormwater Detention system - Lot B**

A positive covenant (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and accompanying 88B instrument, requiring the proprietor of the land to design and construct an onsite stormwater detention system with the construction of a dwelling on proposed Lot B. The onsite stormwater detention system is to be designed and constructed in accordance with Council's PL 850 Water : Water Management Policy.

The terms of the positive covenant are to be prepared to Council's satisfaction. 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 Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure ongoing maintenance of the on-site stormwater detention system.



(DACENH01)

23. **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 Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure ongoing maintenance of the on-site stormwater detention system.
(DACENH02)

24. **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.

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

Reason: To ensure that utility services have been provided to the newly created lots.
(DACENH03)

25. **Right of Carriageway**

A right of carriageway (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and accompanying 88B instrument to include all passing bays, vehicular access and maneuvering areas including the 1.5m by 1.5m splay area.

Minimum dimensions of the right of carriageway are to be in accordance with clause C1 Subdivision of the Warringah Development Control Plan.

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

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919. (DACENH04)

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

A restriction as to user (under the provisions of Section 88B of the Conveyancing Act) is to be created 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, which are available from Northern Beaches Council. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure no modification to the on-site stormwater detention structure without Council's approval



27. Restriction as to User for Vehicular Access

A restriction as to user shall be incorporated in the title of proposed Lot A that 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 Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure compliance with Council policy for vehicular access

28. Stormwater Drainage and Utility Services Plan

A plan of subdivision identifying the location of water, gas, telephone, electricity and stormwater drainage in relation to boundaries and/or relevant easements, prepared by a registered surveyor is to be submitted to Council.

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

Reason: To ensure that services have been provided with appropriate easements as required by the Conveyancing Act 1919. (DACENH10)

29. Survey Plan - Construction Identification

A declaration by a registered surveyor shall be provided to Council as evidence that all construction has been effected within the appropriate property, easement boundaries and rights of carriageway. This shall be in the form of a copy of the final subdivision or easement plan, with the distances from the boundaries to the edges of these structures endorsed in red thereon and signed by the surveyor.

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

Reason: To ensure accurate location of buildings, access and services (DACENH12)

30. Sydney Water Compliance Certification

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 Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACENH13)

31. Certification of Utility Services



The provision of all utilities/services and/or street lighting are to be certified by the relevant authority(s) and/or authorised contractor.

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

Reason: To ensure services have been provided in accordance with the relevant authorities requirements. (DACENH15)

32. Easement for Drainage

An easement for drainage within proposed Lot B to benefit proposed Lot A (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision the accompanying 88B instrument to ensure all drainage infrastructure is located within the appropriate easement(s).

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

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919. (DACENH16)

33. Easement for Services

An easement for services (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and the accompanying 88B instrument to ensure all utility services are located within the appropriate easement(s).

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

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.(DACENH18)

34. On-Site Stormwater Detention Compliance Certification

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

Reason: To ensure stormwater disposal is constructed to standard specifications AUSPEC 1. (DACENH21)

35. Subdivision Certificate Application

Prior to the issue of the Subdivision Certificate, a completed Subdivision Certificate form, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919 are to be submitted to Council. Nine copies of the final plan of subdivision are to be submitted. 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. (DACENH24)







PROPOSED SUBDIVISION OF THE
 THE LOT 2171 DP 265667
 NO 183 WARRINGAH ROAD
 BEACON HILL NSW
 FOR Mr. Karamati Ali

SUBDIVISION

S. POLYCARPOU, MIE Aust C P Eng
 CIVIL & STRUCTURAL ENGINEER
 10/11-13/15 WARRINGAH ROAD
 MARAYONG NSW 2148
 MOB: 04382659780
 TEL: (02) 98316798
 E.M.A. : poly@tpg.com.au

DATE May 2017
 Scale 1:100

DR. NO 3015/1

ROOF- WALKWAY	206.00 S.Q.M.	TOTAL LOT AREA 510.80 S.Q.M. (25.42 m. x 20.10 m.)
PARKING AREA	87.5 S.Q.M.	
TOTAL	293.50 S.Q.M.	
SOFT AREA	285.72 S.Q.M.	
	281.23 S.Q.M.	
LOT B		
IMPERVIOUS AREA	87.5 S.Q.M.	
PARKING AREA	68.80 S.Q.M.	
TOTAL	156.10 S.Q.M.	
SOFT AREA	257.10 S.Q.M.	



ITEM 3.2

**N0369/17 - 222 WHALE BEACH ROAD, WHALE BEACH -
DEMOLITION OF EXISTING DWELLING, GARAGE AND
OUTBUILDINGS, AND CONSTRUCTION OF A NEW DWELLING
WITH GARAGE, SECONDARY DWELLING WITH CARPORT,
SWIMMING POOL, DRIVEWAYS AND LANDSCAPING**

REPORTING OFFICER MATTHEW EDMONDS

TRIM FILE REF 2018/326187

ATTACHMENTS

- 1 [↓](#) Assessment Report
- 2 [↓](#) Site Plan and Elevations

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

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. N0369/17 for demolition of existing dwelling, garage and outbuildings, and construction of a new dwelling with garage, secondary dwelling with carport, swimming pool, driveways and landscaping at Lot 2 DP 421104, 222 Whale Beach Road, Whale Beach subject to the conditions and for the reasons set out in the Assessment Report.

SUBJECT: N0369/17 - 222 Whale Beach Road, WHALE BEACH NSW 2107 Demolition of existing dwelling, garage and outbuildings, and construction of a new dwelling with garage, secondary dwelling with carport, swimming pool, driveways and landscaping

SUMMARY OF RECOMMENDATION:

CONSENT WITH CONDITIONS

REPORT PREPARED BY:

Angela Manahan

APPLICATION SUBMITTED ON:

17 August 2017

APPLICATION SUBMITTED BY:

KEITH PIKE

KEITH PIKE ASSOCIATES PTY LTD

148 LOUISA ROAD

BIRCHGROVE NSW 2041

OWNER(S):

Mr Michael John Bourke

COST OF WORKS:

\$2,359,555.00

NO. OF SUBMISSIONS:

Thirteen (13)

DETERMINATION LEVEL:

Local Planning Panel

1.0 SITE DETAILS

The site is known as 222 Whale Beach Road, Whale Beach and has a legal description of Lot 2 in Deposited Plan 421104. The site is irregular in shape and has a total area of approximately 1036.1m². The site has two (2) frontages to Whale Beach Road and Morella Road. Vehicular and pedestrian access is gained via the 18.04m wide frontage of Whale Beach Road. The site is located on the north-western side of Whale Beach Road and the south-eastern side of Morella Road. From Morella Road the site falls towards the front boundary at Whale Beach Road. The site experiences a fall of 12.09m from the upper north-western boundary of the site, down towards the south-eastern boundary, with an overall slope of approximately 22.5%. The site is currently occupied by a single dwelling with attached garage, and a separate outbuilding. There are limited canopy trees on site which are predominantly within the western corner of the site. The property is surrounded by residential properties to the north, south, east and west. Whale Beach is located to the far east of the site.



Figure 1 – An aerial photograph of the subject sites (outlined in yellow Border).
Source: NearMap

2.0 PROPOSED DEVELOPMENT

The applicant seeks consent for the following works:

- Demolition of the existing structures on site;
- Construction of a new dwelling and attached secondary dwelling comprising:
 - Level 1
Double Garage, Laundry/Plant Room, Wet Room and Entry Foyer;
 - Level 2
Open-plan Living/Dining/Kitchen area, Family room, Bathroom, Bunk Room, balcony to the east;
 - Level 3
Master Bedroom with En-suite, Sitting Room, balcony to the east, and Media Room;
 - Level 4
 - Principal Dwelling
Bedroom, Bathroom and Store, adjoining balcony to the east, and Garden Store;
 - Secondary Dwelling
Bunkroom and Bathroom;
 - Level 5
Secondary dwelling open-plan Living/Dining/Kitchen area, Master Bedroom with En-suite, adjoining balcony to the east;
- Attached elevated carport to the north-west of the secondary dwelling;
- Associated driveways, including access driveways from Morella Road and Whale Beach Road;
- Associated landscaping and earthworks.

3.0 LEGISLATION, PLANS AND POLICIES

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

- Environmental Planning and Assessment Act, 1979 (the Act)
- Rural Fires Act 1997
- Environmental Planning and Assessment Regulation 2000 (the Regulation)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
 - Acid Sulphate Soils Map - Class 5
 - Biodiversity Map
 - Geotechnical Hazard Map
 - Height of Buildings Map - 8.5m
 - Lot Size Map - 700m²
- Pittwater 21 Development Control Plan (P21 DCP)
 - Palm Beach Locality
 - Geotechnical Risk Management Policy for Pittwater.

P21 DCP identifies the land as being the following:

- Landslip Prone;
- Bushfire Prone;
- Wildlife Corridor.

Variation to development standards:

The application of Clause 4.6 or SEPP 1 is not required.

4.0 PERMISSIBILITY

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

5.0 BACKGROUND

17 August 2017

Development Application N0369/17 was lodged with Council. The application was notified to the adjoining property owners in accordance with Council's policy. The application was referred internally to Council's Development Engineer and Natural Environment Officer for comments and/or recommendation. A site visit was initially conducted on 29/08/2017 with several site visits thereafter.

01 December 2017

An issues letter was sent to the Applicant identifying several areas of concern with regards to the proposed development. On 22 March 2018 in response to concerns raised by Council, amended plans were submitted.

25 April 2018

Height poles were erected at the subject site to demonstrate the height of the eastern elevation of the secondary dwelling and the principal dwelling in order for a detailed view loss assessment to be undertaken.

6.0 NOTIFICATION

The application was notified to fourteen (14) adjoining property owners for a minimum period of fourteen (14) days from 29 August through to 14 September 2017 in accordance with Council's Notification Policy. During this time, submissions were received from or on behalf of the following properties:

- 35 Morella Road,
- 39 Morella Road,
- 50 Morella Road and
- 220 Whale Beach Road.

These submissions raised concerns with regards to the following:

35 Morella Road

- Non-compliance with the secondary dwelling control in relation to the number of bathrooms, number of storeys, and height;
- Landscaping and non-compliance with the minimum landscaped area;
- Solar Access;
- Inconsistencies with the E4 zoning objectives;
- View loss;
- Location of the proposed carport and driveway off Morella Road;
- Acoustic privacy;
- Location of air condition units.

39 Morella Road

- Overdevelopment of the site;
- Positioning of the primary dwelling;
- Height, bulk and scale of the dwellings;
- View loss;
- Size and location of the pool;

- Privacy and acoustic impacts;
- Landscaping;
- Inconsistent with the desired future character of the locality and zone objectives;
- Front building line;
- Landscaped area;
- Loss of vegetation within council and on Morella Road;
- Non-compliance with secondary dwelling controls in relation to number of bedrooms and bathrooms, height and scale.

50 Morella Road

- Inconsistent with the desired future character of the locality;
- Non-compliance with front building line, landscaped area, and rear building line;
- Scale of secondary dwelling and non-compliance with number of bedrooms and bathrooms;
- Loss of on-street parking on Morella Road and loss of pedestrian street access;
- Waste collection from Morella Road;
- Supportive of low-height landscaping and vegetation;
- Reflectivity of roof;
- Noise impacts from proposed pool.

220 Whale Beach Road

- Non-compliance with front building line, landscaped area, rear building line and secondary dwelling controls;
- Inconsistency with the desired future character of the locality and zone objectives;
- Bulk and scale;
- Overdevelopment of the site;
- Visual Privacy;
- Solar Access.

A submission was also received from Palm Beach & Whale Beach Association which raised concerns regarding:

- Overdevelopment of the site;
- Positioning of the primary dwelling;
- Height, bulk and scale of the dwellings;
- View loss;
- Size and location of the pool;
- Privacy and acoustic impacts;
- Landscaping.

Amended plans were received and notified to adjoining properties owners and properties which had previously objected to the proposal for a period of fourteen (14) days in accordance with Council's Notification Policy. During this time, further submissions were received from or on behalf of the following properties:

- 35 Morella Road,
- 39 Morella Road,
- 50 Morella Road, and
- 52 Morella Road.

These submissions raised concerns with regards to the following:

35 Morella Road

- Maintained concerns regarding non-compliance with landscaped area; size and location of the carport and driveway off Morella Road; height, bulk and scale of the secondary dwelling and additional bathroom; visual privacy; view loss; solar access; and acoustic privacy.
- Front building line to Morella Road.

39 Morella Road

- Maintained concerns regarding inconsistencies with the desired character and zone objectives; landscaped area; front building line; rear building line; driveway and loss of vegetation on road reserve area; privacy;
- Inadequate details of pool plant and other equipment;
- Inconsistency with vegetated and landscape character of the area;
- Undergrounding of utility services;
- Insufficient information and deficiencies in the amended application.

50 Morella Road

- Maintained concerns regarding landscaped area, rear building line, and the bulk and scale of the secondary dwelling;
- Size and location of carport and driveway off Morella Road, including the removal of vegetation;
- Roof form of the secondary dwelling.

52 Morella Road

- Location of the pool and noise impacts, including the use of the pool pump;
- Light pollution and reflectivity regarding the colour and material of the roofs;
- Size of the access driveway to Morella Road and impact upon landscaping;
- Setback of the secondary dwelling to the Morella Road boundary.

During the course of the assessment site visits were undertaken to the properties at 35 Morella Road, 39 Morella Road and 50 Morella Road.

In the later stages of the assessment of the application, between 09 May and 15 May 2018, seven (7) further submissions were received from the following properties:

- 43 Morella Road;
- 23 Morella Road;
- 33 Morella Road;
- 56 Morella Road;
- 320 Whale Beach Road;
- 48 Morella Road; and
- 54 Morella Road.

The submissions raised concerns with regards to the following:

- Overdevelopment of the site;
- Non-compliance with landscaped area;
- Bulk and scale;
- Height of the secondary dwelling;
- Setbacks;
- Loss of on-street parking;
- Works within the road reserve area;
- Impact on amenity of neighbouring properties;
- Non-compliance with secondary dwelling planning controls;
- Inconsistency with the desired future character of the locality;
- View loss impacts;
- Endorsement of the submission from BBC Consultants on behalf of 39 Morella Road and the submission from Campbell Architecture on behalf of 33 Morella Road.

7.0 ISSUES

- Zone E4 Environmental Living
- 4.3 Height of buildings
- 5.4 Controls relating to miscellaneous permissible uses
- 7.6 Biodiversity protection
- A1.7 Considerations before consent is granted
- A4.12 Palm Beach Locality
- B6.1 Access driveways and Works on the Public Road Reserve
- B6.3 Off-Street Vehicle Parking Requirements
- C1.1 Landscaping
- C1.3 View Sharing
- C1.4 Solar Access
- C1.5 Visual Privacy
- C1.6 Acoustic Privacy
- C1.11 Secondary Dwellings and Rural Worker's Dwellings
- C1.14 Separately Accessible Structures
- D12.1 Character as viewed from a public place
- D12.3 Building colours and materials
- D12.5 Front building line
- D12.6 Side and rear building line
- D12.10 Landscaped Area - Environmentally Sensitive Land

8.0 COMPLIANCE TABLE

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

O - Can the proposal achieve the control outcomes?

N - Is the control free from objection?

Control	Standard	Proposal	T	O	N
Pittwater Local Environmental Plan 2014					
1.9A Suspension of covenants, agreements and instruments			Y	Y	Y
Zone E4 Environmental Living		See discussion in Section 8.0.	Y	Y	N
4.3 Height of buildings		See discussion in Section 8.0.	Y	Y	N
4.6 Exceptions to development standards					
5.4 Controls relating to miscellaneous permissible uses		See discussion in Section 8.0.	Y	Y	N
5.10 Heritage conservation			Y	Y	Y
7.2 Earthworks			Y	Y	Y
7.6 Biodiversity protection		See discussion in Section 8.0.	Y	Y	N
7.7 Geotechnical hazards			Y	Y	Y
7.10 Essential services			Y	Y	Y

Control	Standard	Proposal	T	O	N
Pittwater 21 Development Control Plan 2014					
A1.7 Considerations before consent is granted		See discussion in Section 8.0.	Y	Y	Y
A4.12 Palm Beach Locality		See discussion in Section 8.0.	N	Y	N
B1.3 Heritage Conservation General			Y	Y	Y
B1.4 Aboriginal Heritage Significance			Y	Y	Y
B3.1 Landslip Hazard			Y	Y	Y
B3.2 Bushfire Hazard			Y	Y	Y
B3.6 Contaminated Land and Potentially Contaminated Land			Y	Y	Y
B4.6 Wildlife Corridors			Y	Y	Y
B5.4 Stormwater Harvesting			Y	Y	Y
B5.7 Stormwater Management On Site Stormwater Detention			Y	Y	Y
B5.8 Stormwater Management Water Quality Low Density Residential			Y	Y	Y
B5.10 Stormwater Discharge into Public Drainage System			Y	Y	Y
B6.1 Access driveways and Works on the Public Road Reserve		See discussion in Section 8.0.	Y	Y	N
B6.2 Internal Driveways			Y	Y	Y
B6.3 Off Street Vehicle Parking Requirements		See discussion in Section 8.0.	Y	Y	N
B8.1 Construction and Demolition Excavation and Landfill			Y	Y	Y
B8.2 Construction and Demolition Erosion and Sediment Management			Y	Y	Y
B8.3 Construction and Demolition Waste Minimisation			Y	Y	Y
B8.4 Construction and Demolition Site Fencing and Security					Y
B8.5 Construction and Demolition Works in the Public Domain			Y	Y	Y
B8.6 Construction and Demolition Traffic Management Plan			Y	Y	Y
C1.1 Landscaping		See discussion in Section 8.0.	Y	Y	N
C1.2 Safety and Security			Y	Y	Y
C1.3 View Sharing		See discussion in Section 8.0.	N	N	N
C1.4 Solar Access		See discussion in Section 8.0.	Y	Y	N
C1.5 Visual Privacy		See discussion in Section 8.0.	Y	Y	N
C1.6 Acoustic Privacy		See discussion in Section 8.0.	Y	Y	Y
C1.7 Private Open Space			Y	Y	Y
C1.9 Adaptable Housing and Accessibility			Y	Y	Y
C1.11 Secondary Dwellings and Rural Worker's Dwellings		See discussion in Section 8.0.	N	N	N
C1.12 Waste and Recycling Facilities			Y	Y	Y
C1.13 Pollution Control			Y	Y	Y
C1.14 Separately Accessible Structures		See discussion in Section 8.0.	Y	N	Y
C1.17 Swimming Pool Safety			Y	Y	Y
C1.23 Eaves			Y	Y	Y

Control	Standard	Proposal	T	O	N
C1.24 Public Road Reserve Landscaping and Infrastructure			Y	Y	Y
C1.25 Plant, Equipment Boxes and Lift Over Run			Y	Y	Y
D12.1 Character as viewed from a public place		See discussion in Section 8.0.	N	Y	N
D12.3 Building colours and materials		See discussion in Section 8.0.	N	N	N
D12.5 Front building line		See discussion in Section 8.0.	Y	Y	N
D12.6 Side and rear building line		See discussion in Section 8.0.	Y	Y	N
D12.8 Building envelope			Y	Y	Y
D12.10 Landscaped Area Environmentally Sensitive Land		See discussion in Section 8.0.	N	Y	N
D12.11 Fences General					
D12.13 Construction, Retaining walls, terracing and undercroft areas			Y	Y	Y
D12.14 Scenic Protection Category One Areas			Y	Y	Y
State Environmental Planning Policies and other					
SEPP (Building Sustainability Index: BASIX) 2004		BASIX Certificate: 845966M, dated 02 August 2017.	Y	Y	Y
EPA Act 1979 No 203 section 147 Disclosure of political donations and gifts			Y	Y	Y

9.0 DISCUSSION OF ISSUES

• Zone E4 Environmental Living

Submissions have been received which raised concerns regarding consistency with the E4 zone objectives, with particular regards to the development being of a low density and scale integrated with the landform and landscape.

The objectives of the E4 zone aim to provide residential development of a low density and scale integrated with the landform and landscape, and provide low-impact residential development in areas with special ecological, scientific or aesthetic values.

The proposed development consists of a principal dwelling, secondary dwelling and swimming pool, all of which are permitted with consent on the subject site. Subject to the recommendations within the report, the size of the secondary dwelling is compliant with the provisions of PLEP 2014. The proposal does not require the removal of any significant trees or vegetation and minimal excavation and fill is proposed, ensuring that the natural topography and environment of the site is maintained. The introduction of new native plantings shall assist in integrating the development within the landscape, with landscaping on site enhanced. The proposed development is compliant with Council's built form controls in relation to height, building envelope, front and side setbacks, and it is noted that deletion of the pool and paved areas would result in compliance with the minimum landscaped area. As such it cannot be said that the proposed development is of a scale or density that would be inconsistent with that anticipated for the site under the planning controls of PLEP 2014 and P21 DCP. Furthermore, the scale of the development is not inconsistent with other dwellings within Whale Beach Road. In view of the above, it is considered that the proposed development is consistent with the objectives of the E4 zone.

- **4.3 Height of buildings**

Submissions have been received which raised concerns regarding the height of the proposed development, specifically the height of the attached secondary dwelling located to the rear of the principal dwelling to the north-west.

Clause 4.3 - Height of Buildings of PLEP 2014 specifies a maximum building height of 8.5m for the subject site. Furthermore, clause C1.11 of P21 DCP stipulates that where the secondary dwelling is attached to, or located within, the principal dwelling the maximum height should be in accordance with the height control contained within PLEP 2014.

In April 2018, PLEP 2014 was amended to include an additional subclause within clause 4.3. The amendment was a draft at the time of lodgement and as such was a consideration in the assessment of the application. The additional subclause reads as follows:

Despite subclause (2), the maximum height for a secondary dwelling or a rural worker's dwelling in Zone E4 Environmental Living or Zone RU2 Rural Landscape is 5.5 metres if the secondary dwelling or rural worker's dwelling is separate from the principal dwelling.

The proposed secondary dwelling is attached to the principal dwelling through a common wall (being the internal Level 4 Bedroom wall of the principal dwelling and the Bunkroom internal wall of the secondary dwelling). As such the maximum height applicable to the proposed secondary dwelling is 8.5m.

The maximum height of the proposed development shall be 8.42m above the existing ground level, with the secondary dwelling component proposing a maximum height of 8.08m, and the proposed development is numerically compliant with the development standard.

Notwithstanding the above, the objectives of clause 4.3 aim to ensure that buildings are compatible with the height and scale of surrounding development, that development is designed to respond to the natural topography of the site, and a reasonable level of amenity is maintained with regards to solar access and view sharing. As discussed further in the report, concern is raised with the visual impact of the secondary dwelling, as viewed from the surrounding properties and public domain. The proposed roof ridge shall protrude above the skyline as viewed to the south and shall be visually dominant as viewed from Morella Road, noting that landscaping within the road reserve area shall be restricted to accommodate the proposed access driveway. As such it is recommended that the overall height of the secondary dwelling be lowered and the roof amended to a skillion or flat roof. Subject to the recommendations within the report, the proposed development is seen to be consistent with the objectives of clause 4.3 and is supported.

- **5.4 Controls relating to miscellaneous permissible uses**

Submissions have been received which raised concerns regarding the size of the secondary dwelling, including the floor area.

Clause 5.4 of PLEP 2014 states that:

If development for the purpose of a secondary dwelling is permitted, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- a) 60 square metres,*
- b) 25% of the total floor area of the principal dwelling.*

The application calculated the total floor area of the principal dwelling to be 356m² and therefore the permitted floor area of the secondary dwelling would be 89m².

Council's calculation of the floor area of the principal dwelling is based on the definition of "gross floor area" provided by Pittwater Local Environmental Plan 2014 (which involves measuring from the internal walls, and excluding car parking and vertical circulation areas such as stairs).

It is noted that the Applicant has included an area to the rear of the Garage and the internal stairs on Level 1 in the GFA calculation. Furthermore, the Applicant has included a Garden Store room within the GFA calculation. The Garden Store is separate from the principal dwelling, attached to the secondary dwelling, with an external door. As such with regards to the Store there is nothing preventing the room being used in conjunction with either the principal dwelling or secondary dwelling. The structure would be similar to that of a Garden Shed, and Council considers that this area should not be included in the GFA of the principal dwelling. In view of the above, the GFA of the principal dwelling is calculated to be 338m², and subsequently the total floor area of the secondary dwelling is restricted to 84.5m². Pursuant clause 4.6(8) of PLEP 2014, development consent cannot be granted for development that would contravene clause 5.4.

The proposed secondary dwelling has two (2) bathrooms which is inconsistent with clause C1.11 of P21 DCP which limits secondary dwellings to one (1) bathroom and two (2) bedrooms. As such it is recommended that the Master Bedroom En-suite be deleted which would result in a total floor area of 83m² and compliance with clause 5.4 of PLEP 2014. The deletion of the En-suite would also assist in minimising the apparent bulk of the second level of the secondary dwelling, providing additional modulation and reducing the visual impact of the development as viewed from the surrounding properties to the east and north.

- **7.6 Biodiversity protection**
- **C1.1 Landscaping**

A submission was received which raised concerns regarding the biodiversity of the site, with particular regard to the existing landscaped character of the area. The objection notes that there is an existing landscape buffer/strip through the centre of the sites at Morella Road and Whale Beach Road which shall be lost as a result of the proposed dwelling extending the entire length of the site.

The application was referred to Council's Natural Environment Officer who did not raise any objection to the proposed development. The proposal does not require the removal of any significant trees or vegetation, with the existing landscaping of the site predominantly open lawn area. While it is acknowledged that there is an existing landscaped "strip", this is due to the existing subdivision pattern of the area, which consists of separate allotments fronting Morella Road and Whale Beach Road. The subject site and adjoining properties to the north (being 39 Morella Road and 222B Morella Road) are the only lots within this section of Whale Beach Road which have not been subdivided in a pattern like the surrounding sites. In response to concerns regarding the visual impact of the development and to ensure integration with the landscape, it is recommended that additional small canopy trees are provided on site. Specifically, a minimum of one (1) small canopy tree is to be provided within the landscaped area to the south-east of the secondary dwelling in order to screen the development as viewed from the public domain and adjoining properties. The proposed design provides for an area of over 12m in width by 6m to the south-east of the secondary dwelling which shall act as a continuation of the landscaped strip. While there may be a break in the "strip" it is considered that this existing characteristic of the area shall be largely maintained and as such the loss of a portion of this landscaping does not warrant refusal of the application.

A submission was also received which raised concerns regarding the amended plans which did not provide an amended landscape plan. The Applicant advised that the amended proposal would endorse the original landscape plan with any additional landscaped areas being lawn or low-level plantings. As such an amended landscape plan was not considered necessary at this stage and it is recommended that an amended landscape plan be provided prior to the issue of a Construction Certificate.

- **A1.7 Considerations before consent is granted**

A submission was received which raised concerns that an amended Statement of Environmental Effects was not provided with the amended plans. The Applicant has clearly identified the proposed amendments on the architectural drawings and an amended Statement was not considered necessary to undertake a detailed assessment of the amended proposal.

- **A4.12 Palm Beach Locality**

Submissions were received which raised concerns regarding the proposed development being inconsistent with the desired character of the Palm Beach Locality as the dwelling shall be three (3) storeys in any one place and is not integrated with the landform or landscape.

The desired character of the Palm Beach locality is prescribed by clause A4.12 of P21 DCP, and aims to ensure that development is generally limited to two storeys in height, stepped down or along the slope of the land, and appropriately integrated with the landform and landscape. The proposed development is a maximum of three (3) storeys at the south-eastern portion of the principal dwelling fronting Whale Beach Road. Due to the natural topography of the subject site and surrounding sites, in which the sites fall to Whale Beach Road, the character of the area is predominantly two and three storey developments. In particular there are several existing developments along Whale Beach Road which consist of three (3) storeys located at the streetfrontage. The proposed lower level of the dwelling shall be partially located in-ground and comprise of the Garage, plant/Laundry room and a wet room. The north-eastern portion of the lower level shall be largely screened by the front landscaped yard, with the Garage component of the development visible from the street. It is noted that the recently constructed dwelling at 210 Whale Beach Road is a three (3) storey dwelling with the garage located at ground level and two (2) storeys above, not dissimilar to the proposed development. The existing landscaping on site is predominantly lawn, and landscaping on site shall be enhanced through new native plantings. Due to the location of the subject site, the surrounding properties experience extensive views to Whale Beach and as such the proposed landscape plan has limited the height and species type of new plantings in order to maintain existing surrounding views. However it is considered that to adequately integrate the development with the natural environment, canopy trees are required. As such it is recommended that a minimum of one (1) small canopy tree is provided within the front yard of the site, to a maximum maturity height of 8m to screen the development as viewed from Whale Beach Road, which would not extend above the roof ridge of the proposed development and subsequently not result in any unreasonable impacts upon existing views. It is also recommended that a small canopy tree is planted within the landscaped area between the principal and secondary dwelling to further integrate the development within the landscaping. Subject to the recommendations within the report, the proposed development is considered to be within a landscaped setting consistent with the desired character of the Palm Beach locality. The proposal shall be compatible with the surrounding developments and the existing streetscape along Whale Beach Road, and as such the three (3) storey nature of the development does not warrant refusal of the application.

The submissions also raised concerns regarding the secondary dwelling being three (3) storeys. A minor portion of the south-western side of the secondary dwelling shall be three (3) storeys, where the upper level balcony adjoining the Master Bedroom is located. However, as a result of the view loss assessment it is recommended that this portion of the balcony be deleted and as such the proposed secondary dwelling shall be a maximum of two (2) storeys in any one place.

- **B6.1 Access driveways and Works on the Public Road Reserve**
- **B6.3 Off-Street Vehicle Parking Requirements**

Submissions were received which raised concerns regarding the proposed driveway and carport off Morella Road, including the visual impact of the driveway, loss of vegetation, and loss of on-street parking.

Clause B6.3 of P21 DCP requires a minimum of two (2) off-street parking spaces to be provided for the principal dwelling and one (1) space to be provided for the secondary dwelling. A variation is permitted for the provision of off-street parking for a secondary dwelling, however given that the existing on-street parking within Whale Beach Road and Morella Road is highly restricted, an additional space is required in this instance and a variation is not supported.

The application was referred to Council's Development Engineer who raised no objection to the proposed driveway and parking design, including the proposed access driveway off Morella Road. Furthermore, Council's Natural Environment Officer advised that the vegetation on Morella Road frontage is approved for removal, however a condition of consent is recommended that the existing landscaping be removed and replaced at the Applicant's cost by a Council approved contractor. However, while the concept is supported, the works within the road reserve area are subject to a separate application to Council pursuant to the *Roads Act 1993*. The application was referred to Council's Development Engineering and Certificate department (who issue approvals for works within the road reserve area). Council's Roads Technical Assistant advised that the new access driveway and driveway design from Morella Road was supported in principal subject to detailed specifications and drawings being provided with the Section 139 application. Should the application be approved, a condition of consent shall be imposed for Section 139 consent to be obtained prior to the issue of a Construction Certificate.

Notwithstanding the above, concern is raised regarding the removal of vegetation within the road reserve area and the visual impact of the development, including the proposed driveway and carport. In response to initial concerns raised by Council regarding the size of the proposed carport and driveway, the Applicant amended the parking area to a single carport, with a width of 3.85m. The internal driveway, and subsequently the access driveway width, is determined by the width of the carport. Clause B6.3 requires a minimum width of 3m for a single carport (being 2.4m and 0.3m clear space each side for access to doors). As such it is considered that the proposed carport could be further reduced in width which would minimise the extent of structure within the road reserve area and allow for more landscaping to be provided within this area. Concerns were raised regarding the loss of on-street parking on Morella Road as a result of the proposed development. Council requires that off-street parking be provided on the subject site which requires the construction of access driveways. It is considered that the proposed access driveway would likely remove one (1) on-street parking space, however the proposal provides one (1) space on site to compensate. The submissions argue that off-street parking for the secondary dwelling should be provided at the Whale Beach Road frontage, however this is considered inappropriate as it would require extensive hard surface areas within the front portion of the site to facilitate the driveway and allow manoeuvring, which would limit landscaping within the front of the site. Should the application be approved, it is recommended that the carport width be limited to a maximum of 3m and the access driveway width limited to a maximum of 3.5m in accordance with clause B6.1 in order to minimise the loss of landscaping within the road reserve area. The limitation on the width of the access driveway shall result in an area approximately 9m in length to be maintained on the road kerb which shall allow for an on-street parking space and pedestrian access to be retained.

Concerns were raised by the adjoining property to the north-east regarding the visual impact of the access driveway as it shall be elevated above ground level. The proposed driveway level at Morella Road shall be 44.65m AHD, the existing ground level below this portion of the driveway is approximately 44.55m AHD falling to 43.14m AHD. As such the proposed driveway shall be elevated between 1.5m-0.1m above the existing ground level and is not considered to result in any unreasonable visual impact as viewed from the adjoining property or street. It is recommended that screen planting is provided along the north-eastern side of the driveway to further minimise the impact.

In view of the above, the proposed development is supported in this instance, subject to the recommendations.

- **C1.3 View Sharing**

A submission has been received from the adjoining property to the west at 35 Morella Road which raised concerns regarding view loss as a result of the proposed development.

The control aims to achieve a reasonable sharing of views amongst dwellings and ensure that views and vistas from the public domain are protected.

The assessment of the view loss is made in relation to clause C1.3 and the planning principal developed by the Land and Environment Court identified within *Tenacity Consulting v Warringah [2004] NSWLEC 140*. Height poles have been erected by the applicant to demonstrate the built form of the development at the secondary dwelling, Level 4 of the principal dwelling and the front south-eastern portion of the principal dwelling.

Step 1: Views to be affected

The existing dwelling at 35 Morella Road currently enjoys an expansive ocean view of Whale Beach from north-east to south, incorporating Careal head headland to the south and Little Head to the north-east, and the land/water interface of the beach and headland to the south. The affected view corridor is to the north-east and includes the headland, water and horizon.

Step 2: Location from which the views are obtained

The neighbouring site is located to the north-west of the subject site and the view is obtained across the common side boundary of 222 Whale Beach Road and 35 Morella Road. The planning principal notes that view across side boundaries are more difficult to protect than view from front and rear boundaries, and that sitting views are more difficult to protect than standing views. The subject view is obtained from the living/dining area within the dwelling and the adjoining deck. A site inspection revealed that the views from within the dwelling and from the deck shall be impacted by the proposed development. The view is enjoyed from both a seated and standing position. Although the view is obtained across the side boundary, it is recognised that the living area and adjoining deck are orientated to the north-east and east, with the main recreation area located to the north-eastern side of the deck.

Step 3: Extent of the impact

A site visit to the property at 35 Morella Road revealed that the proposed development shall impact upon the north-eastern view corridor, with the headland and horizon view severely impacted as a result of the proposed development. The existing view and erected height poles can be seen in Figure 2 below:



Figure 2 - Extent of view loss from balcony and living area of 35 Morella Road.

Notwithstanding the above, it is noted that the property at 35 Morella Road experiences extensive water views to the east and south which shall be retained as a result of the proposed development. As such the resultant view loss would be considered as moderate to minor.

Step 4: Reasonableness of the proposal

The view loss impact is a result of the proposed secondary dwelling, as the rear of the site where the proposed development is located is currently undeveloped. It is acknowledged that the development complies with the height, building envelope and setback requirements for the site, and that any development within this area would impact upon the existing view, however concern is raised regarding the visual impact and resultant height of the secondary dwelling, which is considered to be visually obtrusive as viewed from the adjoining property.

The planning principal states that where an impact arises as a result of non-compliance, even a moderate impact may be considered unreasonable. With regards to a development that complies with the planning controls, the planning principal raises the question of whether a more skilful design could provide the applicant with the same development potential and amenity, and reduce the impact on the views of neighbours.

The internal floor to ceiling height of the lower level of the secondary dwelling is 2.9m and it is considered that this could be reduced to 2.7m without unreasonably impacting upon the amenity of the proposed dwelling. Furthermore, the proposed secondary dwelling is located at and above existing ground level with no excavation proposed within this area. It is also considered that the overall height of the dwelling could be reduced through lowering the entire dwelling by 1.2m. Additionally, an amendment to the roof form to a flat roof or skillion roof would further reduce the extent of view loss without impacting upon the internal amenity of the occupants of the dwelling. The lowering of the height of the dwelling would allow for some of the headland view to be retained over the roof of the proposed development.

The upper level balcony extends for the entire length of the secondary dwelling, adjoining the living area and the bedroom. The balcony area adjoining the bedroom includes a privacy screen and it is considered that this section of the balcony adversely attributes to the overall view loss. If the portion of the balcony that adjoins the bedroom were deleted, the extent of the loss of view would be significantly reduced. Furthermore, a portion of the active water view (where the waves breaking can be seen) would be retained. Given that the living area of the secondary dwelling shall retain a balcony area, the necessity for the balcony to extend the entire width of the dwelling to the bedroom is considered to be unwarranted and as such it is recommended that this portion of the balcony be deleted. While the amendments would not retain the entire existing view corridor, the extent of view loss would be significantly lessened by the recommendations, with the horizon view and a portion of the headland view largely retained. It is considered that the recommended amendments would not unreasonably impact upon the amenity of the proposed development however would lessen the impact upon the views of the neighbour. Furthermore, the visual impact of the development would be substantially reduced.

Conclusion

Subject to the above recommendations, it is considered that view sharing is achieved and the proposal is consistent with the outcomes of clause C1.3. Should the application be approved, a condition of consent is recommended for the architectural drawings to be amended to incorporate the above amendments.

A submission was also received from the property at 33 Morella Road which raised concerns regarding view loss, however the submission noted that should the proposal be compliant, the view loss would be accepted as reasonable view sharing. No. 33 Morella Road is located to the west of 35 Morella Road. The existing deck at 33 is of a similar level to the deck of No. 35 and as such it is anticipated that the view loss from 33 would be similar to that from 35, however not as severe given that the property is located to the far north-west of the subject site. The proposed development is fully compliant with Council's built form controls in relation to height, building envelope and side setbacks. Furthermore, while the proposal results in a technical non-compliance with the minimum landscaped area, this non-compliance does not directly relate to the view loss impact upon the adjoining properties. Subject to the above recommendations in relation to 35 Morella Road and further recommendations within the report, it is considered that a reasonable sharing of views is achieved.

Submissions were also received which raised concerns regarding view loss from the street. The existing views from Morella Road are highly obscured by the existing vegetation within the road reserve area and on the subject site, with only minor view corridors achieved through the driveway entrances of the neighbouring properties. Several recommendations are made in relation to the height of the secondary dwelling component of the development to minimise the visual impact of the building. Subject to the recommendations, it is considered that the proposal development shall not result in any unreasonable impacts upon public views from Morella Road.

A submission was also received from the adjoining property at 39 Morella Road, which raised concerns regarding view loss from the proposed screen planting along the common boundary. Should the application be approved it is recommended that this planting be limited to a maximum height of 2m.

- **C1.4 Solar Access**

Submissions were received from the adjoining properties to the east and south-east at 35 Morella Road and 220 Whale Beach Road which raised concerns regarding overshadowing as a result of the proposed development.

Clause C1.4 of P21 DCP requires that the main private open space and windows to the principal living areas of adjoining properties are to receive a minimum of 3 hours of sunlight between 9am and 3pm in midwinter (21 June).

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

35 Morella Road

The shadow diagrams submitted with the application demonstrate that the proposed development shall not result in any additional overshadowing to the living area and deck area of the adjoining property between 9am and 3pm in midwinter. Due to the north-south orientation of the site at 35 Morella Road, it is considered that the proposed development would impact upon early morning solar access only, and the existing solar access obtained throughout the day would not be impacted. As such the proposed development shall not unreasonably impact upon the solar access of the adjoining property at 35 Morella Road.

220 Whale Beach Road

220 Whale Beach Road is located to the south-west of the subject site and as such due to the orientation of the adjoining property, any further development of the subject site would likely result in additional overshadowing. The overshadowing impact is a result of the south-western elevation of the proposed development. The Applicant has provided generous side setbacks from the south-western side boundary, proposing setbacks of 3.15m and 4.4m, well in excess of the minimum requirements of 1m or 2.5m. Furthermore, the proposal on the south-western elevation is fully compliant with the prescribed building envelope and height requirements. Minimising any overshadowing would require the proposed dwelling to be setback further from the side boundary and reduced in height which given that the proposal exceeds Council's requirements in relation to these controls, is considered unreasonable. The shadow diagrams demonstrate that there shall be no additional overshadowing to the courtyard and adjoining living area in midwinter at midday through to 3pm, which is largely overshadowed by the existing boundary fence and vegetation, with the additional overshadowing at 9am negligible. As such the proposed development is not considered to result in any unreasonable impacts upon the adjoining property at 220 Whale Beach Road with regards to overshadowing.

The recommendations contained within the report shall assist in minimising the extent of overshadowing through the reduction to the height of the secondary dwelling. In consideration of the planning principal, it is considered that there is not a more skilful design in this instance, noting the generous setback, and as such the proposal is consistent with the planning principal and clause C1.4.

• **C1.5 Visual Privacy**

Concerns have been raised from the adjoining property owners to the north-east, south-west and north-west with regards to visual privacy and overlooking from the proposed development.

The proposed development incorporates privacy measures to minimise privacy impacts upon adjoining properties. The proposal in relation to the adjoining dwellings is considered below:

220 Whale Beach Road

The Level 2 and Level 3 front balconies (off the principal dwelling) incorporate privacy screens along the southern edge of the balcony which shall prevent direct overlooking from these areas.

The windows to the Family Room on Level 2 are highlight windows and it is recommended that these be a minimum of 1.7m above the finished floor level of the room to prevent overlooking. The windows on the southern façade adjacent to the adjoining property are to a bathroom, bunkroom and the Media Room. It is considered that the bathroom and the bedroom/bunk room shall not utilised for extended periods of time or for main recreation and as such any potential overlooking from these areas shall be minimal and no additional privacy measures are required. The Media Room shall be located adjacent to the rear yard of the adjoining property. This room shall be used as a recreation space and potentially for extended periods of time, as such it is considered appropriate to impose additional privacy measures to prevent direct overlooking from this room into the adjoining property. Should the application be approved, a condition of consent is recommended for the imposition of translucent glazing or a sill height of 1.7m on this window.

The proposed balcony adjoining the Level 4 Bedroom is located within 9m of the internal courtyard of the adjoining property. A privacy screen is proposed along the southern elevation, however it is considered that given the elevated nature of this balcony, overlooking into the adjoining property from the balcony is likely to occur. Particularly given that the views shall be obtained from the balcony and as such it is likely to be used for extended periods of time. The proposed balcony is located off a secondary bedroom of the principal dwelling. It is noted that the principal dwelling has balconies at the Living and Master Bedroom levels and the necessity for an additional balcony off the bedroom is questioned. Given that the balcony shall have a detrimental impact upon the privacy of the adjoining property it is recommended that the balcony be deleted to minimise overlooking impacts.

35 Morella Road

The proposed secondary dwelling shall be located adjacent to the adjoining property at 35 Morella Road and within 9m of the existing deck and living area. The southern façade includes windows to an En-suite, bedroom and bathroom. It is recommended that the En-suite be deleted and no windows proposed on the southern elevation. The lower level bathroom and bedroom are sited below the level of the deck and living area of the adjoining dwelling and as such it is considered that overlooking from these areas shall be restricted. Furthermore, the use of these rooms, being a bathroom and bedroom, it is considered that they are unlikely to be utilised for extended periods of time.

The upper level balcony of the secondary dwelling provides a privacy screen on the southern edge of the balcony to prevent direct overlooking. However, as discussed in clause C1.3, it is recommended that the balcony be reduced in length in order to maintain a reasonable sharing of views. Subject to the amendment and addition of a privacy screen, the upper level of the secondary dwelling shall not result in any unreasonable privacy impacts upon the adjoining property.

39 Morella Road (222A Whale Beach Road)

The proposed principal dwelling and swimming pool are located within 9m of the adjoining dwelling, including the balconies and the garden area of Whale Beach Road, where the main private open space is located.

The Level 3 Sitting room proposes privacy louvres on the north-eastern windows to prevent direct overlooking from this area.

The Level 2 Living room proposes privacy louvres on the eastern window, however no privacy measures are proposed on the northern window or the north-western edge of the adjoining balcony. The proposed balcony shall result in direct overlooking to the adjoining balconies and private open space. As such it is recommended that a privacy screen be provided along the north-eastern edge of the balcony. The northern window within the Living room is located directly adjacent to the balcony of the adjoining property and it is also recommended that privacy measures are provided to this window by way of translucent glazing or a minimum sill height of 1.7m above the finished floor level.

Concerns were raised regarding the proposed balconies off the secondary dwelling and Level 4 bedroom. These areas are located in excess of 9m from the adjoining property. Furthermore, a

canopy tree is to be provided within the area between the secondary dwelling and the adjoining property and as such overlooking from these areas shall be obstructed.

The proposed pool is located within 9m of the adjoining balcony and private open space, however screen planting is proposed along the north-eastern boundary in order to restrict direct overlooking. The proposed planting shall reach a height similar to a privacy screen and as such is considered appropriate to provide a reasonable level of privacy between properties.

Subject to the above recommendations, the proposed development is not considered to result in any unreasonable impacts upon the adjoining properties with regards to visual privacy.

- **C1.6 Acoustic Privacy**

Concerns were raised from the adjoining properties with regards to acoustic privacy impacts from the proposed development.

The adjoining property at 39 Morella Road raised concerns regarding the location of the pool and associated noise impacts. In response to concerns raised by Council the proposed pool was reduced in length in alignment with the balcony of the adjoining dwelling. There are no windows located on the southern elevation of the adjoining dwelling and as such it is considered that a reasonable level of acoustic privacy shall be maintained.

The adjoining property at 35 Morella Road raised concerns regarding the location of the secondary dwelling bedroom, as it is located directly adjacent to the neighbours deck area. While the control requires noise sensitive rooms to be located away from noise sources, concern is raised with the removal of the bedroom window as it is the only window within the room and shall allow for natural ventilation. The Applicant is aware that the neighbours deck is located adjacent to the bedroom, however has not proposed any additional acoustic provisions. It is considered that the bedroom window will be able to be closed should any noise impacts occur and the future occupants of the secondary dwelling will be aware of the neighbours main deck area. As such the development is supported as proposed.

Concerns were also raised from the adjoining properties with regards to the location of any future air conditioning units and the pool pump. Clause C1.6 of P21 DCP requires that noise generating plant, including pool pumps and air conditioning units shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary. As such a condition of consent is recommended for certification from an Acoustic Engineer to be provided prior to the issue of an Occupation Certificate to ensure any plant is consistent with the requirements of clause C1.6.

- **C1.11 Secondary Dwellings and Rural Worker's Dwellings**

Submissions have been received which raised concerns regarding consistency with the provisions of clause C1.11 of P21 DCP, with particular regards to the requirement of a maximum of two (2) bedrooms and one (1) bathroom. The proposed secondary dwelling shall have two (2) bedrooms and two (2) bathrooms. As discussed in clause 5.4 of PLEP 2014, it is recommended that one of the bathrooms be deleted to reduce the floor area of the development. As such, subject to the recommendation, the proposal is consistent with the provisions of clause C1.11.

Concerns were also raised regarding the use of the Level 4 bedroom and bathroom in association with the secondary dwelling. See discussion in clause C1.14 of P21 DCP below.

- **C1.14 Separately Accessible Structures**

Submissions have been received which raised concerns regarding the use of the Level 4 Bedroom and bathroom in conjunction with the secondary dwelling, which would result in a maximum of three (3) bedrooms and three (3) bathrooms.

The Level 4 Bedroom and Bathroom area forms part of the principal dwelling and there is no direct access to the secondary dwelling from this area. Notwithstanding the above, it is noted that the Level 4 area of the principal dwelling could easily be adapted to provide additional separate habitation, by closing off the internal access and concern is raised with the use of the Level 4 Bedroom and Bathroom for separate habitation, given that separate external access is provided to this area. As such should the application be approved, conditions of consent are recommended to ensure that internal access to the principal dwelling is maintained at all times, that no cooking facilities are installed within this area and that this area is not ever used for separate habitation or in conjunction with the secondary dwelling.

- **D12.1 Character as viewed from a public place**

Submissions have been received which raised concerns regarding the visual impact of the development as viewed from Whale Beach Road and Morella Road.

Whale Beach Road

Clause D12.1 of P21 DCP requires that buildings which front the street must incorporate design features to articulate the building façade. The south-eastern elevation to Whale Beach Road is considered to be appropriately articulated, proposing balconies, protruding architectural elements and a variation of setbacks between the upper and lower levels. The control also requires that landscaping be integrated with the building design to screen the visual impact of the built form. However, due to the location of the subject site and the existing views obtained by the surrounding properties, large canopy trees cannot be provided on site without unreasonably impacting the neighbouring view corridors. As such the extent of landscaping that can be achieved on site is limited. In order to minimise the visual impact of the development and enhance the existing streetscape, ensuring a scale and density in scale with the height of the natural environment, it is recommended that a minimum of one (1) small canopy tree to a maximum maturity height of 8m be provided within the front yard to Whale Beach Road. As discussed in clause A4.12 - Palm Beach locality, the proposed development is not considered to be inconsistent with the existing streetscape, noting that there are numerous three (3) storey dwellings along Whale Beach Road. In view of the above, the proposed development is considered to be compatible with the existing streetscape and consistent with the outcomes of clause D12.1.

Morella Road

The eastern side of Morella Road is characterised by dwelling that are sited below the street level in order to maintain views from the upslope properties and minimise the visual impact of development as viewed from the street. Furthermore, the road reserve areas are highly vegetated further screening the existing developments from the street view and minimising the visual dominance of development as viewed from the upslope dwellings. Concern is raised regarding the visual impact of the proposed secondary dwelling as viewed from both Morella Road and the properties on the western and northern side of Morella Road. Height poles have been erected on site to undertake a view loss assessment, however the poles also demonstrate the resultant bulk and scale of the proposal. It is considered that the proposed development shall be visually dominant in the skyline. While the proposed development is of similar height to the adjoining property to the west, the neighbouring site benefits from extensive landscaping within the road reserve area and on the site. The loss of vegetation within the road reserve area within the front of the subject site and limited opportunity for additional landscaping within the front of site due to the proposed carport, results in an unacceptable visual impact. It is noted that the internal floor to ceiling height of the lower level of the secondary dwelling (Level 4) is 2.9m and as such the ceiling height could be reduced to 2.7m. Furthermore, the proposed development includes minimal excavation, with excavation for the garage level only proposed. While it is recognised that the site

is zoned E4 Environmental Living and as such excavation is discouraged, it is considered that there is scope to lower the entire secondary dwelling by 1.3m which would involve minimal excavation but, associated with the reduction in the internal floor to ceiling height of Level 4, would significantly reduce the overall height of the development and minimise the visual impact as viewed from Morella Road. The lowering of the secondary dwelling would only impact upon the western side of the upper level balcony, however it is recommended that this portion of the development be deleted in relation to view sharing. It is also recommended that the secondary dwelling roof be amended to a low pitch skillion roof or flat roof in order to minimise the apparent bulk and scale of the development. Subject to the above recommendations, the proposed secondary dwelling would be reduced in height by 1.5m, with the highest roof ridge reduced by 2.9m. Should the application be approved a condition of consent is recommended for the maximum height of the secondary dwelling to be RL44.6m. Subject to the above, the proposal shall be consistent with the existing streetscape of Morella Road and the proposal supported.

- **D12.3 Building colours and materials**

Submissions have been received which raised concerns regarding reflectivity of the roofs of the proposed development.

Clause D12.3 of P21 DCP requires external colours and materials to be dark and earthy tones. The proposed colour scheme is not considered to be consistent with the requirements of clause D12.3 due to the use of "Flooded Gum" for the main exterior walls. "Flooded Gum" is considered to be too light and should be amended to a darker tone, being a colour tone of "windspray" or darker. While "windspray" may be acceptable for the external walls, concern is raised with the use of this colour for the roofs given the highly visible nature of the development from both the upslope properties and from the public domain, being Whale Beach. As such it is recommended that the roof colour also be amended to a darker tone, being a tone of "Basalt" or darker. Should the application be approved a condition of consent is recommended to be imposed for the external colour scheme to be amended prior to the issue of a Construction Certificate in accordance with the above, and maintained for the life of the development.

- **D12.5 Front building line**

Submissions have been received from and on behalf of the neighbouring properties which raised concerns regarding non-compliance with the front established building line and the visual impact of the proposal as viewed from Whale Beach Road and the surrounding properties.

Whale Beach Road

The control states that the minimum front building line shall be 6.5m or the established building line, whichever is the greater. "Established building line" is defined as a de facto building line, being the line of the facade of structures created by the location of structures on nearby properties. The subject site is located on the section of Whale Beach Road between the northern entrance to Morella Road and Surf Road. Along the western side of this section, the front setbacks of existing development are staggered, with minimum setbacks of 6.5m on several sites, and therefore it is considered that there is no definitive established building line. The minimum front building line for the subject site is 6.5m and the proposed development is technically compliant with the numerical requirement, proposing a setback of 6.59m-8.29m. Notwithstanding the above, consideration must be given to the suitability of the development in response to the outcomes of the control and the existing streetscape. The proposed development is fully compliant with Council's built form controls, with the exception of the minimum landscaped area. While the front portion of the development fronting Whale Beach Road is three (3) storeys, it is fully compliant with the maximum height, building envelope and front and side setbacks. As such the bulk and scale of the development as viewed from Whale Beach Road is consistent with a level of development anticipated for the site, and it is considered that the proposal responds to the spatial characteristics of the existing urban environment. The Whale Beach Road portion of the development shall not result in any unreasonable impacts with regards to view loss. As discussed previously within the

report, the ability to provide substantial canopy planting is limited due to the existing view corridors, however it is considered that landscaping on site shall be enhanced where possible. As discussed in clause D12.1 of P21 DCP, the proposal is not considered to be inconsistent with the existing streetscape and as such the proposed front building line is supported in this instance.

Morella Road

As the subject site has two (2) streetfrontages, the minimum front building line is applicable to both frontages. Clause D12.5 permits a variation for a secondary street frontage of half the front building line, being 3.25m. The secondary dwelling proposed a front building line of 4.275m-8.87m to Morella Road and is technically compliant with numerical requirements of the variation. As discussed in clause D12.1, several recommendations are made with regards to reducing the overall height of the secondary dwelling and the apparent bulk and scale. Subject to the recommendations, the proposed development is considered to be consistent with the outcomes of the control and the existing streetscape of Morella Road. Furthermore, subject to the recommendations in relation to view sharing, the proposal shall not result in any unreasonable impacts upon the adjoining properties with regards to view loss.

The proposed carport provides a nil setback to Morella Road. Clause D12.5 permits a variation for carparking on sloping sites for a reduced or nil setback. The proposed location of the carport is supported for the following reasons:

Council requires a minimum of one (1) space to be provided for the secondary dwelling. However, due to the steep slope from Morella Road to the subject site achieving compliance with the maximum gradients is difficult to achieve without an excessively elevated structure. Given the steep nature of the fall from Morella Road, parking or carports within the front setback are a common feature of the street. The carport is an open and light-weight structure, limited to a single car space and shall not attribute to the overall bulk and scale of the development. The carport shall not result in any unreasonable amenity impacts upon the adjoining properties.

In view of the above, the proposed front building line to Morella Road is supported.

- **D12.6 Side and rear building line**

Submissions were received which raised concerns regarding the rear setback to Morella Road, this is considered to be a secondary street frontage. See clause D12.5 for further discussion.

- **D12.10 Landscaped Area - Environmentally Sensitive Land**

Minimum Landscaped Area – 60% or 621.66m²

Proposed Landscaped Area – 54.5% or 564.7m² (with permitted variations)

Several submissions were received which raised concerns regarding non-compliance with the minimum landscaped area and the resultant bulk and scale of the development.

The landscape area control requires that the minimum landscaped area shall be 60%. The proposed development proposed a minimum landscaped area of 54.5% (with permitted variations) and is technically non-compliant with clause D12.10.

The outcomes of clause D12.10 aim to ensure that the bulk and scale of built form is minimised, the proposal is consistent with the desired character of the Palm Beach locality, there are no detrimental impacts upon the water management of the site and that a reasonable level of amenity and solar access is provided and maintained. The outcomes of the control are considered as follows:

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

As discussed in detail in clause A4.12, the proposed development is considered to be consistent with the desired character of the Palm Beach locality. The enhancement of landscaping on site, through additional plantings instead of large lawn area shall integrate the development with the landscape.

- *The bulk and scale of the built form is minimised.*

The proposed development is fully compliant with Council's built form controls with the exception of the landscaped area. It is noted that if the swimming pool and surrounding paved areas were deleted the landscaped area would be 60% and technically compliant with the control. As such it cannot be said that the resultant bulk and scale of the dwelling is considered to be inconsistent with that anticipated for the site, noting that deletion of the pool would result in a fully compliant development. It is recognised that the subject site extends the entire length between Whale Beach Road and Morella Road and is larger than the neighbouring properties which have been subdivided. However, the resultant building footprint of the development is not dissimilar to surrounding properties within the locality. For example, the proposed dwelling footprint, excluding driveway and pool, is approximately 383.1m². The existing dwelling at 220 Whale Beach Road has a building footprint (excluding the driveway area and internal courtyard) of approximately 360m² and the dwelling at 216 Whale Beach Road approximately 450m², noting that these sites are substantially smaller than the subject site and the building to landscape ratio is significantly less than what is proposed on the subject site.

For the purpose of the assessment, deletion of the pool to achieve compliance with the minimum landscaped area has been considered and assessed as follows:

The proposed pool and paving is primarily located at ground level shall not attribute to the overall bulk and scale of the development. As such deletion of the pool would not reduce the apparent bulk and scale of the development as a whole. While it is acknowledged that the retention of the pool will reduced the area on site for landscaping to be provided, as discussed throughout the report, the type of landscaping on site is limited due to the existing views experienced by the surrounding properties, and no substantial canopy plantings can be provided throughout the site as they would likely impact upon the existing view corridors. As such the area of the site where the pool is located would likely be low level landscaping or lawn area which would not significantly contribute to the overall landscaped character of the site. In view of the above, the proposed pool is supported in this instance.

- *A reasonable level of amenity and solar access is provided and maintained.*

As discussed in clause C1.4, the development as proposed is not considered to result in any unreasonable impacts upon the adjoining properties with regards to solar access. Furthermore, subject to the recommendations within the report, it is considered that a reasonable level of amenity shall be maintained with regards to visual privacy and view loss.

- *Vegetation is retained and enhanced to visually reduce the built form.*
- *Conservation of natural vegetation and biodiversity.*

The proposed development does not require the removal of any significant trees or vegetation. The application was referred to Council's Natural Environment Officer who raised no objection to the proposed development. As discussed above, the existing site is predominantly lawn area and the existing landscaping on site shall be enhanced through the planting of native species on site. Furthermore, several small canopy trees are recommended to integrate the development with the landscape and visually reduce the built form of the development.

- Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.
To preserve and enhance the rural and bushland character of the area.
- Soft surface is maximised to provide for infiltration of water to the water table, minimise runoff and assist with stormwater management.

Council's Development Engineer raised no concerns or objections with regards to the stormwater management of the site.

In consideration of the above, and taking into account the existing surrounding developments within Whale Beach Road, in which there are several properties substantially under the minimum landscape area requirements, the bulk and scale of the development is not considered to be excessive and the non-compliance with the minimum landscaped area does not warrant refusal of the application in this instance.

10.0 CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan, Pittwater 21 Development Control Plan and other relevant policies as listed at item 3.0.

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

RECOMMENDATION OF DEVELOPMENT OFFICER/PLANNER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application N0369/17 for the demolition of existing dwelling, garage and outbuildings, and construction of a new dwelling with garage, secondary dwelling with carport, swimming pool, driveways and landscaping at 222 Whale Beach Road, Whale Beach subject to the following draft conditions of consent:

Draft Conditions of Approval

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

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

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
3. A sign must be erected in a prominent position onsite only showing:
 - a) the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b) the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - c) that unauthorised entry to the work site is prohibited.

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

4. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - a) in the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor, and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
 - b) in the case of work to be done by an owner-builder:
 - i. The name of the owner-builder, and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
 - c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under a or b above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
5. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

6. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.

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

1. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.
2. The spa/pool backwash and any overflow waters are to be disposed to the Sydney Water sewer.
3. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.
4. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by JK Geotechnics dated 5 July 2017 are to be incorporated into the construction plans.
5. Weeds listed in Greater Sydney Regional Strategic Weed Management Plan 2017 - 2022 must be removed and managed continuously.
6. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland or foreshore, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times
7. As part of an integrated on-site stormwater management system, a minimum 30,000 litre on-site detention tank is to be installed, operated and maintained, the balance of on-site detention requirements of minimum 7,500 litres is to be contained in the rainwater tank, this system is to be installed, operated and maintained in association with the development.
8. As part of the integrated on-site stormwater management system, stormwater from the on-site detention system is to be discharged directly to the kerb and gutter in accordance with design by Sparks and Partners.
9. 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 the parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile in this consent.
10. To satisfy the off-street parking requirements for development, the minimum number of three (3) vehicle space requirements shall be provided.

These spaces are to be provided and retained over the life of the development.

11. Landscaping is to be implemented in accordance with the approved Landscape Concept Plan, Plan no. 17093 DA1, Rev A dated 4/8/2017, and as amended by conditions of this development consent. The new landscaping is to be approved as completed by the accredited certifier upon issue of the Occupation Certificate unless further conditions regarding the completion timeframe are imposed. This landscaping is to then be maintained for the life of the development.

Additional planting of one (1) canopy tree that will obtain a minimum mature height of 8m is to occur within the subject site. Replacement of removed vegetation within the Council reserve on Morella Road frontage is required. Two (2) *Banksia serrata* or similar species shall be adequate.

12. In accordance with Pittwater 21 DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
13. Two (2) street trees are to be planted in Morella street frontage to offset vegetation removal, trees are to be evenly spaced and have a minimum 100Litre in pot size and to be protected by a permanent tree guard of either metal or timber to facilitate establishment. Timber guards to consist of a minimum of 4 x 95mm square posts and rails at two heights a minimum of 150 x 50mm. Timber is to be stained or painted an approved colour. Street trees, guards and planting works as approved are to be maintained for a period of 12 months after issue of the Occupation Certificate.
14. At the completion of the landscape maintenance period, as specified in the landscape working drawings and specifications submitted with the Construction Certificate application where it extends beyond the issue of an Occupation Certificate the consultant landscape architect/designer is to submit a final report to the Principal Certifying Authority within 7 working days, certifying that all plant material has been successfully established and that all of the outstanding maintenance works or defects have been rectified prior to preparation of the report and that a copy of the landscape maintenance strategy has been provided to the owner/occupier.
15. The fireplace is to be gas only. No solid fuel heater or wood burning fire is permitted under this development consent. A separate application for a solid fuel heater can be made to Council pursuant to Section 68 of the Local Government Act.
16. No water pollution shall result from the operation of any plant or equipment or activity carried out.
17. Noise from the operation of any plant or equipment at the premises shall comply with the noise provisions of the Protection of the Environment Operations Act, 1997.
18. No odour nuisance to the public or any adjoining premises, shall be created by the operation of any plant or equipment or any procedure carried out at the premises.
19. No emissions causing air pollution shall be created by the operation of any plant equipment or any procedure carried out at the premise.
20. The operation of any plant or equipment or any procedure carried out at the premises shall not cause land pollution.
21. Pool fencing is to be designed, located and maintained in accordance with the Swimming Pools Act 1992, Regulation and Australian Standard 1926.1-2012, Safety barriers for swimming pools
22. A warning notice (resuscitation chart) and External Cardiac Compression Chart is to be affixed and maintained in a prominent location adjacent to the pool / spa.
 - a) The warning notice (i.e. sign) must contain all of the following words:
 - i. "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" and
 - ii. "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES", and
 - iii. "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES",
 - b) In addition, the notice must contain a simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults):

- i. that are set out in accordance with the relevant provisions of that Guideline, and
- ii. that comply with the other relevant guidelines of the Australian Resuscitation Council, and
- iii. that are illustrated by drawings with key words only in bold print,
- c) a statement to the effect that formal instruction in resuscitation is essential,
- d) the name of the teaching organisation or other body that published the sign and the date of its publication.

23. All external glazing is to have a maximum reflectivity index of 25%.

24. New electrical connections are to be carried out using underground cabling.

25. Fencing forward of the front building line is limited to a maximum height of 1m above existing ground level.

26. The colour "Flooded Gum" is considered to be too light and will be visually dominant as viewed from the public domain. A darker tone is to be used for the external cladding, being a mid-grey tone similar to "Windspray" or the like. The roof colour of "Windspray" is also too light and is to be amended to a shade of "Basalt" or darker.

27. All sound producing plant, (including pool pumps), equipment, air conditioners, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.) (This does not apply during excavation and construction works).

28. Level 4 of the principal dwelling is not to be used for separate habitation for the life of the development. Internal access to this Level from the principal dwelling is to be maintained at all times. No cooking facilities are to be installed within this area. This area is not to be used in conjunction with the secondary dwelling at any time.

29. Privacy screens a minimum height of 1.8m above the finished floor level are to be provided on the following balconies:

- a) Southern and northern edge of the Living and Dining room balcony of the principal dwelling;
- b) The southern edge of the Master Bedroom balcony of the principal dwelling;
- c) The northern edge of the Living/Dining room balcony of the secondary dwelling.

The screens are to be retained for the life of the development.

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

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

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
2. Prior to the issue of a Construction Certificate, the architectural drawings are to be updated to incorporate the following amendments:
 - a) The maximum height of the secondary dwelling component of the development is limited to RL44.6m. This is to be achieved by the entire secondary dwelling being lowered by 1.3m, partially in-ground, the internal floor-to-ceiling height of Level 4 being a maximum of 2.7m, and the roof amended to a low pitch skillion roof or flat roof;

- b) The En-suite to the Master Bedroom of the secondary dwelling is to be deleted;
 - c) The balcony to the Living/Dining area of the secondary dwelling is to be reduced in length on the south-eastern side to a maximum length of 7m and a maximum width of 1.8m;
 - d) The balcony located off the Level 4 Bedroom of the principal dwelling is to be deleted;
 - e) The carport width is limited to a maximum of 3m;
 - f) Privacy measures are to be provided as follows:
 - The southern window to the Family Room is to have a minimum sill height of 1.7m above the finished floor level;
 - The southern window to the Media Room is to be translucent glazing or is to have a minimum sill height of 1.7m above the finished floor level;
 - Both windows on the northern elevation of the Living area of the principal dwelling are to incorporate privacy louvres or translucent glazing or a minimum sill height of 1.7m above the finished floor level;
 - A privacy screen a minimum height of 1.8m is to be provided along the north-eastern edge of the Level 2 balcony.
3. Prior to the issue of a Construction Certificate, an updated Landscape Plan is to be provided which retains the proposed landscaping within the Landscape Plan prepared by Vision Dynamics, dated 04/08/2017, and includes the following:
- a) Updated to reflect the amended plans, dated March 2018;
 - b) A minimum of one (1) canopy tree is to be provided within the front setback area to Whale Beach Road, the tree is to reach a maturity height of 8m in order to screen the development as viewed from the street;
 - c) A minimum of one (1) canopy tree is to be provided within the area to the south-east of the secondary dwelling, between the secondary dwelling and the pool. The tree is to have a maximum maturity height of 8m. Species selection is to be native species.
 - d) The screen planting along the north-eastern boundary between the pool and the boundary is to have a maximum maturity height of 2m above existing ground level and is to be maintained at this height;
 - e) Any further landscaping required by the conditions of this development consent.
4. The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
5. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:
- a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after building work has been completed and prior to any occupation certificate being issued in relation to the building.
- To allow a Principal Certifying Authority to carry out critical stage inspections, at least 48 hours notice must be given before building work is commenced and prior to further work being undertaken.
6. Construction works approved by this consent must not commence until:
- a) Construction Certificate has been issued by a Principal Certifying Authority

- b) a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
 - c) at least 2 days notice, in writing has been given to Council of the intention to commence work.
7. Structural Engineering details relating to the development are to be submitted to the Accredited Certifier or Council prior to release of the Construction Certificate. Each plan/sheet is to be signed by a qualified practising Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field.
 8. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate or complying development plans and specifications are fulfilled.
 9. Details in the Construction Certificate are to reflect the recommendations/requirements of the Bushfire Risk Assessment Report prepared by Bushfire Consulting Services Pty Ltd, dated 29 May 2017.
 10. Engineering plans including specifications and details of the on-site stormwater detention system, are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Such details are to be accompanied by a certification by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with B5.7 of Pittwater 21 DCP.

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

11. Applicants will be required to obtain prior to the issue of a Construction Certificate, a Section 139 Consent for Works on a Public Road Reserve issued by the Council under the provisions of Section 138 of the *Roads Act 1993* for the design and construction of any works located on the road reserve including Access Driveways. The Access driveway should be limited in area to a single width and a maximum width of 3.5m at the Morella Road frontage. Replacement planting is to be provided within the road reserve area in accordance with the landscaping requirements stipulated in Part B of the consent. Screen planting is to be provided along the north-eastern edge of the driveway to the screen the driveway as viewed from the adjoining property.
12. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
13. The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.
14. The finished surface materials shall be consistent with the colours and materials specified in the Finishes schedule, prepared by Keith Pike Associates, dated March 2018, with the exception of the cladding colour "Flooded Gum" and roof colour "Windspray" which are considered to be too light. An amended specification is to be submitted to the Accredited Certifier or Council with the Construction Certificate application which provides a darker tone. The finished surface materials shall be non-glare and of low reflectivity.

15. Submission, to Council's satisfaction, of a Construction Traffic Management Plan (CTMP) prepared by a suitably qualified traffic consultant, prior to the issue of the Construction Certificate. The plan is to address and detail arrangements regarding:

- Detail concerning delivery and removal of all materials
- Proposed traffic routes, noting that 3 tonne load limits apply to some roads within the Northern Beaches Council Local Government Area
- Location and extent of on/off site parking for construction workers during the construction period.
- The details of any proposed on street parking changes/ future work zone applications (subject to additional approvals).
- Proposed hours of operation

The CTMP must be approved in writing by Council prior to the issue of any Construction Certificate.

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

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

1. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

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

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

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

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

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

3. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
4. The following facilities must be provided on the site:
 - a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - b) a garbage receptacle for food scrapes and papers, with a tight fitting lid.

Toilet facilities are to be provided in a location which will not detrimentally affect the amenity of any adjoining residents at or in the vicinity of the work site during the duration of the development.

5. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.
6. Two laybacks 3.5 metres wide in Whale Beach Road and 3.5 metres wide in Morella Road (excluding the wings) are to be constructed in accordance with Northern Beaches Council Drawing No A4-2276/B and specifications.
7. The provision of two vehicle crossings 3.5 metres wide in Whale Beach Road and 3.5 metres wide in Morella Road in accordance with Northern Beaches Council Drawing No DP-05 and A4/330/2 NH respectively and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

8. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
9. No works are to be carried out in Council's Road Reserve without the written approval of the Council.

Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc.), and landscaping works within Council's Road Reserve.

10. No skip bins or materials are to be stored on Council's Road Reserve.
11. A site fence and silt and sediment control fence is to be erected and maintained during the course of works along any street boundary and park/reserve boundary to the site.
12. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 - a) The builder's name, builder's telephone contact number both during work hours and after hours.
 - b) That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
 - c) That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - d) That no skip bins or materials are to be stored on Council's Road Reserve.
 - e) That the contact number for Northern Beaches Council for permits is 9970 1111.
13. A satisfactory construction traffic management plan (CTMP) prepared by a suitably qualified traffic consultant is required to be submitted to the Private Certifying Authority prior to the commencement of any site works. The plan is to detail:
 - a) Quantity of material to be transported
 - b) Proposed truck movements per day
 - c) Proposed hours of operation

- d) Proposed traffic routes, noting that 3 tonne load limits apply to some roads within the former Pittwater Council Local Government Area
 - e) Location of on/off site parking for construction workers during the construction period.
14. As excavation is required within five metres of an existing significant tree or trees and vegetation on an adjoining site, the excavation is to be supervised by a qualified consulting arborist. In the event that major structural roots or feeder roots are encountered, the arborist is to require the builder to carry out appropriate action to ensure the retention of the tree or other vegetation, and is to advise the Principal Certifying Authority accordingly. Works are not to progress past this point until the Principal Certifying Authority has confirmed that this condition has been satisfied.
 15. A copy of the CTMP approved under Part C of this consent is to be retained on site for the duration of the demolition/construction works.
 16. Council acknowledges that the trees and vegetation in conflict with the proposed driveway on the Morella Rd frontage are average specimens/species, however the removal of this vegetation is not considered a matter for Council to attend to under normal tree maintenance circumstances therefore the removal of the vegetation to facilitate the construction of the driveway will be at your own expense. Please find attached a list of approved Council contractors who must carry out the works. The tree within the road reserve on Whale Beach Road is to be retained and protected during works. Tree Protection fencing is to be placed and all works are to be in accordance with AS 4970-2009 Protection Of Trees on Development Sites.
 17. Demolition works must be carried out in compliance with *WorkCovers 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 400mm x 300mm 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 Certifying Authority, 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.

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

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

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

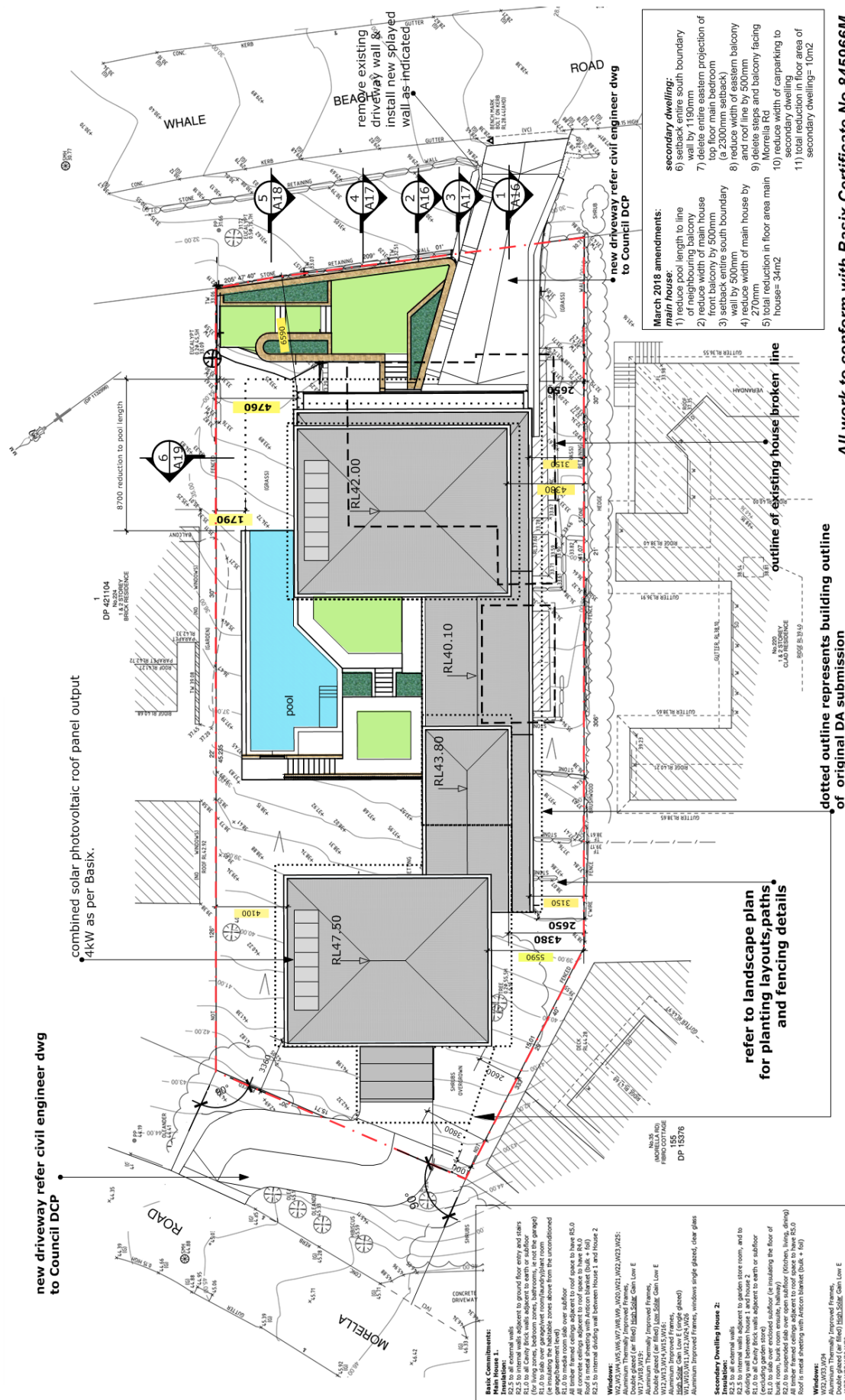
1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work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

2. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.
3. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.
4. Prior to the issue of an Occupation Certificate, a suitably qualified professional is to certify that the as-built development is consistent with the recommendations/requirements of the Bushfire Risk Assessment Report prepared by Bushfire Consulting Services Pty Ltd, dated 29 May 2017.
5. The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.

A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards must be provided.
6. The applicant must obtain written confirmation from Council that all works in the road reserve have been completed in accordance with the conditions of the Driveway Levels Approval.
7. Prior to issue of the Occupation Certificate, Form 3 of the *Geotechnical Risk Management Policy* is to be completed and submitted to the Principal Certifying Authority.
8. The applicant must prepare and submit a post-construction dilapidation report. The report must clearly detail the final condition of all property, infrastructure, natural and man-made features that were originally recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.
9. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
10. A certificate is to be submitted to the Principal Certifying Authority with the Occupation Certificate application by a qualified practising landscape architect, landscape/environmental designer or horticulturalist, certifying that the proposed automatic watering system and/or subsoil drainage and any associated waterproofing membrane have been installed in accordance with details shown on the approved landscape working drawing and/or the manufacturers specification.
11. The applicant is to submit proof of an agreement to the Principal Certifying Authority with the Occupation Certificate application for the maintenance of all site landscaping by a qualified horticulturalist, landscape contractor or landscape architect, for a period of 12 months, from date of issue of Certificate of Occupation.
12. Street numbers are to be affixed so that they are clearly displayed and visible from a public place.
13. Prior to the issue of an Occupation Certificate, certification is to be provided by a suitably qualified Acoustic Consultant that the pool pump and air conditioning units do not exceed more than 5dB(A) above the background noise when measured from any property boundary of the adjoining sites.

G. Advice:

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. Dial before you dig: Prior to excavation the applicant is advised to contact Australia's National Referral Service for Information on Underground Pipes and Cables telephone 1100 or www.1100.com.au
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the EPA Act 1979, this development consent lapses 5 years after the date from which this consent operates if the development is not commenced.
5. To ascertain the date upon which a consent operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 6 months of the determination.
7. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.



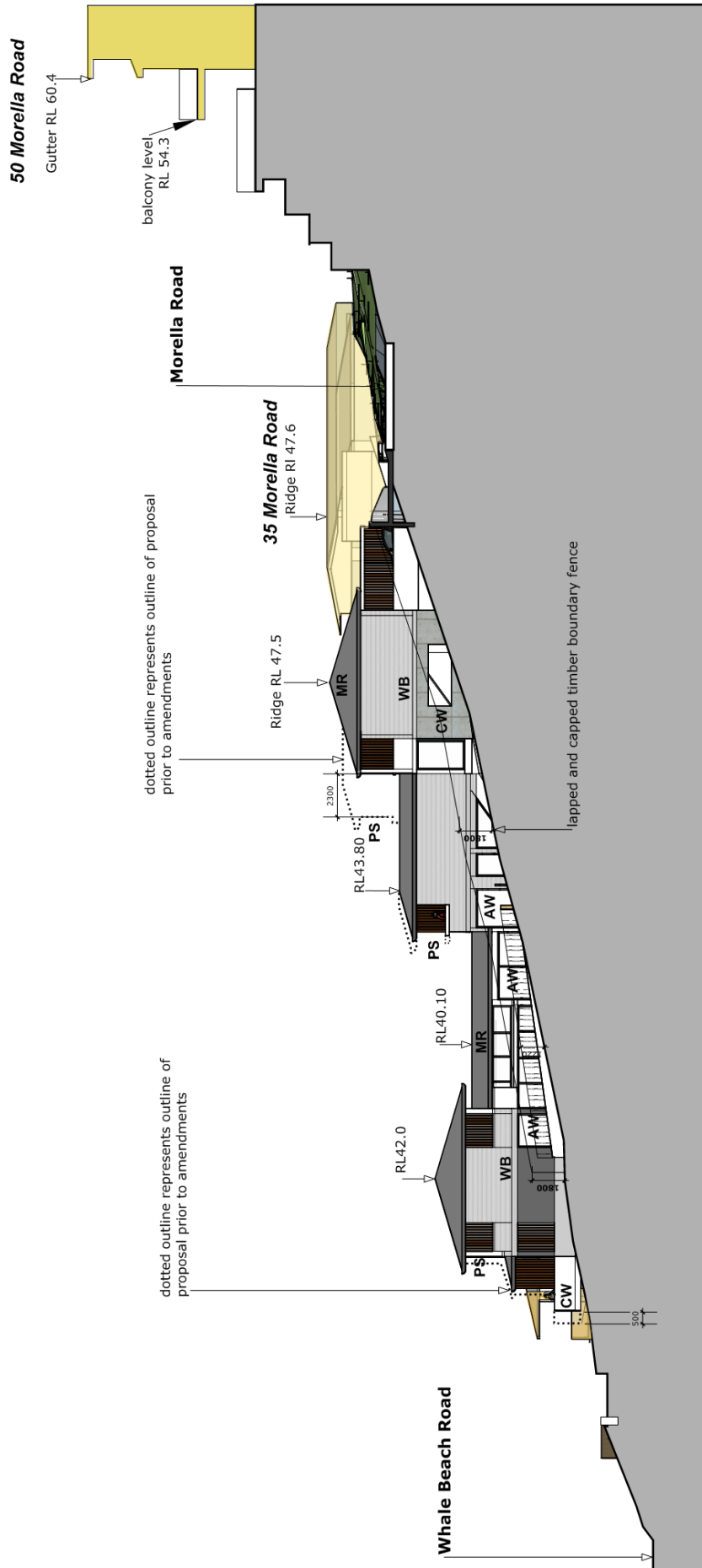
All work to conform with Basix Certificate No 845966M

Revisions		Client	Architect	Project	Scale
	August 2017	Dr M.	Keith Pike Associates	March 2018	Scale
1	DA submission to increase all building setbacks as noted	&	148 Louisa road, Birchgrove. kpike@bigpond.net.au	Development Application 222 Whale Beach Rd, Whale Beach	Scale 1:200
2	(yellow highlight) pool length driveway width.	Mrs D. Bourke	www.kelthpikeassociates.com	Title Site Plan / Roof Plan	Dwg No A02a

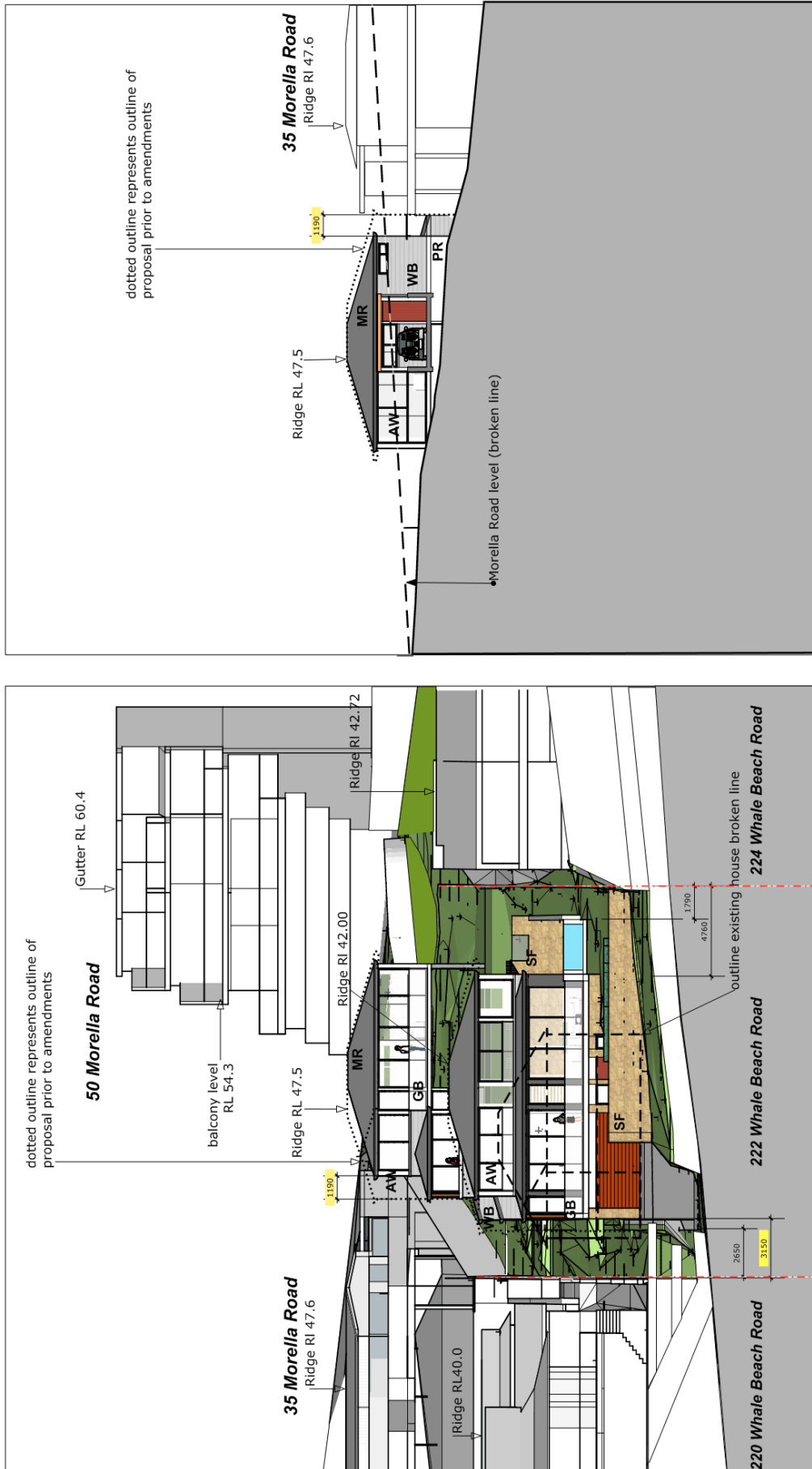


WB = weatherboard cladding SF = Sandstone face GB = Glass Balustrade AW = Aluminium framed windows MR = metal roof CW = concrete wall PR = painted render PS = privacy screen

Revisions		Client	Architect	Project	Scale
August 2017	DA submission				
March 2018	amendments to increase all building setbacks as noted pool length, driveway width.	Dr M. & Mrs D. Bourke	Keith Pike Associates 148 Louisa road, Birchgrove. kpika@bigpond.net.au www.keithpikeassociates.com	Development Application 222 Whale Beach Rd, Whale Beach	Scale 1:200
				Title South Elevation	Dwg No A13a



Revisions		Client	Architect	Project	Scale
August 2017	DA submission	Dr M. & Mrs D. Bourke	Keith Pike Associates 148 Louisa road, Birchgrove. kpike@bigpond.net.au www.keithpikeassociates.com	Development Application	Scale 1:200
March 2018	amendments to increase all building setbacks as noted pool length, driveway width.				
				Title	Dwg No
				North elevation	A14a



Whale Beach Road Elevation

Morella Road Elevation

WB = weatherboard cladding SF = Sandstone face GB = Glass Balustrade AW = Aluminium framed windows MR = metal roof CW = concrete wall PR = painted render PS = privacy screen

Revisions		Client		Architect		Project	
August 2017	DA submission	Dr M. & Mrs D. Bourke		Keith Pike Associates 148 Louisa road, Birchgrove. kpika@bigpond.net.au www.keithpikeassociates.com		March 2018	Scale
1	March 2018						Scale 1:200
2	amendments to increase all building setbacks as noted pool length, driveway width.						Dwg No
3						A15a	

ITEM 3.3	DA2018/0262 - 2 VIOLET STREET, BALGOWLAH - DEMOLITION, CONSTRUCTION OF TWO SEMI-DETACHED DWELLINGS AND TORRENS TITLE SUBDIVISION OF EXISTING LOT
REPORTING OFFICER	RODNEY PIGGOTT
TRIM FILE REF	2018/326201
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan and Elevations

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

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2018/0262 for demolition, construction of two semi-detached dwellings and Torrens Title subdivision of existing lot at Lot 9 DP 13882, 2 Violet Street, Balgowlah subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0262
Responsible Officer:	Benjamin Price
Land to be developed (Address):	Lot 9 DP 13882, 2 Violet Street BALGOWLAH NSW 2093
Proposed Development:	Demolition, construction of two semi-detached dwellings and Torrens Title subdivision of existing lot.
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Local Planning Panel
Land and Environment Court Action:	No
Owner:	Thomas James Bowden Elizabeth Catherine Helen Bowden
Applicant:	Thomas James Bowden Elizabeth Catherine Helen Bowden
Application lodged:	19/02/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	23/03/2018 to 09/04/2018
Advertised:	Not Advertised
Submissions Received:	21
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,750,000.00

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest

- groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
 Manly Development Control Plan - 3.1 Streetscapes and Townscapes
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 4.1.1 Dwelling Density, Dwelling Size and Subdivision
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping
 Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)
 Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)

SITE DESCRIPTION

Property Description:	Lot 9 DP 13882 , 2 Violet Street BALGOWLAH NSW 2093
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Violet Street.</p> <p>The site is regular in shape with a frontage of 13.1m along Violet Street and a depth of 45.72m. The site has a surveyed area of 599.1m².</p> <p>The site is located within the R1 General Residential zone and accommodates a single storey dwelling house.</p> <p>The site slopes from south to north and includes a crossfall of 3m. There is a 14m English Oak on the rear boundary of the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one and two storey dwelling houses.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A pre-lodgement meeting was held on the 26 October 2017. The submitted application is consistent with the advice provided at this meeting.

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes demolition works, construction of two mirrored semi-detached dwellings and Torrens Title subdivision. The semi-detached dwellings will include the following:

Ground Floor

- Carport with attached store
- Bedroom/study/rumpus, bathroom/laundry, open plan kitchen, dining and living area with attached rear deck

First Floor

- Master Bedroom with ensuite and attached balcony
- Two bedrooms
- Bathroom

The plans were amended on the 15 May 2018. The amendments included a reduced height and increased setback of the store attached to the carport on both lots. The amended application differs only in minor respects from the original application, and does not result in a greater environmental impact. As such, re-notification was not considered necessary.

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 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><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed</p>

Section 4.15 Matters for Consideration'	Comments
	via a condition of consent. Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 21 submission/s from:

Name:	Address:
Mr Stephen McGregor Pickering Mrs Jennifer Mary Pickering	39 Wanganella Street BALGOWLAH NSW 2093
Mrs Elizabeth Maree Paul	14 Violet Street BALGOWLAH NSW 2093
Mr Mervyn Francis Hampson	9 Violet Street BALGOWLAH NSW 2093
Mr Richard Anthony Cole	4 Violet Street BALGOWLAH NSW 2093
Mrs Lillian Jeanne La Baysse	Care Isabelle La Baysse PO Box 4003 BALGOWLAH HEIGHTS NSW 2093

Name:	Address:
Mr Paul Raymond Griffiths	13 Violet Street BALGOWLAH NSW 2093
Ms Diedre Amos	7 Violet Street BALGOWLAH NSW 2093
Mr James Leonard Hogan	16 Violet Street BALGOWLAH NSW 2093
Mr Cameron Noel Grant	41 Wanganella Street BALGOWLAH NSW 2093
Mr Louis Francois Molines	8 Violet Street BALGOWLAH NSW 2093
Mr Timothy Richard Quill	19 Violet Street BALGOWLAH NSW 2093
Mr Ross Malcolm Locket	5 Violet Street BALGOWLAH NSW 2093
Mr John Richard Hoyle	21 Violet Street BALGOWLAH NSW 2093
Ms Lucy Eileen Elizabeth Nowland	20 Violet Street BALGOWLAH NSW 2093
Ms Rachel Jane Swieconeck	1 Audrey Street BALGOWLAH NSW 2093
Mr Ross Locket Mrs Patricia Mary Locket	5 Violet Street BALGOWLAH NSW 2093
Mrs Eva Carrick	15 Violet Street BALGOWLAH NSW 2093
Felicity Jane Joseph	22 Violet Street BALGOWLAH NSW 2093
Mr Anthony David Flannery Ms Catherine Anne Maric	12 Violet Street BALGOWLAH NSW 2093
Mrs Isabelle Vanderstock	11 Violet Street BALGOWLAH NSW 2093
Mr Andrew John Peggie	6 Violet Street BALGOWLAH NSW 2093

The following issues were raised in the submissions and each have been addressed below:

- Impact on on-street parking and insufficient off-street parking
- Traffic conditions and pedestrian safety
- Impact on adjoining tree at 39 Wanganella Street
- Inconsistent with Streetscape
- Non-compliance with Manly DCP 2013
- Non-compliance with Manly LEP 2013
- Impacts due to demolition and construction
- Precedent
- Stormwater and Drainage
- Privacy
- Access to light and sunshine

The matters raised within the submissions are addressed as follows:

- Impact on on-street parking and insufficient off-street parking
Comment:

The matter of on-street/off-street parking has been assessed in detail elsewhere within this report (refer to Clause 4.1.6 Parking Vehicular Access and Loading under the Manly DCP 2013 section of this report)

In summary, the development provides adequate off street car parking to serve the future dwellings. The loss of one on-street car parking space is a direct result of providing a new

driveway and off street parking to service the new dwelling and is not considered to be unreasonable in this circumstance. The loss of one on street car space will not have an adverse impact on the local traffic conditions.

- Traffic conditions and pedestrian safety
Comment:
The proposal has been assessed by Councils Traffic Engineer and was found to be satisfactory, subject to conditions of consent. The proposal will not result in any unreasonable impact on traffic conditions or pedestrian safety.
- Impact on adjoining tree at 39 Wanganella Street
Comment:
Councils landscape officer has assessed the development and has recommended conditions of consent to ensure the longevity of the adjoining tree.
- Inconsistent with Streetscape
Comment:
The proposal has been assessed below with regard to the objectives of Clause 3.1 Streetscapes and Townscapes of the Manly DCP 2013. In summary the proposal was found to be satisfactory subject to the conditions of consent.
- Non-compliance with Manly DCP 2013
Comment:
All non-compliances have been assessed below with regard to the relevant objectives. The non-compliances have been found to be satisfactory subject to conditions of consent. The wall height was found to be compliant with the Manly DCP 2013.
- Non-compliance with Manly LEP 2013
Comment:
All non-compliances have been assessed below with regard to the relevant objectives. The non-compliances have been found to be satisfactory subject to conditions of consent.
- Impacts due to demolition and construction
Comment:
Conditions of consent have been recommended to ensure no unreasonable impacts on the amenity of the locality during demolition and construction.
- Precedent
Comment:
The non-compliances have been assessed below and found to be consistent with the objectives of the controls. Any development application in the area will undergo the same assessment and be determined based on the merits of that application.
- Stormwater and Drainage
Comment:
Councils Development Engineer has recommended conditions of consent to ensure stormwater is appropriately disposed.
- Privacy
Comment:
The proposal has been assessed in accordance with Clause 3.4.2 Privacy and Security of the

Manly DCP 2013. In summary the proposal was found to be satisfactory.

- Access to Light and Sunshine

Comment:

The proposal has been assessed in accordance with Clause 3.4.1 Sunlight Access and Overshadowing of the Manly DCP 2013. In summary the proposal was found to be satisfactory.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p><u>Additional Comment</u></p> <p>Further to discussions regarding tree protection, the recommendations of the Arborist's Report submitted with the application regarding construction of the carport adjacent to the tree on the adjoining property and protection of tree roots are agreed with.</p> <p>Conditions have been included requiring a Project Arborist to oversee works as recommended in the Arborist's Report.</p> <p>No objections are raised to approval subject to conditions.</p> <p><u>Original Comment</u></p> <p>The Arborist's Report and Landscape Plan provided with the application are noted.</p> <p>The documents indicate that subject to adequate Arboricultural supervision and construction techniques, incursions into the Tree Protection Zone of the the trees on and around the site could be acceptable.</p> <p>It is noted that the Arborist's Report indicates that it would be preferable for the carport on the eastern boundary to not be constructed over the Structural Root Zone of the tree on the adjoining property, however no alternate location for the carport is available. Specific construction techniques will be required for construction of the carport and store to avoid severing of structural and feeder roots. I would concur with this observation, and consider that deletion of the carport and/or store would be beneficial to the tree.</p> <p>Conditions have been included regarding tree protection, including appointment of a Project Arborist to oversee works, if the proposal is to be approved.</p>
NECC (Development Engineering)	<p><u>2 nd referral 25/5/2018</u></p> <p>Additional information regarding stormwater disposal was received on</p>

Internal Referral Body	Comments
	<p>the 2 May 2018. Council's Development Engineer has reviewed this information and has raised no objections subject to the following conditions of consent:</p> <p><i>"i) An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate. Reason: To facilitate suitable vehicular access to private property. (DACENC12)</i></p> <p><i>ii) An On-site Stormwater Management system must be designed and constructed in accordance with Council's current Stormwater management policy, and generally in accordance with the concept drainage plans prepared by Stellen Consulting, drawing number DR-001 -005, dated 09/2/2018. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer. The drainage plans must address the following: i. discharge rate into the kerb is not more than 25 l/s ii. Kerb and gutter capacity report shall be undertaken to analyse potential flooding effect to the downstream properties due to the additional discharge from the proposed development along Violet Street. The stormwater plan must ensure the existing kerb and gutter can cater the additional discharge from the proposed development. Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied and complying with Council's current On-site Stormwater Specification, 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. (Special condition) (DACENC20)</i></p> <p><i>iii) Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land. Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)</i></p> <p><i>iv) The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work. Reason: Public Safety.</i></p> <p><i>v) Sedimentation and erosion controls are to be effectively maintained</i></p>

Internal Referral Body	Comments
	<p><i>at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.</i> <i>Reason: To ensure sediment controls are effective</i></p> <p><i>vi) The provision of two vehicle crossings 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/7 ML and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.</i> <i>Details demonstrating compliance are to be submitted to the Principal Certifying Authority.</i> <i>Reason: To facilitate suitable vehicular access to private property"</i></p> <p><u>1 st referral</u> The proposed development is located in zone1. An On-site Detention System (OSD) is required per each lot in accordance with Manly Specification for on-site stormwater management 2003. A OSD design with related calculations are required with DA. Applicant did not demonstrate that reasonable attempts have been made to acquire an easement downstream and the downstream property owners have indicated that they are not willing to grant an easements through their property. Stormwater report submitted by Stellen Consulting states that there is a known layer of shallow depth rock in the local area. No information (such as a geotechnical report) has been submitted to development engineers to demonstrate that an on-site absorption system is not feasible. In accordance with Manly specification for on-site stormwater Management 2003, Council's preferred options of stormwater disposal, ordered from most to least preferred is below: 1. An easement to the street to the rear 2. An OSD/Absorption system 3. A charged system Insufficient information has been provided for Council to support a charged system. The proposal is not supported in it's current form due to insufficient information to address Manly On-site Stormwater Management 2003 and Clause 3.7 of Manly DCP.</p>
Traffic Engineer	<p>There are no traffic objections to this development application subject to conditions:</p> <p><i>"The dimensions of the parking spaces are to comply with the AS/NZS 2890.1 -2004 offstreet parking.</i> <i>Reason: To ensure compliance with stanrdards relating to manoeuvring, access and parking of vehicles> (DACTRPCCC1)</i></p>

Internal Referral Body	Comments
	<p><i>Should a Works zone be required an application on Council's application form shall be lodged no less than 2 weeks in advance of the date that the Works Zone is required.</i></p> <p><i>Reason: To ensure sufficient time for processing, assessment and installation of signs> (DACTRDPC1)"</i></p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 899250M_02).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	40	40

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

Manly Local Environmental Plan 2013

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

aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	300sqm	Lot 1: 299.6sqm	0.13%	No
		Lot 2 299.6sqm		
Height of Buildings:	8.5m	7.8m	N/A	Yes
Floor Space Ratio	FSR: 0.5:1 (149.8sqm)	Lot 1 FSR: 0.526:1 (157.7sqm)	Lot 1 5.3%	No
		Lot 2 FSR 0.525:1 (157.2sqm)	Lot 2 4.9%	

Compliance Assessment

Clause	Compliance with Requirements
4.1 Minimum subdivision lot size	No
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

The following assessment of the variation to Clause 4.1 - Minimum subdivision lot size development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	300sqm per lot
Proposed:	299.6sqm per lot
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	0.13%

The proposal must satisfy the objectives of Clause 4.1 - Minimum subdivision lot size, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the MLEP 2013. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Minimum subdivision lot size limitation pursuant to Clause 4.1 of the MLEP 2013 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.1 – 'Minimum subdivision lot size' of the MLEP 2013 are:

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

(a) to retain the existing pattern of subdivision in residential zones and regulate the density of lots in specific locations to ensure lots have a minimum size that would be sufficient to provide a useable area for building and landscaping,

Comment:

The surrounding development is characterised with a regular subdivision pattern of rectangular lots. The proposal will retain a subdivision pattern that is consistent with the area. The non-compliance of 0.4sqm per lot will not result in a subdivision that is uncharacteristic of the locality. Furthermore the non-compliance will not result in a lot size that is insufficient to provide a useable area for building and landscaping.

(b) to maintain the character of the locality and streetscape and, in particular, complement the prevailing subdivision patterns,

Comment:

The proposed subdivision is of an appropriate form to maintain the subdivision pattern of the locality. The proposed non-compliance of 0.4sqm per lot will not result in any unreasonable impacts on the character or streetscape of the locality.

(c) to require larger lots where existing vegetation, topography, public views and natural features of land, including the foreshore, limit its subdivision potential,

Comment:

The proposal will result in two lots of an appropriate size to accommodate the proposed dwellings. There are no site constraints that would significantly limit the development potential of these lots, as such larger lots are not required.

(d) to ensure that the location of smaller lots maximises the use of existing infrastructure, public transport and pedestrian access to local facilities and services.

Comment:

The subject site has good access to and will maximise the use of the existing infrastructure, public transport and local facilities and services. The proposed non-compliance of 0.4sqm per lot will not result in any unreasonable strain on these services.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R1 General Residential zone.

The underlying objectives of the R1 General Residential zone:

- *To provide for the housing needs of the community.*

Comment:

The proposal will increase the density of the site and provide for the housing needs of the community. It is considered that the development satisfies this objective.

- *To provide for a variety of housing types and densities.*

Comment:

The proposal will add to the variety of housing types and densities within the locality. It is considered that the development satisfies this objective.

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

Comment:

Not applicable

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the MLEP 2013?

(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.

Comment:

The proposed non-compliance is minor and will not result in any unreasonable impacts in the locality. The proposed degree of flexibility is satisfactory in this circumstance.

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

Comment:

The proposal will allow for a greater density within the locality and provide for lot sizes that are generally consistent with the envisaged density for the locality. Allowing the development will maximise the use of the existing infrastructure and not result in any unreasonable impacts on the locality. The proposal will achieve a better outcome from the development.

(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.

Comment:

The applicant has submitted a written request in accordance with Clause 4.6 that provides the following justification:

"Having regard for the stated objectives it is considered that strict compliance with development standard is unreasonable and unnecessary for the following reasons:

- The extent of non-compliance is both quantitatively and qualitatively minor.*
- The resultant lot sizes are sufficient to provide a useable area for building and landscaping.*
- The resultant lot sizes maintain the character of the locality and streetscape and, in particular, complement the prevailing subdivision patterns.*
- The accompanying architectural plans demonstrate that the proposed Lots are of adequate size to accommodate compliant building forms exhibiting a complimentary and compatible streetscape presentation.*

Sufficient environmental planning grounds exist to justify the variation sought including the minor nature of the non-compliance and the ability to accommodate development on the site consistent with the applicable statutory planning regime."

(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

Comment:

The applicants written request has adequately addressed the matters required to be demonstrated by subclause (3).

(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.

Comment:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R1 General Residential zone in the MLEP 2013.

(b) the concurrence of the Director-General has been obtained

Comment:

Comment: Planning Circular PS 17-006 dated 15 December 2017, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument where the variation to a numerical standard is not greater than 10%. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the 4.1 Minimum Subdivision Lot Size Development Standard is assumed."

The following assessment of the variation to Clause 4.4 - Floor Space Ratio development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	0.5:1(149.8sqm)
Proposed:	Lot 1 0.526:1 (157.7sqm) Lot 2 0.525:1 (157.2sqm)
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	Lot 1 5.3% Lot 2 4.9%

The proposal must satisfy the objectives of Clause 4.4 Floor Space Ratio, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the MLEP 2013. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed floor space ratio limitation pursuant to Clause 4.4 of the MLEP 2013 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor Space Ratio' of the MLEP 2013 are:

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

(a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment:

The proposed dwellings are set below the street level and are significantly setback from the street front boundary. The proposal is also compliant with the height of buildings control of the Manly LEP 2013 and incorporates articulation into the design to provide visual relief from the development. The proposal is adequately designed to ensure it does not result in any unreasonable impacts on the neighbouring properties and does not result in a bulk and scale that is inconsistent with the existing and desired streetscape character.

(b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment:

The proposal will not obscure any important landscape or townscape features.

(c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment:

The proposed semi-detached dwellings are set below the street level and below the level of the neighbouring properties. The proposed front setback of 11m to the proposed dwellings and the articulation will ensure they do not result in any unreasonable impacts on the character of the locality.

The conditions of consent requiring the deletion of the carport door will ensure the proposed carports are consistent with the surrounding development and maintain an appropriate visual relationship between new development and the existing character of the locality. The proposal also includes landscaping to the street frontage to maintain the landscaped character of the area. The proposed development, subject to the conditions of consent, will maintain the character and landscape character of the locality.

(d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment:

The proposed dwellings will not result in any unreasonable impacts on the privacy, access to sunlight or views of the neighbouring properties and is of an appropriate form to ensure it does not result in any unreasonable impact on the character of the locality.

(e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

Not applicable.

What are the underlying objectives of the zone?

In assessing the developments non-compliance, consideration must be given to its consistency with the underlying objectives of the R1 General Residential zone.

The underlying objectives of the R1 General Residential zone:

- *To provide for the housing needs of the community.*

Comment:

The proposal will increase the density of the site and provide for the housing needs of the community. It is considered that the development satisfies this objective.

- *To provide for a variety of housing types and densities.*

Comment:

The proposal will add to the variety of housing types and densities within the locality. It is considered that the development satisfies this objective.

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

Comment:

Not applicable.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the MLEP 2013?

(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.

Comment:

The proposed non-compliance is minor and subject to the conditions of consent will not result in any unreasonable impacts in the locality. The proposed degree of flexibility is satisfactory in this circumstance.

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

Comment:

The proposed gross floor area will ensure the amenity of the occupants and will not result in any unreasonable impacts in the locality. By allowing the proposed variation the development will achieve a better outcome from the development on the site.

(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.

Comment:

The application was accompanied by a written request that provided the following justification:

"As stated previously the proposal has a gross floor area of 317m² representing a floor space ratio of 0.529:1. This represents a minor variation to the FSR control of 17.5m² or 5.8%. Having regard to the stated objectives it is considered that strict compliance is both unreasonable and unnecessary in this instance for the following reasons:

- The FSR/GFA calculations include the area of the proposed carport storage areas which are not habitable floor space as defined.*
- The floor space has been appropriately distributed across the site to maintain a contextually appropriate relationship with adjoining development and a view sharing scenario to surrounding properties. No public domain of view affectation will occur as a consequence of the works proposed.*
- The height, bulk, scale and floor space proposed are entirely consistent with the built form characteristics established by other developments within the sites visual catchment.*
- It has been determined that the floor space ratio proposed will not give rise to any adverse residential amenity impacts in terms of overshadowing as depicted on the accompanying shadow diagrams accompanying this application. In this regard at least 3 hours of solar access will be maintained principal living room windows and adjacent private open space areas of all adjoining properties between 9am and 3pm on 21st June in strict accordance with the DCP control.*
- Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 I have formed the considered opinion that most observers would not find the height of the proposed development 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.*
- Having regard to the matter of Veloshin v Randwick City Council [2007] NSWLEC 428 this is not a case where the difference between compliance and non-compliance is the difference between good and bad design.*

There are sufficient environmental planning grounds to justify the variation sought including the compatibility of the FSR and resultant built form outcome with that established by other development within the sites visual catchment, the appropriate distribution of floor space across the site and the general lack of adverse streetscape and residential amenity consequences."

(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

Comment:

The applicants written request has adequately addressed the matters required to be demonstrated by subclause (3).

(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.

Comment:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R1 General Residential zone in the MLEP 2013.

(b) the concurrence of the Director-General has been obtained

Comment:

Comment: Planning Circular PS 17-006 dated 15 December 2017, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument where the variation to a numerical standard is not greater than 10%. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the 4.4 Floor Space Ratio Development Standard is assumed."

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 599.1	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling per 300sqm site area	Lot 1 299.6sqm per dwelling	1.3%	No
		Lot 299.6sqm per dwelling		
	Min. Dwelling Size: 95sqm	Lot 1 158.7sqm	N/A	Yes
		Lot 2 157.7sqm		
4.1.2.1 Wall Height	East: 6.8m (based on gradient 1:20)	5.5m - 6.5m	N/A	Yes
	West: 6.8m (based on gradient 1:20)	5.6m - 6.7m	N/A	Yes
4.1.2.2 Number of Storeys	2	2	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	1.3m	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line - Nil	Dwelling - 11m Carport - Nil	N/A	Yes
4.1.4.2 Side Setbacks	East Ground 1.1m East First 1.8m - 2.16 East Carport 0.8 - 1.15	East Ground 0.9m - 1.8m East First 0.9m - 1.8m East Carport Nil - 0.9m	21.7%-100%	No
	West Ground 1.2m West First 1.86m - 2.2m West Carport 0.53 - 1.16	West Ground 0.9m - 1.8m West First 0.9m - 1.8m	22.4%-100%	

		West Carport Nil - 0.9m		
4.1.4.4 Rear Setbacks	8m	11m	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (164.78sqm)	Lot 1 50.2% (150.48sqm)	8.7%	No
		Lot 2 50.6% (151.6sqm)	8%	
	Open space above ground 40% of total open space	Lot 1 2.3%	N/A	
		Lot 2 2.3%		
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	66% (100.8sqm)	N/A	Yes
		67% (102sqm)		
	Lot 1 2 trees Lot 2 2 trees (trees to be selected in accordance with schedule 4 part B of the Manly DCP 2013)	Lot 1 1 tree Lot 2 nil	50%	No
			100%	
4.1.5.3 Private Open Space	12sqm per dwelling	19.5sqm	N/A	Yes
		19.5sqm		
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m Lot 1 3.3m Lot 2 3.3m	Lot 1 3.1m Lot 2 3.1m	N/A	Yes
	2 spaces per dwelling	1 space per dwelling	50%	No
4.1.10 Fencing	1m solid up to 1.5m where 30% transparent above 1m	1.5m solid	50%	No, see assessment under Clause 3.1 Streetscape
4.4.5 Earthworks (Excavation and Filling)	Max. 1m excavation or fill	Max. 1.35m Fill	35%	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 x 100 = 95 then 100 - 95 = 5% variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	No	Yes
4.1.1.1 Residential Density and Dwelling Size	No	Yes
4.1.1.2 Residential Land Subdivision	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.2.1 Wall Height	Yes	Yes
4.1.2.2 Number of Storeys	Yes	Yes
4.1.2.3 Roof Height	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.4.1 Street Front setbacks	Yes	Yes
4.1.4.2 Side setbacks and secondary street frontages	No	Yes
4.1.4.4 Rear Setbacks	Yes	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements	No	Yes
4.1.5.2 Landscaped Area	Yes	Yes
4.1.5.3 Private Open Space	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.4.1 Demolition	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	No	Yes
4.4.8 Subdivision	Yes	Yes

Detailed Assessment

3.1 Streetscapes and Townscapes

Description of non-compliance

The Manly DCP 2013 allows for front fences/walls up to 1.5m where the area above 1m is 30% transparent. The proposed front wall is solid masonry up to a height of 1.5m.

Merit consideration:

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

Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.

Comment:

The proposed front wall extends for 5m of the total 13.1m frontage and is bounded by transparent entry gates. Adjacent to the site at 39 Wanganella Street is a 1.8m high solid timber fence. The proposed wall is consistent with the streetscape and will not result in any unreasonable impacts in the locality.

The proposed carports include timber batten doors to the front elevation. The proposed carport doors will create an unnecessary bulk and result in a negative visual impact on the streetscape. A condition of consent is recommended to delete the doors to the carports. This condition will minimise the impact of the carports on the streetscape and ensure they are consistent with the surrounding development. Subject to the condition of consent the proposed development will not result in any unreasonable negative visual impact on the streetscape.

Objective 2) To ensure development generally viewed from the street complements the identified streetscape.

Comment:

The proposed dwellings are set below the street level and setback 11m from the street. The siting of the development is sufficient to ensure the proposed dwellings do not result in any unreasonable negative visual impact on the streetscape of the locality.

The proposed timber batten doors will result in garage like structures on the front boundary. The surrounding development includes a number of examples of single and double carports on the street front boundary. These carports are not enclosed. The streetscape also includes some examples of single garages servicing dwelling houses on the street front boundary. The lots on which the single garages are located have a much larger street frontage than the proposed development. Due to the larger frontage the impact of these garages are minimised. The proposed development will present to the street as two single garages on lots of a combined frontage similar to the above mentioned garages. This is an intensification of the built form within the streetscape and will not compliment the streetscape character of the locality. A condition of consent is recommended to delete the front garage doors. The deletion of these elements will create an open structure that is consistent with the streetscape of the locality. The proposed stores attached to the carports were amended to a 3.5m wall height and a 900mm setback. This is sufficient to ensure the structures do not result in any unreasonable impacts on the streetscape or the neighbouring properties. The proposal, subject to the recommended condition, will minimise the impact of the carports on the street and ensure the development is consistent with the streetscape.

Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.

Comment:

The proposed front fence is of an appropriate form and design for the locality.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

3.4.1 Sunlight Access and Overshadowing

Merit consideration:

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

Objective 1) To provide equitable access to light and sunshine.

Comment:

The proposal will result in additional overshadowing to open space to the south and the eastern elevation of the property at 4 Violet Street. The principal private open spaces and windows to living spaces of this property are designed to capture light and sunshine from the north. The proposal will not eliminate more than 1/3 of the existing sunlight accessing the private open space of 4 Violet Street and will ensure the living spaces retain access to sunlight from 9am-3pm of the winter solstice through the northern aspect.

The proposal will also result in overshadowing of the private open spaces of the properties to the east fronting Wanganella street. These properties will retain adequate access to light and sunshine during late morning to early afternoon of the winter solstice. The proposal will not result in any unreasonable overshadowing of the of the properties fronting Wanganella Street.

The proposal maintain an equitable access to light and sunshine within the locality.

Objective 2) To allow adequate sunlight to penetrate:

- *private open spaces within the development site; and*
- *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*

Comment:

The proposal is orientated to capture the northern sunlight and will receive good solar access to private open spaces and windows to the living spaces/habitable rooms during the winter solstice.

The property at 4 Violet is orientated to ensure the living spaces capture sunlight through the northern elevation during the winter solstice. The proposal will result in overshadowing of the bedroom windows and highlight windows to the dining room on the eastern elevation during the winter solstice. The living spaces of this property will maintain adequate access to sunlight through the northern aspect. The overshadowing of the eastern bedroom windows is not unreasonable as they are not living rooms and are in close proximity to the side boundary. The proposal will not result in any unreasonable overshadowing of the windows of this property. The principal private open spaces of 4 Violet Street are to the north of the dwelling and will not receive any unreasonable overshadowing.

The properties to the east fronting Wanganella Street will receive adequate solar access to the private open spaces and living spaces/habitable rooms during during late morning and early afternoon of the winter solstice.

The proposal will allow adequate sunlight to penetrate the private open spaces and windows to living spaces/habitable rooms of the adjoining properties. The proposal will not result in any unreasonable overshadowing of the neighbouring properties

Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:

- *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
- *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

Comment:

The proposal is appropriately designed to maximise the penetration of mid-winter sunlight to the windows, living rooms and principal outdoor areas of the development site and the adjoining properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

3.4.2 Privacy and Security

Merit consideration:

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

Objective 1) 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.*

Comment:

The ground floors of both dwellings incorporate narrow windows to the rumpus, bathroom and kitchen to ensure the windows do not result in any unreasonable overlooking. The window to the dining rooms are setback 1.5m from the side boundary and any overlooking will be obstructed due to the side boundary fence. These windows also incorporate louvres to minimise the loss of privacy. The proposed ground floor decks are not significantly elevated and adequately setback from the side boundaries to minimise the loss of privacy. The proposed ground floor of both dwellings are appropriately designed to minimise the loss of privacy within the locality.

The first floors of both dwellings are designed to capture an outlook to the north and south, away from the side boundaries. The windows facing the side boundaries from both dwellings are to bedrooms, bathrooms and ensuites. The windows to the bedrooms and ensuites are narrow or highset and will not result in any unreasonable overlooking. The windows to the bathrooms include louvres for screening. The northern facing windows are setback 14.6m from the rear boundary and will not result in any unreasonable overlooking. The proposed first floor windows are appropriately designed to ensure no unreasonable overlooking of the neighbouring properties. The first floor also includes balconies attached to the rear facing bedrooms of both dwellings. These balconies include privacy screens, 3.4m

side setbacks, 13.3m rear setbacks and are 1.2m in depth. The design of these balconies will limit usability and will ensure no unreasonable overlooking of the neighboring properties.

Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.

Comment:

The proposal is of an appropriate form and design to maintain privacy within the locality. The proposal will achieve a balanced outlook from habitable rooms and private open spaces of the proposed dwellings.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal will encourage casual surveillance of the streetscape.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.1 Dwelling Density, Dwelling Size and Subdivision

Description of Non-compliance

The Manly DCP 2013 requires a minimum of 300sqm of site area per dwelling. The proposed development will result in 299.6sqm of site area per dwelling.

Merit Consideration

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

Objective 1) To promote a variety of dwelling types, allotment sizes and residential environments in Manly.

Comment

The surrounding area is dominated by dwelling houses. The proposal will add to the variety of dwelling types within the locality. The non-compliance is minor and the resultant density is generally consistent with the envisaged density for the locality.

Objective 2) To limit the impact of residential development on existing vegetation, waterways, riparian land and the topography.

Comment

The proposal will not result in any unreasonable impacts on the existing vegetation, waterways, riparian land or topography of the locality.

Objective 3) To promote housing diversity and a variety of dwelling sizes to provide an acceptable level of internal amenity for new dwellings.

Comment

The proposal will add to the diversity of the housing stock within the locality. The proposal provides sufficient dwelling sizes to achieve an acceptable level of internal amenity.

Objective 4) To maintain the character of the locality and streetscape.

Comment

The proposal will not result in a density that is unreasonable within the locality. The proposal subject to the conditions of consent will not impose on the street and will maintain the character of the locality and streetscape.

Objective 5) To maximise the use of existing infrastructure.

Comment

The proposal will maximise the use of the existing infrastructure within the locality.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.4 Setbacks (front, side and rear) and Building SeparationDescription of non-compliance

The Manly DCP 2013 requires a minimum side setback of 1/3 of the proposed wall height. The proposed dwellings and carports/stores are not compliant with the east and west side setbacks as specified by the Manly DCP 2013.

Merit consideration:

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

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The proposal has been assessed above with regard to the objectives of Clause 3.1 Streetscape of the Manly DCP 2013. The assessment found that the carport timber batten doors are inconsistent with the streetscape of the locality. A condition of consent is recommended to delete the front door of the carport. The proposal, subject to the conditions of consent, will be consistent with the streetscape of the locality and will not result in any unreasonable impact on the adjoining properties. The proposed carports, subject to conditions, are lightweight structures and will not dominate the street frontage or impact the spatial proportions of the street.

The proposed dwellings are adequately setback from the front and side boundaries to ensure they are consistent with the setbacks within the locality.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposal will ensure the amenity of the locality for the following reasons:

- The proposed development maintains adequate side setbacks and is designed appropriately to ensure no unreasonable loss of privacy of the neighbouring properties. The main non-compliances with the side setback control are due to the carport and the first floor bedroom 2 in each dwelling. The carports are set forward of the neighbouring property and will not result in any unreasonable acoustic or visual privacy impacts. The proposed bedrooms extend for 3.9m of the side boundaries and have no windows facing the side boundaries. The proposal is adequately designed to maintain the privacy of the neighbouring properties. See above assessment under Clause 3.4.2 Privacy and Security of the Manly DCP 2013.
- The proposal will ensure the neighbouring properties retain adequate solar access to the windows to habitable rooms/living areas and the principal private open spaces. See above assessment under Clause 3.4.1 Sunlight Access and Overshadowing of the Manly DCP 2013.
- The proposal will not result in any unreasonable loss of views or vistas from private or public open space.
- The proposed carports will result in an unreasonable bulk and scale on the side boundaries. The conditions of consent will ensure these structures are of an appropriate form within the streetscape. The proposal subject to the condition of consent will not result in any unreasonable impacts on the streetscape character of the locality.
- The proposal was referred to Councils Traffic Engineer and was found to be satisfactory, subject to conditions. The proposal subject to the conditions of consent will not result in any unreasonable impacts on the traffic conditions of the locality.

Objective 3) To promote flexibility in the siting of buildings.

Comment:

The proposed development, subject to the conditions of consent, is consistent with the objectives of this control and will not result in any unreasonable impacts to the amenity of the locality. The requested flexibility is satisfactory in this circumstance.

Objective 4) To enhance and maintain natural features by:

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

Comment:

The proposal provides for sufficient landscaped open space and landscaping to maintain the natural features of the site.

Objective 5) To assist in appropriate bush fire asset protection zones.

Comment:

Not applicable

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.5 Open Space and Landscaping

Description of non-compliance

The Manly DCP 2013 requires each lot to provide total open space equal to 55% of the site area. The proposal provides total open space equal to 50.2% of the site area for lot 1 and 50.6% of the site area for lot 2. The Manly DCP 2013 also requires 2 trees selected from schedule 4 part B of the Manly DCP 2013 to be planted on each lot. Lot 1 includes one tree and lot 2 does not include any.

Merit consideration:

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

Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

Comment:

The proposal will retain the significant landscape features of the site. The proposal is supported by an arborist report and conditions of consent have been recommended to ensure the retention of the trees on the adjoining properties. The proposed landscaping is adequate to augment the vegetation on the site.

Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.

Comment:

The proposed total open space is adequate to service the two semi-detached dwellings and the landscaped open space is far greater than required. The proposal includes the planting of 7 trees that range in height from 4-10m. This proposed landscaping is adequate to retain the landscape character of the locality. The proposal does not include the removal of any significant landscape features or bushland.

Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site,

the streetscape and the surrounding area.

Comment:

The proposal has been assessed above with regard to amenity and was found to achieve an acceptable level of amenity within the locality.

Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.

Comment:

The proposal provides sufficient landscaped open space to allow for on-site infiltration.

Objective 5) To minimise the spread of weeds and the degradation of private and public open space.

Comment:

The proposed landscaping will minimise the spread of weeds and the degradation of private and public open space.

Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.

Comment:

The landscaping will maximise wildlife habitat on the site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

Description of non-compliance

The Manly DCP 2013 requires 2 parking spaces to be provided to each dwelling. The proposal will provide for one parking space per dwelling.

Merit consideration:

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

Objective 1) To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).

Comment:

The proposed parking is accessible from both the dwellings and Violet Street. The development site is in close proximity to public transport and local services. The provision of two spaces per dwelling would result in the complete domination of the street frontage by parking structures. This would result in an

unacceptable impact on the streetscape of the locality. As such, the provision of one car parking space per dwelling is satisfactory in this circumstance.

Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.

Comment:

As discussed above, the proposed parking is adequate to service the dwellings given the close proximity to public transport and local services. The provision of two spaces per dwelling would result in a parking structure that dominated the street frontage. This would be an unreasonable impact on the streetscape. The exception of 1 parking space is satisfactory in this circumstance.

Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.

Comment:

The proposed parking is designed to be accessible, safe and convenient within the streetscape. The driveways will ensure the retention of one on-street parking space and the condition of consent will minimise the carports visual impact on the streetscape.

Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.

Comment:

The proposed parking does not require site excavation.

Objective 5) To ensure the width and number of footpath crossings is minimised.

Comment:

The proposal will result in one driveway per lot, this is not unreasonable. Furthermore the driveways have been designed to minimise their width. The proposal is adequately designed to minimise the width and number of footpath crossings

Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.

Comment:

The proposal incorporates landscaping into the design and will limit the amount of impervious surfaces on the site. The access is adequately screened from public view through landscape treatment.

Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.

Comment:

This area is well serviced by public transport. The proposal will encourage the use of public and active transport.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.4.5 Earthworks (Excavation and Filling)

Description of Non-compliance

The Manly DCP 2013 permits a maximum fill of 1m. The proposal includes a fill of up to 1.35m for the landscaping at the front of the site.

Merit Consideration

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

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

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

The existing site is retained at the front boundary. The proposal includes filling up to the ground level of the road reserve to allow for a more gradual stepped entry into the site. The non-compliance is 0.35m above the permitted level of fill. The proposed non-compliance is minor and will not result in any unreasonable impacts on the landscape character of the locality. The remainder of the development has been designed to follow the topography of the land. The proposal will not result in a significant change to the topography of the site and will retain the existing landscape character of the locality.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- (1) *If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
- (a) *the dedication of land free of cost, or*
 - (b) *the payment of a monetary contribution,*
- or both.*
- (2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'*

Comments:

In this case, the proposed development is likely to increase the demand for public amenities and public services within the area. Accordingly, suitable conditions have been included within the recommendation requiring payment of a section 94 contribution of \$20,000 in line with Manly Section 94 Contributions Plan.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- 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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/0262 for Demolition, construction of two semi-detached dwellings and Torrens Title subdivision of existing lot. on land at Lot 9 DP 13882, 2 Violet Street, BALGOWLAH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA02 - Site & Roof Plan - Issue H	15 May 2018	Watershed Design
DA03 - Ground Floor Plan - Issue H	15 May 2018	Watershed Design
DA04 - First Floor Plan - Issue H	15 May 2018	Watershed Design
DA05 - Section AA - Issue H	15 May 2018	Watershed Design
DA06 - Section BB & CC - Issue G	16 February 2018	Watershed Design
DA08 - East & West Elevation - Issue H	15 May 2018	Watershed Design
DA09 - North & South Elevation - Issue G	16 February 2018	Watershed Design
DA10 - South (Violet St) Elevation - Issue G	16 February 2018	Watershed Design
DA17 - Demolition, Excavation & Fill Plan	16 February 2018	Watershed Design

Engineering Plans		
Drawing No.	Dated	Prepared By
15907A subdivision 1 - Issue 1	12 December 2017	CMS Surveyors Pty. Ltd.

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate 899250M_02	9 February 2018	Efficient Living Pty. Ltd.
Arboricultural Impact Assessment Report - Revision B	7 February 2018	Joanne Leigh

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape Plan - Issue B	30 January 2018	Paul Scrivener

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

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

2. Amendments to the approved plans

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

- The timber batten doors on the southern elevation of the carports on lot 1 and lot 2 are to be deleted.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land. (DACPLB02)

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:

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

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

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

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

Reason: Legislative Requirement (DACPLB09)

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) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not

commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety

- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

5. **Security Bond**

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

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

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

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

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

6. **Section 94 Contribution - Residential**

A Section 94 contribution is to be paid for the provision of or increase the demand for public amenities and public services as a consequence of the development in the area. The total contribution for this development of Demolition, construction of two semi-detached dwellings and Torrens Title subdivision of existing lot is \$20,000.00, being \$20,000.00 per additional dwelling. This contribution shall be paid to Council prior to the release of the Construction Certificate.

Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.

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

7. Vehicle Crossings Application Formwork Inspection

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

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

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

8. On-site Stormwater Management

An On-site Stormwater Management system must be designed and constructed in accordance with Council's current Stormwater management policy, and generally in accordance with the concept drainage plans prepared by Stellen Consulting, drawing number DR-001 -005, dated 09/2/2018.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer. The drainage plans must address the following:

i. discharge rate into the kerb is not more than 25 l/s

ii. Kerb and gutter capacity report shall be undertaken to analyse potential flooding effect to the downstream properties due to the additional discharge from the proposed development along Violet Street. The stormwater plan must ensure the existing kerb and gutter can cater the additional discharge from the proposed development.

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied and complying with Council's current On-site Stormwater Specification, 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. (Special condition) (DACENC20)

9. Tree trunk, root and branch protection and pruning

(a) Existing trees which must be retained

All trees not indicated for removal on the approved plans, unless exempt or noxious in in the relevant planning instruments

(b) Tree protection and pruning

- i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.
- ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by the Project Arborist on site.
- iii) All tree protection to be in accordance with the recommendations of the Arboricultural Impact Assessment Report Rev. B dated 7 February 2018 prepared by Joanne Leigh and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures. .
- iv) All tree protection measures, including fencing, are to be in place prior to commencement of works
- v) Tree pruning within the subject site is approved to enable construction in accordance with the approved plans.
- vi) Tree pruning is not to exceed 15% of any existing tree canopy
- vii) All tree pruning to be undertaken under supervision of the Project Arborist and be in accordance with AS4373-2007 Pruning of amenity trees.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

10. Compliance with standards (Demolition):

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

Details demonstrating compliance with the relevant Australian Standard are to be submitted to Council prior to the commencement of demolition works.

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

11. parking space dimensions

The dimensions of the parking spaces are to comply with the AS/NZS 2890.1 -2004 offstreet parking.

Reason: To ensure compliance with standards relating to manoeuvring, access and parking of vehicles> (DACTRCPC1)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

13. Project Arborist

- i) A Project Arborist with minimum qualification equivalent to AQF Level 5 is to be appointed prior to commencement of works.
- ii) The Project Arborist is to oversee all tree protection measures, removals and works adjacent

to protected trees as outlined in the Arboricultural Impact Assessment Report Rev. B dated 7 February 2018 prepared by Joanne Leigh.

iii) The Project Arborist is to familiarize themselves with and ensure compliance as relevant with, any other environmental requirements conditioned under this consent.

Reason: Environmental protection (DACLADPC1)

14. Works zone

Should a Works zone be required an application on Council's application form shall be lodged no less than 2 weeks in advance of the date that the Works Zone is required.

Reason: To ensure sufficient time for processing, assessment and installation of signs> (DACTRDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. Property Boundary Levels

The property boundary levels shall match the existing levels except where modified for the vehicular crossing. The applicant shall design and construct having regard for the existing levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

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

16. Vehicle Crossings

The provision of two vehicle crossings 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/7 ML and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property

17. Maintenance of Road Reserve

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

Reason: Public Safety.

18. Maintenance of Sediment

Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Reason: To ensure sediment controls are effective

19. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) 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. (DACLA03)

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

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

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

21. Required Planting

Trees shall be planted in accordance with the following schedule:

Minimum No. of Trees Required.	Species	Location	Minimum Pot Size
All trees	As indicated on Landscape Plan Dwg No.1 B dated 30.1.18 prepared by Paul Scrivener	As indicated on the Landscape plan	As indicated on the Landscape plan

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

Reason: To maintain environmental amenity. (DACLAF01)

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

Reason: Proper identification of buildings. (DACPLF04)

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

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLF08)

CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE

24. **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.

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

Reason: To ensure that utility services have been provided to the newly created lots.

25. **Services**

All utilities/services and street lighting is to be installed by the applicant/developer. Certification is to be provided to Council stating the above requirement has been complied with.

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

Reason: Public safety and to ensure services have been provided for the newly created lots. (DACENH09)

26. **Certification of Utility Services**

The provision of all utilities/services and/or street lighting are to be certified by the relevant authority(s) and/or authorised contractor.

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

Reason: To ensure services have been provided in accordance with the relevant authorities requirements. (DACENH15)

27. **Release of Subdivision Certificate**

To enable the lodgement of the final plan at the NSW Land and Property Information Department the Subdivision Certificate shall not be issued until the Final Occupation Certificate for the approved development.

Reason: To ensure that the plans relate to approved development. (DACENH23)

28. **Subdivision Certificate Application**

Prior to the issue of the Subdivision Certificate, a completed Subdivision Certificate form, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919 are to be submitted to Council. Nine copies of the final plan of subdivision are to be submitted. 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.

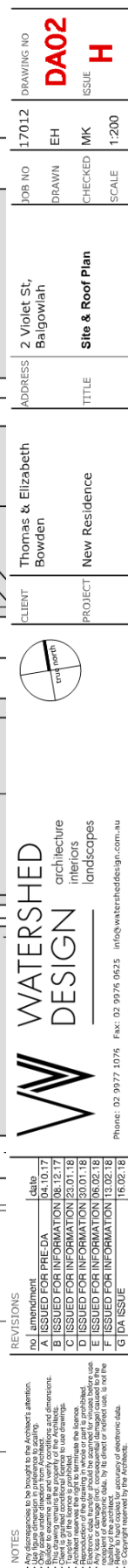
Reason: Statutory requirement of the Conveyancing Act 1919. (DACENH24)

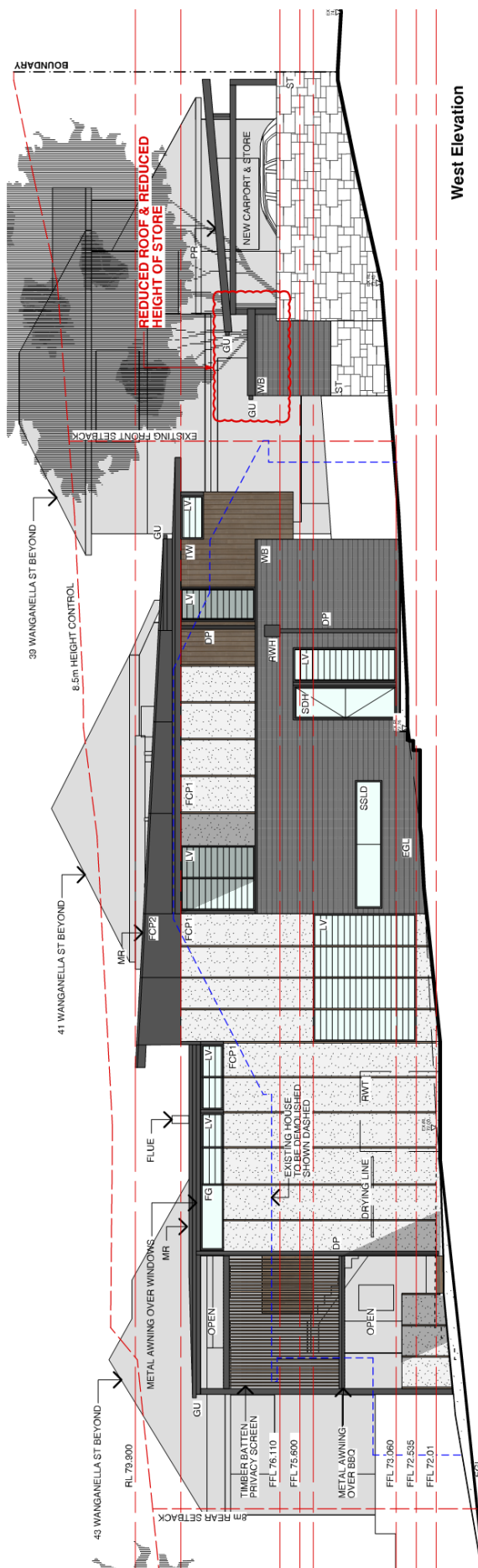
29. **Title Encumbrances**

All easements, rights of carriageway, positive covenants and restrictions as to user as indicated on the plans and required by this consent are to be created on the title naming Warringah Council as the sole authority empowered to release or modify.

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

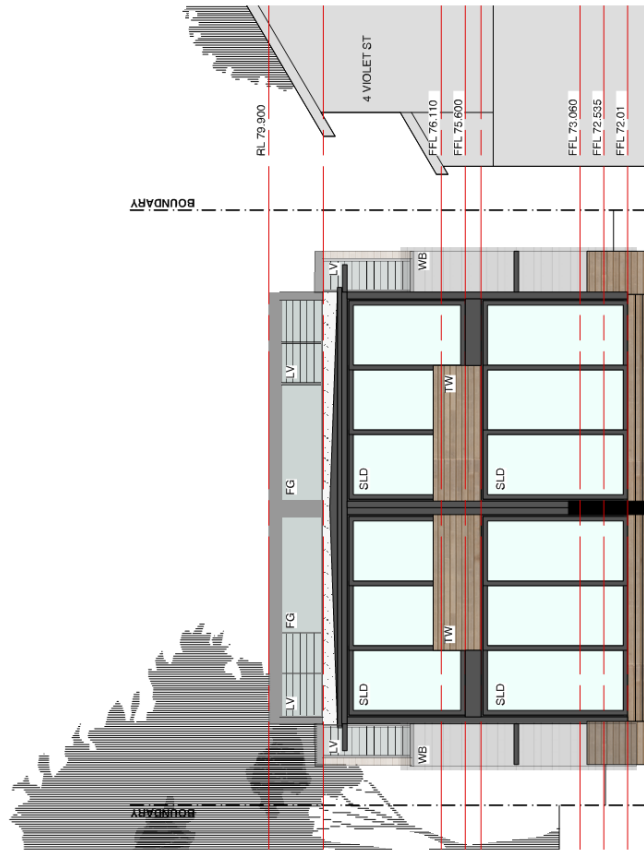
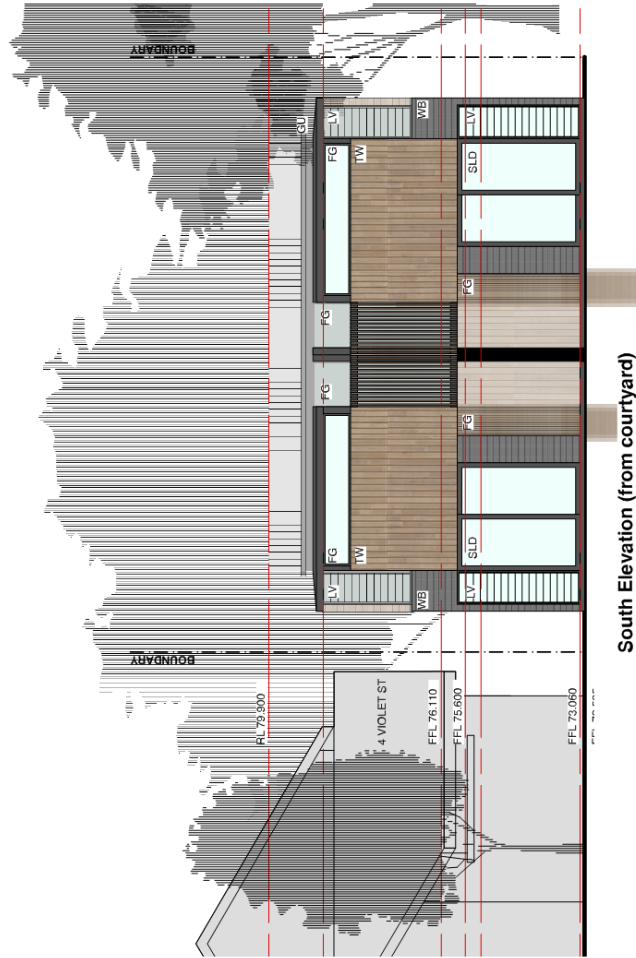
Reason: To ensure proper management of land. (DACENHS14)



[illegible]

CLIENT	Thomas & Elizabeth Bowden	ADDRESS	2 Violet St, Balgowlah	JOB NO	17012	DRAWING NO	DA08
	PROJECT	New Residence	TITLE	East & West Elevation	DRAWN	EH	ISSUE
CHECKED					MK		
SCALE					1:200		

West Elevation



North (rear) Elevation

South Elevation (from courtyard)

NOTES

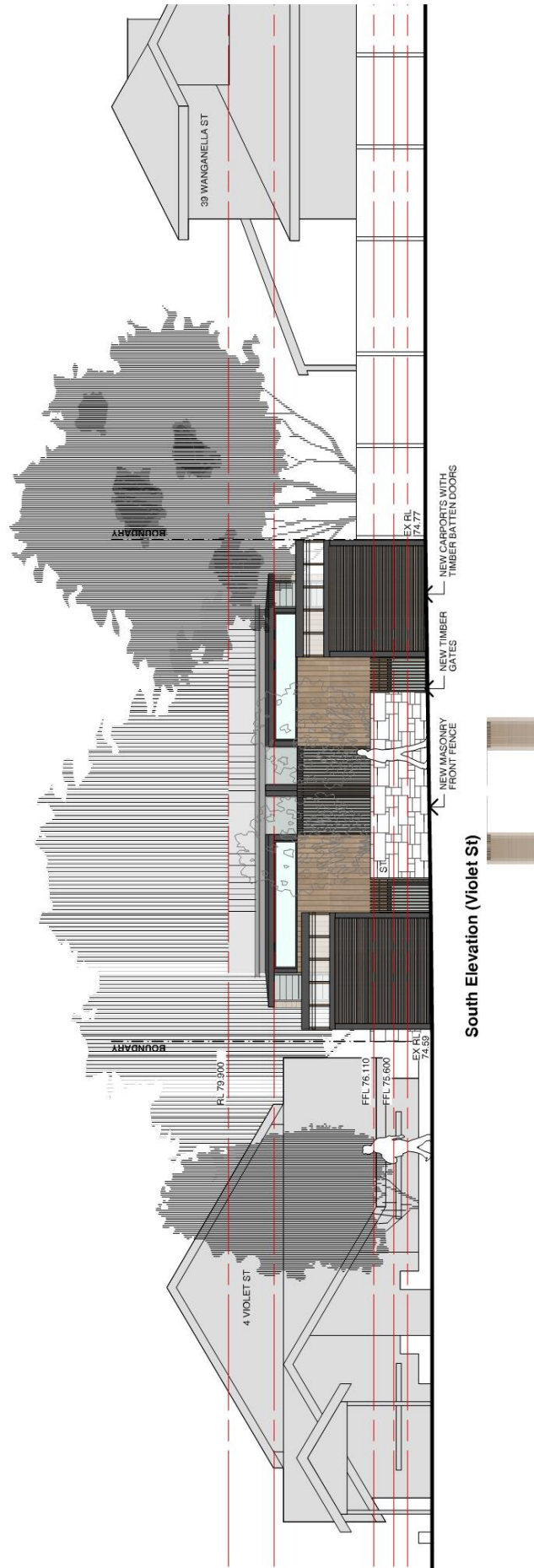
- Any discrepancies to be brought to the Architect's attention.
- Do not issue under stipulation from Architect's drawing.
- These drawings are to be used for the purpose of the development application only and are not to be used for any other purpose.
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NO	DATE	REVISIONS
1	04.10.17	ISSUED FOR PRE-DA
2	06.12.17	ISSUED FOR INFORMATION
3	23.01.18	ISSUED FOR INFORMATION
4	30.01.18	ISSUED FOR INFORMATION
5	06.02.18	ISSUED FOR INFORMATION
6	13.02.18	ISSUED FOR INFORMATION
7	16.02.18	ISSUED FOR INFORMATION

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Phone: 02 9977 1076 Fax: 02 9976 0625 info@watersheddesign.com.au

CLIENT	Thomas & Elizabeth Bowden	ADDRESS	2 Violet St, Balgowlah
PROJECT	New Residence	TITLE	North & South Elevation

JOB NO	17012	DRAWING NO	DA09
DRAWN	EH	CHECKED	MK
SCALE	1:200	ISSUE	G



South Elevation (Violet St)

NOTES

1. Any discrepancies to be brought to the Architect's attention.
2. This drawing is to be used for information only.
3. This drawing is not to be used for construction purposes.
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D	ISSUED FOR INFORMATION	30.01.18
E	ISSUED FOR INFORMATION	06.02.18
F	ISSUED FOR INFORMATION	13.02.18
G	DA ISSUE	16.02.18

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CLIENT	Thomas & Elizabeth Bowden
PROJECT	New Residence
ADDRESS	2 Violet St, Balgowlah
TITLE	South (Violet St) Elevation

JOB NO	17012	DRAWING NO	DA10
DRAWN	EH	ISSUE	G
CHECKED	MK	SCALE	1:200

