

# AGENDA

## DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held in the Walamai Room, Civic Centre, Dee Why

**WEDNESDAY 12 SEPTEMBER 2018**



**Ashleigh Sherry**  
**Manager Business System and Administration**



**Agenda for a Meeting of the Development Determination Panel  
to be held on Wednesday 12 September 2018  
in the Walamai Room, Civic Centre, Dee Why**

|            |   |          |
|------------|---|----------|
| <b>1.0</b> | <b>APOLOGIES &amp; DECLARATIONS OF PECUNIARY INTEREST/CONFLICT OF INTEREST</b>  |          |
| <b>2.0</b> | <b>MINUTES OF PREVIOUS MEETING</b>  |          |
| 2.1        | Minutes of Development Determination Panel held 22 August 2018  |          |
| <b>3.0</b> | <b>DEVELOPMENT DETERMINATION PANEL REPORTS .....</b>  | <b>5</b> |
| 3.1        | DA2018/0814 - 66 Herbert Avenue, Newport - Alterations and additions to a dwelling house including new carport with studio below and passenger lift ..... | 5        |
| 3.2        | DA2018/0871 - 203 Mona Vale Road, Terrey Hills - Construction of a dwelling house.....  | 35       |
| 3.3        | DA2018/1062 - 12 Rosedale Avenue, Fairlight - Alterations and additions to an existing dwelling house .....   | 67       |
| 3.4        | DA2018/0832 - 149A Seaforth Crescent, Seaforth - Construction of a dwelling house.....  | 94       |
| 3.5        | DA2018/0195 - 22 Stuart Street, Manly - Demolition and construction of a dwelling house .....   | 146      |

## **2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

### **2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 22 AUGUST 2018**

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#### **RECOMMENDATION**

That the Panel note that the Minutes of the Development Determination Panel held 22 August 2018 were approved by all Panel Members and have been posted on Council's website.

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### **3.0 DEVELOPMENT DETERMINATION PANEL REPORTS**

|                          |  |
|--------------------------|--|
| <b>ITEM 3.1</b>          | <b>DA2018/0814 - 66 HERBERT AVENUE, NEWPORT -<br/>ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE<br/>INCLUDING NEW CARPORT WITH STUDIO BELOW AND<br/>PASSENGER LIFT</b> |
| <b>REPORTING MANAGER</b> | <b>MATTHEW EDMONDS</b>   |
| <b>TRIM FILE REF</b>     | <b>2018/573332</b>   |
| <b>ATTACHMENTS</b>       | <b>1 Assessment Report<br/>2 Site Plan and Elevations</b>  |

#### **PURPOSE**

To refer the attached application for determination due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the building height standard.

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#### **RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER**

THAT Council as the consent authority grant Development Consent to DA2018/0814 for alterations and additions to a dwelling house including new carport with studio below and passenger lift on land at Lot 153 DP 13457 and Lot 203 DP 1219179, 66 Herbert Avenue, Newport, subject to the conditions outlined in the Assessment Report.

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## REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 12 September 2018

66 A Herbert Avenue Newport, 66 Herbert Avenue Newport - Alterations and additions to a dwelling house including new carport with studio below and passenger lift

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                                    |  |
|------------------------------------|--|
| Application Number:                | DA2018/0814  |
| Responsible Officer:               | Nick Armstrong   |
| Land to be developed (Address):    | Lot 203 DP 1219179, 66 A Herbert Avenue NEWPORT NSW 2106<br>Lot 153 DP 13457, 66 Herbert Avenue NEWPORT NSW 2106 |
| Proposed Development:              | Alterations and additions to a dwelling house including new carport with studio below and passenger lift         |
| Zoning:                            | E4 Environmental Living<br>E4 Environmental Living   |
| Development Permissible:           | Yes  |
| Existing Use Rights:               | No   |
| Consent Authority:                 | Northern Beaches Council   |
| Land and Environment Court Action: | No   |
| Owner:                             | Peter Kenneth Muller<br>Jayalatha P Velu Pillai  |
| Applicant:                         | Peter Kenneth Muller   |
| Application lodged:                | 18/05/2018   |
| Integrated Development:            | No   |
| Designated Development:            | No   |
| State Reporting Category:          | Residential - Alterations and additions  |
| Notified:                          | 12/06/2018 to 26/06/2018   |
| Advertised:                        | Not Advertised   |
| Submissions Received:              | 0  |
| Recommendation:                    | Approval   |
| Estimated Cost of Works:           | \$ 201,500.00  |



## 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

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings  
Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards  
Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements  
Pittwater 21 Development Control Plan - C1.3 View Sharing  
Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures  
Pittwater 21 Development Control Plan - C1.25 Plant, Equipment Boxes and Lift Over-Run  
Pittwater 21 Development Control Plan - D10.1 Character as viewed from a public place  
Pittwater 21 Development Control Plan - D10.7 Front building line (excluding Newport Commercial Centre)  
Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)  
Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)  
Pittwater 21 Development Control Plan - D10.16 Construction, Retaining walls, terracing and undercroft areas

## SITE DESCRIPTION

|                                   |  |
|-----------------------------------|--|
| <b>Property Description:</b>      | Lot 203 DP 1219179 , 66 A Herbert Avenue NEWPORT NSW 2106<br>Lot 153 DP 13457 , 66 Herbert Avenue NEWPORT NSW 2106   |
| <b>Detailed Site Description:</b> | The subject site consists of two (2) allotments located on the northern side of Herbert Avenue.<br><br>The site is regular in shape with a frontage of 15.255m along Herbert Avenue and a depth of 42.445m. The site has a surveyed area of 643.89m <sup>2</sup> . |

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|  |   |
|--|---|
|  | <p>The site is located within the E4 Environmental Living zone and accommodates a one and two storey timber house located towards the road frontage.</p> <p>The site falls 17.73m from Herbert Avenue to the rear boundary with an average slope of approximately 41.77%, although with a significant drop between the road and the existing dwelling.</p> <p>The site contains multiple canopy trees with several within the front setback area and along the rear boundary. Ground covers and turf are also plentiful across the property.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by low density residential dwellings within a heavily landscaped area.</p> |
|--|---|

Map:



## SITE HISTORY

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

15/03/1996

Building Application 1113/95 for the construction of a carport was granted consent.

## PROPOSED DEVELOPMENT IN DETAIL

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The application seeks consent for alterations and additions to the existing dwelling which includes the following:

- Construction of a new carport and driveway
- Construction of a new study
- Construction of a new internal passenger lift

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:

| <b>Section 4.15 Matters for Consideration'</b>  | <b>Comments</b>   |
|---|---|
| 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  | Pittwater 21 Development Control Plan applies to this proposal.   |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement   | None applicable.  |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&amp;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&amp;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&amp;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&amp;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&amp;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</p> |





| Section 4.15 Matters for Consideration'  | Comments  |
|--|---|
|  | <p>application.</p> <p><u>Clause 98</u> of the EP&amp;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&amp;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> <p><u>Clause 143A</u> of the EP&amp;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.</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) <b>Environmental Impact</b><br/>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>   |
| Section 4.15 (1) (c) – the suitability of the site for the development   | The site is considered suitable for the proposed development.   |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs   | No submissions received.  |
| Section 4.15 (1) (e) – the public interest   | No matters have arisen in this assessment that would justify the refusal of the application in the public interest.   |

#### EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

#### BUSHFIRE PRONE LAND

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



A Bush Fire Report was submitted with the application that included a certificate (Planning for Bushfire Protection, dated 26/03/2018) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

#### **NOTIFICATION & SUBMISSIONS RECEIVED**

The subject 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**

| <b>Internal Referral Body</b>    | <b>Comments</b>   |
|----------------------------------|---|
| Landscape Officer                | Council's Landscape division has assessed the proposal against the Pittwater 21 DCP 2014 Control - B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping, and believes the proposed development complies subject to conditions, as recommended.  |
| NECC (Bushland and Biodiversity) | Council's Bushland & Biodiversity division has assessed the proposal against Pittwater LEP 2014 Control 7.6 Biodiversity Protection & Pittwater 21 DCP 2014 Control B1.4 Aboriginal Heritage Significance, B4.7 Pittwater Spotted Gum Forest – EEC and believes the proposed development complies subject to conditions, as recommended.  |
| NECC (Development Engineering)   | <p>Comments from Development Engineers:</p> <ol style="list-style-type: none"> <li>1. A new double carport with a study below and a vertical passenger lift are proposed. Currently there is no vehicular access to the site.</li> <li>2. The site is located in Geotechnical Hazard H1 Area, an "Acceptable Risk Management" Level is achieved in accordance with the geotechnical report provided by White Geotechnical Group.</li> <li>3. No flood concern.</li> <li>4. No previous application since 1996.</li> <li>5. The impervious area increase is less than 50 square metres, no on-site detention system is required in accordance with Clause B5.7 in Pittwater DCP21.</li> <li>6. A new vehicular crossing is proposed. The driveway and crossing requires to be designed by a structural engineer and a S138 Road Acts approval will be required.</li> </ol> <p>I have reviewed all relevant Development Engineering control of Council's DCP and no development Engineering objection is raised to the development subject to conditions.</p> |



| Internal Referral Body             | Comments  |
|------------------------------------|---|
| NECC (Riparian Lands and Creeks)   | <p>There are no objections to the application and there is no requirement to apply water quality controls, as the increase in impervious area will be less than 50 sqm. There is no impact to a riparian area.</p> <p>As there is new roof area on the carport, the applicant is encouraged to screen roof water before it enters downpipes from the new carport/studio, to remove organic matter and coarse sediments from the water before it enters the stormwater system and local waterways. Roof water carries high levels of nitrogen, which can impact the health of waterways and the Pittwater Estuary.</p> |
| Property Management and Commercial | <p>The proposal is for the construction of a carport, lift and study on the subject site.</p> <p>Property has no objection to the proposal as submitted.</p>  |
| External Referral Body             | Comments  |
| Ausgrid: (SEPP Infra.)             | <p>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.</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 (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. A316272, dated 12/05/2018).

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





#### Pittwater Local Environmental Plan 2014

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

#### Principal Development Standards

| Standard             | Requirement | Proposed | % Variation | Complies |
|----------------------|-------------|----------|-------------|----------|
| Height of Buildings: | 8.5m        | 11.955m  | 40.7%       | No       |

#### Compliance Assessment

| Clause   | Compliance with Requirements |
|--|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments | Yes                          |
| 2.7 Demolition requires development consent              | Yes                          |
| 4.3 Height of buildings                                  | Yes                          |
| 4.6 Exceptions to development standards                  | Yes                          |
| 5.10 Heritage conservation                               | Yes                          |
| 7.1 Acid sulfate soils                                   | Yes                          |
| 7.2 Earthworks   | Yes                          |
| 7.6 Biodiversity protection                              | Yes                          |
| 7.7 Geotechnical hazards                                 | Yes                          |
| 7.10 Essential services                                  | Yes                          |

#### Detailed Assessment

##### 4.3 Height of buildings

The application proposes a maximum height of 11.955m which breaches the 8.5m development standard for the maximum height of buildings within Area 'H' of the Height of Buildings Map. The applicant has submitted a Clause 4.6 Statement to request a variation to the development standard. Consideration of this breach can be found within the Clause 4.6 section of this report below.

##### 4.6 Exceptions to development standards

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

|  |                           |
|--|---------------------------|
| Requirement:   | 8.5                       |
| Proposed:  | 11.955m                   |
| 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 and Performance |

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|   |       |
|---|-------|
| If numerical enter a % variation to requirement | 40.7% |
|---|-------|

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the PLEP 2014. The assessment is detailed as follows:

**Is the planning control in question a development standard?**

The prescribed Height of buildings limitation pursuant to Clause 4.3 of the PLEP 2014 is a development standard.

**What are the underlying objectives of the development standard?**

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the PLEP 2014 are:

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

*a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality*

Comment:

Carports are common development within the Newport Locality and are often located within the front setback of sites which are affected by steep topography. The subject development is consistent with similar structures along the northern side of the street with 44, 52, 60 and 68 Herbert Avenue all containing carports within the front setback due to the significant fall of the land between the road reserve and the dwellings that currently occupy these properties.

*b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development*

Comment:

The ridge of the proposed carport is proposed to be at RL 70.137. The height of the carport at the neighbouring dwelling (68 Herbert Avenue) is indicated at being RL 70.99 and is a double carport. The development is therefore consistent with the height and scale of similar nearby development.

*c) to minimise any overshadowing of neighbouring properties*

Comment:

The application maintains adequate solar access to all neighbouring properties due to the orientation of the subdivision pattern being north-south.

*d) to allow for the reasonable sharing of views*

Comment:

The application maintains filtered public domain views through the site. See C1.3 for further discussion.



*e) to encourage buildings that are designed to respond sensitively to the natural topography*

Comment:

The natural topography presents a significant challenge in designing a development that complies with the numerical standard. The carport does not involve any excavation other than for the pier and beam supports which is consistent with carports that have been approved along Herbert Avenue.

*f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items*

Comment:

Thirteen (13) trees are proposed to be removed, however all are exempt species as listed under P21 DCP. All significant trees within the front setback area are preserved. The subject site is not within proximity to any known heritage items or conservation areas.

#### **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 E4 Environmental Living zone.

#### The underlying objectives of the E4 Environmental Living zone

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

Comment:

The development does not result in any adverse impact to the native natural environment as all significant trees are maintained in addition to the proposal requiring minimal excavation for the supporting posts and foundations.

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

Comment:

The subject site, and neighbouring properties, do not demonstrate any special ecological, scientific or aesthetic values which would warrant the refusal of this application on those grounds.

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

Comment:

While the development will be the dominant site feature as viewed from Herbert Avenue the significant slope of the building footprint within the front setback area, measured at approximately 89%, is the primary contributor to the challenge in achieving a numerically compliant development. The application for a carport maintains the existing dwelling as a one and two storey single dwelling that is sited below the height of the canopy trees and street level.



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

Comment:

Thirteen (13) trees are required to be removed, however they are all exempt species as listed under P21 DCP. All significant, native vegetation will be retained. No riparian or foreshore vegetation will be impacted.

**Is the variation to the development standard consistent with the objectives of Clause 4.6 of the PLEP 2014?**

(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 8.5m height of building development standard is recognised to be restrictive on certain lots which demonstrate significant site constraints. Clause 4.3 provides some flexibility for steeply sloping sites, with subclause (2D) allowing for the consideration of a variation up to 10m for development where the building footprint slope has been measured in excess of 30%. However, the building footprint slope affecting the subject development has been measured at 89%, close to three times the requirement of the permitted variation. This significant constraint presents extreme difficulties in achieving numerical compliance with the standard. The application of Clause 4.6 allows for flexibility in such circumstances.

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

Comment:

The subject application proposes a carport and internal passenger lift to provide greatly improved access to the existing dwelling from Herbert Avenue. Currently the site contains no off-street parking, on a street which contains a lack of on-street parking due to the narrow width and 'no parking' signage, which only permits vehicles to park predominantly on one side of the street. Considering that similar developments exist along the northern side of Herbert Avenue for this exact reason, and having faced similar challenging site constraints, the application of Clause 4.6 in this instance is considered to promote an improved outcome to the residents of the subject 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 applicant has provided the following reasons to justify contravening the development standard:

- *The proposal includes modulated wall lines and a consistent colour palette to enhance and complement the locality*
- *The proposal is consistent with existing residential development in the locality*
- *The setbacks maintain compatibility with the the existing surrounding development*
- *The proposal does not have any unreasonable impact on long distance views*
- *The proposed carport presents as a modest, single storey structure to Herbert Avenue*
- *The development will not result in any unreasonable overshadowing, view loss or privacy impact to the neighbouring properties*
- *The proposal maintains consistency with the height and scale of residential development in the area*
- *Compliance with the height standard is constrained by the siting of the existing building and sloping topography of the site*

(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's written request is considered to satisfy and address the factors required to be considered within Clause 4.6, Clause 4.3 and the objectives of the E4 Environmental Living zone.

*(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 objectives of the E4 Environmental Living zone in the PLEP 2014.

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

Comment:

Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for DA2018/0814

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exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Director-General for the variation to the Height of buildings Development Standard is assumed.

## Pittwater 21 Development Control Plan

### Built Form Controls

| Built Form Control  | Requirement | Proposed         | % Variation* | Complies |
|---------------------|-------------|------------------|--------------|----------|
| Front building line | 6.5m        | nil              | 100%         | No       |
| Rear building line  | 6.5m        | <6.5m            | N/A          | Yes      |
| Side building line  | 2.5m        | 7.51m            | N/A          | Yes      |
|                     | 1m          | 0.928m           | 7.2%         | No       |
| Building envelope   | 3.5m        | Outside envelope | 17.4%        | No       |
|                     | 3.5m        | Outside envelope | 114.1%       | No       |
| Landscaped area     | 60%         | 77.4%            | N/A          | Yes      |

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - 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:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

### Compliance Assessment

| Clause  | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted                       | Yes                          | Yes                         |
| A4.10 Newport Locality  | Yes                          | Yes                         |
| B1.3 Heritage Conservation - General                                | Yes                          | Yes                         |
| B1.4 Aboriginal Heritage Significance                               | Yes                          | Yes                         |
| B3.1 Landslip Hazard  | Yes                          | Yes                         |
| B3.2 Bushfire Hazard  | Yes                          | Yes                         |
| B3.6 Contaminated Land and Potentially Contaminated Land            | Yes                          | Yes                         |
| B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community | Yes                          | Yes                         |
| B4.22 Preservation of Trees and Bushland Vegetation                 | Yes                          | Yes                         |
| B5.10 Stormwater Discharge into Public Drainage System              | Yes                          | Yes                         |
| B6.1 Access driveways and Works on the Public Road Reserve          | Yes                          | Yes                         |
| B6.2 Internal Driveways   | Yes                          | Yes                         |
| B6.3 Off-Street Vehicle Parking Requirements                        | Yes                          | Yes                         |
| B8.1 Construction and Demolition - Excavation and Landfill          | Yes                          | Yes                         |
| B8.2 Construction and Demolition - Erosion and Sediment Management  | Yes                          | Yes                         |
| B8.3 Construction and Demolition - Waste Minimisation               | Yes                          | Yes                         |
| B8.4 Construction and Demolition - Site Fencing and Security        | Yes                          | Yes                         |

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| Clause  | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| B8.5 Construction and Demolition - Works in the Public Domain           | Yes                          | Yes                         |
| B8.6 Construction and Demolition - Traffic Management Plan              | Yes                          | Yes                         |
| C1.1 Landscaping  | Yes                          | Yes                         |
| C1.2 Safety and Security  | Yes                          | Yes                         |
| C1.3 View Sharing   | Yes                          | Yes                         |
| C1.4 Solar Access   | Yes                          | Yes                         |
| C1.5 Visual Privacy   | Yes                          | Yes                         |
| C1.6 Acoustic Privacy   | Yes                          | Yes                         |
| C1.7 Private Open Space   | Yes                          | Yes                         |
| C1.14 Separately Accessible Structures                                  | Yes                          | Yes                         |
| C1.23 Eaves   | Yes                          | Yes                         |
| C1.24 Public Road Reserve - Landscaping and Infrastructure              | Yes                          | Yes                         |
| C1.25 Plant, Equipment Boxes and Lift Over-Run                          | Yes                          | Yes                         |
| D10.1 Character as viewed from a public place                           | No                           | Yes                         |
| D10.4 Building colours and materials                                    | Yes                          | Yes                         |
| D10.7 Front building line (excluding Newport Commercial Centre)         | No                           | Yes                         |
| D10.8 Side and rear building line (excluding Newport Commercial Centre) | No                           | Yes                         |
| D10.11 Building envelope (excluding Newport Commercial Centre)          | No                           | Yes                         |
| D10.13 Landscaped Area - Environmentally Sensitive Land                 | Yes                          | Yes                         |
| D10.16 Construction, Retaining walls, terracing and undercroft areas    | No                           | Yes                         |
| D10.18 Scenic Protection Category One Areas                             | Yes                          | Yes                         |

#### Detailed Assessment

#### **B6.3 Off-Street Vehicle Parking Requirements**

Currently no off-street is provided within the subject site. The application for the proposed carport intends to provide two spaces, which is consistent with the requirements of B6.3 for single dwellings with two or more bedrooms.

#### **C1.3 View Sharing**

Distant filtered views of the Pittwater Waterway and Ku-ring-Gai National Park are able to be obtained through the site, although they are heavily screened by existing vegetation made up of native and exotic canopy trees located within the front setback area. Thirteen (13) trees are required to be removed to compensate for the development of the proposed carport, however all trees intended to be removed are mapped as being of a low retention value as they are all exempt species as per Council's P21 DCP. The carport itself is open on either side of the internal passenger lift and along the eastern and western elevations which will preserve distant views through the site. As there is no footpath or public reserve within close proximity of the subject site the retention of views through the site is considered to have a negligible impact on the amenity of the public domain. The development is therefore acceptable on view sharing grounds.

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#### **C1.14 Separately Accessible Structures**

The proposed study is technically accessible, although with the floor area being measured at only 7.55m<sup>2</sup> this space is not adequate for the purposes of separate habitation nor have any bathroom or cooking facilities been included within.

#### **C1.25 Plant, Equipment Boxes and Lift Over-Run**

The roof form of the carport has been designed to incorporate and be sympathetic to the lift over-run to ensure that the lift is not a predominant structure when viewed from Herbert Avenue.

#### **D10.1 Character as viewed from a public place**

Technically non-compliant as the proposed carport will be the dominant site feature when viewed from Herbert Avenue. Although this is predominately due to the significant slope of the site, especially within the front setback area which creates significant constraints in locating suitable, level parking facilities. The carport remains open along all four elevations to minimise the perceived bulk and scale where practical. Whilst thirteen (13) trees are proposed for removal, they all consist of exempt species. Three (3) significant, native trees within the front setback are all intended to be retained which allows for the development to maintain a height below the tree canopy. The finishes of the development are intended to be dark and earthy, to further allow the structure to blend in with the surrounding natural environment. Therefore, as the development is recognised to achieve the outcomes of the control and the slope of the site presents a significant site constraint, the development is considered to be acceptable on character grounds.

#### **D10.7 Front building line (excluding Newport Commercial Centre)**

Technically non-compliant as the entirety of the carport will be located within the front setback area. As earlier discussion has stated, the carports location is heavily constrained due to the significant slope of the site. Control D10.7 does provide a variation where carparking structures can be considered in the front setback where all other structures are located behind the building line. Based on the drawings prepared by SavioParsons Architects, the carport remains as the only structure within the front setback area with the proposed lift and study located in line with the building line of the existing dwelling. The carport is entirely open along all elevations, besides where the internal lift is intended to be located, in an attempt to minimise the impact of the built form where possible. The development is situated below the height of the tree canopy and the carport is consistent with similar development along the northern side of Herbert Avenue (44, 52, 60 and 68 Herbert Avenue) where similar land affectations impact the location of carparking structures. The application of the variation as listed in the control is therefore considered acceptable.

#### **D10.8 Side and rear building line (excluding Newport Commercial Centre)**

Slight non-compliance along the eastern boundary although the 0.072m breach is negligible. Other relevant built form non-compliances have been discussed within their relevant sections of this report.

#### **D10.11 Building envelope (excluding Newport Commercial Centre)**

The application results in a building non-compliance along both the eastern and western elevation. Due to the setback of the western elevation, the breach along this elevation is a result of the height non-compliance, which has been addressed under the Clause 4.6 assessment. The breach along the eastern elevation is however significant, being measured at approximately 114%. This is predominately the result of the 89% building footprint slope where the proposed carport is intended to be located. The





area of works located outside the envelope parameter includes the carport roof, a portion of the balustrade, the entirety of the lift shaft on the carport level and a portion of the study.

The control does provide a variation where the building footprint slope is in excess of 30%. The slope in this instance has been measured at 89%, which indicates the significance of the constraint affecting the area of development. As stated under previous controls, the development as a whole is generally consistent with the control outcomes by preserving native vegetation, maintaining a 'open style' to allow for views through the site and streetscape character to be maintained and the consistency that this development has with similar carport structures along the northern side of Herbert Avenue. The location of the carport will not impact upon the amenity of the neighbouring property at 68 Herbert Avenue as the principal living areas are located along the northern side of the dwelling to capitalise on the views and solar access that is able to be obtained from this area of the site.

While it is recognised that the numerical variation is extensive, the circumstances of this case are considered to warrant the application of the control variation.

#### **D10.16 Construction, Retaining walls, terracing and undercroft areas**

Technically non-compliant as the location of the carport results in the creation of a 5.3m undercroft area, where the control recommends that undercroft areas are to be limited to a maximum of 3.5m. However, the undercroft is predominately due to the significant slope of the building footprint where the carport is located (measured at 89.1%). As the undercroft area is below the road level and unable to be viewed from the public domain, it will not create an unsightly impact to the Herbert Avenue streetscape character and a variation in this instance is supported.

#### **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**

##### **Pittwater Section 94 Development 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;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.



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

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

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

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 DA2018/0814 for Alterations and additions to a dwelling house including new carport with studio below and passenger lift on land at Lot 203 DP 1219179, 66 A Herbert Avenue, NEWPORT, Lot 153 DP 13457, 66 Herbert Avenue, NEWPORT, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Building materials, sedimentation

No building materials or other materials are to be placed on or enter areas of bushland, wetland, saltmarsh, seagrass or foreshore vegetation. Appropriate sediment fencing is to be installed.

**Reason:** Environmental Protection

### 2. 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              |
| DA_01, Issue 02 - Site Plan                         | 10/04/2018 | Savio Parsons Architects |
| DA_02, Issue 02 - Floor Plans                       | 10/04/2018 | Savio Parsons Architects |
| DA_03, Issue 02 - Elevations                        | 10/04/2018 | Savio Parsons Architects |
| DA_04, Issue 02 - Section and Material Schedule     | 10/04/2018 | Savio Parsons Architects |

**Reports / Documentation – All recommendations and requirements contained within:**

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| Report No. / Page No. / Section No.  | Dated      | Prepared By                      |
|--------------------------------------|------------|----------------------------------|
| Arboricultural Impact Report         | 04/05/2018 | Hugh the Arborist                |
| BASIX Certificate, Ref. A316272      | 12/05/2018 | Savio Parsons                    |
| Bushfire Risk Report, Ref. 1239      | 26/03/2018 | Planning for Bushfire Protection |
| Geotechnical Risk Report, Ref. J1721 | 15/05/2018 | 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)

3. **Prescribed conditions (Demolition):**

(a) 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 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
- (ii) 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.

(b) 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.

(c) 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.

Reason: Legislative Requirement (DACPLB09)

4. **Prescribed Conditions**

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

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- 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)

**5. General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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.

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

## FEES / CHARGES / CONTRIBUTIONS

### 6. **Security Bond**

A bond (determined from cost of works) of \$1,500 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](http://www.northernbeaches.nsw.gov.au)).

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

### 7. **Construction, Excavation and Associated Works Bond (Road)**

A Bond of \$10000.00 as security against any damage or failure to complete the construction of road works as part of this consent.



Reason: Protection of Council's Infrastructure

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

8. **Submission Roads Act Application for Civil Works in the Public Road**

An Application for Works to be approved within Council Roadway, including engineering plans is to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design for the structural design of vehicular crossing, pier and footing details within the public road. The plan shall be prepared by a qualified structural engineer. The design must include the following information:

- Comply with the recommendations of Geotechnical Report prepared by White Geotechnical Group dated 15 May 2018.
- The driveway slab must be designed independent of the existing retaining wall i.e. piers are to be constructed for the slab.
- Reconstruction of the barrier railing within the public road.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. An approval is to be submitted to the Principal Certifying Authority and Council prior to the issue of the Construction Certificate

Reason: To provide public and private safety.

9. **Vehicle Driveway Gradients**

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure suitable vehicular access to private property

10. **Construction Management Program**

An application for Traffic Management Plan is to be submitted to Council for approval. The Traffic Management Plan shall be prepared to RMS standard by an appropriately certified person. An approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community

11. **Geotechnical Report Recommendations have been correctly incorporated into designs and structural plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 15 May 2018 are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management  
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Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

Reason: To ensure geotechnical risk is mitigated appropriately

**12. Compliance with Standards**

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

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

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

**13. 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](http://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**

**14. Tree protection**

All trees and vegetation on site, located on adjoining properties and located within the road reserves must be retained and protected, except where approved for removal, or where site trees are exempt trees under the relevant planning instruments or legislation. To ensure retention and protection;

- a Project Arborist with minimum qualification equivalent to AQF Level 5 is to be appointed prior to commencement of works, to oversee all works in the vicinity of existing trees to be retained within the subject site and neighboring properties - specifically but not exclusively; Tree 1 (neighbours tree) Tree 7, (site tree), Tree 8 (street tree) and Tree 17 (neighbours tree),
- the Project Arborist is to oversee all tree protection measures for the existing trees identified in the Arboricultural Impact Assessment prepared by Hugh The Arborist- Hugh Millington, dated 4 May 2018, including Trees 1, 7, 8 & 17, and with reference to Part 9 Recommendations.
- the Project Arborist is to familiarise themselves with, and ensure compliance with, any other tree and environmental requirements conditioned under this consent.
- all construction works in the vicinity of existing trees (within the TPZ) shall be conducted under the supervision of the Project Arborist.

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- all tree protection shall be in accordance with the recommendations provided within the Arboricultural Impact Assessment report (as applicable) and AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4.
- tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.
- all tree protection measures, as proposed in the Arboricultural Impact Assessment, are to be in place prior to the commencement, including protective fencing and trunk protection.
- to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained.

NOTE- Use of Screw piles or Pole drivers are NOT approved unless root investigation has been carried out prior to ensure no tree roots are within the area of excavation.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAD01)

15. **Tree removal within the road reserve**

i) This consent includes approval to remove the following trees located within the road reserve:

| Species   | Location                              | Tree Number |
|---|---------------------------------------|-------------|
| <i>Archontophoenix alexandrae</i><br>(Alexander Palm) | Road Reserve outside 66<br>Herbert St | 11, 12 & 13 |
| <i>Syagrus romanzoffiana</i><br>(Cocos Palm)          | Road reserve outside 66<br>Herbert St | 15, 16      |

\*Tree numbers as per supplied AIA by 'Hugh The Arborist' dated 4/5/18.

ii) Removal of approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor.

iii) Details of currently approved tree contractors can be obtained from Northern Beaches Council (Central) Public Trees Section prior to removal.

Reason: Public liability

16. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site (DACNED06)

**CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

17. **Civil Works Supervision**

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer. Details demonstrating compliance are to be submitted to

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the Principal Certifying Authority

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

**18. 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.

**19. Vehicle Crossings**

The provision of a vehicle crossing metres 5.0 wide in accordance with Northern Beaches Council Drawing No A4-3330/3 and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property

**20. 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.

**21. Safety Fencing of Excavation and/or demolition**

The site must be fenced throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

Reason: To ensure private and public safety

**22. Protection of Adjoining Property - Excavation**

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 preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.

Reason: To ensure private and public safety

**23. 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.

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- (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)

#### 24. **Tree Protection**

All trees and vegetation on site, located on adjoining properties and located within the road reserves must be retained and protected, except where approved for removal, or where site trees are exempt trees under the relevant planning instruments or legislation. To ensure retention and protection;

- a Project Arborist with minimum qualification equivalent to AQF Level 5 is to be appointed prior to commencement of works, to oversee all works in the vicinity of existing trees to be retained within the subject site and neighboring properties - specifically but not exclusively; Tree 1 (neighbours tree) Tree 7, (site tree), Tree 8 (street tree) and Tree 17 (neighbours tree),
- the Project Arborist is to oversee all tree protection measures for the existing trees identified in the Arboricultural Impact Assessment prepared by Hugh The Arborist- Hugh Millington, dated 4 May 2018, including Trees 1, 7, 8 & 17, and with reference to Part 9 Recommendations.
- the Project Arborist is to familiarise themselves with, and ensure compliance with, any other tree and environmental requirements conditioned under this consent.
- all construction works in the vicinity of existing trees (within the TPZ) shall be conducted under the supervision of the Project Arborist.
- all tree protection shall be in accordance with the recommendations provided within the Arboricultural Impact Assessment report (as applicable) and AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4.
- tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.
- all tree protection measures, as proposed in the Arboricultural Impact Assessment, are to be in place prior to the commencement, including protective fencing and trunk protection.
- to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained.

NOTE- Use of Screw piles or Pole drivers are NOT approved unless root investigation has been carried out prior to ensure no tree roots are within the area of excavation.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAEDW1)

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

#### 25. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to

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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

**26. Geotechnical Certification Prior to Occupation Certificate**

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.

**Reason:** To ensure geotechnical risk is mitigated appropriately.

**27. Documentation of Arborist Site Supervision Required**

Documented evidence of a qualified arborist supervising the works in proximity to trees being retained and ensuring that all tree protection measures as specified in the supplied arborist report is required. This documentation is to be provided prior to the issue of the Occupation Certificate.

**Reason:** To ensure the retention of the Urban Forest/Natural Environment.

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

**28. Retention of Natural Features**

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

**Reason:** To ensure the retention of natural features.

**29. Tree Retention**

In accordance with Pittwater 21 DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan by Adam Clerke Surveyors, dated 16/6/17 Ref 6617 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.

**Reason:** To ensure the retention of the Urban Forest/Natural Environment.

**30. Retention of Natural Ground Levels**

The natural ground levels of private open space areas are not to be altered.

**Reason:** To reduce impacts on surrounding vegetation.

**31. Works to cease if item found**

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.

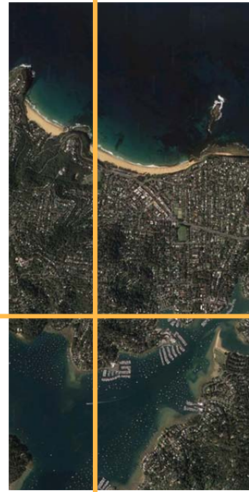
**Reason:** To protect Aboriginal Heritage.



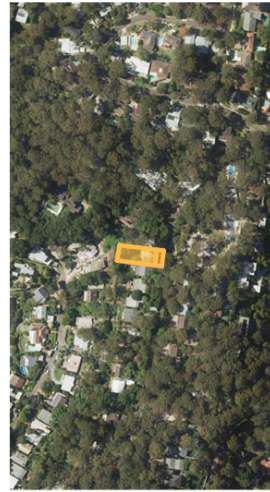
# MULLER CARPORT NEW CARPORT AT 66 HERBERT AVE NEWPORT NSW

## CONTENTS

- DA\_01 SITE PLAN
- DA\_02 PLANS
- DA\_03 ELEVATIONS
- DA\_04 SECTION + MATERIAL SCHEDULE
- NP\_01 NOTIFICATION PLAN
- SD\_01 SUN SHADOW DIAGRAMS



CONTEXT PLAN NTS



LOCATION PLAN NTS

**SEDIMENTATION CONTROL NOTES**

1. PROVIDE SEDIMENT CONTROL FENCING TO IDENTIFIED BOUNDARIES IN ACCORDANCE WITH DETAIL INCLUDED
2. PROVIDE KERB INLET SEDIMENT TRAPS AS PER INCLUDED DETAILS
3. EROSION SEDIMENT CONTROL MEASURES ARE TO BE MAINTAINED THROUGHOUT THE DURATION OF WORKS AND NOT TO BE REMOVED BEFORE THE SITE SURFACE HAS BEEN FULLY STABILISED
4. PROTECTION MEASURES ARE TO BE CHECKED REGULARLY AND AFTER RAINFALL EVENTS
5. CONNECT ROOF GUTTERS AS SOON AS GUTTER ARE INSTALLED
6. REFER TO EXAMPLES OF STRUCTURE IN COUNCIL'S PUBLICATION

**SEDIMENTATION CONTROL**

PROVIDE SEDIMENTATION CONTROL MEASURES IN ACCORDANCE WITH NORTHERN BEACHES COUNCIL APPROVAL CONDITIONS AND POLICIES OR AS INDICATED ON THESE PLANS

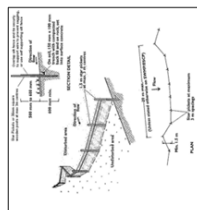


FIG. 1 SILT FENCE DETAIL

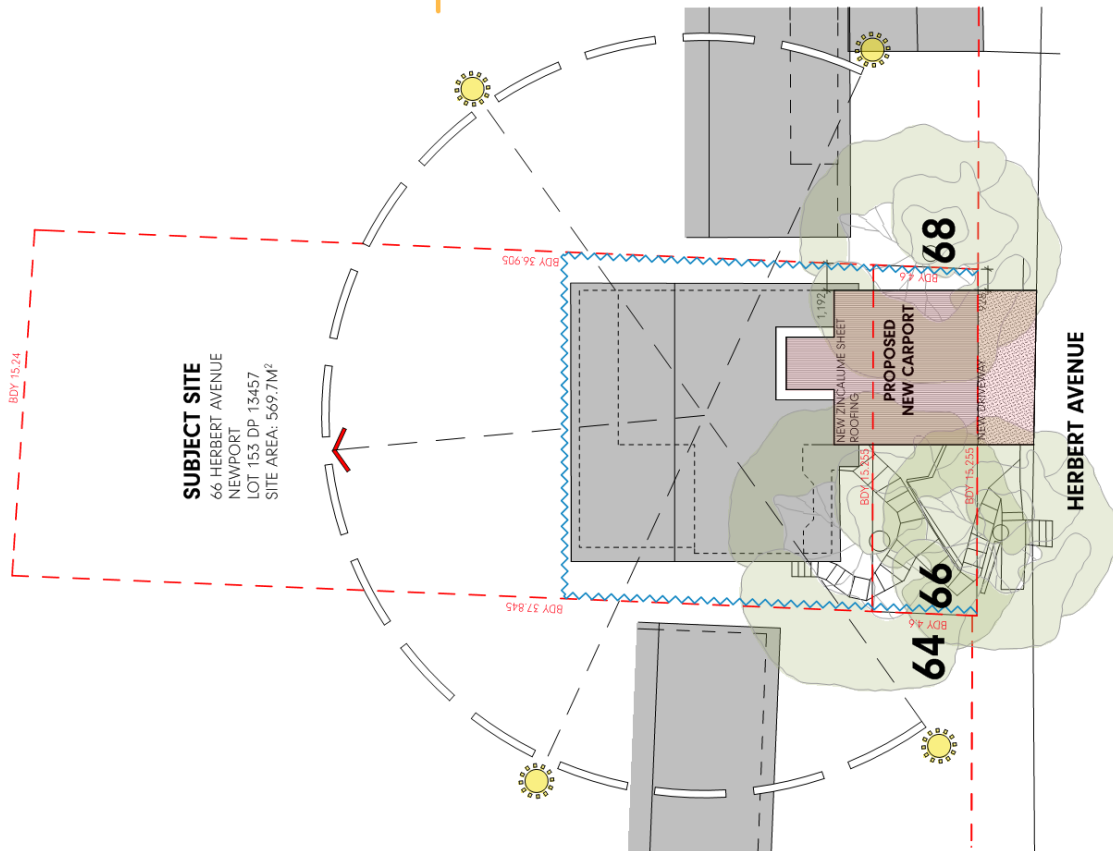
## STORMWATER

STORMWATER TO BE CONNECTED TO EXISTING STORMWATER SYSTEM

| CALCULATION TABLE   |  |
|---------------------|--|
| ZONE                | E4 - ENVIRONMENTAL LIVING                  |
| HAZARDS             | BUSHFIRE PRONE LAND<br>GEOTECHNICAL HAZARD |
| SITE AREA           | 639.82 SQM                                 |
| MAX BUILDING HEIGHT | 6.3M                                       |
| <b>EXISTING</b>     |  |
| TOTAL FLOOR AREA    | 175 SQM                                    |
| SITE COVERAGE       | 132 SQM                                    |
|                     | = 20.6%                                    |
| HARD SURFACE        | 76.75 SQM                                  |
|                     | 11.9%                                      |
| SOFT LANDSCAPING    | 41.1 SQM                                   |
|                     | = 6.43%                                    |
| <b>PROPOSED</b>     |  |
| TOTAL FLOOR AREA    | 189 SQM                                    |
| SITE COVERAGE       | 168 SQM                                    |
|                     | = 26.3%                                    |
| HARD SURFACE        | 76.75 SQM                                  |
|                     | 11.9%                                      |
| SOFT LANDSCAPING    | 41.1 SQM                                   |
|                     | = 6.43%                                    |

| LEGEND        |                     |
|---------------|---------------------|
| [Solid line]  | EXISTING FOOTPRINT  |
| [Dashed line] | TO BE DEMOLISHED    |
| [Red line]    | NEW CONSTRUCTION    |
| [Blue line]   | SEDIMENTARY BARRIER |
| BDY           | SITE BOUNDARY       |
| CO            | CONCRETE            |
| FG            | GLAZING             |
| PS            | PAINTED STEEL       |
| RMS           | ROOF METAL SHEETING |
| TC            | TIMBER CLADDING     |

## MULLER CARPORT SITE PLAN



SAVIOPARSONS ARCHITECTS

SCALE 1:100, 1:200, 1:1 @ A3  
DA\_01

PROJECT IN/OUT

DESCRIPTION  
PRELIMINARY DA  
DA ISSUE

DATE  
14.03.18  
10.04.18

66 HERBERT AVENUE NEWPORT NSW  
lot 153 DP 13457  
PETER + JAYA MULLER

DATE  
14.03.18  
10.04.18

CLIENT

SAVIOPARSONS ARCHITECTS

SAVIOPARSONS.COM.AU

02 959 9799

02 959 9799



|                          |  |
|--------------------------|--|
| <b>ITEM 3.2</b>          | <b>DA2018/0871 - 203 MONA VALE ROAD, TERREY HILLS -<br/>CONSTRUCTION OF A DWELLING HOUSE</b> |
| <b>REPORTING MANAGER</b> | <b>STEVE FINDLAY</b>   |
| <b>TRIM FILE REF</b>     | <b>2018/573344</b>   |
| <b>ATTACHMENTS</b>       | <b>1 Assessment Report<br/>2 Site Plan and Elevations</b>                                    |

**PURPOSE**

To refer the attached application for determination due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the building height standard.

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**RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER**

THAT Council as the consent authority grant Development Consent to DA2018/0871 for construction of a dwelling house on land at Lot 109 DP 752017, 203 Mona Vale Road, Terrey Hills, subject to the conditions outlined in the Assessment Report.

---



## REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 12 September 2018

203 Mona Vale Road Terrey Hills - Construction of a dwelling house

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                                    |  |
|------------------------------------|--|
| Application Number:                | DA2018/0871  |
| Responsible Officer:               | Daniel Milliken  |
| Land to be developed (Address):    | Lot 109 DP 752017, 203 Mona Vale Road TERREY HILLS NSW 2084      |
| Proposed Development:              | Construction of a dwelling house                                 |
| Zoning:                            | Warringah LEP2011 - Land Zoned RU4 Primary Production Small Lots |
| Development Permissible:           | Yes  |
| Existing Use Rights:               | No   |
| Consent Authority:                 | Northern Beaches Council   |
| Land and Environment Court Action: | No   |
| Owner:                             | Kerry Maxwell Gadsby<br>Theodora Johanna Cornelia Gadsby         |
| Applicant:                         | Classic Country Cottages   |
| Application lodged:                | 25/05/2018   |
| Integrated Development:            | No   |
| Designated Development:            | No   |
| State Reporting Category:          | Residential - Single new detached dwelling                       |
| Notified:                          | 31/05/2018 to 18/06/2018   |
| Advertised:                        | Not Advertised   |
| Submissions Received:              | 0  |
| Recommendation:                    | Approval   |
| Estimated Cost of Works:           | \$ 822,600.00  |

### 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:

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

#### **SUMMARY OF ASSESSMENT ISSUES**

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings  
Warringah Development Control Plan - B1 Wall Heights  
Warringah Development Control Plan - B5 Side Boundary Setbacks  
Warringah Development Control Plan - B9 Rear Boundary Setbacks

#### **SITE DESCRIPTION**

|                                   |   |
|-----------------------------------|---|
| <b>Property Description:</b>      | Lot 109 DP 752017 , 203 Mona Vale Road TERREY HILLS NSW 2084  |
| <b>Detailed Site Description:</b> | <p>The subject site is legally known as Lot 109, DP 752017 Mona Vale Road Terrey Hills. The site a corner allotment, regular in shape with a frontage to Mona Vale Road of 40.67m and a secondary frontage to an unmade road on the eastern boundary of 130.43m, equating to a total site area of 5120sqm.</p> <p>The site is generally flat, with the exception of the north east corner that slopes steeply down towards the east, and is adjoining by residential developments, other semi rural uses and areas of bushland. The dual carriageway Mona Vale Road is to the south of the site.</p> <p>It is noted that as the road adjoining the eastern boundary is an unmade "paper road", the site appears as a typical site with a single site frontage. It is also noted that the site frontage to Mona Vale Road is located on the roadway section that was formerly part of the Mona Vale Road carriageway. Road upgrades some 25 years ago have diverted the road path away from this site and thus, this original section of Mona Vale Road now serves as an access to the remaining sites at No. 203, 205 and 207 Mona Vale Road.</p> |

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The site is currently occupied by a landscape material supplies business and a gym (Empower Gym). No approval for the gym can be found.

Vehicle and pedestrian access is via the access roadway at the southern end of the site.

Map:



## SITE HISTORY

The following information is relevant to the subject proposal:

- On 22 November 2001, DA2000/5099 for use as a "Wholesale Nursery and Stone Supply Yard" was approved and subsequently constructed. Specific conditions were imposed to ensure that the plant nursery remained the predominant use. The development consent also nominated specific areas which were to be retained for the growing and displaying of plants.
- On 21 March 2013 application No. DA2013/0284 for "Demolition works and Alterations and additions to a building" was rejected as the application failed to provide details of the proposed land use having regard to the Warringah Local Environmental Plan 2011 Land Use Table and a Preliminary Geotechnical Report as the site is prone to Land Slip.
- On 2 July 2013 application No. DA2013/0472 for "Demolition Works and Alterations and Additions to an Existing Building" was withdrawn due to the proposed alterations and additions to expand the use of the property for 'landscaping material supplies'.
- On 15 October 2013, DA2013/0830 for "Demolition works, alterations and additions to an existing building and use of premises as landscape material supplies" was approved.

The site visit revealed that a gym is operating on the site, at the front of the building, in what used to be the showroom. This matter has been passed to Council's Compliance Team, however, it does not affect

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the proposed dwelling.

#### **PROPOSED DEVELOPMENT IN DETAIL**

The proposal involves:

- The construction of a new three storey, six bedroom dwelling with an attached double garage.
- The construction of a driveway extension.
- Associated landscaping works.

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:

| <b>Section 4.15 Matters for Consideration'</b>  | <b>Comments</b>  |
|---|--|
| 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 Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;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&amp;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&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> |



| Section 4.15 Matters for Consideration'  | Comments   |
|--|--|
|  | <p>Clause 98 of the EP&amp;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&amp;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><b>(i) Environmental Impact</b><br/>The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p><b>(ii) Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development   | The site is considered suitable for the proposed development.  |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs   | See discussion on "Notification & Submissions Received" in this report.  |
| Section 4.15 (1) (e) – the public interest   | No matters have arisen in this assessment that would justify the refusal of the application in the public interest.  |

#### EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

#### BUSHFIRE PRONE LAND

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

A Bush Fire Report was submitted with the application (prepared by Building Code & Bushfire Hazard Solutions Pty Ltd, dated 11 October 2017). The report stated that the bushfire attack level of the site is "BAL 29" and the report recommended an alternative solution to comply with Planning for Bush Fire Protection.

The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report,





along with the conditions from the NSW RFS have been included as part of the recommended conditions of consent.

#### **NOTIFICATION & SUBMISSIONS RECEIVED**

The subject 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**

| <b>Internal Referral Body</b>    | <b>Comments</b>   |
|----------------------------------|---|
| Landscape Officer                | The DA is considered acceptable with regard to the relevant controls relating to landscape issues, subject to conditions.   |
| NECC (Bushland and Biodiversity) | Council's Bushland and Biodiversity section considers the Development Application to be consistent with the following Warringah DCP 2011 Controls:<br><br>Part E The Natural Environment<br>E1 Preservation of Trees or Bushland Vegetation<br>E2 Prescribed Vegetation<br>E6 Retaining Unique Environmental Features |
| NECC (Development Engineering)   | Development Engineer has no objection to the application subject to the following condition of consent.   |
| NECC (Riparian Lands and Creeks) | No objection to approval with no additional conditions recommended.   |

| <b>External Referral Body</b>                      | <b>Comments</b>   |
|--|---|
| 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.  |
| NSW Rural Fire Service – local branch (s79BA EPAA) | The NSW RFS raised no objections, subject to conditions.  |
| Aboriginal Heritage Office                         | No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.<br><br>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.<br><br>Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted. |





## **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 portion of the subject site proposed for a dwelling has been vacant for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination, despite there being other uses on the other areas of the site, 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. 858697S\_02 dated 10 May 2018).

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

| <b>Commitment</b>      | <b>Required Target</b> | <b>Proposed</b> |
|------------------------|------------------------|-----------------|
| <b>Water</b>           | 40                     | 40              |
| <b>Thermal Comfort</b> | Pass                   | Pass            |
| <b>Energy</b>          | 40                     | 40              |

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

#### **SEPP (Infrastructure) 2007**

##### Ausgrid

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

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

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- 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 |
|----------------------|-------------|----------|-------------|----------|
| Height of Buildings: | 8.5m        | 9.94m    | 16.94%      | No       |

Compliance Assessment

| Clause                                  | Compliance with Requirements              |
|---|---|
| 2.7 Demolition requires consent         | Yes                                       |
| 4.3 Height of buildings                 | No<br>(see detail under Clause 4.6 below) |
| 4.6 Exceptions to development standards | 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 4.3 – Height of Buildings development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

|  |           |
|--|-----------|
| Requirement:   | 8.5m      |
| Proposed:  | 9.94m     |
| Is the planning control in question a development standard?      | YES       |
| Is the non-compliance with to the clause requirement a Numerical | Numerical |

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|   |        |
|---|--------|
| and / or Performance based variation?           |        |
| If numerical enter a % variation to requirement | 16.94% |

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the WLEP 2011. The assessment is detailed as follows:

**Is the planning control in question a development standard?**

The prescribed Height of buildings limitation pursuant to Clause 4.3 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 4.3 – ‘Height of buildings’ of the WLEP 2011 are:

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

*a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

Comment:

The development is located in an area containing a wide mix of different uses and buildings, including restaurants, storage sheds, warehouses and dwellings. There is no consistent pattern of height and scale.

The height breach occurs because the land falls steeply away through the centre of the site. In order to provide a reasonable western side setback, the dwelling was positioned closer to the drop off in the land. This has meant that the end of the gable over the upper level balcony protrudes above the height limit.

This relatively minor encroachment will not result in the dwelling being incompatible with the height and scale of surrounding and nearby development.

*b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*

Comment:

The substantial setbacks of the dwelling will result in there being no loss of privacy or solar access, no unreasonable disruption of views, and a development (due to it being located at the rear of the site) that will have a minimal visual impact from the street.

*c) to minimise adverse impact of development on the scenic quality of Warringah’s coastal and bush environments,*

Comment:

The site is largely cleared and the development will include additional landscaping. In this regard, the proposal will have a minimal, and arguably positive, impact on the scenic quality of the local bush environment.



*d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,*

Comment:

The development is located at the rear of the site and will not be readily visible from any public places or the nearby roads. As such, the proposal will have a minimal visual impact when viewed from public places and the surrounding streets.

**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 <insert zone> zone.

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:

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:

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 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.*

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

Comment:

It is considered that providing flexibility in applying the height of buildings development standard, in this particular case, will result in a better development outcome for the residents without resulting in any unreasonable impacts.



(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 provided a written request to vary the height of buildings development standard, that argues, in part:

*"An area of the dwelling encroaches into the 8.5m maximum height of buildings control for a length of 3.5m and a height of 1.4m. The area of intrusion into the control is the roof over the loft deck on the Eastern Elevation of the dwelling. This encroachment is a direct result of previous excavation below the area & further emphasised by the slope of the site. An estimation of the existing ground line prior to excavation for the retaining wall shows a relatively minor building height restriction encroachment.*

*The encroachment is the point of the gable & the remainder of the dwelling is well within the control. The encroachment will have a relatively marginal effect on the view to the only possibly affected neighbour considering the elevated position of Number 331 McCarrs Rd, the direction of the view and the existing vegetation.*

*The views current experienced by the dwelling under construction at number 331a McCarrs Rd of the eastern coastal view will be remain similar post-development. The elevated position, direction of the view line and existing vegetation will ensure that the proposed will have marginal impact on the coastal views seen from 331a McCarrs Rd.*

*As such the encroachment will have minimal visual impact, disruption of views, loss of privacy or loss of solar access in the surrounding area. The development also has no adverse impact on the scenic quality of Warringah's coastal and bush environments. The proposal has considered any visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

*The proposed dwelling design notwithstanding the encroachment will enhance the desired future character of the locality, the amenity of the streetscape is maintained, as well as enable ample space for landscaping to further diminish the built form.*

*Opportunities for landscaping have been improved by the proposal; the design allows for landscaping around the entire perimeter of the dwelling and the use of northern, southern, eastern & western decks will allow for additional landscaped area in the front and rear yards, in line with the LEP and Future Character Statement for the Locality."*

It is agreed that the height breach is caused by the existing excavation and slope of the site. It is





also agreed that there will be no unreasonable impacts as a result of the breach as it is located towards the centre of the site and away from surrounding properties.

Therefore, the applicants justifications are concurred with.

(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's 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 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:

Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Director-General for the variation to the Height of buildings Development Standard is assumed.

## Warringah Development Control Plan

### Built Form Controls

| Built Form Control                                  | Requirement | Proposed | % Variation* | Complies |
|---|-------------|----------|--------------|----------|
| B1 Wall height                                      | 7.2m        | 8.12m    | 12.78%       | No       |
| B5 Side Boundary Setbacks                           | West - 10m  | 5.003m   | 49.97%       | No       |
|   | East - 10m  | 14.098m  | N/A          | Yes      |
| B7 Front Boundary Setbacks                          | 20m         | 94.75m   | N/A          | Yes      |
| B9 Rear Boundary Setbacks                           | 10m         | 6.5m     | 35%          | No       |
| D1 Landscaped Open Space (LOS) and Bushland Setting | 30%         | 37.23%   | N/A          | Yes      |



Compliance Assessment

| Clause  | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A.5 Objectives                                  | Yes                          | Yes                         |
| B1 Wall Heights                                 | No                           | Yes                         |
| B5 Side Boundary Setbacks                       | No                           | Yes                         |
| B7 Front Boundary Setbacks                      | Yes                          | Yes                         |
| B9 Rear Boundary Setbacks                       | No                           | Yes                         |
| C2 Traffic, Access and Safety                   | Yes                          | Yes                         |
| C3 Parking Facilities                           | Yes                          | Yes                         |
| C4 Stormwater                                   | Yes                          | Yes                         |
| C5 Erosion and Sedimentation                    | Yes                          | Yes                         |
| C7 Excavation and Landfill                      | Yes                          | Yes                         |
| C8 Demolition and Construction                  | Yes                          | Yes                         |
| C9 Waste Management                             | Yes                          | Yes                         |
| D1 Landscaped Open Space and Bushland Setting   | Yes                          | Yes                         |
| D2 Private Open Space                           | Yes                          | Yes                         |
| D3 Noise  | Yes                          | Yes                         |
| D6 Access to Sunlight                           | Yes                          | Yes                         |
| D7 Views  | Yes                          | Yes                         |
| D8 Privacy                                      | Yes                          | Yes                         |
| D9 Building Bulk                                | Yes                          | Yes                         |
| D10 Building Colours and Materials              | Yes                          | Yes                         |
| D11 Roofs                                       | Yes                          | Yes                         |
| D12 Glare and Reflection                        | Yes                          | Yes                         |
| D14 Site Facilities                             | Yes                          | Yes                         |
| D20 Safety and Security                         | Yes                          | Yes                         |
| D21 Provision and Location of Utility Services  | Yes                          | Yes                         |
| E1 Preservation of Trees or Bushland Vegetation | Yes                          | Yes                         |
| E2 Prescribed Vegetation                        | Yes                          | Yes                         |
| E6 Retaining unique environmental features      | Yes                          | Yes                         |
| E8 Waterways and Riparian Lands                 | Yes                          | Yes                         |
| E10 Landslip Risk                               | Yes                          | Yes                         |

Detailed Assessment

**B1 Wall Heights**

Description of non-compliance

The proposal includes a maximum wall height of 8.12m.

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The control requires a maximum of 7.2m.

Merit consideration:

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

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

Comment:

The development is located at the rear of the site and will not be readily visible from any public places or the nearby roads. As such, the proposal will have a minimal visual impact when viewed from adjoining properties and the street.

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

Comment:

The height of the surrounding tree canopy will be greater than the proposed building. No large trees are proposed to be removed as part of this application and new landscape planting will occur after construction.

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

Comment:

The development will not result in any unreasonable view loss from any public or private properties.

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

Comment:

The substantial setbacks of the dwelling will result in there being no loss of privacy or solar access, no unreasonable disruption of views, and a development (due to it being located at the rear of the site and away from neighbouring dwellings) that will have a minimal impact.

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

Comment:

The topography of the site is unusual as it has a flat section on the western side and a steep slope through the centre of the lot down towards the east. This slope is largely responsible for the wall height breach.



The majority of the dwelling will remain under the wall height and overall height limits. Some excavation is proposed, however, the design uses the slope to minimise this.

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

Comment:

The proposed upper level is partly within the roof form and is substantially stepped in from the ground floor. The pitched and gabled roof is innovative and will fit well within the local area.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **B5 Side Boundary Setbacks**

Description of non-compliance

The dwelling is set back 5.003m from the western side boundary.

The control requires a minimum of 10m.

Merit consideration

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

- *To provide opportunities for deep soil landscape areas.*

Comment:

The site, overall, provides 37.23% landscaped open space. This is greater than the 30% minimum requirement. As such, the development will allow the site to continue to provide sufficient opportunities for deep soil landscape areas.

- *To ensure that development does not become visually dominant.*

Comment:

The development is sited on the most appropriate portion of the rear of the site (i.e. the level section, the remaining land to the east slopes steeply and is unsuitable to construct the dwelling over). The dwelling has been designed so that the upper level steps in on all sides from the boundaries. The 5.003m setback is to the western boundary which is the higher side of the site. As such, the dwelling will have a reduced visual impact when viewed from the western neighbour.

Overall, the dwelling is positioned at the rear of the site, away from the public road and a sufficient distance away from any neighbouring dwellings. Landscaped areas will surround the building. In this regard, the development will not be visually dominant.



- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

The dwelling has been designed so that the upper level steps in on all sides from the boundaries. This helps to reduce the bulk of the building. There is a height breach, however, it is located on the opposite side of the building to the side setback encroachment.

The dwelling will be positioned at the rear of the site, away from the public road and a sufficient distance away from any neighbouring dwellings. Landscaped areas will surround the building. In this regard, the scale and bulk of the development will not be unreasonable.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment:

The dwelling will be positioned at the rear of the site, away from the public road and a significant distance away from any neighbouring dwellings.

This separation will ensure a reasonable level of privacy, amenity and solar access to all surrounding properties.

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

Comment:

The development will not result in any unreasonable view loss.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **B9 Rear Boundary Setbacks**

Description of non-compliance

The dwelling is set back 6.5m from the rear boundary.

The control requires a minimum of 10m.

Merit consideration:

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

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The site, overall, provides 37.23% landscaped open space. This is greater than the 30%

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minimum requirement. As such, the development will allow the site to continue to provide sufficient opportunities for deep soil landscape areas.

- *To create a sense of openness in rear yards.*

Comment:

The rear yard will be devoid of structures and the angle of the dwelling means that only the north east corner is 6.5m from the boundary, the rest of the building has greater setbacks.

These factors, as well as the topography of the land (the sloping site that creates vertical space) and the ability for substantial planting in the rear yard, will result in a reasonable sense of openness.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

The dwelling will be positioned at the rear of the site, away from the public road and a significant distance away from any neighbouring dwellings.

This separation will ensure a reasonable level of privacy, amenity and solar access to all surrounding properties.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

The local area does not display a consistent subdivision pattern nor a consistent pattern of development. The surrounding sites contains a mix of RU4 zoned uses including dwellings, warehouses and other semi rural buildings. As such, there is limited continuity in buildings, rear gardens and landscape elements.

Notwithstanding, the development provides more than the minimum landscaped open space across the site and a relatively small number of buildings. In this regard, the development will fit reasonably within the local area.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

The dwelling will be positioned at the rear of the site, away from the public road and a significant distance away from any neighbouring dwellings.

This separation will ensure a reasonable level of privacy to all surrounding properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the

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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**

##### **Northern Beaches Council Contributions Plan 2018**

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

| Northern Beaches Council Contributions Plan 2018             |                  |                |
|--|------------------|----------------|
| Contribution based on a total development cost of \$ 822,600 |                  |                |
| <b>Contributions</b>   | <b>Levy Rate</b> | <b>Payable</b> |
| Total Section 7.12 Levy                                      | 0.95%            | \$ 7,815       |
| Section 7.12 Planning and Administration                     | 0.05%            | \$ 411         |
| Total  | 1%               | \$ 8,226       |

#### **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

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- 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 DA2018/0871 for Construction of a dwelling house on land at Lot 109 DP 752017, 203 Mona Vale Road, TERREY HILLS, 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**

| <b>Architectural Plans - Endorsed with Council's stamp</b> |               |                          |
|--|---------------|--------------------------|
| <b>Drawing No.</b>   | <b>Dated</b>  | <b>Prepared By</b>       |
| 01 Revision B  | April 2018    | Classic Country Cottages |
| 02 Revision B  | April 2018    | Classic Country Cottages |
| 03 Revision B  | April 2018    | Classic Country Cottages |
| 04 Revision B  | April 2018    | Classic Country Cottages |
| 05 Revision B  | April 2018    | Classic Country Cottages |
| 06 Revision B  | April 2018    | Classic Country Cottages |
| 07 Revision B  | April 2018    | Classic Country Cottages |
| Colour & Material Schedule                                 | 12 April 2018 | Unknown                  |

| <b>Reports / Documentation – All recommendations and requirements contained within:</b> |                 |   |
|---|-----------------|---|
| <b>Report No. / Page No. / Section No.</b>  | <b>Dated</b>    | <b>Prepared By</b>                                |
| Arboricultural Assessment & Development Impact Report                                   | 8 May 2018      | Rain Tree Consulting                              |
| Bushfire Hazard Assessment Report   | 11 October 2017 | Building Code & Bushfire Hazard Solutions Pty Ltd |
| Preliminary Geotechnical Assessment   | 17 October 2017 | Jack Hodgson Consultants Pty Ltd                  |
| On-site Wastewater Management Report  | 15 May 2018     | Envirotech  |

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

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

| <b>Landscape Plans</b>    |              |                    |
|---------------------------|--------------|--------------------|
| <b>Drawing No.</b>        | <b>Dated</b> | <b>Prepared By</b> |
| Landscape Plan Revision B | 9 May 2018   | Dee Gadsby         |

| <b>Waste Management Plan</b> |               |                    |
|------------------------------|---------------|--------------------|
| <b>Title.</b>                | <b>Dated</b>  | <b>Prepared By</b> |
| Waste Management Plan        | 12 April 2018 | Unknown            |

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:

| <b>Other Department, Authority or Service</b> | <b>EDMS Reference</b>                        | <b>Dated</b> |
|---|--|--------------|
| NSW Rural Fire Service                        | Referral response RFS                        | 14 June 2018 |
| Aboriginal Heritage Office                    | Referral response Aboriginal Heritage Office | 12 June 2018 |

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://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. No Approval for Secondary Dwelling**

No part of the dwelling is to be used as a secondary dwelling.

Reason: To ensure compliance with the relevant Local Environmental Plan.

**4. Prescribed Conditions**

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

## 5. General Requirements

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





Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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

### 6. Policy Controls

Northern Beaches Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

| Northern Beaches Council Contributions Plan 2018                |           |         |
|---|-----------|---------|
| Contribution based on a total development cost of \$ 822,600.00 |           |         |
| Contributions   | Levy Rate | Payable |
| Total Section 7.12 Levy   | 0.95%     | \$      |

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|  |       |             |
|--|-------|-------------|
|  |       | 7,814.70    |
| Section 7.12 Planning and Administration | 0.05% | \$ 411.30   |
| Total                                    | 1%    | \$ 8,226.00 |

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

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

Reason: To provide for contributions in accordance with Northern Beaches Council Contributions Plan 2018.

#### 7. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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](http://www.northernbeaches.nsw.gov.au)).

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

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

#### 8. **Stormwater Disposal**

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's WARRINGAH WATER MANAGEMENT POLICY PL850. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Council's specification are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

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

#### 9. **Compliance with Standards**

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

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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. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

11. **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](http://www.sydneywater.com.au) for:

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

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

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

12. **Tree protection**

- (a) Existing trees which must be retained
- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
  - ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to



commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAD01)

#### CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. **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.

14. **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

15. **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.

16. **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)

17. **Protection of rock and sites of significance**

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- a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.
- b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features (DACLAEOG1)

18. **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**

19. **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

20. **Required Planting**

Trees shall be planted in accordance with the following schedule:

| Minimum No. of Trees Required. | Species   | Location            | Minimu Pot Size |
|--------------------------------|---|---------------------|-----------------|
| 2                              | Trees capable of attaining a minimum height of 5 metres at maturity | Grounds of property | 200mm           |

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)

21. **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.

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

22. **Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website [http://www.pittwater.nsw.gov.au/environment/noxious\\_weeds](http://www.pittwater.nsw.gov.au/environment/noxious_weeds)

**Reason:** Weed management.

23. **No Planting Environmental Weeds**

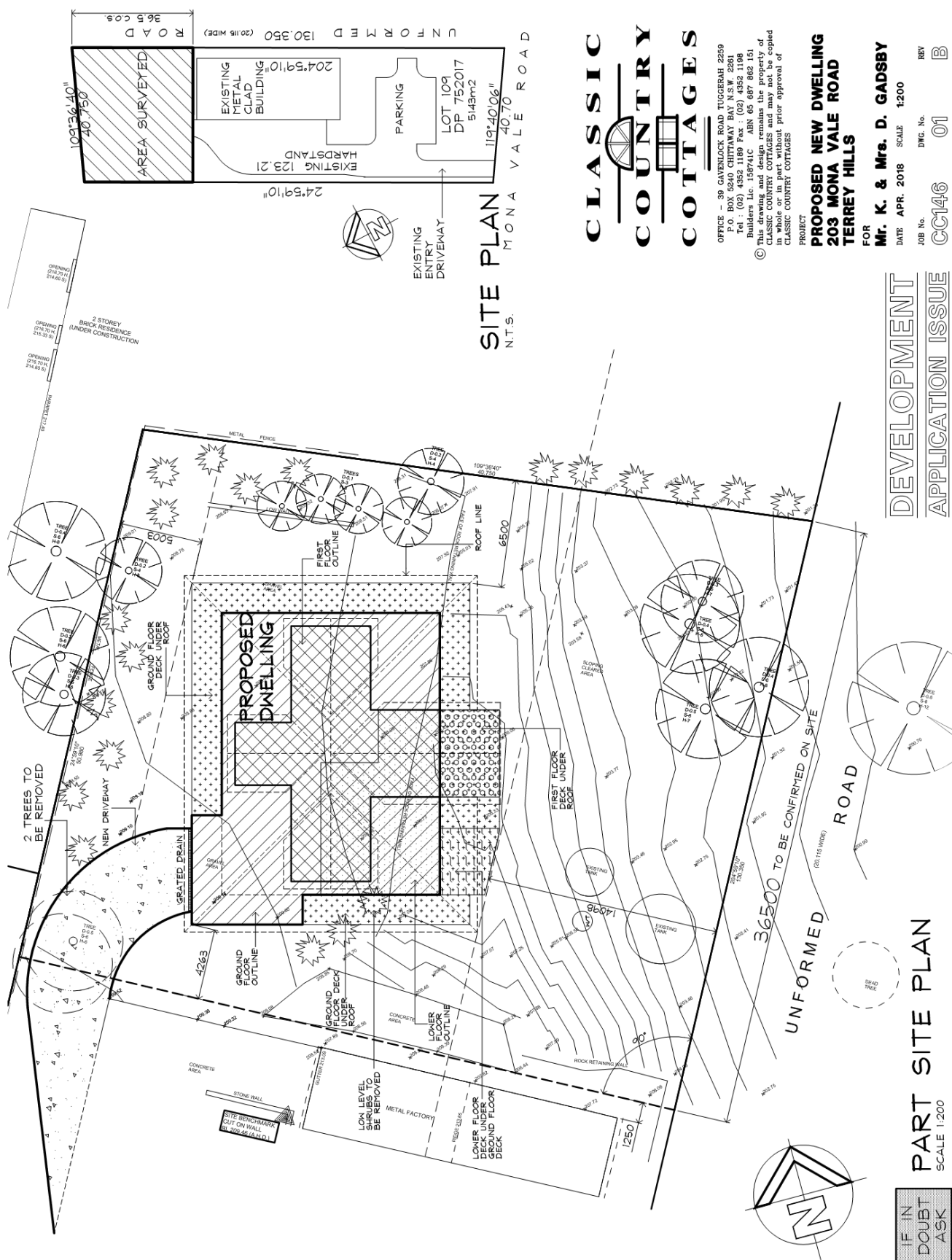
No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

**Reason:** Weed management.

24. **Works to cease if item found**

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.

**Reason:** To protect Aboriginal Heritage.





DEVELOPMENT  
APPLICATION ISSUE

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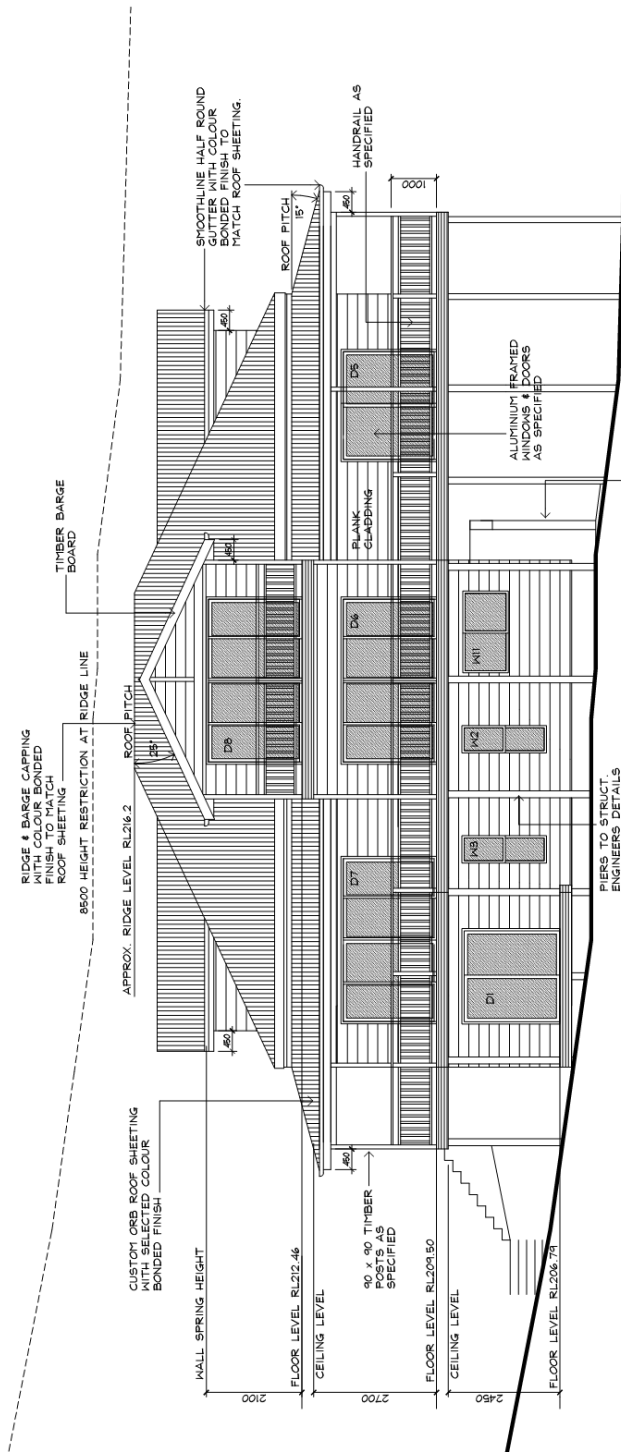
OFFICE - 39 GAVENLOCK ROAD, TUGGERAH 2259  
P.O. BOX 5240 CHITWAY BAY, N.S.W. 2261  
Tel : (02) 4352 1189 Fax : (02) 4352 1188  
Builders Lic. 158741C ABN 65 687 862 151  
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PROJECT  
**PROPOSED NEW DWELLING**  
**203 MONA VALE ROAD**  
**TERREY HILLS**

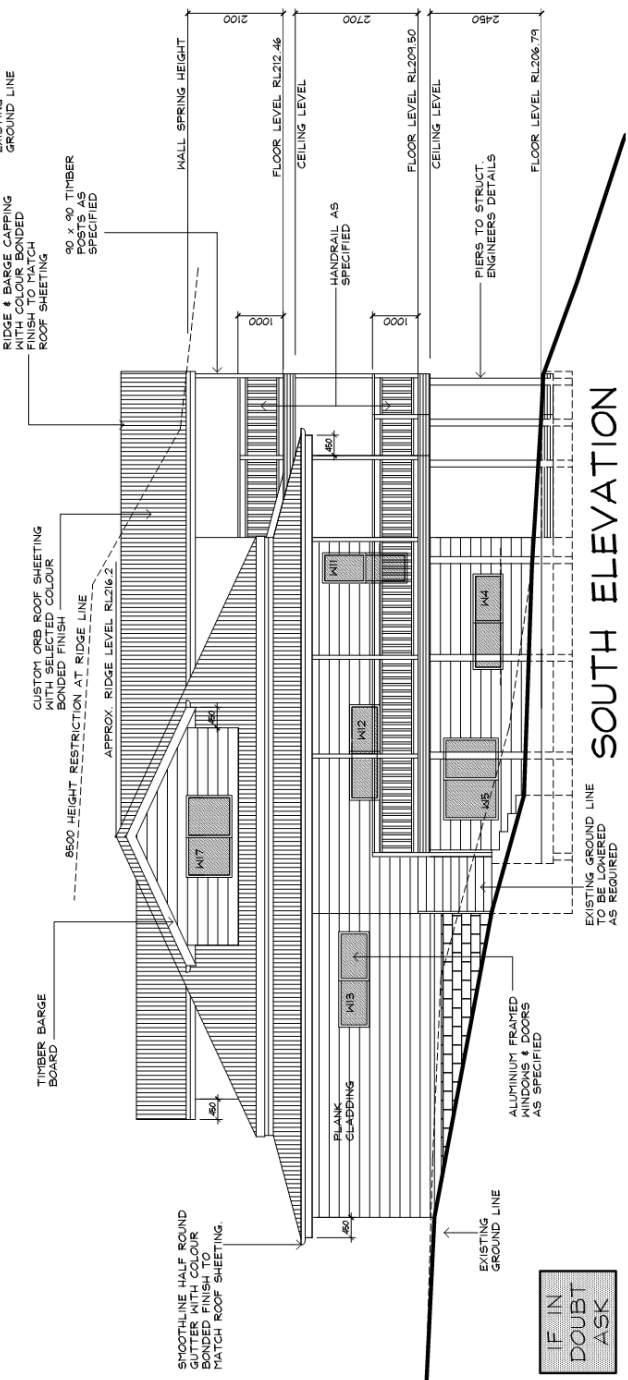
FOR  
**Mr. K. & Mrs. D. GADSBY**

DATE APR. 2018 SCALE 1:100

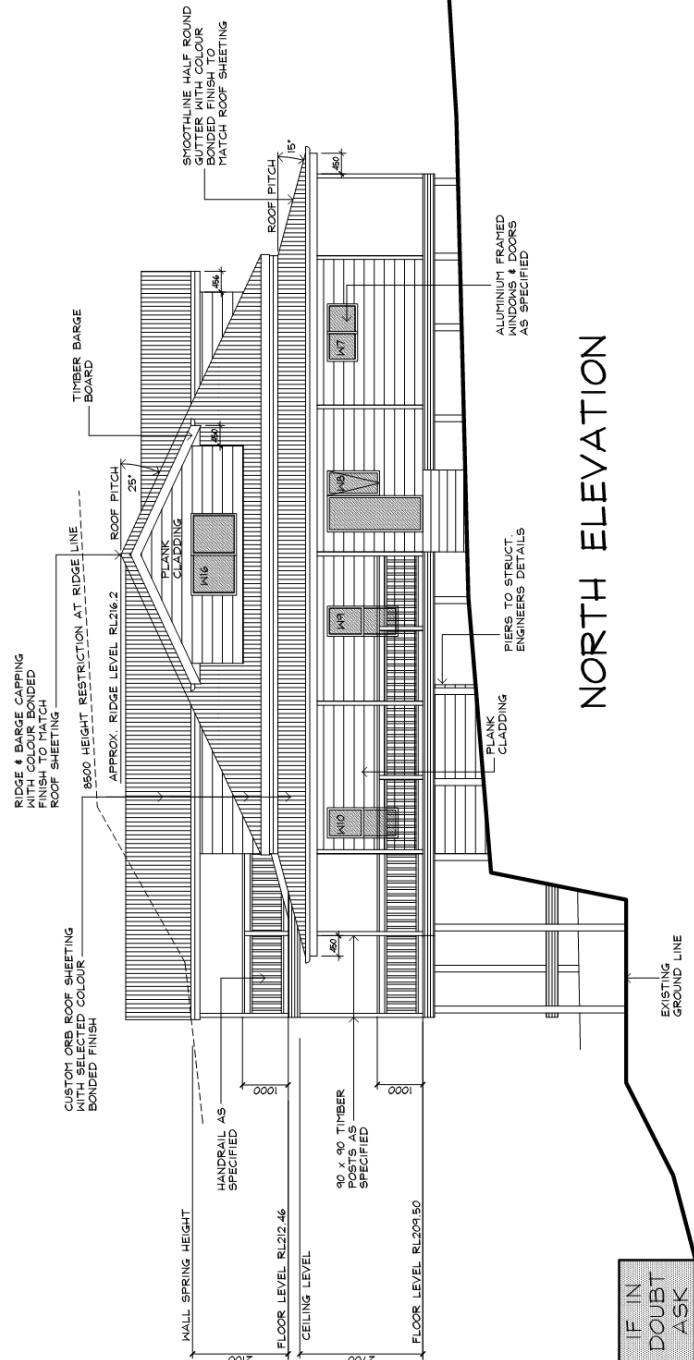
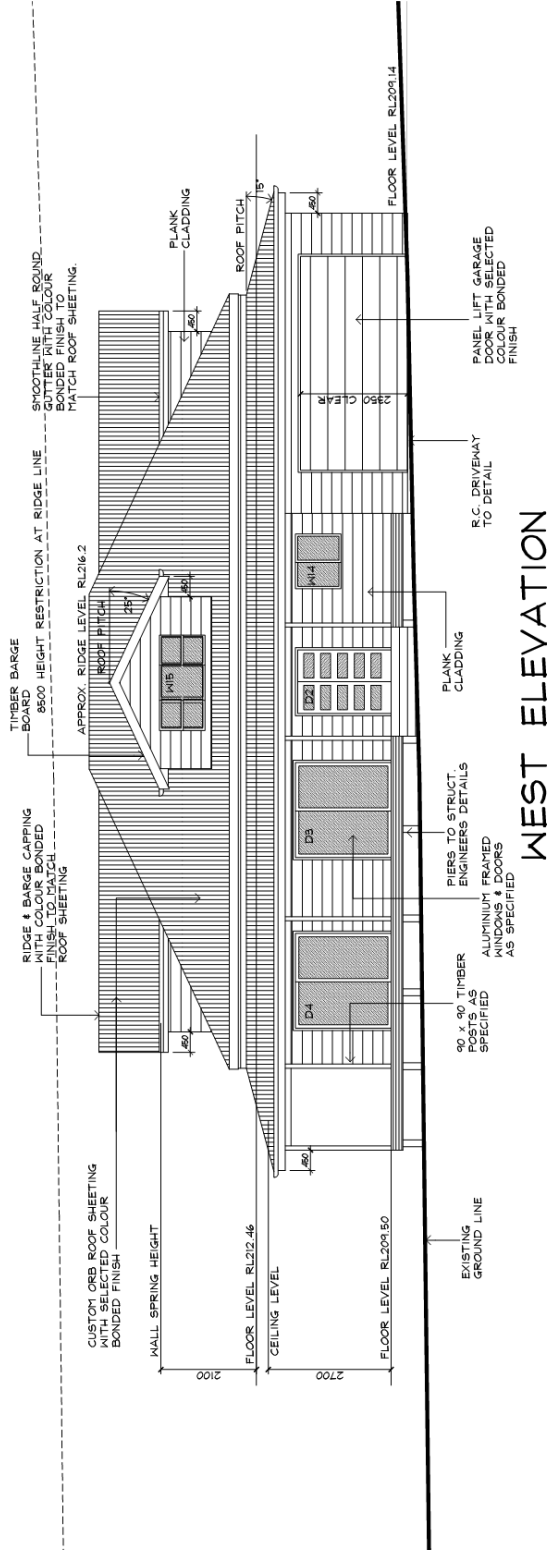
JOB No. CC146  
DWG No. 05  
REV B



EAST ELEVATION



SOUTH ELEVATION



**DEVELOPMENT  
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**PROPOSED NEW DWELLING  
203 MONA VALE ROAD  
TERREY HILLS**

**FOR  
Mr. K. & Mrs. D. GADSBY**

**DATE APR. 2018 SCALE 1:100**

**JOB No. DWG. No. REV**

**CC146 06 B**

**IF IN  
DOUBT  
ASK**



|                          |  |
|--------------------------|--|
| <b>ITEM 3.3</b>          | <b>DA2018/1062 - 12 ROSEDALE AVENUE, FAIRLIGHT -<br/>ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING<br/>HOUSE</b> |
| <b>REPORTING MANAGER</b> | <b>RODNEY PIGGOTT</b>  |
| <b>TRIM FILE REF</b>     | <b>2018/575824</b>   |
| <b>ATTACHMENTS</b>       | <b>1 Assessment Report<br/>2 Site Plan and Elevations</b>  |

### **PURPOSE**

To refer the attached application for determination due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the floor space ratio.

---

### **RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER**

THAT Council as the consent authority grant Development Consent to DA2018/1062 for alterations and additions to an existing dwelling house on land at Lot 3 DP 665287, 12 Rosedale Avenue, Fairlight, subject to the conditions outlined in the Assessment Report.

---



## REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 12 September 2018

12 Rosedale Avenue Fairlight - Alterations and Additions to an existing dwelling house

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                                    |   |
|------------------------------------|---|
| Application Number:                | DA2018/1062   |
| Responsible Officer:               | Thomas Prosser  |
| Land to be developed (Address):    | Lot 3 DP 665287, 12 Rosedale Avenue FAIRLIGHT NSW 2094  |
| Proposed Development:              | Alterations and Additions to an existing dwelling house |
| Zoning:                            | Manly LEP2013 - Land zoned R1 General Residential       |
| Development Permissible:           | Yes   |
| Existing Use Rights:               | No  |
| Consent Authority:                 | Development Determination Panel                         |
| Land and Environment Court Action: | No  |
| Owner:                             | David Malcolm Allan<br>Paula Marie Allan                |
| Applicant:                         | David Malcolm Allan                                     |
| Application lodged:                | 21/06/2018  |
| Integrated Development:            | No  |
| Designated Development:            | No  |
| State Reporting Category:          | Residential - Alterations and additions                 |
| Notified:                          | 28/06/2018 to 14/07/2018                                |
| Advertised:                        | Not Advertised  |
| Submissions Received:              | 0   |
| Recommendation:                    | Approval  |
| Estimated Cost of Works:           | \$ 47,500.00  |

### 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 - 3.4.2 Privacy and Security

Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

## **SITE DESCRIPTION**

|                                   |   |
|-----------------------------------|---|
| <b>Property Description:</b>      | Lot 3 DP 665287 , 12 Rosedale Avenue FAIRLIGHT NSW 2094   |
| <b>Detailed Site Description:</b> | <p>The subject site consists of an allotment located on the eastern side of Rosedale Avenue.</p> <p>The site is regular in shape with a frontage of approximately 12.4m along Rosedale and an average depth of 32.8m. The site has an area of 393.1m<sup>2</sup>.</p> <p>The site is located within the R1 General Residential zone and accommodates dwelling on site.</p> <p>The site has a slope of approximately 10m from the rear of the property to the front at Rosedale Avenue. The site includes landscape features at the rear in the form of vegetation and rock.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised mainly by single dwellings with some examples of multi-unit dwellings/residential flat buildings.</p> |

Map:



#### **SITE HISTORY**

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

- DA520/2004-Alterations and additions to a dwelling including the addition of a room on the ground floor approved on 31.03.05.
- DA103/2007- Convert part of the first floor of the existing dwelling to a family flat. Refused by DAU on 15/08/2007.
- DA93/2012- Alterations and additions to existing dwelling including rear ground floor bay window and new rear external stairs approved on 15 June 2012.

#### **PROPOSED DEVELOPMENT IN DETAIL**

The proposal is for alterations and additions to the existing dwelling including:

- Demolition of internal walls
- Removal of stairs
- Addition to the kitchen area
- A new timber deck adjacent to the kitchen.
- Increase in ceiling height to part of the kitchen
- Reconstruction of stairs
- Increase in size of balcony on kitchen roof

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)**  
DA2018/1062

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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  | Mainly 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 Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&amp;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&amp;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&amp;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&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;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> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the</p> |





| Section 4.15 Matters for Consideration'  | Comments   |
|--|--|
|  | 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 | <p>(i) <b>Environmental Impact</b><br/>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.</p> <p>(ii) <b>Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development   | The site is considered suitable for the proposed development.  |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs   | See discussion on "Notification & Submissions Received" in this report.  |
| Section 4.15 (1) (e) – the public interest   | No matters have arisen in this assessment that would justify the refusal of the application in the public interest.  |

#### 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) | Development Engineer has no objection to the application subjection to the following conditions of consent. |
| External Referral Body         | Comments  |
| DA2018/1062                    | Page 5 of 23  |



| 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. |

#### **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.



### Manly Local Environmental Plan 2013

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

### Principal Development Standards

| Standard  | Requirement                           | Proposed                             | % Variation | Complies          |
|---|---------------------------------------|--------------------------------------|-------------|-------------------|
| Height of Buildings:                                | 8.5m                                  | 5.2m                                 | N/A         | Yes.              |
| Floor Space Ratio<br>Site area: 393.1m <sup>2</sup> | FSR: 0.6:1<br>(235.86m <sup>2</sup> ) | FSR: 0.684:1<br>(269m <sup>2</sup> ) | 14.05%      | No, see comments. |

### Compliance Assessment

| Clause                                     | Compliance with Requirements |
|--|------------------------------|
| 4.3 Height of buildings                    | Yes                          |
| 4.4 Floor space ratio                      | No                           |
| 4.6 Exceptions to development standards    | Yes                          |
| 5.8 Conversion of fire alarms              | Yes                          |
| 6.1 Acid sulfate soils                     | Yes                          |
| 6.2 Earthworks                             | Yes                          |
| 6.4 Stormwater management                  | Yes                          |
| 6.8 Landslide risk                         | Yes                          |
| 6.9 Foreshore scenic protection area       | Yes                          |
| 6.10 Limited development on foreshore area | Yes                          |
| 6.12 Essential services                    | Yes                          |

### Detailed Assessment

#### 4.6 Exceptions to development standards

##### Floor space ratio

|  |                                       |
|--|---------------------------------------|
| Requirement:   | FSR: 0.6:1<br>(235.86m <sup>2</sup> ) |
| Proposed:  | FSR: 0.684:1<br>(269m <sup>2</sup> )  |
| 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  | 14.05                                 |

The proposal must satisfy the objectives of 4.4 Floor Space Ratios, 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 additional floor space is to a ground floor kitchen at the rear of the site and to the centre of the building envelope. As a result, this addition would not be viewed from the streetscape and the general presentation of the dwelling to the street would remain the same.

*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 addition of the floor space at the ground floor and to the rear is within the existing setbacks of the building. This would not cause any obscuring to landscape or townscape features that is unreasonable.

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

Comment:

The proposed addition of floor space to the rear and within existing setbacks would not have any significant influence on the character to the street. As such, an appropriate visual relationship between the new development and the existing character and landscape of the area would be maintained.

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

Comment:

The compliance of the addition to the kitchen with other controls along with the ground floor position and central location on site, ensures that there would be no adverse impact to adjoining land or the public domain.



*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 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 maintains and extends the existing dwelling to provide housing needs for the community.

It is considered that the development satisfies this objective.

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

Comment:

The dwelling contributes to providing a variety of housing types and densities in the area.

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:

In this circumstance, providing flexibility to the floor space ratio development standard is appropriate as the non-compliance does not lead to any unreasonable amenity impact and

DA2018/1062

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remains appropriate in the street context.

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

Comment:

It is appropriate to allow flexibility in this circumstance as an addition of floor space can be made to the dwelling without having any unreasonable impact on amenity and the proposed development would be visually appropriate given it is located to the rear and within existing setbacks.

(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 provided written request that involved the following justification:

"The proposal is consistent with these objectives. In this case, the flexibility is sought to permit an extremely small increase in the gross floor area of the building that will result in a significant improvement in the amenity of the dwelling house. The works will improve the amenity of the dwelling in a way that has no negative impacts on the amenity of any other residents in the vicinity of the site or any public views.

This is a better planning outcome that requiring strict compliance with the control, which would require demolition of substantial portions of the building which would be expensive, impractical, and contrary to environmentally sustainable development principles."

and

"The provision of improved residential amenity is to satisfy the needs of current and future residents of the dwelling. The enhancement of the housing stock in the locality, in circumstances where there are no negative impacts, is sufficient environmental planning grounds to justify the variation to the floor space ratio control that is sought."

(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*

DA2018/1062

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*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 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:

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to the development standards under environmental planning instruments that adopt Clause 4.6 of the standard instrument where the variation to a numerical standard is no greater than 10%. In this case there is a variation of greater than 10% (to FSR). However, following advice from the Department of Planning and Environment, single dwellings with a variation of more than 10% for floor space ratio or building height may be determined by a delegate of Council. As such, the proposal has been referred to the Development Determination Panel for determination.

## Manly Development Control Plan

### Built Form Controls

| Built Form Controls - Site Area: 393.1m <sup>2</sup>  | Requirement                                     | Proposed          | % Variation* | Complies          |
|---|---|-------------------|--------------|-------------------|
| 4.1.4.2 Side Setbacks and Secondary Street Frontages  | South-east: 2m (based on height of works)       | 1.25m             | N/A          | No, see comments. |
|   | North-west: 2m (based on height of works)       | 1.6m              | N/A          | No, see comments. |
| 4.1.4.4 Rear Setbacks   | 8m  | 12m               | N/A          | Yes.              |
| 4.1.5.1 Minimum Residential Total Open Space Requirements<br>Residential Open Space Area: OS3 | Total Open space 55% (216.2m <sup>2</sup> )     | 235m <sup>2</sup> | N/A          | Yes.              |
|   | Open space above ground 25% of total open space | 61m               |              | Yes.              |
| 4.1.5.3 Private Open Space  | 18m.  | 36sqm             | N/A          | Yes.              |

**\*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                         |
| 3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)  | Yes                          | Yes                         |
| 3.4.1 Sunlight Access and Overshadowing  | Yes                          | Yes                         |
| 3.4.2 Privacy and Security   | Yes                          | Yes                         |
| 3.4.3 Maintenance of Views   | Yes                          | Yes                         |
| 3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design) | Yes                          | Yes                         |
| 3.6 Accessibility  | Yes                          | Yes                         |
| 3.7 Stormwater Management  | Yes                          | Yes                         |
| 3.8 Waste Management   | Yes                          | Yes                         |
| 3.10 Safety and Security   | Yes                          | Yes                         |
| 4.1 Residential Development Controls   | Yes                          | Yes                         |
| 4.1.4 Setbacks (front, side and rear) and Building Separation  | No                           | Yes                         |
| 4.1.5 Open Space and Landscaping   | Yes                          | Yes                         |
| 5.4.1 Foreshore Scenic Protection Area   | Yes                          | Yes                         |

#### Detailed Assessment

##### 3.4.2 Privacy and Security

##### 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 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 proposed extensions to the rear balcony and deck are located and orientated in a way that would reasonably minimise loss of privacy to neighbouring properties. The extension of the balcony at the first floor level follows the line of the existing setback and is well separated from neighbouring living spaces as can be seen in the photo below. the proposed balcony is also compliant with the rear setback to ensure there would be no unreasonable privacy impact to the rear of the property.



Photo 1: Photo taken from the existing balcony toward non-compliant setback (with ramp in location of proposed extension).

*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:

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The proposal provides adequate physical separation to the new balcony and deck areas from neighbouring private open space and living areas. As such, the proposed development would not require further screening which could compromise access to light, air or views.

*Objective 3) To encourage awareness of neighbourhood security.*

Comment:

The proposal maintains areas including entrances and windows that provide appropriate opportunity for awareness of neighbourhood security.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP 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 Separation**

Description of non-compliance

The proposal is non-compliant with the control for side setbacks of 2m. The proposed setback to the balcony at the south-east is 1.25m and the proposed setback to the deck at the north-west is 1.6m.

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 proposed additions are at the rear and would therefore provide no unreasonable impact on the streetscape.

*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:

As a result of appropriate physical separation and orientation, the proposed extension to the balcony

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would not result in any unreasonable privacy impact or any other amenity impact.  
The proposed extension of the deck is at existing ground level and also has adequate physical separation to adjoining living spaces to ensure there would be no unreasonable amenity impact.

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

Comment:

Given the siting of the proposed extensions are to the rear and orientated away from adjoining living areas, the siting of the proposed development area is appropriate.

*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 retains existing natural features on site and has no impact on landscaped area.

*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 MLEP 2013 / MDCP 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**

S94 Contributions are not applicable to this application.

#### **CONCLUSION**



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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 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 DA2018/1062 for Alterations and Additions to an existing dwelling house on land at Lot 3 DP 665287, 12 Rosedale Avenue, FAIRLIGHT, 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**

| <b>Architectural Plans - Endorsed with Council's stamp</b> |              |                    |
|--|--------------|--------------------|
| <b>Drawing No.</b>   | <b>Dated</b> | <b>Prepared By</b> |
| A_SP_A001_1- Site Plan                                     | 22/05/2018   | Studio_P           |
| A_SP_A001_1- Floor Plan Basement                           | 22/05/2018   | Studio_P           |
| A_SP_A01.1_3- Ground Floor Plan                            | 18/05/2018   | Studio_P           |
| A_SP_A01.2_04- Floor Plan L1                               | 18/05/2018   | Studio_P           |

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|  |            |          |
|--|------------|----------|
| A_SP_A04.1_3- Elevations South-East Tender | 28/05/2018 | Studio_P |
| A_SP_A04.2_5- Elevations South-West        | 28/05/2018 | Studio_P |
| A_SP_A04.3_4- Elevations North-East        | 28/05/2018 | Studio_P |

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. Prescribed Conditions

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the



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

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

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

Reason: Legislative Requirement (DACPLB09)

### 3. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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



construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

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

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

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

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

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





management system.

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. Security Bond

A bond (determined from cost of works) of \$1,000 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](http://www.northernbeaches.nsw.gov.au)).

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

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

### 5. Stormwater Disposal

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Council's specification are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

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

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

### 6. 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.

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE  
OCCUPATION CERTIFICATE****7. 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



● New Works: Extension of the kitchen and the balcony above it  
Extension of the deck

**STUDIO\_P**  
architecture & interiors

SUITE 236, L4 813 PACIFIC HWY  
CHATSOOD 2067  
02 9487 3377  
studiop.com.au  
ABN: 24 968 801 044  
ARN: 8959

CLIENT:  
ALLAN FAMILY  
PROJECT:  
12 ROSEDALE AVE FAIRLIGHT  
DRAWING TITLE:  
SITE PLAN  
DRAWING NUMBER\_REVISION:  
A\_SP\_A00\_02

REVISION\_AMENDMENTS\_DATE  
01 PRELIMINARY  
02 PRELIMINARY

SCALE: 1:200 (A3)

18/03/18  
21/05/18

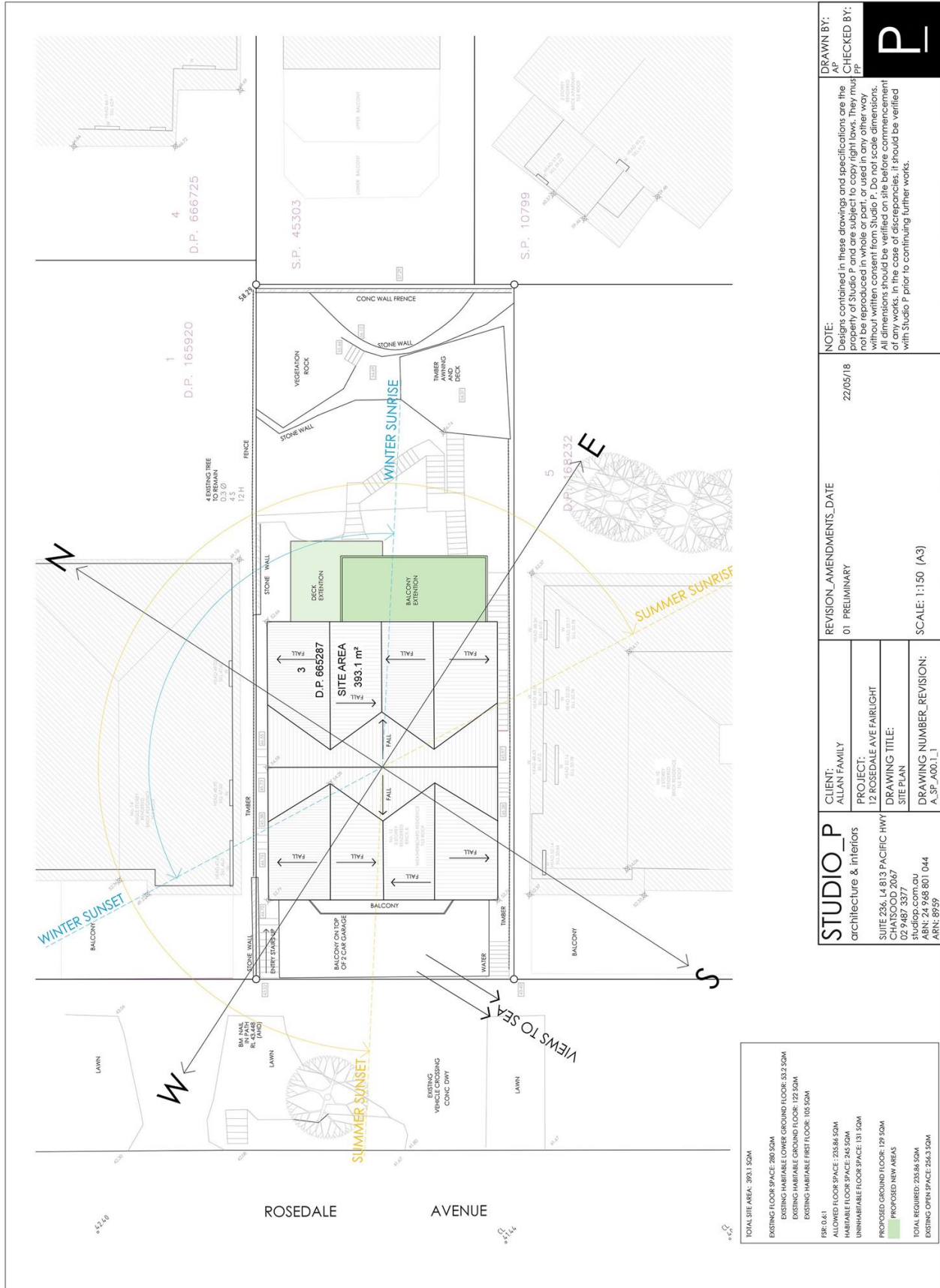


NOTE:  
Designs contained in these drawings and specifications are the property of Studio P and are subject to copy right laws. They must not be reproduced in whole or part, or used in any other way without written consent from Studio P. Do not scale dimensions. All dimensions should be verified on site before commencement of any works. In the case of discrepancies, it should be verified with Studio P prior to continuing further works.

DRAWN BY:  
AP  
CHECKED BY:  
pp

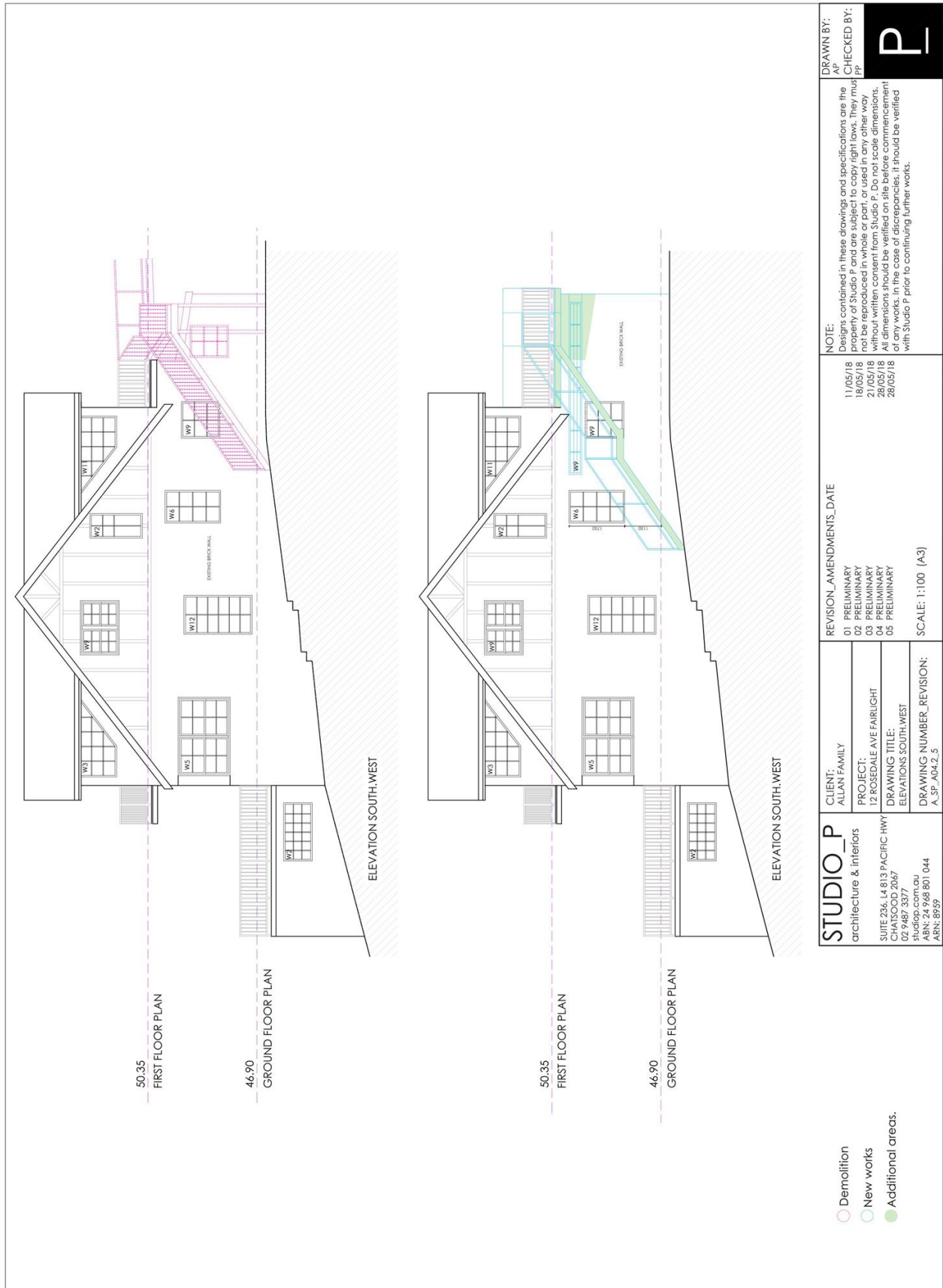
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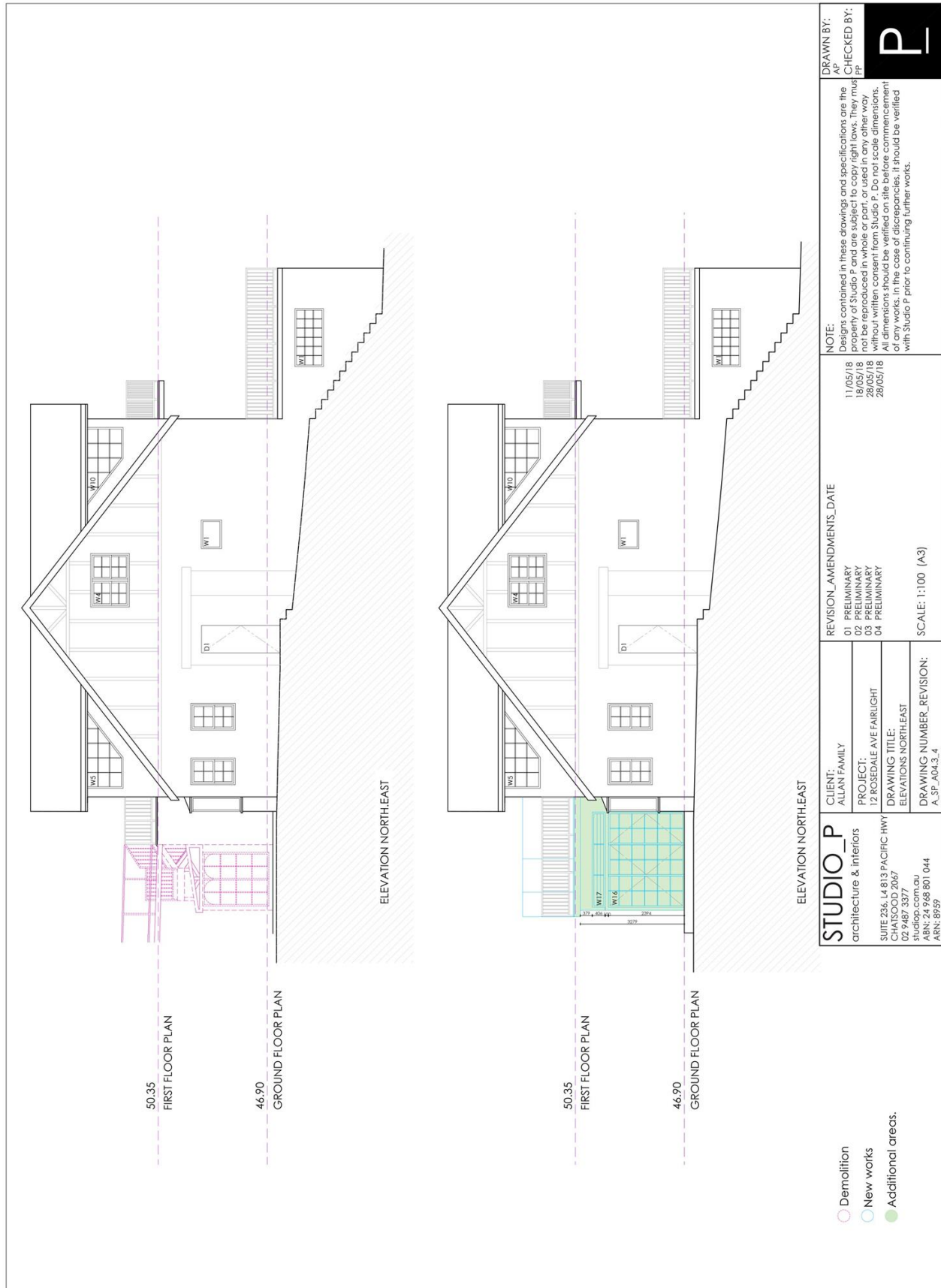












|                          |  |
|--------------------------|--|
| <b>ITEM 3.4</b>          | <b>DA2018/0832 - 149A SEAFORTH CRESCENT, SEAFORTH -<br/>CONSTRUCTION OF A DWELLING HOUSE</b> |
| <b>REPORTING MANAGER</b> | <b>RODNEY PIGGOTT</b>  |
| <b>TRIM FILE REF</b>     | <b>2018/576286</b>   |
| <b>ATTACHMENTS</b>       | <b>1 Assessment Report<br/>2 Site Plan and Elevations</b>                                    |

**PURPOSE**

To refer the attached application for determination as required under adopted delegations of the Charter and due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the building height standard.

---

**RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER**

THAT Council as the consent authority grant Development Consent to DA2018/0832 for construction of a dwelling house on land at Lot 2 DP 565073, 149A Seaforth Crescent, Seaforth, subject to the conditions outlined in the Assessment Report.

---



## REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 12 September 2018

149 A Seaforth Crescent Seaforth - Construction of a dwelling house

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                                    |  |
|------------------------------------|--|
| Application Number:                | DA2018/0832  |
| Responsible Officer:               | Maxwell Duncan   |
| Land to be developed (Address):    | Lot 2 DP 565073, 149 A Seaforth Crescent SEAFORTH NSW 2092 |
| Proposed Development:              | Construction of a dwelling house                           |
| Zoning:                            | Manly LEP2013 - Land zoned E3 Environmental Management     |
| Development Permissible:           | Yes  |
| Existing Use Rights:               | No   |
| Consent Authority:                 | Development Determination Panel                            |
| Land and Environment Court Action: | No   |
| Owner:                             | Frederic Leforestier<br>Lydie Marie Germaine Leforestier   |
| Applicant:                         | Environa Studio  |
| Application lodged:                | 21/05/2018   |
| Integrated Development:            | No   |
| Designated Development:            | No   |
| State Reporting Category:          | Residential - Single new detached dwelling                 |
| Notified:                          | 23/05/2018 to 08/06/2018                                   |
| Advertised:                        | Not Advertised   |
| Submissions Received:              | 6  |
| Recommendation:                    | Approval   |
| Estimated Cost of Works:           | \$ 1,898,967.00  |

### 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:

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- 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 Local Environmental Plan 2013 - 6.10 Limited development on foreshore area  
 Manly Development Control Plan - 3.4.2 Privacy and Security  
 Manly Development Control Plan - 3.4.3 Maintenance of Views  
 Manly Development Control Plan - 4.1.1.1 Residential Density and Dwelling Size  
 Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)  
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation  
 Manly Development Control Plan - 4.1.8 Development on Sloping Sites  
 Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features

#### **SITE DESCRIPTION**

|                                   |   |
|-----------------------------------|---|
| <b>Property Description:</b>      | Lot 2 DP 565073 , 149 A Seaforth Crescent SEAFORTH NSW 2092   |
| <b>Detailed Site Description:</b> | <p>The subject site consists of one (1) allotment located on the northern side of Seaforth Crescent.</p> <p>The site is irregular in shape with a frontage of 7.16m along Seaforth and a average depth of 86mm. The site has a surveyed area of 1141m<sup>2</sup>.</p> <p>The site is located within the E3 Environmental Management zone and accommodates vehicular access via an existing driveway from Seaforth Crescent to an existing hardstand car space to the front of the property.</p> <p>The surrounding area includes the harbour foreshore and in particular, Peach Tree Bay. The properties in the area are characterised by multi-storey dwellings on a hillside which slopes steeply down to the Middle harbour foreshore area. On the harbour side of Seaforth Crescent the area has a</p> |

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|  |   |
|--|---|
|  | <p>variety of garages to the front of the allotments and at street level.</p> <p>The site is currently vacant.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by multi-storey dwellings.</p> |
|--|---|

Map:



## SITE HISTORY

A search of Council's records has revealed the following relevant history:

- **DA2017/1339** Construction of a new dwelling house was **Withdrawn** by the applicant on 13/02/2018.
- **DA35/2003- Part 2** New Building Dwelling was on **Approved** on 10/12/2003.
- **DA35/2003-** New Building Dwelling was on **Approved** on 19/06/2003.

## PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for excavation and the construction of a detached dwelling house with a double garage, swimming pool, inclinator, and decking.

Specifically, the works involve the following:

### Ground floor

- Bedroom 4.  
DA2018/0832



- Study.
- Laundry.
- Bathroom.
- Powder room.
- Deck.

#### **First floor**

- Bedroom 2 and 3.
- Rumpus room.
- Bathroom.
- Deck

#### **Second floor**

- Kitchen and dining room.
- Lounge room.
- Covered hallway.
- Deck.

#### **Third Floor**

- Bedroom 1 with balcony (deck), walk-in robe and en suite.
- Study.
- Lift.

#### **Other**

- Double Garage.
- Inclinator.
- Sea wall.
- Swimming pool and outbuilding.
- Landscaping.
- External stairs.

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:

| <b>Section 4.15 Matters for Consideration'</b>                                | <b>Comments</b>  |
|---|--|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on "Environmental Planning Instruments" in this report. |
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| Section 4.15 Matters for Consideration'   | Comments   |
|---|--|
| 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)(iia) – 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&amp;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&amp;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&amp;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&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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&amp;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&amp;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> <p><u>Clause 143A</u> of the EP&amp;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.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental                                     | <p><b>(i) Environmental Impact</b></p> <p>The environmental impacts of the proposed development</p>  |



| Section 4.15 Matters for Consideration'  | Comments   |
|--|--|
| impacts on the natural and built environment and social and economic impacts in the locality | <p>on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b><br/>The proposed development will / will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>The proposed development will / will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development                       | The site is considered un/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 6 submission/s from:

| Name:   | Address:                                |
|---|---|
| Mrs Georgina Carollo  | 72 Seaforth Crescent SEAFORTH NSW 2092  |
| Ms Leisa Barry<br>Mr John Collis Barry                              | 153 Seaforth Crescent SEAFORTH NSW 2092 |
| Mr Tony Jarrett   | 149 Seaforth Crescent NSW               |
| Boston Blyth Fleming Pty Ltd<br>Mr Alan David Masterton             | 1 / 9 Narabang Way BELROSE NSW 2085     |
| Mrs Koula Zerefos<br>Mr Jim Zerefos<br>Design Collaborative Pty Ltd | 151 Seaforth Crescent SEAFORTH NSW 2092 |
| Mrs Susie Dixon   | 145 Seaforth Crescent SEAFORTH NSW 2092 |

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



- **View Loss.**
- **Inadequate Clause 4.6 (Special Height Provision)**
- **Bulk and Scale (incorporating wall height, number of storeys and roof height).**
- **Impact on streetscape.**
- **Driveway Access and Parking**
- **Roof Material.**
- **Privacy (acoustic and visual)**
- **Boundary encroachment.**
- **Mature height of landscaping.**
- **Tree removal.**
- **Swimming Pool**

The matters raised within the submissions are addressed as follows:

- **View loss.**

Comment:

Concern was raised in regards to view loss from private and public spaces to Peach Tree Bay. The proposal has been assessed against the view loss provisions under Clause 3.4.3 of the Manly DCP in this report. In summary, the proposed development does not cause unreasonable view loss to and from public and private open spaces.

- **Inadequate clause 4.6 (Clause 4.3A- Special Height Provision).**

Comment:

See comments under Clause 4.6 of the Manly LEP in this report. In summary, the proposed written request from the applicant has been considered and is found to have adequately demonstrated the matters required to be demonstrated by subclause (3)(a) and (b).

- **Bulk and scale (incorporating wall height, number of storeys and roof height).**

Comment:

The scale of the proposed dwelling is larger than that of adjoining properties, however appropriate for the size and constraints of the allotment. The proposed design of the house is sympathetic to the topographic and landscape of Seaforth Crescent and the foreshore area, allowing for significant landscaping throughout the site, consistent with the numerical control under the Manly DCP. It is also noted that the proposed dwelling house itself will not be readily visible from the streetscape. The bulk and scale of the proposed dwelling house is not unreasonable, and doesn't warrant the refusal of the application.

- **Impact upon streetscape.**

Comment:

The proposed garage and inclinator will be visible from the streetscape. The proposed size, scale and siting of the garage is not unreasonable given the existing development within the streetscape. Nos. 149, 151 153 which incorporate similar size garages along the front boundary each property.

- **Driveway access and parking.**

Comment:

Concern was raised in regards to access to and from the existing shared driveway, as a result of

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the proposed garage. The application was referred to both Council's traffic engineer and development engineer. Council's development engineers reported the following in relation to the shared driveway:

*"The exact space/aisle width is about 6.9m in average between the proposed garage and retaining wall. The B85 vehicle shall be able to manoeuvre in accordance with the appendix B of AS 2890.1.2004. The vehicle can drive in and out in a front direct with a several point turn. It is not the perfect situation, though it is acceptable on the shared driveway. However, the cars of No. 149 may have difficulty driving in and out in a front direction after the installation of the garage. It is because cars may use the land of No. 149A as a turning area. In reality, there is no ROW arrangement between two owners (on land title). It is not the responsibility of the owner at No. 149A to donate their land to serve others."*

Concerns were also raised in regards to impact of trucks and other larger vehicles using the existing shared driveway during construction. To help mitigate potential impacts during construction of the dwelling house a construction traffic management plan and dilapidation report has been included as part of this recommendation, prior to construction certificate and commencement of works:

- **Roof material.**

Comment:

Concern was raised in regards to the visual impact of the proposed external roof of the proposed dwelling. A standard condition has been imposed as part of this recommendation, ensuring that the external roof of the proposed dwelling is finished with a medium to dark range to minimise solar reflection.

- **Privacy (visual and acoustic).**

Comment:

Concern was raised about resulting privacy impacts (acoustic and visual) from the dwelling house, swimming pool and inclinor. The proposal has been assessed against the privacy provisions under Clause 3.4.2 of the Manly DCP in this report. In summary, the proposal is compliant with the relevant provisions and underlying objectives under Clause 3.4.1 of the Manly DCP.

- **Boundary encroachment.**

Comment:

The deck proposed south-west of the garage is to be removed from any approved plans. The deck is located on Council land and no owners consent has been provided.

- **Mature height of landscaping.**

Comment:

Concern was raised in regards to the visual impact that may result from the landscaping proposed as part of this application. It is noted from the landscape plan that new tree planting only occurs to the north and north-east of No. 149 Seaforth Crescent. The proposed trees at a mature state are unlikely to result in any unreasonable view loss from No. 149 Seaforth Crescent.

- **Tree removal**

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Comment:

Council's landscape officer raised no objection to the removal of trees on site as indicated in both the landscape architectural plan and arboricultural report. It is noted that the proposal meets the minimum native tree requirement under Clause 4.1.5.2 of the Manly DCP.

- **Swimming Pool**

Comment:

Concern was raised in regards to the height and resulting privacy impacts of the swimming pool as part of this application. The development proposes a variation to the 1m height control for swimming pools. As assessment against the underlying objectives of this clause is included as part of this application under clause 4.1.9 of the Manly DCP. In summary, the height of swimming pool is not considered unreasonable given the physical separation proposed and the steep topography of the site.

Concern was also raised in regards to the acoustic impact of the swimming pool mechanics including the pool filter. A recommended condition of consent has been included as part of this recommendation to ensure that the pool filter box is centrally located and sound insulated to ensure no unreasonable aural impact to adjoining properties.

## MEDIATION

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

## REFERRALS

| Internal Referral Body           | Comments   |
|----------------------------------|--|
| Landscape Officer                | The landscape component of the proposal is acceptable, subject to completion of the proposed landscaping and protection of existing vegetation.  |
| NECC (Bushland and Biodiversity) | <p>The proposal has been assessed against Manly LEP 2013 Clause 6.5 (Terrestrial Biodiversity).</p> <p>Existing vegetation on the site comprises predominantly exotic understory and mid-story with a number of locally native canopy trees. Several priority weeds (as declared under the NSW <i>Biosecurity Act</i>) also occur. The proposal will require removal of nine trees, none of which are native to Australia. Targeted and general tree protection measures are provided in the submitted arborist report to safely retain trees proposed for retention. Proposed landscaping includes locally native understory species, revegetation and weed control.</p> <p>Implementation of measures recommended in the biodiversity management plan, arborist report and landscape plans, will serve to protect existing biodiversity values and result in an appropriate planning outcome for the site.</p> |



| Internal Referral Body                          | Comments  |
|---|---|
| NECC (Coast and Catchments)                     | <p>DA2018/0832 149A Seaforth Cres Seaforth has been assessed in relation to coastal considerations. The submitted report have been reviewed against:</p> <p>Sydney Harbour Regional Environment Plan (SREP) and DCP State Environment Planning Policy (Coastal Management)</p> <p>Manly LEP</p> <ul style="list-style-type: none"> <li>* Clause 6.4 Stormwater management</li> <li>* Clause 6.8 Landslide Risk</li> <li>* Clause 6.9 Foreshore scenic protection area and ('Foreshore Scenic Protection' in SEA)</li> <li>* Clause 6.10 Limited development on foreshore area ('Foreshore Building Line' in SEA)</li> </ul> <p>Manly DCP</p> <ul style="list-style-type: none"> <li>* 3.7 Stormwater Management</li> </ul> <p>The proposal is supported with conditions</p> |
| NECC (Development Engineering)                  | Development engineer has no objection to the application subject to the following condition of consent.   |
| Strategic and Place Planning (Heritage Officer) | <p>Further to a review of the available documents and site visit, The site of proposed development is not a listed heritage item in its own right, however, it is located in the proximity of the foreshore area and visible from the Harbour.</p> <p>Given the nature of the proposal, the impact on heritage values is assessed as acceptable.</p> <p>Based on the above, I have no objections to this proposal from heritage perspective.</p> <p><b>Proposal is acceptable without conditions.</b></p> <p>Kind Regards<br/>Zoran Popovic  Heritage Adviser</p>   |
| Traffic Engineer                                | <p><b>Traffic:</b><br/>The development is for a single dwelling. Therefore the site is anticipated to produce the same volume as the existing being 2 vehicles in the peak hour movement. Traffic raise no objection.</p> <p><b>Parking:</b><br/>Same as existing. Traffic Raise no objection.</p> <p><b>Car Park layout:</b><br/>Car port at top of the hill remains relatively unchanged.</p> <p><b>Pedestrian:</b><br/>The proposal does not change the pedestrian access along the frontage of the property. Traffic raise no objection.</p>  |

| External Referral Body | Comments      |
|------------------------|---------------|
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| 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.   |
| Aboriginal Heritage Office | Reference is made to the proposed development at the above area and Aboriginal heritage.<br><br>No sites are recorded in the current development area and an Aboriginal heritage (due diligence) archaeological report carried out did not identify any unrecorded Aboriginal sites.<br><br>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. |

#### **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. 889944S\_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              | 50       |



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

### **SEPP (Infrastructure) 2007**

#### Ausgrid

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

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

#### Comment:

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

### **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The subject property is located within the Sydney Harbour Catchment therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(1) (aims of the SREP), Clause 13 (nominated planning principles) and Clause 21 (relating to biodiversity, ecology and environmental protection) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was considered necessary.

### **Manly Local Environmental Plan 2013**

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

#### Principal Development Standards

| Standard                         | Requirement | Proposed    | % Variation | Complies |
|----------------------------------|-------------|-------------|-------------|----------|
| Height of Buildings:             | 8.5m        | 11.35m      | 33% (2.85m) | No       |
| Special height provisions        | RL59.40     | RL59.67     | 4.5% 270mm  | No       |
| Floor Space Ratio<br>DA2018/0832 | FSR: 0:40:1 | FSR: 0:29:1 | N/A         | Yes      |

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|  |                     |                   |  |  |
|--|---------------------|-------------------|--|--|
|  | 456.4m <sup>2</sup> | 334m <sup>2</sup> |  |  |
|--|---------------------|-------------------|--|--|

#### Compliance Assessment

| Clause                                     | Compliance with Requirements |
|--|------------------------------|
| 4.3 Height of buildings                    | No                           |
| 4.3A Special height provisions             | No                           |
| 4.4 Floor space ratio                      | Yes                          |
| 4.6 Exceptions to development standards    | Yes                          |
| 5.7 Development below mean high water mark | Yes                          |
| 6.2 Earthworks                             | Yes                          |
| 6.4 Stormwater management                  | Yes                          |
| 6.5 Terrestrial biodiversity               | Yes                          |
| 6.8 Landslide risk                         | Yes                          |
| 6.9 Foreshore scenic protection area       | Yes                          |
| 6.10 Limited development on foreshore area | Yes                          |
| 6.12 Essential services                    | Yes                          |

#### Detailed Assessment

#### 4.6 Exceptions to development standards

The following assessment of the variation to Clause 4.3 Building Height development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

|  |             |
|--|-------------|
| Requirement:   | 8.5m        |
| Proposed:  | 11.35m      |
| 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  | 33% (2.85m) |

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings , the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the MLEP 2013. The assessment is detailed as follows:

#### Is the planning control in question a development standard?

The prescribed Height of buildings limitation pursuant to Clause 4.3 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 4.3 – 'Height of buildings' of the MLEP

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2013 are:

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

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

Comment:

The proposed building height of the proposed dwelling house is reasonable given the fall of the land. The dwelling house sits below the cliff which is located along the south-eastern boundary, and will not be clearly visible from the streetscape and as such the impact upon the streetscape will be negligible. The four storey dwelling house allows for a minor footprint on the land, which results in a greater level of landscaping across the subject site, maintaining consistency with the existing landscape character.

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

Comment:

The perceived bulk of the building is reduced as it is set back behind the existing bulk to the south. This reduces the amount of building visible from the street while maintaining the amenity of the house.

*c) to minimise disruption to the following:*

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

Comment:

The impacts on views from the proposed development are considered acceptable, having regard to *Tenacity Consulting v Waringah* [2004] NSWLEC 140.

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

Comment:

The solar impacts of this aspect of the development are minimal and acceptable in terms of their impacts on habitable rooms of the adjoining properties and public open spaces.

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

Comment:

The building height non-compliance does not create amenity impacts over land in recreation or



environmental protection zones, that might conflict with bush land and surrounding land uses.

#### **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 E3 Environmental Management zone.

#### The underlying objectives of the E3 Environmental Management zone

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*

##### Comment:

The proposal has reasonable measures to ensure ecological, scientific, cultural and aesthetic protection, subject to conditions.

- *To provide for a limited range of development that does not have an adverse effect on those values.*

##### Comment:

The proposal for a new dwelling house is compliant with the numerical requirement for Floor Space Ratio under the Manly, LEP, 2013. As a result, the proposed development is limited to a reasonable extent so as to ensure there is no adverse effect on the above values.

- *To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.*

##### Comment:

The proposed dwelling would have not have an unreasonable impact on existing tree canopies. The size and scale of the proposal means that it would not dominate scenic qualities of the foreshore.

- *To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.*

##### Comment:

The compliant rear setback between the dwelling house and foreshore, ensures the development does not have a negative impact.

- *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.*

##### Comment:

The proposal involves appropriate landscaping and is compliant with the landscaped open space control required by the Manly DCP 2013. Subject to conditions, the proposal will be consistent with this objective.



- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*

Comment:

The slope of the land, proposed vegetation and existing vegetation provides a situation in which the development provides adequate regard to the surroundings.

**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:

In this situation, the sloping nature of the site and compliance with floor space ratio development standard and open space requirements allows the proposed development to be consistent with the objectives for Height of buildings despite not having strict compliance with the numerical requirement.

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

Comment:

The proposed building height is a satisfactory outcome as the proposal allows for greater level of floor space and outdoor living space, while the existing amenity is not unreasonably impacted and the bulk and scale remains consistent within the streetscape.

(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's written request outlines the reasons as to why compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and provides the following environmental planning justification for the contravention of the



development standard as follows:

(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's 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 reasons detailed above, the proposal is considered to be consistent with the objectives of the E3 Environmental Management zone in the MLEP 2013.

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

Comment:

Planning Circular PS 18-003 dated 21 February 2018, 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%. Following the release of PS18-003, Council received correspondence from a delegate of the Secretary which granted Council staff, for 12 months from 1 March 2018, the ability to assume the Secretary's concurrence for Class 1 buildings which seek to vary the building height standard by more than 10%.

As the development varies development standard by more than 10% the concurrence of the Secretary is assumed subject to determination through Councils Development Determination Panel.

The following assessment of the variation to Clause 4.3A Special Height Provisions development standard has taken into consideration the questions established in *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46.

|  |           |
|--|-----------|
| Requirement:   | RL59.40   |
| Proposed:  | RL59.67   |
| 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 |

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If numerical enter a % variation to requirement

4.5% (270mm)

The proposal must satisfy the objectives of Clause 4.3 – Special Height Provisions, 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 Height of buildings limitation pursuant to Clause 4.3A 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 4.3A – ‘Special Height Provisions’ of the MLEP 2013 are:

*\*Note: Clause 4.3A Special Height provisions of the MLEP 2013 does not contain objectives for the development standard. However, this standard is subservient to Clause 4.3 Height of Buildings which contains relevant objectives to Clause 4.3A Special Height Provisions.*

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

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

Comment:

At street level, the proposal will appear is largely consistent in terms of height and bulk within the streetscape (only 140mm higher than that of No. 151 Seaforth Crescent). The proposed garage is consistent with the front setback of adjoining garages, maintaining the prevailing building line along the low side of Seaforth Crescent.

In this regard, the proposed building height is consistent with the topographic landscape and the prevailing building height within the sites vicinity.

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

Comment:

The overall scale and height of the garage is consistent with the surrounding and nearby development located within the E3 Environmental Management zone and will be consistent with the height of dwellings that adjoin the site to the east and west (including Nos.149, 151 and 153 Seaforth Crescent).

*c) to minimise disruption to the following:*

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



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

Comment:

The impacts on views from the proposed development are considered acceptable, having regard to *Tenacity Consulting v Waringah* [2004] NSWLEC 140.

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

Comment:

The solar impacts of this aspect of the development are minimal and acceptable in terms of their impacts on habitable rooms of the adjoining properties and public open spaces.

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

Comment:

The building height non-compliance does not create amenity impacts over land in recreation or environmental protection zones, that might conflict with bush land and surrounding land uses.

**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 E3 Environmental Management zone.

The underlying objectives of the E3 Environmental Management zone

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*

Comment:

The proposal has reasonable measures to ensure ecological, scientific, cultural and aesthetic protection, subject to conditions.

- *To provide for a limited range of development that does not have an adverse effect on those values.*

Comment:

The proposal for a new dwelling house is compliant with the numerical requirement for Floor Space Ratio under the Manly, LEP, 2013. As a result, the proposed development is limited to a reasonable extent so as to ensure there is no adverse effect on the above values.

- *To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.*

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Comment:

The proposed dwelling would not have an unreasonable impact on existing tree canopies. The size and scale of the proposal means that it would not dominate scenic qualities of the foreshore.

- *To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.*

Comment:

The compliant rear setback between the dwelling house and foreshore, ensures the development does not have a negative impact.

- *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.*

Comment:

The proposal involves appropriate landscaping and is compliant with the landscaped open space control required by the MLC DCP 2013. Subject to conditions, the proposal will be consistent with this objective.

- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*

Comment:

The slope of the land, proposed vegetation and existing vegetation provides a situation in which the development provides adequate regard to the surroundings.

**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:

In this situation, the sloping nature of the site and compliance with floor space ratio development standard and open space requirements allows the proposed development to be consistent with the objectives for Height of buildings despite not having strict compliance with the numerical requirement.

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



Comment:

The proposed building height of the garage is a satisfactory outcome as the proposal allows for reasonable area for car storage that is consistent in terms of bulk and scale with the streetscape, while not unreasonably compromising amenity particularly that of views from neighbouring properties and the public open space to the foreshore.

(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's written request outlines the reasons as to why compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and provides the following environmental planning justification for the contravention of the development standard as follows:

(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's 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 reasons detailed above, the proposal is considered to be consistent/inconsistent with the objectives of the E3 Environmental Management zone in the MLEP 2013.

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

Comment:

Planning Circular PS 18-003 dated 21 February 2018, 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%. Following the release of PS18-003, Council received correspondence from a delegate of the Secretary which granted Council staff, for 12 months from 1 March 2018, the ability to assume the Secretary's concurrence for Class 1 buildings which seek to vary the special height provisions standard by more than 10%.

As the development does not vary a development standard by more than 10% the concurrence of the Secretary may be assumed.

#### **6.10 Limited development on foreshore area**

A portion of the proposed works are within the foreshore area mapped under Clause 6.10 of Manly LEP. The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.

*(2) Development consent must not be granted to development on land in the foreshore area except for the following purposes:*

*(a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,*

*(b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,*

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

Comment:

The proposed works are for a deck (outdoor recreation) within the foreshore area. The proposal is consistent with the clause.

The seawall shown on the landscape architectural plan, is recommended to be removed as part of approval of this application.





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

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

The proposed works are consistent with the E3 Environmental Zone objectives.

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

*The development maintains setbacks which are compatible with the existing*  
Surrounding development. Similar types of development is seen along the low side of Seaforth Crescent.

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

*(i) pollution or siltation of the waterway, or*

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

*(iii) an adverse effect on drainage patterns, and*

The proposal complies with this clause, subject to the recommended conditions of consent.

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

The adjoining harbour beach will not be unreasonably compromised by the proposed works. Full use of the beach area is maintained.

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

The adjoining beach to the -north-west of the site is unaffected by the proposed works. Full use of the beach area is maintained.

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

Councils Aboriginal Heritage offered no objection to the proposal.

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

The proposal is for construction of a new dwelling house.

*(h) sea level rise or change of flooding patterns as a result of climate change has been considered.*

Future climatic impacts have been considered as part of this assessment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 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.



## Manly Development Control Plan

### Built Form Controls

| Built Form Controls -<br>Site Area: 1141m <sup>2</sup>  | Requirement   | Proposed                                     | %<br>Variation* | Complies |
|---|---|--|-----------------|----------|
| 4.1.1.1 Residential Density and Dwelling Size   | Density: 1 dwelling (per 1150m <sup>2</sup> )                     | 1 dwelling (1141m <sup>2</sup> )             | 0.8%            | No       |
| 4.1.2.1 Wall Height   | South-west: 8m (based on gradient 1:4 or steeper)                 | 8.9m   | 11.25%          | No       |
|   | South-west (garage): 6.5m   | 2.5m   | N/A             | Yes      |
|   | North-east: 8m (based on gradient 1:4 or steeper)                 | 10.4m  | 30%             | No       |
|   | North-east (garage): 6.5m   | 2.5m   | N/A             | Yes      |
| 4.1.2.2 Number of Storeys   | 2   | 4 proposed.                                  | 100%            | No       |
| 4.1.2.3 Roof Height   | Height: 2.5m  | 1m   | N/A             | Yes      |
|   | Pitch: maximum 35 degrees   | 10 degrees                                   | N/A             | Yes      |
| 4.1.4.1 Street Front Setbacks   | Prevailing building line / 6m                                     | 0m, consistent with prevailing setback       | 100%            | No       |
| 4.1.4.2 Side Setbacks and Secondary Street Frontages  | 2.96m (based on south-west wall height)                           | 2.45m  | 23%             | No       |
|   | 0.83m (based on south-west garage wall height)                    | 0m   | 100%            | No       |
|   | 3.46m (based on north-east wall height)                           | 1.2-2.5m                                     | 65%             | No       |
|   | 0.83m (based on north-east garage wall height)                    | 0m   | 100%            | No       |
|   | Windows: 3m   | 2.5m (lift and south east elevation windows) | 18%             | No       |
| 4.1.4.4 Rear Setbacks   | 8m  | 1.5m from rear deck                          | 81%             | No       |
|   |   | 24m from swimming pool and outbuilding       |                 |          |
|   |   | 34m from dwelling house.                     |                 |          |
| 4.1.5.1 Minimum Residential Total Open Space Requirements<br>Residential Open Space Area: OS4 | Open space 60% 684.6m <sup>2</sup> of site area                   | 81% (925m <sup>2</sup> )                     | N/A             | Yes      |
|   | Open space above ground 25% 231m <sup>2</sup> of total open space | 9.9% (92m <sup>2</sup> )                     |                 |          |
| 4.1.5.2 Landscaped Area   | Landscaped area 40% (370m <sup>2</sup> ) of open space            | 86.4% (800m <sup>2</sup> )                   | N/A             | Yes      |
|   | 4 native trees  | 5 trees                                      | N/A             | Yes      |
| 4.1.5.3 Private Open Space  | 18m per dwelling  | 108.5sqm                                     | N/A             | Yes      |



|   |   |  |      |     |
|---|---|--|------|-----|
| 4.1.9 Swimming Pools, Spas and Water Features | 1m height above ground                    | 3.4m   | 100% | No  |
|   | 1m curtilage/1.5m water side/rear setback | 4m from northern boundary (closest boundary) | N/A  | Yes |
| Schedule 3 Parking and Access                 | Dwelling 2 spaces                         | 2 spaces                                     | N/A  | Yes |

**\*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:  $38/40 \times 100 = 95$  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                         |
| 3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)  | Yes                          | Yes                         |
| 3.4.1 Sunlight Access and Overshadowing  | Yes                          | Yes                         |
| 3.4.2 Privacy and Security   | Yes                          | Yes                         |
| 3.4.3 Maintenance of Views   | Yes                          | Yes                         |
| 3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design) | Yes                          | Yes                         |
| 3.5.5 Landscaping  | Yes                          | Yes                         |
| 3.5.8 Water Sensitive Urban Design   | 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                         |
| 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)                     | No                           | Yes                         |
| 4.1.3 Floor Space Ratio (FSR)  | Yes                          | Yes                         |
| 4.1.4 Setbacks (front, side and rear) and Building Separation  | No                           | Yes                         |
| 4.1.5 Open Space and Landscaping   | Yes                          | Yes                         |
| 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)                                 | Yes                          | Yes                         |
| 4.1.7 First Floor and Roof Additions   | Yes                          | Yes                         |
| 4.1.8 Development on Sloping Sites   | Yes                          | Yes                         |
| 4.1.9 Swimming Pools, Spas and Water Features  | No                           | Yes                         |
| 5 Special Character Areas and Sites  | Yes                          | Yes                         |
| 5.4.1 Foreshore Scenic Protection Area   | Yes                          | Yes                         |

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### 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 proposed development allows for reasonable levels of privacy to be maintained to adjoining properties as well as the subject property.

#### **No. 149 Seaforth Crescent, Seaforth (south-east of subject site)**

The proposed inclinator is adequately separated from adjoining property and adjoining dwelling house to the south to mitigate any privacy impacts (acoustic and visual). The proposed inclinator track runs largely parallel to the track of the adjoining north-east property No. 151 Seaforth Crescent. The intensity of use of a inclinator for a dwelling house, will not result in a situation in which the acoustic impacts of inclinator would be unreasonable in this residential setting. Further a condition will be included in the recommendation requiring the inclinator to not emit noise above 5dba above background noise at the nearest residential receiver.

#### **No. 151 Seaforth Crescent, Seaforth (north-east of subject site)**

The adjoining dwelling house the north of the subject site (No. 151 Seaforth Crescent) is sited further towards the rear (north-west) than that of the subject site. No. 151 Seaforth Crescent currently elevated terraces for outdoor living on both the front and rear side of the dwelling house (see photo 1). While the proposed development is required to maintain reasonable levels of privacy, the ability to retain the existing level of privacy enjoyed by No. 151 Seaforth Crescent to both balconies is unreasonable.

The proposed terraces/decks on level 2 and 3 are setback 3.5m from the northern boundary, this is adequate physical separation proposed, despite the unfavourable topography, and in conjunction with the proposed partial screening of the terrace (1.95m across each above ground terrace) minimises the loss of privacy by mitigating direct viewing and unreasonable aural impacts between outdoor living areas of residential dwellings. The proposed development has satisfactory mitigated privacy through screening and separation privacy is maintained, and as such satisfies this objective.

#### **No. 145 Seaforth Crescent, Seaforth (south-west of subject site)**

The south-west facing windows and outdoor living spaces proposed as part of this development do not directly overlook the window or private open space of No. 145 Seaforth Crescent. The physical separation between the two properties.

*Note: Comments related to the proposed swimming pool and resulting privacy impacts are included in this report under Clause 4.1.9- Swimming Pool, Spas and Water features of the Manly DCP.*



*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 proposed terraces/decks allow for increased sunlight access to principal private open space without compromising reasonable levels of privacy between neighbouring properties. The terraces minimises openings and outlook onto side boundaries and provides new openings to rear boundaries. This ensures that access to light and air can be maintained and provided to the front and rear whilst also ensuring privacy impacts are minimised to the nearest neighbours to the north-east and south-west.

*Objective 3) To encourage awareness of neighbourhood security.*

Comment:

The proposed works will unreasonably compromise neighbourhood security.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 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.

### 3.4.3 Maintenance of Views

Note: Due to the addition of photos as part of the assessment of this clause, the report cannot be generated electronically. A addendum to this report is included in this recommendation containing the assessment of Clause 3.4.3 of the Manly DCP.

#### 4.1.1.1 Residential Density and Dwelling Size

Description of non-compliance

Clause 4.1.1.1 of the Manly DCP requires 1150m<sup>2</sup> of site area per dwelling in residential area D9 which incorporates the subject site. The proposed site is 1141m<sup>2</sup>, a 0.8% variation to the numeric control.

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 proposed dwelling house adds to the variety of dwelling types and allotment sizes seen throughout the Manly area and particularly Seaforth Crescent. The development will retain reasonable levels of amenity, suitable in this residential setting.

*Objective 2) To limit the impact of residential development on existing vegetation, waterways, riparian*





*land and the topography.*

Comment:

The proposed dwelling house responds appropriately to sensitivity of the site, being appropriately setback from the foreshore (24m from swimming pool and 34m from the dwelling house). The proposal also retains and proposes significant levels of tree planting and associated landscaping to retain the landscape character of the area.

*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 proposed dwelling house meets the numeric control under Clause 4.1.1.1 (d) , therefore it provides and acceptable level of internal amenity for a dwelling house and adds to the existing housing diversity within the Seaforth area.

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

Comment:

The size of the lot is appropriate for a single dwelling house when compared to the size of surrounding allotments along the low side of Seaforth Crescent. No. 149 Seaforth crescent has a site area of 936.7m<sup>2</sup>, No. 145 Seaforth crescent to the south has a site are of 771.4m<sup>2</sup> and No. 151 Seaforth crescent has a site area of 972.8m<sup>2</sup>.

*Objective 5) To maximise the use of existing infrastructure.*

Comment:

The increase in density that would result from the proposed additional dwelling would not result in any unreasonable pressure on existing infrastructure in the Seaforth area.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 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.

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

This Clause relies upon the objectives of Clause 4.3 under MLEP 2013. An assessment of the proposal against the objectives of Clause 4.3 has been provided within this report. This assessment has found the proposal to be consistent with the objectives of Clause 4.3.

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

Description of non-compliance

Clause 4.1.4.1 of the Manly DCP requires dwelling be setback at least 6m from the front boundary or be

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consistent with the prevailing building line within the streetscape.

Clause 4.1.4.2 requires development be setback at least one third of the adjoining wall height.

Clause 4.1.4.2 of the Manly requires windows be setback at least 3m from side boundaries.

The development proposed the following:

**Front setback-** 0m, 100% variation to the numeric control.

**Windows-** 2.5m, 18% variation to the numeric control.

**Side setback (dwelling house)-** 1.2- 2.5m (dwelling house), 100% variation to the numeric control.

**Side setback (garage)-** 0m (garage), 100% variation to the numeric control.

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 garage proposed to the front of the subject site is largely consistent with other parking structures along the low side of Seaforth Crescent. Existing landscape features that adjoin the subject site on Council land including the two native eucalyptus trees will be retained throughout the life of the development.

*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:

Amenity considerations including privacy, solar access and maintenance of views are all maintained to a reasonable extent as part of this proposed development.

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

Comment:

Flexibility is provided in this circumstance as the proposed new dwelling house will not cause any unreasonable amenity impacts.

*Objective 4) To enhance and maintain natural features by:*

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- *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 proposed development is consistent with the numeric control for landscaped open space. Important landscape features on site and immediately adjoining the subject site are to be retained.

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

Comment:

The subject site is not located in a bush fire zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 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.

#### **4.1.8 Development on Sloping Sites**

A geotechnical report has been submitted with the application, assessing the potential impact of the steep topography of the site and excavation of the site.

The dwelling house responds appropriately to the sloping site, stepping down at each level to reduce the visual bulk and scale of the dwelling house.

#### **4.1.9 Swimming Pools, Spas and Water Features**

Description of non-compliance

Clause 4.1.9 of the Manly DCP 2013 requires swimming pools be no higher than 1m above natural ground level.

The proposed swimming pool at its highest is elevated 3.4m above natural ground level, non-compliant with the numerical control.

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 be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties;*

The proposed swimming pool is appropriately set back from the side and rear boundaries. While the pool does not meet numerical compliance in height, fencing and setbacks allow for sufficient visual and



aural privacy of the subject site and surrounding properties.

*Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the established character of the locality;*

The height of the proposed swimming pool is deemed to be reasonable given that the proposed swimming pool is not visible from the Seaforth Crescent and the existing sloping topography of the site.

*Objective 3) To integrate landscaping; and*

Landscaping is proposed to the rear and sides of the swimming pool and associated decking. The proposal will meet the numeric control for landscape open space across the site. The existing and proposed landscape may further offset the visual impact of the swimming pool from surrounding properties.

*Objective 4) To become an emergency water resource in bush fire prone areas.*

The subject site is not located in a bush fire asset protection zone, however the pool may be a viable water resource during bushfire emergencies.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 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**

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 construction of a dwelling house 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.

#### **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

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- 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 DA2018/0832 for Construction of a dwelling house on land at Lot 2 DP 565073, 149 A Seaforth Crescent, SEAFORTH, 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     |
| 020/ Site Analysis Plan                             | Issue M: 16 May 2018 | Environa Studio |
| 030/ Site Plan                                      | Issue M: 16 May 2018 | Environa Studio |
| 031/ North West Site Elevation                      | Issue M: 16 May 2018 | Environa Studio |
| 032/ North East Site Elevation                      | Issue M: 16 May 2018 | Environa Studio |
| 033/ South West Site Elevation                      | Issue M: 16 May 2018 | Environa Studio |
| 101/ House: Level 4 Part A                          | Issue M: 16 May 2018 | Environa Studio |
| 102/ House: Level 3 Part A                          | Issue M: 16 May 2018 | Environa Studio |
| 103/ House: Level 2: Part A                         | Issue M: 16 May 2018 | Environa Studio |
| 104/ House: Level 1: Part A                         | Issue M: 16 May 2018 | Environa Studio |
| 105/ House: Level 0: Part A                         | Issue M: 16 May 2018 | Environa Studio |

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|   |                      |                 |
|---|----------------------|-----------------|
| 110/ House: Roof Level: Part A                      | Issue M: 16 May 2018 | Environa Studio |
| 121/ Section AA'                                    | Issue M: 16 May 2018 | Environa Studio |
| 122/ Section BB'                                    | Issue M: 16 May 2018 | Environa Studio |
| 131/ North West Elevation                           | Issue M: 16 May 2018 | Environa Studio |
| 132/ North East Elevation                           | Issue M: 16 May 2018 | Environa Studio |
| 133/ South West Elevation                           | Issue M: 16 May 2018 | Environa Studio |
| 134/ South East Elevation                           | Issue M: 16 May 2018 | Environa Studio |
| 141/ Garage + Inclinator- Part B- Plans + Elevation | Issue M: 16 May 2018 | Environa Studio |
| 142/ Garage + Inclinator- Part B- Elevations        | Issue M: 16 May 2018 | Environa Studio |
| 143/ Pool- Part C plans                             | Issue M: 16 May 2018 | Environa Studio |
| 144/ Part C Pool Sheet 2                            | Issue M: 16 May 2018 | Environa Studio |

| <b>Reports / Documentation – All recommendations and requirements contained within:</b> |                  |                       |
|---|------------------|-----------------------|
| <b>Report No. / Page No. / Section No.</b>  | <b>Dated</b>     | <b>Prepared By</b>    |
| Geotechnical Investigation and Slope Risk Assessment (Reference No. 4654-R1-Rev1)       | 18 December 2017 | Assetgeo (Mark Green) |
| BASIX Certificate No. 889944S_02  | 7 May 2018       | Efficient Living      |

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

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

| <b>Landscape Plans</b>                         |                      |  |
|--|----------------------|--|
| <b>Drawing No.</b>                             | <b>Dated</b>         | <b>Prepared By</b>                           |
| L_101/ Landscape Architectural Plan            | Issue C/ 11 May 2018 | Elke Landscape Architect Consulting Arborist |
| 502/ Landscape Architectural Planting Schedule | Issue B/ 11 May 2018 | Elke Landscape Architect Consulting Arborist |

| <b>Waste Management Plan</b> |              |                    |
|------------------------------|--------------|--------------------|
| <b>Drawing No.</b>           | <b>Dated</b> | <b>Prepared By</b> |
| 220/ Waste Management Plan   | 15 May 2018  | Environa Studio    |

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

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

## 2. Prescribed Conditions

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



- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)  
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**3. General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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



- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

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

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

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

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. 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.

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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](http://www.northernbeaches.nsw.gov.au)).

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

5. **Construction, Excavation and Associated Works Bond (Crossing / Kerb)**

A Bond of \$5000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

Reason: Biodiversity/Vegetation Conservation and Management

Reason: 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 construction of a dwelling house 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. **Stormwater Disposal**

Engineering Plans certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the ocean with Scour and erosion control in accordance with Section 6 of Council's Manly Specification for on site stormwater management 2003.

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

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

8. **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 garage 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.

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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.

9. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

10. **Construction Management Program**

A Construction Management Program shall be prepared which includes the following:

1. The proposed method of access to and egress from the site for demolition, excavation and construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
2. The proposed method of loading and unloading, demolition, excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible cranes should be located wholly within the site; and
3. The location and operation of any on site crane.

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

**Reason:** To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community.

11. **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.

**12. Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities);
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls;
- North point and scale.

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

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

**13. Swimming Pools**

The backwash of Swimming Pool water must be discharged to Sydney Water's sewer in accordance with Australian/New Zealand Standard AS/NZS 3500. Detailed plans and specification must be submitted prior to the issue of the Construction Certificate. The drawings must show the location of Sydney Water's sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with Australian/New Zealand Standard AS/NZS 3500.

Reason: To ensure compliance with legislation and Australian Standards and to protect public health, amenity and to ensure the protection and preservation of receiving waters.

**14. Pollution and Sediment Control for Foreshore Works**

A Pollution and Sediment Control Plan for the foreshore works is to be submitted prior to CC.

The Pollution and Sediment Control Plan is to be implemented and pollution measures such as silt curtains in Middle Harbour and pollution control on the foreshore are to be installed during construction of the foreshore deck - particularly during piling and drilling.

Reason: To prevent pollution and sediment generated by piles and construction from polluting Middle Harbour (DACNECPCC4)

**15. Implementation of Biodiversity Management Plan**

All recommendations of the submitted Biodiversity Management Plan (Ecological Consultants Australia, November 2017) are to be implemented prior to, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the project ecologist and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** Biodiversity/Vegetation Conservation and Management.



16. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

17. **Garage deck**

The deck proposed on deck south-east of the proposed garage on council land is to be deleted.

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

Reason: No owners consent has been given for development on Council land.(DACPLCPCC1)

18. **Sandstone seawall**

The proposed sandstone seawall is to be removed from the Landscape Architectural plan.

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

Reason: To ensure protection of the natural foreshore area. (DACPLCPCC2)

19. **Dilapidation Report**

A Dilapidation Report is required for this development. A photographic survey of the adjoining Buildings at Nos. 149, 151 and 153 Seaforth Crescent, Seaforth detailing the physical condition of those properties, is to be submitted to Council and the Accredited Certifier (where Council does not issue the Construction Certificate) prior to the issue of the Construction Certificate. The survey is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property/ies.

All costs incurred in achieving compliance with this condition must be borne by the person entitled to act on this Consent.

If access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to Council's satisfaction attempts have been made to obtain access and/or advise the affected property owner of the reason for the survey and these attempts have been unsuccessful. Written concurrence must be obtained from Council in such circumstances.

The documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interests for it to be as full and detailed as possible.

Reason: To maintain proper records in relation to the proposed development.



**20. Swimming pool mechanical plant**

Any mechanical plant associated with the swimming pool and spa shall be centrally located within the site, away from the boundaries and acoustically treated so the pool filter does not emit any noise of 5dba above background noise at the nearest residential receiver.

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

Reason: To ensure the acoustic amenity of the neighbouring residents.

**21. Inclinator acoustic impact**

The inclinator is to be acoustically treated so that it does not emit any noise of 5dba above background noise at the nearest residential receiver.

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

Reason: To ensure the acoustic amenity of the neighbouring residents.

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

**22. 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 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.

**23. Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

**24. Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) is to be provided to Council prior to the commencing any site works. The CTMP is to ensure that the impact of the public domain, in particular with respect to the temporary interruption to vehicular and pedestrian traffic on the narrow street frontage is minimised. The CTMP must ensure that public safety is maintained at all times and interruption to the use of public space is minimised.

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The CTMP is to include but not be limited to the following:

- Access to site for different stages of construction.
- Deliveries of materials to be undertaken within the site during construction
- All construction activity to be occurred within the site with no provision of Works Zone from Council
- Proposed truck routes and truck access to site

Reason: To ensure public safety and minimisation of the interruption to the use of public space.  
(DACPLDPC1)

#### **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**25. 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

**26. Traffic Control During Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety

**27. Maintenance of Road Reserve**

The public footways, shared driveway access 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.

**28. 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

**29. Site Fencing**

The site must be fenced throughout construction and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

Reason: To ensure public safety.

**30. Stockpiling materials**

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During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of according to local regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

31. **Pollution Control**

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required in accordance to local regulations.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not leave the construction site.

32. **Pollution Control**

Any excess materials such as cleaning paintbrushes, lacquers, and any water from cleaning tools must not enter the stormwater network and/or receiving waterways.

Reason: To ensure that building associated chemicals and pollutants don't enter the surrounding environment.

33. **Arborist Recommendations to be Implemented**

All recommendations of the submitted arborist report (Elke Landscape Architect, Revision C, 11 May 2018) are required to be complied with at the appropriate stage of construction.

Reason: To protect trees proposed for retention.

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

34. **Landscape Completion**

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the Landscape Architectural Plan L\_101 prepared by EIKE Landscape Consulting and a maintenance program has been established.

Reason: ensure the landscaping is planted in accordance with the drawing and maintained appropriately

35. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Manly Specification for on site stormwater management 2003 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

36. **Swimming Pool Requirements**

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

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

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

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

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life (DACPLF09)

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

##### 37. Tree Protection

- a) A Project Arborist with minimum qualification equivalent to AQF Level 5 is to be appointed prior to commencement of works.
- b) All trees and vegetation on site, located on adjoining properties, and located within the road reserves must be retained and protected, except where approved for removal, or where site trees are exempt trees under the relevant planning instruments or legislation.
- c) The Project Arborist is to oversee all tree protection measures for the existing trees identified on the Landscape Architectural Plan No L-101 prepared by Elke Landscape Consulting.
- d) The Project Arborist is to familiarise themselves with and ensure compliance with any other tree and environmental requirements conditioned under this consent.
- e) All construction works in the vicinity of existing trees shall be conducted under the supervision of the Project Arborist.
- f) All tree protection shall be in accordance with the recommendations provided within the Aboriginal Impact Assessment dated 10 Nov 2017 or listed as conditions (as applicable) and

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AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4.

g) Tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees

h) All tree protection measures, as proposed in the Arboricultural Impact Assessment, or conditioned are to be in place prior to the commencement, including protective fencing and trunk protection.

i) To minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained.

j) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorized by a qualified Arborist on site

k) All structures are to bridge tree roots greater than 50mm diameter unless directed a qualified Arborist on site

l) Should either or both j) and k) occur during site establishment and construction works, documentary details shall be submitted by the Arborist to the Certifying Authority.

Reason: retention and protection of existing significant trees, especially near property boundaries, and protect the existing environmental amenity.

**38. Landscape Maintenance**

Evidence of an agreement for the maintenance of all plants for a period of twelve (12) months from the date of practical completion of the building is to be provided to the Principal Certifying Authority prior to issue of the final Occupation Certificate.

Reason: ensure landscaping will be appropriately maintained.

**39. Dead or Injured Wildlife – Manly LEP Clause 6.5**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

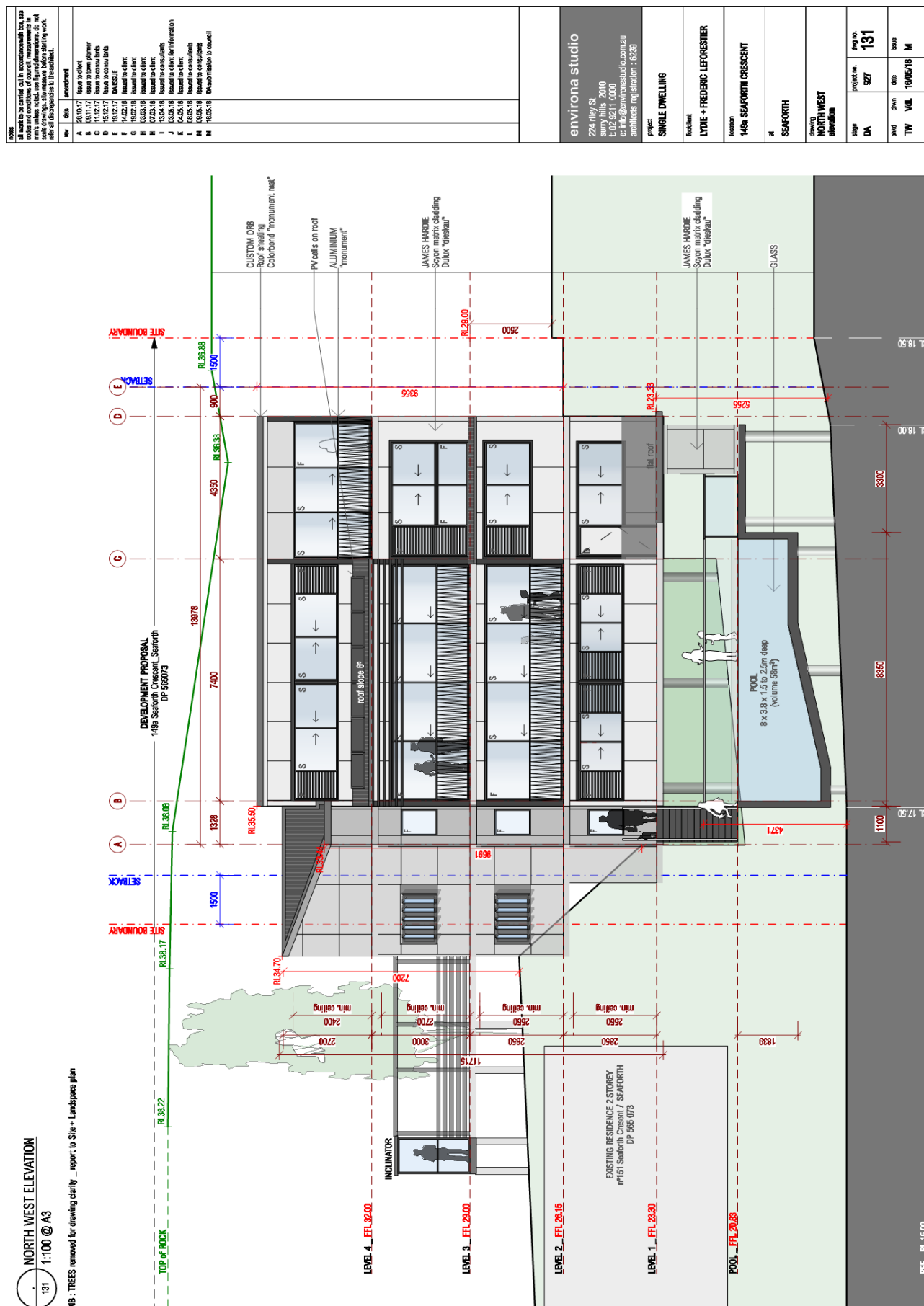
**Reason:** To mitigate potential impacts to native wildlife resulting from construction activity.

**40. Landscape Plan to be Implemented**

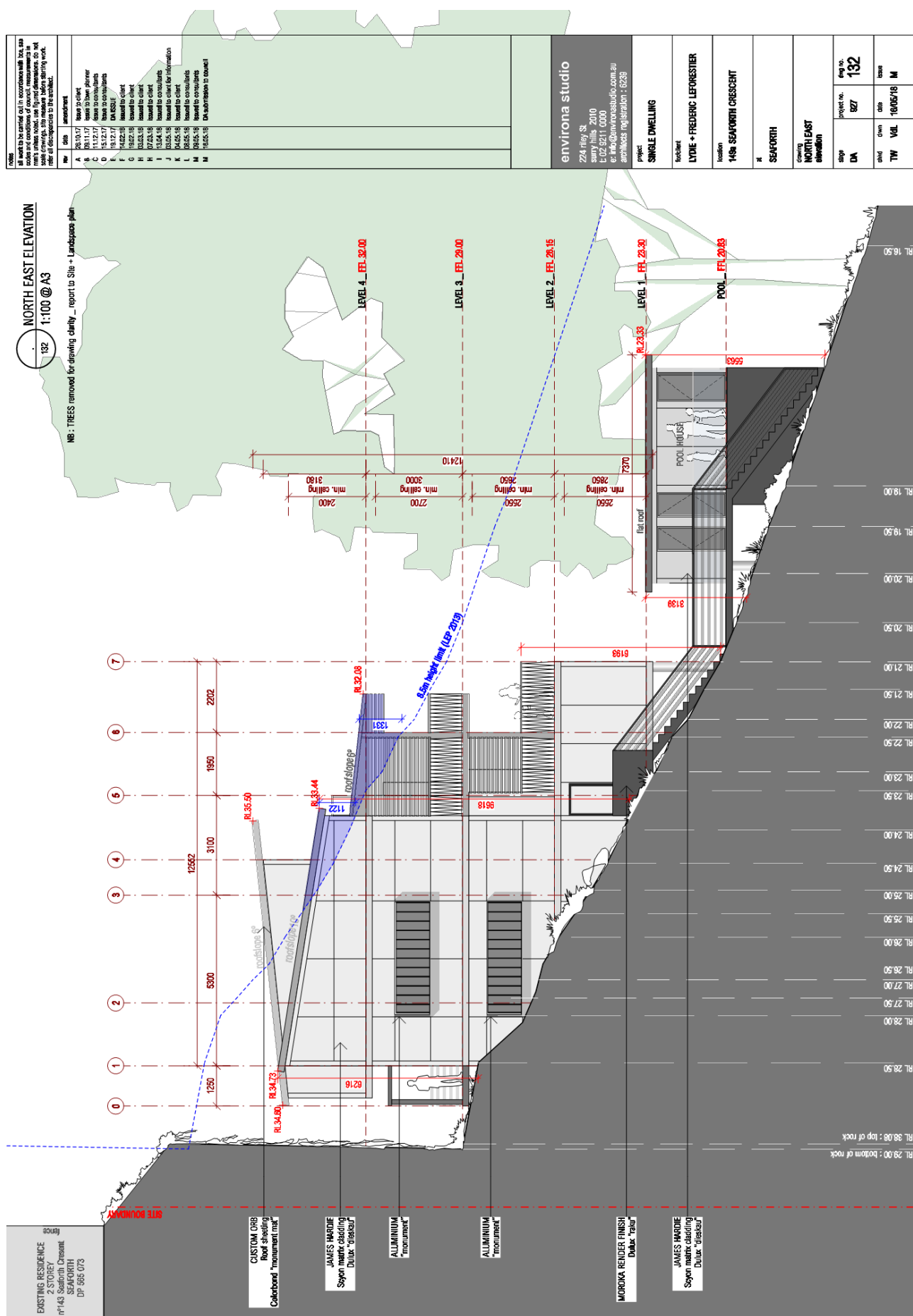
Landscaping is to be implemented in accordance with the approved Landscape Plan (Elke Landscape Architect, L\_101, Issue C 11 May 2018) The new landscaping is to be approved as completed by the accredited certifier upon issue of the Occupation Certificate unless further conditions regarding the completion timeframe are imposed. This landscaping is to then be maintained for the life of the development.

**Reason:** To ensure the site is landscaped.





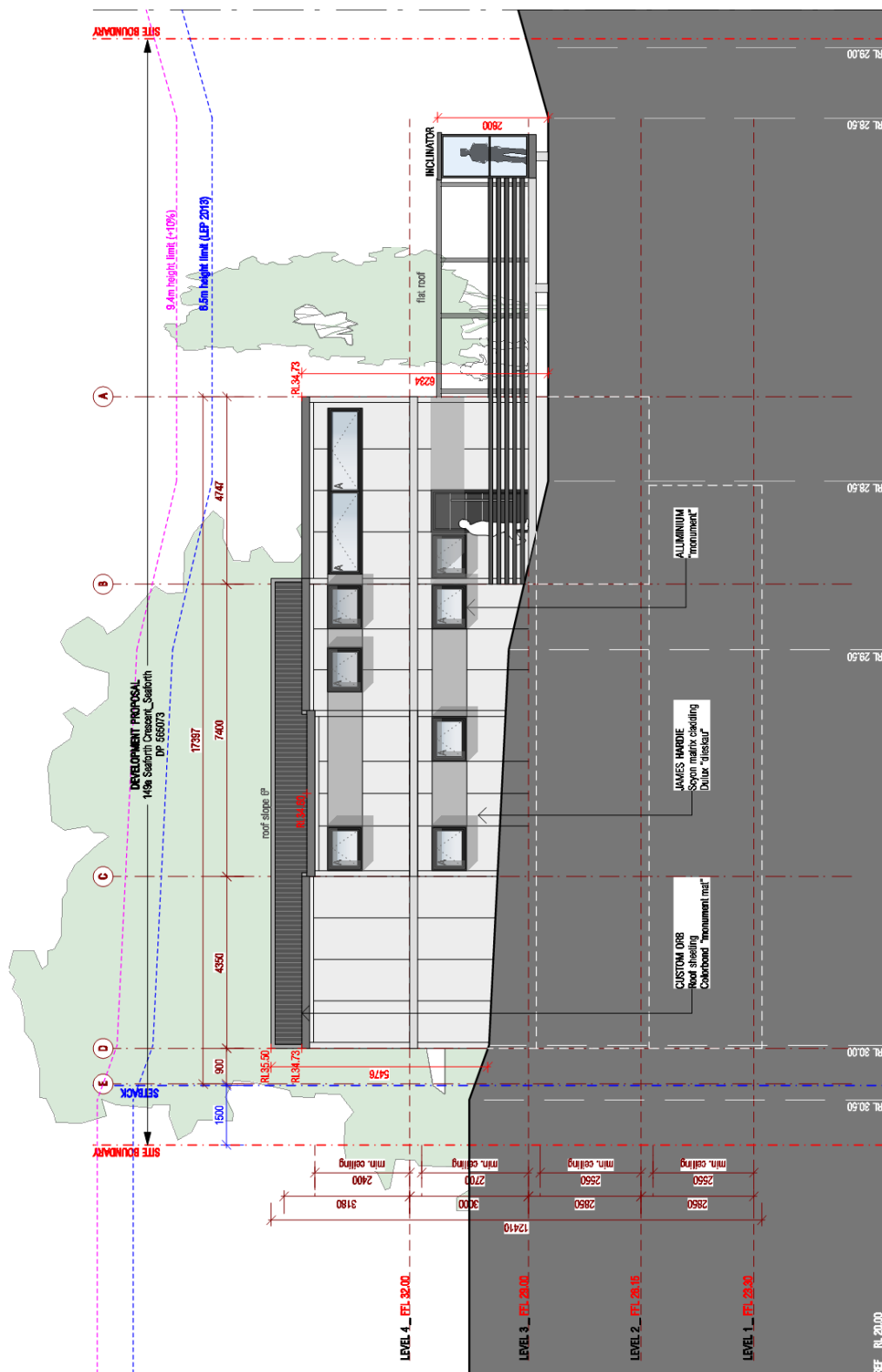






134 SOUTH EAST ELEVATION  
1:100 @ A3

**INB : TREES removed for drawing clarity \_ report to Site + Landscape plan**



|   |             |  |                        |
|---|-------------|--|------------------------|
| <p><b>Notes</b></p> <p>All work to be carried out in accordance with the codes and standards of current measurement and construction practices. All dimensions are to be taken from the face of the work unless otherwise stated. All dimensions are to be taken from the face of the work unless otherwise stated. All dimensions are to be taken from the face of the work unless otherwise stated.</p> |             | <p><b>environa studio</b></p> <p>22A Riley St<br/>Sunny Hills 2010<br/>t: 02 9211 0000<br/>e: info@environastudio.com.au<br/>architects registration: 0239</p> |                        |
| <b>Rev</b>  | <b>Date</b> | <b>Description</b>   | <b>Project</b>         |
| A   | 10/12/17    | Issue for client   | <b>SINGLE DWELLING</b> |
| B   | 10/12/17    | Issue for client   |                        |
| C   | 11/12/17    | Issue for client   |                        |
| D   | 15/12/17    | Issue for client   |                        |
| E   | 19/12/17    | Issue for client   |                        |
| F   | 19/12/17    | Issue for client   |                        |
| G   | 19/12/17    | Issue for client   |                        |
| H   | 19/12/17    | Issue for client   |                        |
| I   | 19/12/17    | Issue for client   |                        |
| J   | 19/12/17    | Issue for client   |                        |
| K   | 19/12/17    | Issue for client   |                        |
| L   | 19/12/17    | Issue for client   |                        |
| M   | 19/12/17    | Issue for client   |                        |
| N   | 19/12/17    | Issue for client   |                        |
|   |             | <b>Location</b>  |                        |
|   |             | <b>Client</b>  |                        |
|   |             | <b>Architect</b>   |                        |
|   |             | <b>Project</b>   |                        |
|   |             | <b>Project no.</b>   |                        |
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|--------------------------|--|
| <b>ITEM 3.5</b>          | <b>DA2018/0195 - 22 STUART STREET, MANLY - DEMOLITION AND CONSTRUCTION OF A DWELLING HOUSE</b> |
| <b>REPORTING MANAGER</b> | <b>ANNA WILLIAMS</b>   |
| <b>TRIM FILE REF</b>     | <b>2018/575952</b>   |
| <b>ATTACHMENTS</b>       | <b>1 Assessment Report</b><br><b>2 Site Plan and Elevations</b>                                |

**PURPOSE**

To refer the attached application for determination due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the floor space ratio.

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**RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER**

THAT Council as the consent authority grant Development Consent to DA2018/0195 for demolition and construction of a dwelling house on land at Lot 4 DP 82179, 22 Stuart Street Manly, subject to the conditions outlined in the Assessment Report.

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## REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 12 September 2018

22 Stuart Street Manly - Demolition and construction of a dwelling house

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                                    |   |
|------------------------------------|---|
| Application Number:                | DA2018/0195                                       |
| Responsible Officer:               | Thomas Prosser                                    |
| Land to be developed (Address):    | Lot 4 DP 82179, 22 Stuart Street MANLY NSW 2095   |
| Proposed Development:              | Demolition and construction of a dwelling house   |
| Zoning:                            | Manly LEP2013 - Land zoned R1 General Residential |
| Development Permissible:           | Yes   |
| Existing Use Rights:               | No  |
| Consent Authority:                 | Northern Beaches Council                          |
| Land and Environment Court Action: | No  |
| Owner:                             | Jason Bruce Dunnachie                             |
| Applicant:                         | Jason Bruce Dunnachie                             |
| Application lodged:                | 12/02/2018  |
| Integrated Development:            | No  |
| Designated Development:            | No  |
| State Reporting Category:          | Residential - Single new detached dwelling        |
| Notified:                          | 20/06/2018 to 06/07/2018                          |
| Advertised:                        | Not Advertised                                    |
| Submissions Received:              | 7   |
| Recommendation:                    | Approval  |
| Estimated Cost of Works:           | \$ 3,033,539.00                                   |

### 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

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- 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 - 3.4.2 Privacy and Security  
 Manly Development Control Plan - 3.4.3 Maintenance of Views  
 Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)  
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation  
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping  
 Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features  
 Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)

### **SITE DESCRIPTION**

|                                   |   |
|-----------------------------------|---|
| <b>Property Description:</b>      | Lot 4 DP 82179 , 22 Stuart Street MANLY NSW 2095  |
| <b>Detailed Site Description:</b> | <p>The subject site consists of an allotment located on the western side of Stuart Street.</p> <p>The site is regular in shape with a frontage of 12.19m along and a depth of 40.575m. The site has a surveyed area of 494.7m<sup>2</sup>.</p> <p>The site is located within the R1 General Residential zone and accommodates a dwelling on site.</p> <p>The site has a slope of approximately 5 metres from the rear of the property to the frontage.</p> <p>There is existing vegetation and landscaping top the front and rear of the site.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by a mix of single dwellings and residential flat buildings.</p> |

Map:

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#### **SITE HISTORY**

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

- DA134/1996- Alterations to existing laundry approved 24 May 1996.
- DA126/1996- Residential alterations and additions approved 24 May 1996.

#### **PROPOSED DEVELOPMENT IN DETAIL**

The proposal is for demolition and construction of a dwelling including the following:

##### Basement

- A gym
- New driveway access
- Lift and stairway access to upper level
- 3 parking spaces in underground garage
- Storage area

##### Ground Floor Plan

- Entry porch
- 3 bedrooms (with ensuites and wardrobes)
- Stairwell and lift to access upper and lower floors
- A rumpus room
- A Laundry

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#### Level 1 Plan

- A single bedroom with ensuite
- Powder room and walk in wardrobe with attached 'parents retreat'
- Combined kitchen living and dining area

#### External

- Swimming Pool and associated concourse
- Landscaping

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:

| <b>Section 4.15 Matters for Consideration'</b>  | <b>Comments</b>  |
|---|--|
| 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>Division 8A of the EP&amp;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&amp;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&amp;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&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> |



| Section 4.15 Matters for Consideration'  | Comments   |
|--|--|
|  | <p>Clauses 93 and/or 94 of the EP&amp;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>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p>Clause 98 of the EP&amp;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> <p>Clause 143A of the EP&amp;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.</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) <b>Environmental Impact</b><br/>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.</p> <p>(ii) <b>Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>   |
| Section 4.15 (1) (c) – the suitability of the site for the development   | The site is considered suitable for the proposed development.  |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs   | See discussion on "Notification & Submissions Received" in this report.  |
| Section 4.15 (1) (e) – the public interest   | No matters have arisen in this assessment that would justify the refusal of the application in the public interest.  |

#### 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 7 submission/s from:

| Name:  | Address:                           |
|--|------------------------------------|
| Mr Michael Brookes Wrenford<br>Ms Elizabeth Ann Forbes | 4 / 68 Addison Road MANLY NSW 2095 |
| Mrs Helen Catherine Brigden                            | 5 / 68 Addison Road MANLY NSW 2095 |
| Ms Beverley Anne Eddington                             | 2 / 2 Craig Avenue MANLY NSW 2095  |
| Transit Securities Pty Ltd                             | 16 Stuart Street MANLY NSW 2095    |
| Mr Duncan Hugh James<br>Black                          | 1 / 68 Addison Road MANLY NSW 2095 |
| Mr Michael Walter Howard<br>Lamb                       | 4 Orana Avenue PYMBLE NSW 2073     |
| Peter Bruce  |                                    |

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

- Lack of assessment in statement of amenity impact to 68 Addison Road.
- Impact on privacy.
- Non-compliance with FSR and loss of 'green space'
- Concern with excavation and land fill as well as associated impact on boundary walls and fencing/ Geotechnical risks
- Bulk, scale and '4 storey nature'
- Impact on views and crowding of neighbors
- Request for non-reflective materials and colours.
- Impact on water dragons and bandicoots,
- Loss of open space
- No community value to construction of a new driveway despite applicants claim
- Swimming pool is unnecessary given proximity to Little Manly Beach. Additionally, it would result in noise and visual disturbance.
- Impact on fig tree/ Impact on avocado tree as a result of re-positioning pool
- Request for dilapidation report
- Request for condition relating to pool pumps
- Query to policy for retention of low cost housing as claim is made the current building operates as a 'de facto boarding house'
- Objection to planting of Bambuso Lako which would result in loss of views and overshadowing.
- Submission of support due to the appropriate upgrade to a 'nice new home'.

The matters raised within the submissions are addressed as follows:

- Lack of assessment in statement of amenity impact to 68 Addison Road.  
Comment:  
The submitted statement is consistent with the requirements of the relevant legislation (Environmental Planning and Assessment Act and Environmental Planning and Assessment Regulation). In addition, a further assessment of amenity impact has been completed in this report.



- Impact on privacy.  
Comment:  
An assessment of privacy impact has been made under the Manly DCP section of this report. This assessment has found the proposed development to be reasonable in terms of privacy as a result of adequate window design and physical separation to the swimming pool area.
- Non-compliance with FSR and loss of 'green space'  
Comment:  
An assessment of the proposed non-compliance with FSR has been made below. This includes the consideration of an application made by the applicant to vary the development standard in accordance with Clause 4.6 of the Manly LEP. A condition has also been imposed to convert the proposed outdoor entertaining area to landscaped or turf area to provide an adequate amount of 'green space'
- Concern with excavation and land fill as well as associated impact on boundary walls and fencing/ Geotechnical risks  
Comment:  
A condition has been provided to require a dilapidation report to survey the area so that a record can be kept of any damage. A condition has also been provided to ensure the conditions and recommendations of the Geotechnical report "Geotechnical Assessment Report for Proposed Development At 22 Stuart Street, Manly" dated 19th December 2017 and prepared by Jack Hodgson Consultants Pty Limited, are imposed as part of the consent.
- Bulk, scale and '4 storey nature'  
Comment:  
The proposal has been assessed as a three storey building (including a basement area) and this has been found to be reasonable as a result of a lack of amenity impact and appropriate visual presentation in the street.
- Impact on views and crowding of neighbors  
Comment:  
The proposed setbacks including compliant front and rear setback provide a reasonable outcome for neighbouring properties. The view corridor to the rear of the development for dwellings to the north is reasonably retained as a result of the compliant rear setback.
- Request for non-reflective materials and colours.  
Comment:  
A condition has been imposed to ensure the roof is of medium to dark colour so that the nuisance of roof reflectivity is minimised.
- Impact on water dragons and bandicoots,  
Comment:  
Conditions have been imposed to limit the potential impact on these species.
- Loss of open space  
Comment:  
An assessment of open space has been made below and a condition has been imposed to

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provide a greater landscaped area to reduce the impacts of the development,

- No community value to construction of a new driveway despite applicants claim  
Comment:  
Car parking is a requirement for dwellings under the Manly DCP. The proposed driveway is of an adequate extent and design to provide access to this car parking.
- Swimming pool is unnecessary given proximity to Little Manly Beach. Additionally, it would result in noise and visual disturbance.  
Comment:  
Swimming pools are permissible as an ancillary feature to dwellings in this zone. An assessment below has found the location and design of the swimming pool to reasonably minimise potential privacy impact (including noise and visual disturbance). A condition has also been imposed to ensure mechanical equipment associated with the pool is located centrally on site.
- Impact on fig tree/ Impact on avocado tree as a result of re-positioning pool  
Comment:  
Council's Landscape officer provided comment that the originally submitted plans could not be supported as a result of the impact on the fig tree. As such, amended plans were submitted on which included shifting the swimming pool from the southern setback to the northern setback. These plans were supported by Council's Landscape officer, subject to conditions.
- Request for dilapidation report  
Comment:  
A condition has been imposed to require a dilapidation report.
- Request for condition relating to pool pumps  
Comment:  
A condition has also been imposed to ensure mechanical equipment associated with the pool is located centrally on site.
- Query to policy for retention of low cost housing as claim is made the current building operates as a 'de facto boarding house'  
Comment:  
A search of Council's records has found no consent for the operation of the premises as a boarding house. As such, there will be no legally valid loss of affordable housing.
- Objection to planting of Bambuso Lako which would result in loss of views and overshadowing.  
Comment:  
Council's Landscape officer has provided a condition for the Bambuso Lako to be replaced with a suitable species.
- Submission of support due to the appropriate upgrade to a 'nice new home'.  
Comment:  
Noted.



## MEDIATION

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

## REFERRALS

| Internal Referral Body           | Comments  |
|----------------------------------|---|
| Landscape Officer                | The landscape proposal is acceptable subject to amendments to the landscaping and subject to the protection of existing trees on adjoining properties.  |
| NECC (Bushland and Biodiversity) | <p><b>Updated Biodiversity Referral Comments - 24 August 2018</b></p> <p>This assessment is based on the following additional information referred to Council's Biodiversity Section on 23 August 2018:</p> <ul style="list-style-type: none"> <li>- Addendum: Statement of Environmental Effects (MHD Planning, submitted 6 June 2018)</li> <li>- Arboricultural Statement (Hugh the Arborist, prepared 21 May 2018)</li> <li>- Pool Option Plan (Adam Pressley Architect, 14 May 2018)</li> <li>- Updated Terrestrial Biodiversity Report (GIS Environmental Consultants, 11 May 2018) with AoS for Long-nosed Bandicoots and Little Penguins</li> <li>- Amended Landscape Plan (Adam Pressley Architect, Dwg. DA19, Revision C, printed 19 June 2018)</li> </ul> <p>The following Natural Environment provisions apply to the development site:</p> <ul style="list-style-type: none"> <li>- Manly LEP 2013 Clause 6.5 (Terrestrial Biodiversity)</li> <li>- Manly DCP 2013 Section 3.3.1.a)iv) (Landscaping Design - Bandicoot Habitat)</li> <li>- Manly DCP 2013 Section 5.4.2 (Threatened Species and Critical Habitat Lands)</li> </ul> <p>The amended plans still include several elements which are not ancillary to operation of the primary dwelling (e.g. swimming pool, outdoor entertaining area) and which will require the removal of known habitat for the endangered population of Long-nosed Bandicoots at North Head, in addition to Eastern Water Dragon basking habitat. The retention of these non-ancillary elements and the extent of soft open space removal proposed in the amended plans demonstrates that the applicant has not attempted to design and site the development to achieve consistency with Manly LEP Clause 6.5 (Terrestrial Biodiversity). Furthermore, the planting schedule of the amended Landscape Plan is still not consistent with the species list specified in Manly DCP Section 3.3.1.a)iv) (Landscaping Design - Bandicoot Habitat).</p> <p>In order to achieve consistency with relevant Natural Environment controls, amendments are required including replacement of the proposed paved outdoor dining area with turf/landscaping and</p> |

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| Internal Referral Body         | Comments   |
|--------------------------------|--|
|                                | <p>substantial changes to the planting schedule. These amendments can be conditioned to address biodiversity considerations, in conjunction with conditions proposed by Council's Senior Landscape Architect.</p> <p><b>Biodiversity Referral Comments - 14 April 2018</b></p> <p>The proposal will result in a significant loss of soft open space which includes confirmed foraging habitat for the endangered population of Long-nosed Bandicoot at North Head (as listed under Schedule 2 of the <i>Biodiversity Conservation Act 2016</i>). The proposal includes elements which are not ancillary to operation of the new dwelling, including excavation and leveling of the rear yard, construction of a pool and additional hard surface areas. It is therefore considered that the applicant has not adequately demonstrated that the proposal has been designed and sited to avoid and minimize impacts to the endangered bandicoot population.</p> <p>Furthermore, the submitted landscape plant does not include provisions for replacement plantings for bandicoot habitat, nor is it in accordance with landscaping requirements specified under Section 3.3.1.a)iv) of the DCP. The proposal will also result in a major Tree Protection Zone encroachment of a fig tree on a neighbouring property; this tree needs to be shown on the landscape plan and an arborist report submitted to either justify its removal or specify how the tree will be safely retained. Owners' consent will also be required if the tree is to be removed/impacted.</p> <p>A proposal which provides i) a substantially reduced hard surface area, ii) an amended landscape plan with an equivalent area and/or improved quality of bandicoot habitat, and iii) a planting schedule consistent with Section 3.3.1.a)iv) of the DCP, may be supported.</p> <p>It is also noted that Section 5.4.2.a) of the DCP requires an Assessment of Significance (AoS) for the endangered populations of Long-nosed Bandicoots <u>and</u> Little Penguins. Only an AoS for Long-nosed Bandicoots has been submitted.</p> |
| NECC (Coast and Catchments)    | <p>The proposal is supported subject to conditions.</p> <p>The following documents have been reviewed as part of the Coastal Assessment Referral:</p> <ul style="list-style-type: none"> <li>* Plans - Master Set</li> <li>* Statement of Environmental Effects</li> <li>* Stormwater Hydraulic Design Certificate and Stormwater Plans</li> <li>* Geotechnical Report - Geotechnical Assessment Report for Proposed Development at 22 Stuart Street Manly, Jack Hodgson Consultants, MS31377 19/12/17</li> </ul>  |
| NECC (Development Engineering) | <p>Development Engineer has no objection to the application subject to the following conditions of consent.</p>  |
| External Referral Body         | Comments   |
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| 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. |

#### **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. 877682S) with date of issue 31 January 2018. A relevant condition has been provided.

##### **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.

**Manly Local Environmental Plan 2013**

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

Principal Development Standards

| Standard  | Requirement                           | Proposed                             | % Variation | Complies |
|---|---------------------------------------|--------------------------------------|-------------|----------|
| Height of Buildings:                                | 8.5m                                  | 8.3m                                 | N/A         | Yes.     |
| Floor Space Ratio<br>Site area: 494.7m <sup>2</sup> | FSR: 0.6:1<br>(296.82m <sup>2</sup> ) | FSR: 0.736:1<br>(368m <sup>2</sup> ) | 19.3%       | Yes.     |

Compliance Assessment

| Clause                                  | Compliance with Requirements |
|---|------------------------------|
| 4.4 Floor space ratio                   | No                           |
| 4.6 Exceptions to development standards | Yes                          |
| 6.1 Acid sulfate soils                  | Yes                          |
| 6.2 Earthworks                          | Yes                          |
| 6.4 Stormwater management               | Yes                          |
| 6.8 Landslide risk                      | Yes                          |
| 6.9 Foreshore scenic protection area    | Yes                          |
| 6.12 Essential services                 | Yes                          |

Detailed Assessment

**4.6 Exceptions to development standards**

Floor space ratio

|  |                               |
|--|-------------------------------|
| Requirement:   | 0.6:1 (296.82m <sup>2</sup> ) |
| Proposed:  | 0.736:1                       |
| 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  | 19.3%                         |



The proposal must satisfy the objectives of 4.4 Floor Space Ratios, 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:

As a result of the slope of the land, the dwelling would generally present as a 2 storey house from the streetscape. This is the desired presentation in this residential zone and area. In terms of consistency, the neighbouring dwellings are two to three storeys and the presentation of the buildings in the street is a mix of 2 and 3 storeys. The proposed dwelling is consistent with this style of presentation.

*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 proposed dwelling provides a modulated development by providing a greater setback for the top floor than the ground level floor. This has the effect of adequately controlling bulk so there are corridors to the side of the dwelling that ensure landscape and townspeople features are not unreasonably obscured.

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

Comment:

The proposal provides a compliant amount of landscaped area under the Manly DCP and has a 2-3 storey presentation that is consistent with the varied 2-3 storey presentations in the street. This results in a development that would be visually appropriate given the existing character and landscape of the area.

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

Comment:

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The proposal is well modulated, has reasonable setbacks and a compliant building height to ensure that environmental impacts are adequately minimised. The proposal is consistent with the provisions for views, sunlight access and privacy under the Manly DCP.

*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 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 proposed dwelling would provide for 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 would contribute to the variety of housing types in the area.

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:

In this circumstance, providing flexibility to the floor space ratio standard is appropriate as the non-compliance does not lead to any unreasonable amenity impact and would be appropriate in the street context.

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

Comment:

It is appropriate to allow flexibility in this circumstance as an addition of floor space can be made to the dwelling without having any unreasonable impact on amenity and the proposed development would be visually appropriate given the context of the site and topographical nature of the surroundings.

(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 provided written request that includes the following justification:

"2.4. Is compliance with the development standard is unreasonable or unnecessary.

In turning to the reasonableness of the 0.6: 1 Floor Space Ratio Control, the approach to justifying a variation to a development standard is taken from NSW Land and Environment Court and the NSW Court of Appeal in *Wehbe v Pittwater Council* [2007] NSW LEC 827.

In *Wehbe*, Preston CJ of the Land and Environment identified five ways a variation to a development standard had been shown as unreasonable or unnecessary.

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard

Table 2: Objectives of the Floor Space Ratio Control

Objective

Response

*To ensure the bulk and scale of development is consistent with the existing and desired streetscape character.*

The proposal complies with height setbacks and landscape open spaces controls. The statement accompanying this request has indicated that the proposed dwelling is consistent with more modern developments within the area, particularly the dual occupancy adjoining to the south east in terms of visual bulk and streetscape characteristics. The proposal is clearly consistent with this objective.

*To control building density and bulk in relation to a site area to ensure that development does not*





*obscure important landscape and townscape features.*

There are no important landscape or town features obscured.

*To maintain an appropriate visual relationship between new development and the existing character and landscape of the area.*

The review of the development has demonstrated that the proposal is an appropriate visual fit for the area. The modern design, response to built form and land constraints, particularly with regards to overall site area, parking, and landscape provision, demonstrate a modern approach to the site features and built form characteristics in the street specifically and the locale generally. The design is appropriate in regards to the built environment and contributes visually to the area.

*To minimize adverse environmental impacts on the use or enjoyment of adjoining land and the public domain.*

The FSR variation has no impact upon the enjoyment of adjoining land or the public domain.

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

The Zone is R1 General Residential. This objective is not applicable.

*2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary*

Response

The underlying objectives are relevant and achieved by the proposal. This is demonstrated within Table 2 above.

*3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable*

Response

Compliance with the control would not result in the underlying object or purpose being defeated or thwarted.

*4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable*

Response

Site visits and review of the locality has indicated that whilst there is an eclectic mix of developments the mix is self-evident that a departure from the standard has been consistently applied within this area. A review of Councils online records has also indicated the following approvals with variations to FSR in the locality:

DA0264/2013 - 24 Stuart Street 37.75% FSR variation sought and approved. DA0182/2017 - 23 Stuart Street 02.3% FSR variation sought and approved. DA0183/2017 - 25 Stuart Street 01.3% FSR variation sought and approved.

Additionally, there are a significant number of RFB's and existing dwellings that appear to be exceeding the FSR standard within the locality however, information with regards to these developments is either not available or does not exist at the time of writing this report.

It is considered however that, the proposal achieves the objectives required and stands alone as an appropriate and positive contributory development without relying on the precedent of the abandonment of the FSR control.

*5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone*

Response

The zoning is appropriate and has no relationship to the variation request.

*2.5. Sufficient environmental planning grounds.*

The applicant has demonstrated "sufficient environmental planning grounds" in that the majority of the development complies with the balance of controls on this difficult and constrained site.

In terms of these constraints, the surrounding development and the upgraded dwelling achieved



as a result of the design justifies the variation. As a result of the design response to site constraints, the subject dwelling proposed achieves appropriate planning outcomes.

#### 2.6. The Public Interest

The public interest is served by adding to housing stock, adding to visual interest and modernisation of the site. The development contributes to the upgrade of the street, removes street parking pressure and makes orderly and appropriate use of the available site. The public interest is clearly served by the proposal and the variation does not impact upon this element of the assessment requirements."

(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 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:

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to the development standards under environmental planning instruments that adopt Clause 4.6 of the standard instrument where the variation to a numerical standard is no greater than 10%. In this case there is a variation of greater than 10% (to FSR). However, following advice from the Department of Planning and Environment, single dwellings with a variation of more than 10% for floor space ratio or building height may be determined by a delegate of Council. As such, the proposal has been referred to the Development Determination Panel for determination.

### Manly Development Control Plan

#### Built Form Controls

| Built Form Controls - Site<br>Area: 494.7m <sup>2</sup> | Requirement                              | Proposed | %<br>Variation* | Complies |
|---|--|----------|-----------------|----------|
| 4.1.2.1 Wall Height                                     | North: 7.3m (based on<br>gradient 1.7.5) | 7.3m     | N/A             | Yes.     |

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|   |   |                                    |     |                          |
|---|---|------------------------------------|-----|--------------------------|
|   | South: 7.1m (based on gradient 1:10)                    | 8m                                 | N/A | No, see comments.        |
| 4.1.2.2 Number of Storeys   | 2   | 3                                  | N/A | No, see comments.        |
| 4.1.2.3 Roof Height   | Height: 2.5m  | 1.75m                              | N/A | Yes.                     |
| 4.1.4.1 Street Front Setbacks   | Prevailing building line / 6m                           | Consistent with prevailing setback | N/A | Yes.                     |
| 4.1.4.2 Side Setbacks.  | North: 2.43m (based on wall height)                     | 0m (at basement)<br>0.925m-1.88m   | N/A | No, see comments.        |
|   | South: 2.67m (based on wall height)                     | 0m (at basement)<br>0.925m-2m      | N/A | No, see comments.        |
|   | Windows: 3m   | 0.925m-2m                          | N/A | No, see comments.        |
| 4.1.4.4 Rear Setbacks   | 8m  | 9m (alfresco)                      | N/A | Yes.                     |
| 4.1.5.1 Minimum Residential Total Open Space Requirements<br>Residential Open Space Area: OS3 | Open space 55% of site area<br>(272.085m <sup>2</sup> ) | 49.5%<br>(245m <sup>2</sup> )      | N/A | No, see comments.        |
|   | Open space above ground 25% of total open space         | 6.9%<br>(17m <sup>2</sup> )        |     | Yes.                     |
| 4.1.5.2 Landscaped Area   | Landscaped area 35% of open space                       | 39%<br>(96m <sup>2</sup> )         | N/A | No, see comments.        |
| 4.1.5.3 Private Open Space  | 18m per dwelling  | 22sqm                              | N/A | Yes.                     |
| 4.1.9 Swimming Pools, Spas and Water Features   | 1m height above ground                                  | 0.4m                               | N/A | Yes.                     |
|   | 1m curtilage/1.5m water side/rear setback               | 0.2m/1m/ in rear setback           | N/A | No/No/Yes. See comments. |
| Schedule 3 Parking and Access   | Dwelling 2 spaces                                       | 2 spaces                           | N/A | Yes.                     |

**\*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                         |
| 3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise) | Yes                          | Yes                         |
| 3.4.1 Sunlight Access and Overshadowing                         | Yes                          | Yes                         |

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| Clause   | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| 3.4.2 Privacy and Security   | Yes                          | Yes                         |
| 3.4.3 Maintenance of Views   | Yes                          | Yes                         |
| 3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design) | Yes                          | Yes                         |
| 3.7 Stormwater Management  | Yes                          | Yes                         |
| 3.8 Waste Management   | Yes                          | Yes                         |
| 3.10 Safety and Security   | Yes                          | Yes                         |
| 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)                     | No                           | Yes                         |
| 4.1.4 Setbacks (front, side and rear) and Building Separation  | No                           | Yes                         |
| 4.1.5 Open Space and Landscaping   | No                           | Yes                         |
| 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)                                 | Yes                          | Yes                         |
| 4.1.7 First Floor and Roof Additions   | Yes                          | Yes                         |
| 4.1.8 Development on Sloping Sites   | Yes                          | Yes                         |
| 4.1.9 Swimming Pools, Spas and Water Features  | No                           | Yes                         |
| 4.4.5 Earthworks (Excavation and Filling)  | No                           | Yes                         |
| 5.4.1 Foreshore Scenic Protection Area   | Yes                          | Yes                         |
| 5.4.2 Threatened Species and Critical Habitat Lands  | Yes                          | Yes                         |

#### Detailed Assessment

### **3.1 Streetscapes and Townscapes**

#### Merit consideration:

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 proposal is compliant with the control under Clause 4.1.10.1 which provides that front fence may be up to 1.5 metres in height where at least the top 30 percent of the fence is transparent. The front fence/wall also steps down with the site so as to be complementary with the other fences on this side of the street. These circumstances adequately minimise negative visual impact at the street frontage.

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

#### Comment:

The proposal is compliant with the development standard for height which also ensures that the proposed dwelling steps down from the neighbouring building at 16 Stuart Street. In addition the two



storey presentation at the street frontage ensures that the dwelling complements the identified streetscape, which consists predominantly of two and three storey presentations in the street.

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

Comment:

The proposal provides landscaping at the front of the site and this appropriately integrates with the built form including the front fence.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP 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 proposal has a compliant setback to the building at the rear and provides windows at the side elevation that are narrow, obscured or well separated from adjoining property living areas to ensure an appropriate minimisation of visual privacy loss. In addition the rear usable space is well separated from the adjoining living areas and private open space to ensure an appropriate outcome for acoustical and visual privacy.

*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:

As a result of the modulated design including the top floor being setback from the lower floor, the proposed development allows spacing that contribute to an appropriate amounts of sunlight and air. The proposed balcony at the front of the dwelling provides an appropriate compromise between access to light and air with privacy by providing screening at the side elevations along with an open aspect to the north at the front of the balcony.

*Objective 3) To encourage awareness of neighbourhood security.*

Comment:

The proposal provides entrances and windows around the building to allow appropriate opportunity for neighbourhood awareness.





Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP 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.

### 3.4.3 Maintenance of Views

#### 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 for view sharing for both existing and proposed development and existing and future Manly residents.*

#### Comment:

The views available through and from the subject site are generally district views of houses and trees. The proposal is compliant with the development standard for building height and has a compliant rear setback. This provides a reasonable situation for view sharing in this situation despite the non-compliance with Floor space ratio as the most substantial existing view corridors for dwellings to the north are over the top of and to the rear of the subject site. As a result, a building compliant with floor space ratio could reduce views for the proposed development and would provide no reasonable increase to views for existing surrounding development.

*Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).*

An assessment of view loss has also been undertaken with reference to the Views Principle established by the NSW Land and Environment Court as follows:

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

#### Comment:

The views available through the siting of the proposed building are generally district views including other houses and vegetation.

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

#### Comment:



Views obtained from dwellings to the north are from both side and rear boundaries due to the subdivision pattern.

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

Comment:

The district views are from a variety of dwellings including bedrooms and living rooms to the north of the subject site. As a result of the corridor to the rear and compliant height, the impact on views is negligible.

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

Comment:

As a result of the view corridor to the rear of the dwelling and the compliant building height along with a negligible overall impact on views. The above step provides that "Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable." In this instance, the impact on views is considered negligible and the non-compliance with floor space ratio provides a reasonable outcome for view sharing.

*Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.*

Comment:

As a result of the appropriate siting, excavation, rear setback and height, the proposed development would minimise loss of views and provide a development that has does not provide view creep that would unreasonably obscure view corridors.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP 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.

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

Description of non-compliance



The proposal is non-compliant with the control for wall height at the southern elevation. The requirement is 7.1m and the proposed height is 8m.

The proposal is also non-compliant with the control for number of storeys. The requirement is for 2 storeys and the proposal is for 3.

Merit consideration:

With regard to the consideration for a variation, the clause states that the objectives for Height of buildings under Clause 4.3 of the Manly LEP 2013 are particularly applicable and as such the non compliance are considered against these objectives:

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

Comment:

The proposed overall building height is compliant with the development standard despite being non compliant with the controls for number of storeys and wall height. The area is generally characterised by two and three storey development with a mixture of roof forms. The proposed dwelling would be at a lower height than the neighbouring flat building at 16 Stuart Street and the style and height would appropriately fit into the surrounding area.

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

Comment:

The proposal provides a compliant building height under the Manly LEP and provides a well modulated design with the top level being setback from the lower levels. This ensures that bulk and scale is adequately reduced to ensure visual and amenity impact is minimised as the non-compliant section of the wall is further setback from the walls of the lower levels.

*(c) to minimise disruption to the following:*

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

Comment:

As a result of the compliant building height and topography of the land, the proposed building would not cause any unreasonable view loss.

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

Comment:

The proposal reasonably provides for sunlight and solar access through adequate setbacks and physical separation to both public and private open spaces. The proposal is compliant with the controls for Sunlight Access and Overshadowing under the Manly DCP, 2013.

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



Comment:

Not applicable.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP 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 Separation

##### Description of non-compliance

The proposal is non compliant with the controls for side setbacks being 0m (at basement)-0.925m-1.88m at the north and 0m (at basement)-0.925m-2m at the south.

The proposal also has windows at these setbacks that are within the 3m setback control for windows at side boundaries.

##### 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 is for the construction of a new dwelling that is compliant with the requirement for building height under the Manly LEP, well modulated to ensure a minimisation in the presentation of bulk in the streetscape and provided with compliant landscaped area under the Manly DCP to ensure the proposed development would be well integrated with the landscape character of the street.

*Objective 2) To ensure and enhance local amenity by:*

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

##### Comment:

The proposal involves new windows that are designed and located so that there would not be unreasonable overlooking into neighbouring uses. This includes obscuring and narrow windows to limit the opportunity for overlooking to an adequate level despite the non-compliant setbacks.

The proposal is compliant with the requirements for Sunlight access and Overshadowing under the





Manly DCP and this provides a equitable provision of light and sunshine. Additionally, the setback of the top floor from the lower levels provides a modulation that contributes sufficiently to amenity and streetscape character.

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

Comment:

The proposed siting of the building is appropriate as a result of the compliant front and rear setbacks along with side setbacks that are appropriate for streetscape character and do not result in unreasonable amenity impact. The siting of the building also generally relates to the siting of the nearby buildings on this side of the street which contributes to the suitability in this case.

*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 is compliant with the control for landscaped area under the Manly DCP and provides appropriate landscaping to the front and rear of the site, subject to conditions.

*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 MLEP 2013 / MDCP 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 proposal is non-compliant with the requirement for total open space under the Manly DCP, 2013. The proposed total open space is 49.5% and the control is for 55% total open space.

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*

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*populations of native flora and fauna.*

Comment:

The proposal provides a compliant amount of landscaped area under the Manly DCP and subject to conditions will provide adequate landscaping at the front and rear of the property. This includes a condition recommended by Council's Biodiversity officer to convert the proposed hard surface "outdoor entertaining area" into turf or landscaping. The proposed compliant landscaped area along with the additional landscaping that would be provided by the conditions results in an outcome that reasonably retains and augments landscape features and vegetation including remnant populations of native flora and fauna.

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

Comment:

The proposal is compliant with the requirement for landscaped area on site. In addition, the landscaped area provided by the condition to convert the proposed outdoor entertaining area to turf or landscaping would result in a reasonable outcome for the site.

*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 provides a compliant front and rear setback and a first floor that is setback from the ground floor walls. This results in a result that is reasonable for amenity and streetscape character despite the non-compliance with total open space.

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

Comment:

As a result of the compliant landscaped area and reasonable compliant front and rear setback and subject to conditions, the proposal will be provide adequate opportunity for water infiltration and minimise stormwater runoff.

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

Comment:

Subject to conditions, appropriate species are to be provided including native species and this will assist in minimising the spread of weeds.

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

Comment:

A condition has been imposed to ensure there will be adequate landscaping for the local biodiversity. This involves converting the existing hard surfaced outdoor entertaining area to a turf or landscaped area with appropriate vegetation species.



Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP 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.

#### 4.1.9 Swimming Pools, Spas and Water Features

##### Description of non-compliance

The proposal is non-compliant with the controls for setback to the concourse of the swimming pool and water edge of the swimming pool, being proposed at 0.2m and 1m respectively. The controls are for 1m to the concourse and 1.5m to the water edge of the swimming pool.

##### 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 be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties;*

##### Comment:

The non-compliant rear setback for the proposed swimming pool is adjacent to a car parking area which provides a buffer for the dwellings to the rear. Along with the lack of usable area to the rear of the pool, this provides a situation in which privacy impacts of the pool to the rear are sufficiently minimised. The proposed northern setback to the swimming pool is compliant to the water and marginally non-compliant to the concourse area, being 0.8m (with the control of 1m). This non-compliance is reasonable as privacy impacts will be sufficiently minimised by the physical separation to dwellings to the north and the change in levels (with the swimming pool being 1 to 2 metres lower than the adjoining property).

Additionally, a condition has been imposed to ensure the mechanical equipment associated with the swimming pool will be located centrally on the site to minimise acoustic impact to neighbouring properties.

*Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the established character of the locality;*

##### Comment:

The proposed swimming pool is compliant with the control under the Manly DCP for swimming pools to be located in the rear setback and would not be easily visible from Stuart Street. As such, the pool would not have an adverse impact on the streetscape or established character of the locality.

*Objective 3) To integrate landscaping; and*

##### Comment:

The proposal provides compliant landscaping under the Manly DCP and subject to conditions further landscaping is to be provided in place of the proposed outdoor entertaining area.



Objective 4) To become an emergency water resource in bush fire prone areas.  
Comment:

The subject site is not in a bush fire prone area.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP 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 proposal is non-compliant with the control for maintaining ground level within 0.9m of the side boundaries.

##### 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.*

##### Comment:

The proposal involves excavation and this is generally limited to the siting of the building and for the basement area. However, there area also works including to the front and sides of the site. These works are reasonable due to the maintenance of a drainage corridor which is similar in direction to the natural flow of the area as well as landscaping to the front of the site. These features provide a situation in which impact and change to natural features is reasonably minimised and suitably replaced so as to retain the existing landscape character and limit change to the topography and vegetation.

#### **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**



## 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 DA2018/0195 for Demolition and construction of a dwelling house on land at Lot 4 DP 82179, 22 Stuart Street, MANLY, 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 E                     | 19 June 2018 | Adam Pressley |
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|                              |              |               |
|------------------------------|--------------|---------------|
| DA.03- Basement/ Garage Plan | 19 June 2018 | Adam Pressley |
| DA.04- Ground Floor Plan     | 19 June 2018 | Adam Pressley |
| DA.05- Level 1 Floor Plan    | 19 June 2018 | Adam Pressley |
| DA.06- Street Elevation      | 19 June 2018 | Adam Pressley |
| DA.07- East/West Elevation   | 19 June 2018 | Adam Pressley |
| DA.08- North Elevation       | 19 June 2018 | Adam Pressley |
| DA.09- South Elevation       | 19 June 2018 | Adam Pressley |
| DA.10- Section AA            | 19 June 2018 | Adam Pressley |
| DA.11- Section BB            | 19 June 2018 | Adam Pressley |

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:

| <b>Landscape Plans</b>            |              |                    |
|-----------------------------------|--------------|--------------------|
| <b>Drawing No.</b>                | <b>Dated</b> | <b>Prepared By</b> |
| DA.19- Landscape Plan. Drawing C. | 19 June 2018 | Adam Pressley      |

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

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

## 2. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:





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

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

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

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

Reason: Legislative Requirement (DACPLB09)

### 3. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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



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

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

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



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

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

#### FEES / CHARGES / CONTRIBUTIONS

##### 4. 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](http://www.northernbeaches.nsw.gov.au)).

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

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

##### 5. Vehicle Crossings Application Formwork Inspection

An application for street levels shall be made with Council subject to the payment of fee

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applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

Council's approval is 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)

6. **Vehicle Driveway Gradients**

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy.

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

Reason: To ensure suitable vehicular access to private property

7. **Waterproofing/Tanking of Basement Level**

The basement area is to be permanently tanked or waterproofed. Details of the waterproofing/tanking are to be prepared by a suitably qualified Engineer.

Where dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the Department of Water and Energy. The bore license must be obtained prior to commencement of dewatering works. All requirements of the Department of Water and Energy are to be complied with and a copy of the approval must be submitted to the Certifying Authority.

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

8. **On-site Stormwater Detention (Manly)**

Drainage plans detailing the provision of On-site Stormwater Retention in accordance with Northern Beaches Council's "Manly Specification for On-site Stormwater Management 2003" and the concept drawing by Peninsula Consulting Engineers, Job No. 17-1206, drawing number H01-04 dated 1/2/2018.

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.

9. **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.



10. **Tree Protection Plan**

In order to protect the existing *Ficus rubiginosa* located within 2 Craig Avenue the following applies to the development site.

a) A Tree Protection Plan shall be prepared by a AQF Level 5 Arborist showing the following:

- o Layout of the approved development
- o Location of tree
- o Extent of canopy spread
- o Location of tree protection fencing / barriers along the extent of the tree protection zone (TPZ - 3m), with fencing in accordance with AS2470 - 2009
- o General tree protection measures
- o Nil ground level alterations with the TPZ

b) Root mapping investigations are to be carried out to locate roots outside of the 3 metre exclusion zone where significant roots are to be retained by interrupting or bridging footings, as recommended in the Arboricultural Statement prepared by Hugh The Arborist and dated 21 May 2018. Any raising of ground levels in this area are subject to the recommended depth as provided by a AQF Level 5 Arborist.

c) The Tree Protection Plan is to be submitted to the Principal Certifying Authority for approval prior to issue of a Construction Certificate.

d) Tree protection measures identified on the tree protection plan are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant trees.

11. **Pool Exclusion Fencing – Bandicoot Habitat**

Long-nosed Bandicoots are to be excluded from swimming pools and spas while maintaining access to any surrounding soft landscaping. Pool fencing must have no gaps large enough to allow bandicoots access.

Plans are to be amended and provided to the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** To prevent Long-nosed Bandicoots from drowning in swimming pools and spas.

12. **Height of Walls/Steps – Bandicoot Habitat**

The height of any new retaining walls or steps of new external stairways must not exceed 200mm (or lower in accordance with BCA standards). Where this cannot be achieved, a slope is to be provided in association with the retaining walls and/or stairs to permit Long-nosed Bandicoot access.

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

**Reason:** To maintain bandicoot access to existing and proposed habitat within and surrounding the site.

13. **No Bright Lighting – Bandicoot Habitat**

No bright lighting or motion detectors are to be installed to illuminate the lawn or garden areas.

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A modest amount of low lighting may be used for safety purposes only.

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

**Reason:** Bright lighting disturbs Long-nosed Bandicoots and disrupts normal Bandicoot foraging, sheltering and nesting activity.

14. **Access to Undercroft Areas – Bandicoot Habitat**

Where concealing material is required for any undercroft areas (e.g. under the house, stairs or balcony), gaps are to be established to allow Long-nosed Bandicoot access. Gaps are to be at least 150mm high and 300mm wide.

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

**Reason:** To maintain bandicoot access to existing and proposed habitat within and surrounding the site.

15. **Preparation of CEMP – Manly LEP Clause 6.5**

A Construction Environmental Management Plan (CEMP) is to be prepared outlining all measures for the protection of native fauna and vegetation during the construction phase. Measures to be addressed in the CEMP include, but are not limited to, all conditions of this consent addressing construction-related biodiversity impacts.

The CEMP is to be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** To ensure conditions for the prevention of construction-related biodiversity impacts are complied with during the construction phase.

16. **Swimming Pools**

The backwash of Swimming Pool water must be discharged to Sydney Water's sewer in accordance with Australian/New Zealand Standard AS/NZS 3500. Detailed plans and specification must be submitted prior to the issue of the Construction Certificate. The drawings must show the location of Sydney Water's sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with Australian/New Zealand Standard AS/NZS 3500.

*Reason: To ensure compliance with legislation and Australian Standards and to protect public health, amenity and to ensure the protection and preservation of receiving waters.*

(DACNECPCC4)

17. **Provision of Landscape Working Drawings**

Landscape Plan DA.19, issue C, is to be amended in accordance with the following requirements:

- a) replacement of the hard paved outdoor entertaining area with either turf or landscaping with appropriate locally native species and/or species selected from Section 3.3.1.a)iv) of the Manly DCP 2013;
- b) deletion of the following species and replacement with appropriate locally native species and/or species listed in Section 3.3.1.a)iv) of the Manly DCP 2013: *Podocarpus macrophyllus*

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'Maki', Agave attenuata, Iris germanica 'Dwarf', Ilex crenata, Cryptomeria japonica 'Nana';  
c) additional garden bed landscaping on the northern and eastern boundaries of the rear lawn area. Plants are to be selected from species listed in Section 3.3.1.a)iv) of the Manly DCP 2013;

d) proposed replacement trees (1 x Ficus rubiginosa and 1 x Tristaniopsis laurina) to be planted at a minimum size of 200L pot size;

e) proposed Bambusa lako, capable of reaching 20m in height, to be replaced with a species to attain 4 metres in height to ensure no loss of sunlight into adjoining private open space;

f) proposed Bambusa textilis gracilis, capable of reaching 8m in height, to be replaced with a species to attain 3 metres in height to ensure no loss of sunlight into adjoining dwelling internal areas.

The Landscape Plan is to be amended prior to issue of the Construction Certificate and certified by a qualified landscape architect or ecologist, confirming that the plans are in accordance with relevant conditions of the development consent.

**Reason:** To achieve greater consistency with the objectives of Clause 6.5 (Terrestrial Biodiversity) of the Manly DCP 2013

#### 18. **Stormwater Management**

Stormwater shall be disposed of in accordance with Council's Policy. The stormwater management plan is to be implemented to ensure that there is no increase in stormwater pollutant loads arising from the approved development. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

*Reason: To ensure appropriate provision for disposal and stormwater management arising from development, ensuring that the proposed works do not negatively impact receiving waters.*

#### 19. **Access Spaces – Bandicoot Habitat**

Any new gates or fences are to be designed to include gaps appropriate to maintain bandicoot access through and within the site. Gaps are to be at least 150mm high and 300mm wide. This condition does not apply to pool fencing.

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

**Reason:** To maintain bandicoot access to existing and proposed habitat within and surrounding the site.

#### 20. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

**Reason:** To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)



**21. Dilapidation Report**

A Dilapidation Report is required for this development. A photographic survey of adjoining properties detailing the physical condition of those properties is to be submitted prior to the issue of the Construction Certificate. This survey is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining properties.

All costs incurred in achieving compliance with this condition must be borne by the person entitled to act on this Consent.

If access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to Council's satisfaction attempts have been made to obtain access and/or advise the affected property owner of the reason for the survey and these attempts have been unsuccessful. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

Reason: To maintain proper records in relation to the proposed development.  
(DACPLCPCC1)

**22. Pool equipment**

Any mechanical plant associated with the swimming pool and spa shall be centrally located within the site, away from the boundaries and acoustically treated so the noise from the machinery is not audible at the property boundary. Details are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the acoustic amenity of the neighbouring residents. (DACPLCPCC2)

**23. Geotechnical Report**

All recommendations and conditions of the following report are to be undertaken:  
Geotechnical report "Geotechnical Assessment Report for Proposed Development At 22 Stuart Street, Manly" dated 19th December 2017 and prepared by Jack Hodgson Consultants Pty Limited.

Details are to be provided prior to the issue of a Construction Certificate and Occupation Certificate.

Reason: To ensure proposed works are carried out in accordance with the Geotechnical report.

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

**24. Tree protection**

A) Existing trees and vegetation shall be retained as follows:

i) all trees and vegetation within the site, nominated on the plans and as recommended in the Arboricultural Impact Assessment prepared by Hugh The Arborist, dated 18 April 2018, shall be protected during all construction stages, excluding exempt trees under the relevant planning



instruments or legislation,

ii) all other trees and vegetation located on adjoining properties, including Tree1 - Ficus rubiginosa, as identified in the Arboricultural Statement prepared by Hugh The Arborist, dated 21 May 2018,

iii) all road reserve trees and vegetation.

B) Tree protection shall be undertaken as follows:

i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, and according to the Arboricultural Impact Assessment and Arboricultural Statment, with specific attention to the tree protection requirements for Tree 1,

ii) any tree roots exposed during excavation with a diameter greater than 50mm within the TPZ must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,

iii) to minimise the impact on trees and vegetation to be retained and protected, no existing ground level alterations, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

iv) no tree roots greater than 50mm diameter are to be cut from protected trees unless authorized by the Project Arborist on site,

v) all structures are to bridge tree roots greater than 50mm diameter unless directed by a AQF Level 5 Arborist on site,

vi) should either or both iv) and v) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures provided.

Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority.

Reason: to retain and protect significant planting on development sites.

## 25. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site  
(DACNEDPC1)

## 26. Site Induction Required – Penguin and Bandicoot Habitat

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All workers, including site inspectors and sub-contractors, are to be made aware of the potential presence of relevant threatened species and endangered ecological communities through a site induction prior to commencement of works. The site induction is to include information about their conservation significance, potential activities on-site, means of identification and the measures to be implemented for their protection. A confirmation of induction is to be signed by every worker and the site manager.

Evidence of the site induction is to be documented and provided to the Principal Certifying Authority.

**Reason:** To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

27. **Fauna Protection Fencing – Penguin and Bandicoot Habitat**

Temporary chain wire fencing is to be installed around all work areas (including demolition, storage and construction areas) prior to the commencement of works. The fencing is to be designed to minimise the possibility of ground-dwelling native fauna (including relevant threatened species) accessing the work areas. Fencing is to be maintained for the duration of works.

**Reason:** To prevent impacts to ground-dwelling native fauna, including relevant threatened species.

28. **Ecologist to Induct Site Manager – Penguin and Bandicoot Habitat**

Prior to commencement of construction works, the project ecologist is to meet with the site manager to:

- a) advise of conditions to be implemented for protection of relevant threatened species and endangered ecological communities;
- b) ensure that all workers are appropriately briefed on required protective measures; and
- c) inspect protective measures to confirm their adequacy and advise the proponent and site manager of the inspection results and their implications.

**Reason:** To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

**CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

29. **Vehicle Crossings**

The provision of a vehicle crossing 3 m wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N 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

30. **Maintenance of Road Reserve**

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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.

31. **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.

32. **Construction Hours – Manly LEP Clause 6.5**

Construction hours are to be adhered to, with no construction vehicles or heavy machinery used outside the hours of 7:00am and 5:00pm.

**Reason:** Noise and vibration can disturb local native fauna (including threatened species) and prevent access to their natural habitats.

33. **Pre-clearance Survey Required – Penguin and Bandicoot Habitat**

A pre-clearance survey for Little Penguin and Long-nosed Bandicoot activity and presence is required prior to the removal of any vegetation, material or debris stockpiles. Clearing may only proceed if the survey concludes that no Little Penguins or Long-nosed Bandicoots are present within the area to be cleared or the immediate vicinity. All clearing must initially be carried out with hand tools to identify whether any penguins or bandicoots are sheltering within the area to be cleared (e.g. at the base of vegetation or under deep litter). Machinery may only be used once it has been confirmed that no penguins or bandicoots are sheltering within the area to be cleared. Clearing must be carried out at dusk and completed within one day so that penguins or bandicoots do not reoccupy partially cleared areas overnight. A record of each inspection is to be made in the daily inspection register log-book. The log-book is to be made available to Principal Certifying Authority.

**Reason:** To avoid injury or death of Little Penguins or Long-nosed Bandicoots which may be utilising stockpiles of vegetation, materials or debris.

34. **Daily Inspections Required – Penguin and Bandicoot Habitat**

An inspection register log-book must be kept on site recording daily inspections of all holes, machinery and construction material stockpiles, checking for Long-nosed Bandicoots and Little Penguins. Inspections are to be undertaken each work day before the commencement of works and works may only proceed once any bandicoot or penguin has safely vacated any holes, machinery or stockpiles. The log-book is to be made available to Principal Certifying Authority.

**Reason:** To avoid injury or death of Long-nosed Bandicoots or Little Penguins which may be utilising stockpiles of vegetation, materials or debris.

35. **Pollution Control**

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required in accordance to local regulations.

Reason: To protect the surrounding environment, and ensure that pollutants and building

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associated waste do not leave the construction site.  
(DACNEEDW2)

36. **CEMP to be Implemented – Manly LEP Clause 6.5**

Construction is to be undertaken in accordance with the Construction Environmental Management Plan (CEMP). All workers are to be made aware of the content of the CEMP.

**Reason:** To ensure conditions for the prevention of construction-related biodiversity impacts are complied with during the construction phase.

37. **Report Dead or Injured Penguins or Bandicoots – Penguin and Bandicoot Habitat**

Any injured or dead Long-nosed Bandicoots or Little Penguins found within the worksite must be reported to the National Parks & Wildlife Service (9457 9577) or Northern Beaches Council (1300 434 434).

**Reason:** To prevent impacts to Long-nosed Bandicoots and Little Penguins in accordance with the Biodiversity Conservation Act 2016.

38. **Geotechnical Issues**

All conditions and recommendations outlined in Geotechnical Assessment Report for Proposed Development at 22 Stuart Street Manly, Jack Hodgson Consultants, MS31377 19/12/17 (Sections 10-12) are to be complied with and adhered to throughout development.

**Reason:** To ensure work is undertaken in an appropriate manner and structurally sound.

39. **Stockpiling materials**

During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of according to local regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

**Reason:** To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

40. **Pollution Control**

Any excess materials such as cleaning paintbrushes, lacquers, and any water from cleaning tools must not enter the stormwater network and/or receiving waterways.

**Reason:** To ensure that building associated chemicals and pollutants don't enter the surrounding environment.

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

41. **Landscaping**

Landscaping is to be implemented in accordance with the Landscape Plan DA.19, issue C, with the following amendments:

- a) the proposed tree planting (1 x Rusty Fig and 1 x Water Gum) shall be planted at a minimum size of 200 pot size,
- b) the proposed Bambusa lako, capable of reaching 20m in height, shall be replaced with a species to attain 4 metres in height to ensure no loss of sunlight into adjoining private open



space,

c) the proposed *Bambusa textilis gracilis*, capable of reaching 8m in height, shall be replaced with a species to attain 3 metres in height to ensure no loss of sunlight into adjoining dwelling internal areas,

d) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

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

An application for the authorisation of legal documents is to be lodged with Council and payment of the associated fee. The application is to include the original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and photographic evidence of the completed system.

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 the on-site stormwater disposal system is maintained to an appropriate operational standard

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

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To identify encumbrances on land. (DACENF02)

**44. On-Site Stormwater Detention Compliance Certification (Manly)**

A copy of the approved Onsite Stormwater disposal system showing Works as Executed (WAE) details must be submitted to Council for approval. The WAE must be certified by a registered surveyor. The details information for WAE is shown in Council's "Manly Specification for On-site Stormwater Management 2003".

A completion certificate of the on-site stormwater disposal system, certification from a consulting engineer

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

Reason: Compliance with the consent and Council standards and specifications.

**45. Creation of Positive Covenant and Restriction as a User (Manly)**

A restriction on the use of land and a positive covenant shall be created on the title of the land in respect of the installation and maintenance of on-site stormwater disposal structures.



The detailed information for a restriction on the use of land and a positive covenant is shown in Council's "Manly Specification for On-site Storm Water Management 2003".

The terms of the positive covenant and a Restriction on the use of land are to be prepared to Council's standard requirements, at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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

46. **Practical Completion of Landscape Works**

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.

**Reason:** To ensure landscaping is adequate and consistent with approved plans.

47. **Swimming Pool Requirements**

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

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

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

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

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

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

(e) Signage showing resuscitation methods and emergency contact

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

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

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the





issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)

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

48. **Landscape Maintenance**

Any existing landscaping required to be retained together with any additional landscaping required by this Consent is to be maintained for the life of the development.

Landscape works shall be maintained for a minimum period of 12 months following practical completion. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity and ensure landscaping continues to soften the built form.

49. **Stormwater Pollution Control Pits**

The Registered Proprietors of the property must maintain on a regular basis (every six months or after heavy rain events) stormwater pollution control pits including the clearing of silt, debris and rubbish, in perpetuity. The Registered Proprietors must ensure the effective operation of pollution control pits to prevent pollution of Sydney Harbour by stormwater generated onsite.

Reason: To ensure appropriate provision is made for the treatment and management of storm water generated by the development for the protection and preservation of the aquatic habitats and biota within receiving waters.

(DACNEGOG1)

50. **Maintain Fauna Access and Landscaping Provisions – Manly LEP Clause 6.5**

All fauna access/movement and landscaping provisions specified in these conditions of consent are to be implemented and maintained for the life of the development.

**Reason:** To maintain fauna access to existing and proposed habitat within and surrounding the site.

51. **Dead or Injured Wildlife – Manly LEP Clause 6.5**

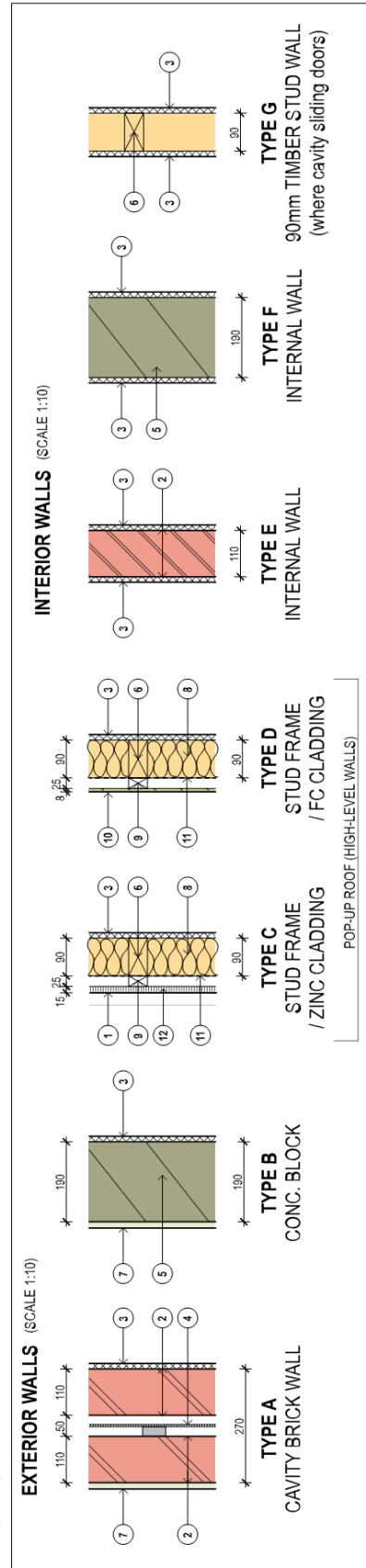
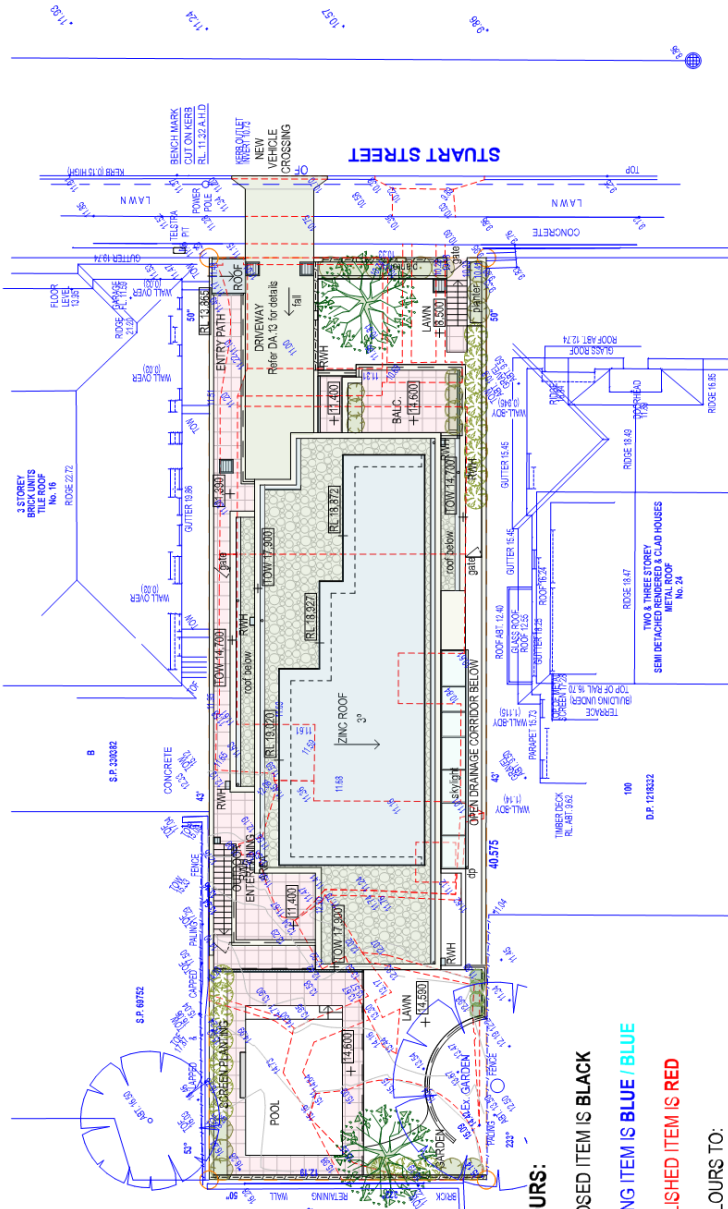
If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

**Reason:** To mitigate potential impacts to native wildlife resulting from construction activity.



**Development Application Plans - For Approval**

| WALLS TYPE LEGEND |   |
|-------------------|---|
| 1                 | ZINC SHEET CLADDING   |
| 2                 | WALL CONSTRUCTION<br>STANDARD 230 x 110 x 76 CLAY BRICK   |
| 3                 | INTERNAL WALL LINING: EITHER<br>- GLUE STICK PLASTERBOARD (10mm), OR<br>- CEMENT RENDER, OR<br>- TILES ON ADHESIVE                  |
| 4                 | CAVITY BRICK WALL INSULATION<br>EQ TO KINGSPAN AIRCELL PERIMICA/ FOR CAVITY BRICK WALLS ON<br>EQ TO KINGSPAN AIRCELL SPACER BISCUIT |
| 5                 | BLOCK WORK<br>STANDARD 300 x 100 x 100, CORE FILLED WITH CONC.  |
| 6                 | TIMBER STUD WALL<br>90 x 45mm NOMINAL TIMBER STUD WALL  |
| 7                 | APPLIED EXTERNAL WALL FINISH<br>CEMENT RENDER   |
| 8                 | INSULATION<br>EQ TO BRADFORD CSR GLASSWOOL BATT'S R1.5 FOR WALLS  |
| 9                 | BATTENS<br>45 x 25mm NOMINAL TIMBER BATTENS   |
| 10                | EXTERNAL WALL CLADDING / FINISH<br>TROWEL APPLIED WALL FINISH WITH EXTERNAL PAINT FINISH<br>ON 8mm FIBRE CEMENT BOARD (BLUEBOARD)   |
| 11                | REFLECTIVE VAPOUR BARRIER<br>EQ TO CSR BRADFORD ENVIROSEAL FOL BACKED WALL WRAP<br>REFLECTIVE SURFACE TO FACE OUT                   |
| 12                | PLYWOOD   |



**AA ARCHITECTURE**  
ALL AUSTRALIAN  
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**Architect:**  
Adam Pressley FRAIA  
Principal & Nominate  
Architect #6007  
ABN 95 402 673 232

**Project:**  
New Dwelling  
DA2018/0195  
Printed: Tuesday, 19 June 2018  
Alps@jwondocuments\Job\228\Site\DA\

**Client:**  
Jason & Maria Dumnachie  
22 Stuart Street Manly NSW 2035  
Lot 4, DP28279

**Title:**  
Site / Roof Plan & Wall Details  
Scale 1:200 @ A3  
0 1 2 3 4 5

**22 Stn**  
**DA.02**  
Issue:  
**E**

**COLOURS:**

PROPOSED ITEM IS BLACK

EXISTING ITEM IS BLUE / BLUE

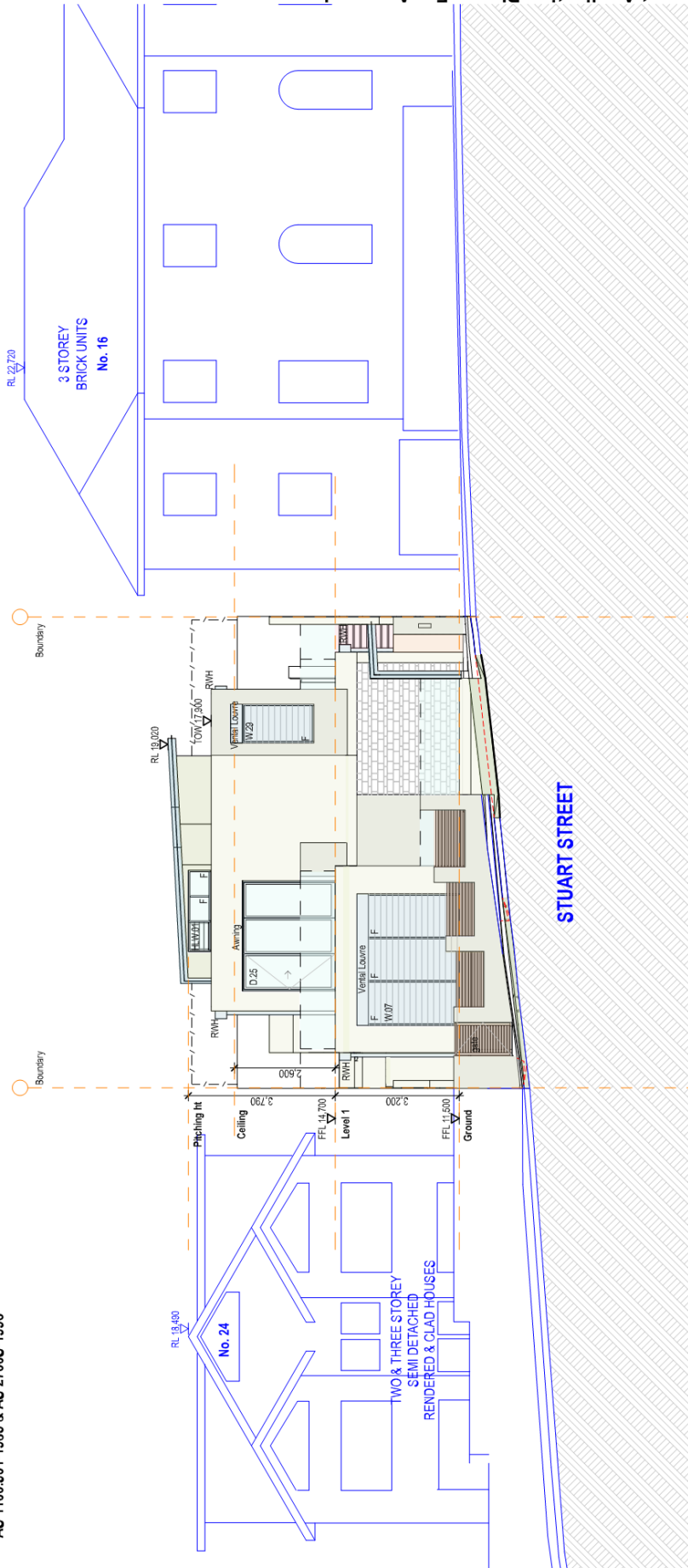
DEMOLISHED ITEM IS RED

DA COLOURS TO:  
AS 1100.301-1985 & AS 2700S-1996

Certificate no.: 0002419661  
Assessor Name: Tracey Coles  
Accreditation no.: VICBDAV/12/1473  
Certificate date: 31 Jan 2018



22 Stuart Street  
Manly, NSW  
2095  
www.nathurs.gov.au



Development Application Plans - For Approval



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Architect:  
Adam Presley FRAIA  
Principal & Nominate  
Architect #6007  
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Project:  
New Dwelling  
DA2018/0195  
Printed: Tuesday, 19 June 2018  
A:\proj\work\Documents\Job\22Stu\Cad\22Stu\_Model\_DA\_Updated.plt

Client:  
Jason & Mara Dunnachie  
22 Stuart Street Manly NSW 2095  
Lot 4, DP32179

Title:  
**Street Elevation**  
Scale 1:100 @ A3  
0 1 2 3 4 5

22 Stu  
**DA.06**  
Issue:  
**E**

**COLOURS:**

PROPOSED ITEM IS **BLACK**

EXISTING ITEM IS **BLUE / BLUE**

DEMOLISHED ITEM IS **RED**

DA COLOURS TO:  
**AS 1100.301-1985 & AS 2700S-1996**

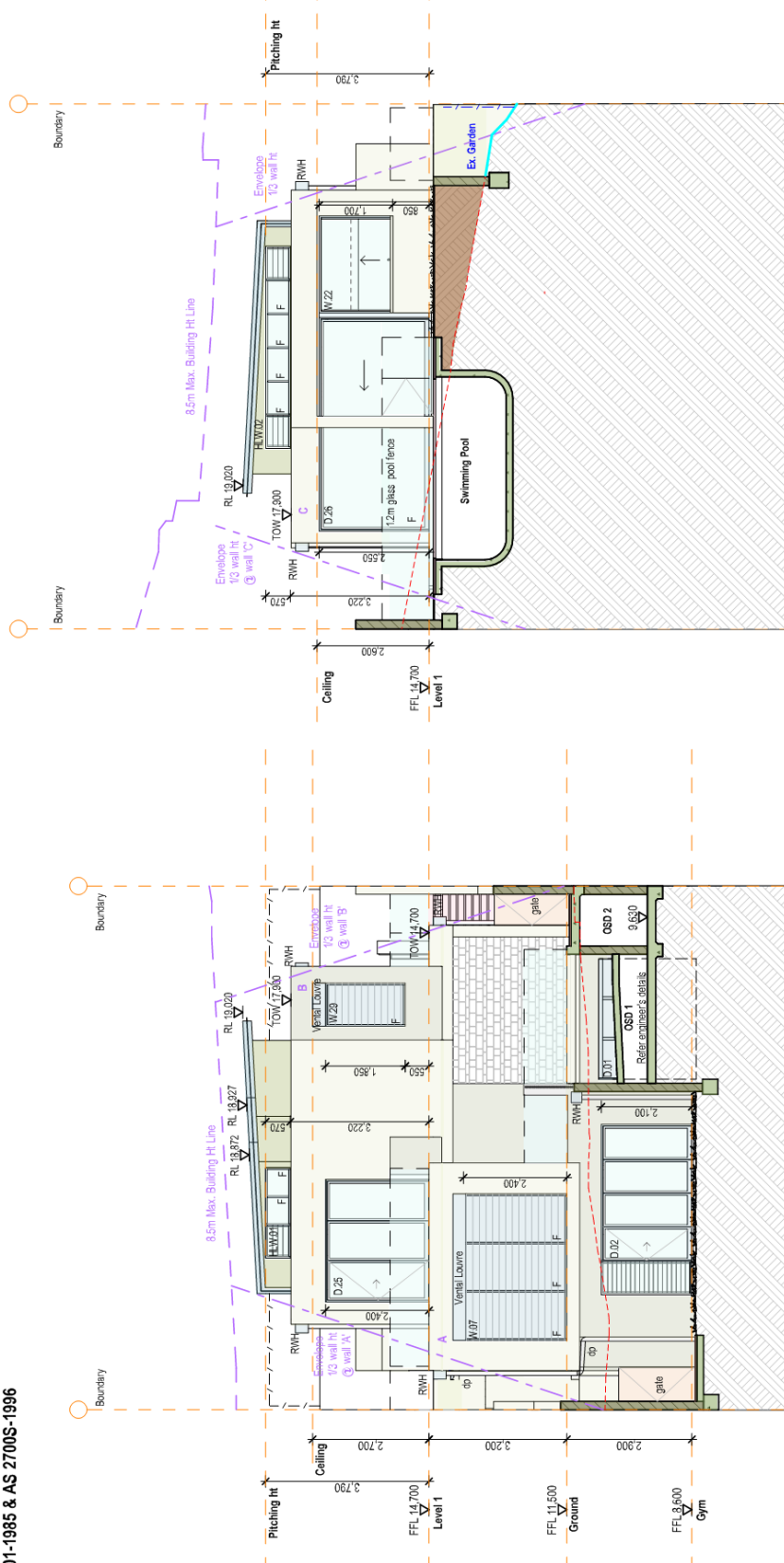
Certificate no.: 0002419661  
Assessor Name: Tracey Cools  
Accreditation no.: VICBDAV12/1473  
Certificate date: 31 Jan 2018

**4.9**  
**NATIONWIDE HOUSE**  
ENERGY RATING SCHEME

68 MJ/m<sup>2</sup>  
www.nathers.gov.au

Certificate no.: 0002419661  
Assessor Name: Tracey Cools  
Accreditation no.: VICBDAV12/1473  
Certificate date: 31 Jan 2018

22 Stuart Street  
Manly, NSW  
2095  
www.nathers.gov.au



Development Application Plans - For Approval



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Architect:  
Adam Pressley FRAIA  
Principal & Nominate  
Architect #6007  
ABN 95 402 673 232



Project:  
New Dwelling  
DA2018/0195  
Printed: Tuesday, 19 June 2018  
Alsej@workDocuments\Job\228u\Cad\228u\_Model.DA\_Updated.pln

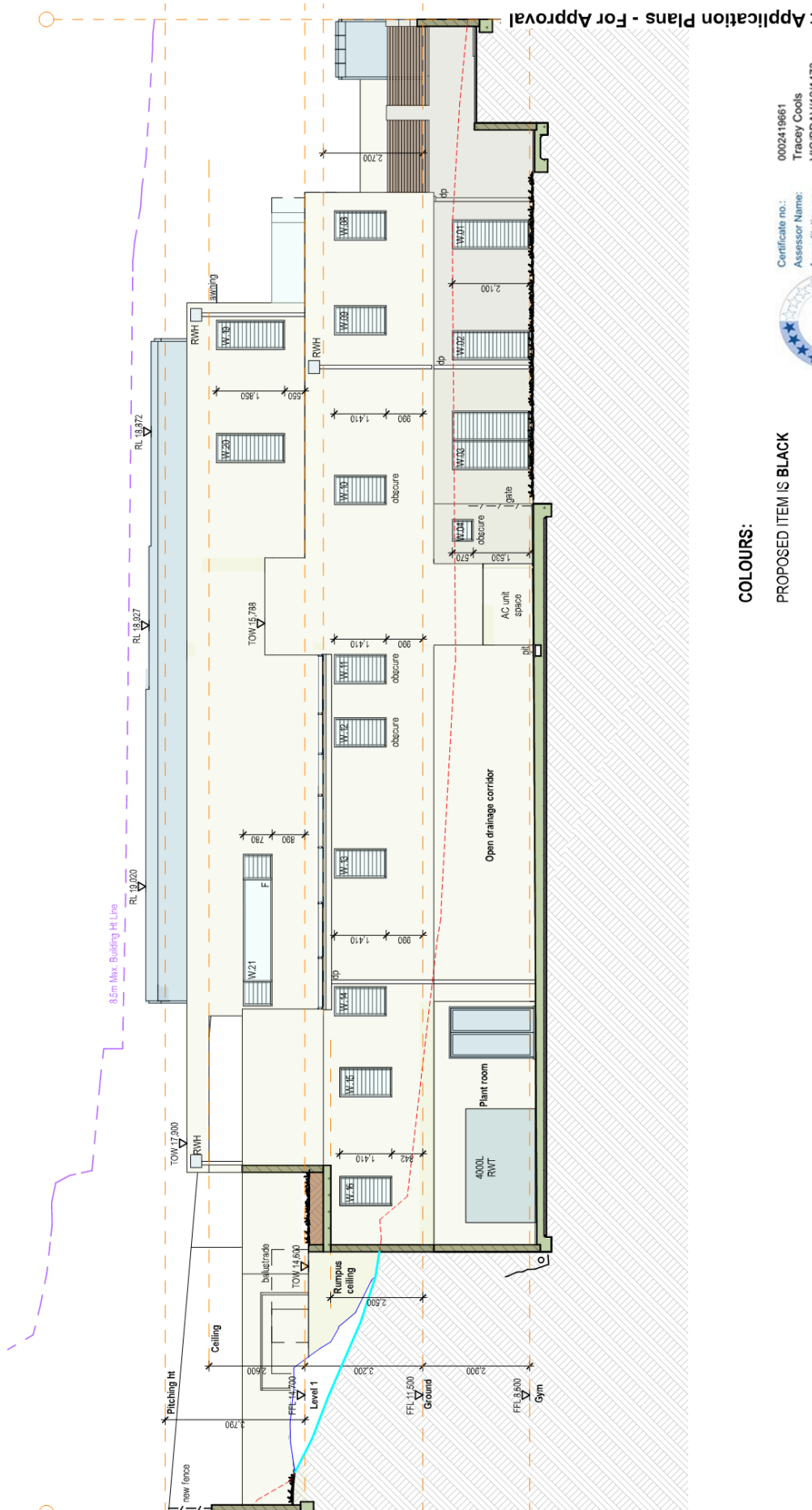
Client:  
Jason & Mara Dunnachie  
22 Stuart Street Manly NSW 2095  
Lot 4, DP32179

Title:  
**East / West Elevation**  
Scale 1:100 @ A3

22 Stu  
**DA.07**  
Issue:  
**E**







**COLOURS:**

PROPOSED ITEM IS BLACK

EXISTING ITEM IS BLUE / BLUE

DEMOLISHED ITEM IS RED

DA COLOURS TO:  
AS 1100.301-1985 & AS 2700S-1996

Certificate no.: 0002419661  
Assessor Name: Tracey Coles  
Accreditation no.: VIC/BDAY/12/1473  
Certificate date: 31 Jan 2018



Dwelling Address: 22 Stuart Street  
Manly, NSW  
2095  
www.nathans.gov.au



22 Stu

DA.09

Issue: E

Title: South Elevation  
Scale 1:100 @ A3



Client: Jason & Mara Dunnachie

22 Stuart Street Manly NSW 2095  
Lot 4, DP32779

Project: New Dwelling  
DA2018/0195

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