

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 14 NOVEMBER 2018



Ashleigh Sherry
Manager Business System and Administration

**Agenda for a Meeting of the Development Determination Panel
to be held on Wednesday 14 November 2018
in the Walamai Room, Civic Centre, Dee Why**

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2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 24 OCTOBER 2018

RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 24 October 2018 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1	REV2018/0014 - 22 HERBERT AVENUE, NEWPORT - REVIEW OF DETERMINATION OF APPLICATION N0426/17 FOR DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF A NEW DWELLING, CARPORT AND LANDSCAPING
REPORTING MANAGER	RODNEY PIGGOTT
TRIM FILE REF	2018/707459
ATTACHMENTS	1 Assessment Report 2 Site Plan and Elevations

PURPOSE

To refer the attached application for determination by the discretion of the Executive Manager Development Assessment

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to REV2018/0014 for review of Determination of Application N0426/17 for demolition of existing dwelling and construction of a new dwelling, carport and landscaping on land at Lot 131 DP 13457, 22 Herbert Avenue, Newport subject to the conditions outlined in the Assessment Report.



REVIEW OF DETERMINATION ASSESSMENT REPORT

Application Number:	REV2018/0014
Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 131 DP 13457, 22 Herbert Avenue NEWPORT NSW 2106
Proposed Development:	Review of Determination of Application N0426/17 for demolition of existing dwelling and construction of a new dwelling, carport and landscaping
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Duncan Stewart Parish Mitchell Amanda Gai Napthali
Applicant:	Turnbull Planning International Pty Ltd
Application lodged:	30/07/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	03/08/2018 to 21/08/2018
Advertised:	Not Advertised
Submissions Received:	2
Recommendation:	Approval
Estimated Cost of Works:	\$ 0.00

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral



to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

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

SUMMARY OF ASSESSMENT ISSUES

Environmental Planning and Assessment Act 1979 - Section 82A - Environmental Planning and Assessment Act 1979 - Section 82A

Pittwater 21 Development Control Plan - A4.10 Newport Locality

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)

SITE DESCRIPTION

Property Description:	Lot 131 DP 13457 , 22 Herbert Avenue NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of 1 (one) allotment located on the northern side of Herbert Avenue, Newport.</p> <p>The site is irregular in shape with a frontage of 10.18m along Herbert Avenue and a maximum depth of 43.6m. The site has a surveyed area of 553.6m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a two-storey detached dwelling. An access driveway runs along the frontage of the site within the public road reserve, though vehicle access to the site is not currently available and no off-street parking exists.</p> <p>The site slopes approximately 14m from south to north, and is relatively heavily vegetated to the rear.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low density residential development of varying character, bulk and scale.</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:

- Application N0209/17 for Demolition of existing residence and construction of new dwelling, carport and landscaping was withdrawn by the Applicant on 20 July 2017.
- Application N0426/17 for Demolition of existing dwelling and construction of a new dwelling, carport and landscaping was refused by the Northern Beaches Local Planning Panel on 2 June 2018.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks review of the determination of Development Application N0426/17 for demolition of existing dwelling and construction of a new dwelling, carport and landscaping, which was refused by the Development Determination Panel (DDP), for the following reason:

- Pursuant to Sections 4.15 (1) (b) of the Environmental Planning and Assessment Act 1979, the proposed development would create an unacceptable impact on the vehicular access to the adjoining property.

The DDP discussed the impacts of views and privacy concerns. Taking into account the conditions recommended for N0426/17, submissions, and DDP's observations from the site visit, further changes to the size of balconies and privacy screens were considered appropriate. Specifically the following changes would be required in an amended application:

- The Level 1 deck is to be reduced in depth (from north to south) by 2.0m;
- The Level 2 deck is to be reduced in length on the eastern side by 1m and reduced in depth (from north to south) by 0.5m;

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- A privacy screen a minimum height of 1.7m above the finished floor level of the Level 2 deck is to be provided for a distance of 1.5m from the living room along the eastern edge of the deck. This privacy screen shall also return along the southern edge;
- The eastern external wall of the En-suite is to be amended to a translucent glazed finish. A batten privacy screen shall be provided for the width of the en-suite and shower and extend to a height of RL 44.75; and
- The kitchen window on the eastern elevation of Level 2 is to be translucent glazing.

The DDP were satisfied that having regard to the above changes, a balance would be achieved to ensure that a satisfactory level of privacy would be maintained between dwellings, and the proposal would be consistent with the Development Control Plan and the Land & Environment Court Planning Principles for view sharing.

The DDP considered the recommended conditions as follows:

- Condition B10 - Concerns were raised with the extent of existing tree planting and accuracy of the existing landscaping. The DDP recommended the landscape plan not form part of any consent.
- Condition B24 - The DDP raised concern that pruning existing trees to a height of 8 metres could create accelerated root growth and create potential damage to surrounding structures. The condition was not supported.
- Condition C2 - The DDP did not support the recommended removal of the support posts to create a cantilevered deck at Level 2.

Review Documentation

The plans submitted for review demonstrate swept paths into the adjoining property at No. 24 Herbert Avenue, and are acceptable in regards to vehicular access. The application has been reviewed by Council's Traffic Engineer and Development Engineer, who are satisfied with the proposal. The plans submitted for review also demonstrate all of the design changes recommended by the DDP. Recommended conditions of consent have been amended according to the DDP recommendation. The Assessment Report is limited to the amendments made in response to the reason for refusal and recommended design and condition changes by the DDP. All other elements of the proposal are as per the assessment under N0426/17.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

In accordance with Section 82A of the Act, an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories, therefore the applicant may request a review.

In accordance with Section 82A of the Act, the request for the review must be made and determined within 6 months after the date of determination of the development application. The application was determined on 27 June 2018 and the notice of determination was issued on 13 June 2018. The review was lodged on 30 July 2018 and is to be considered by the Northern Beaches Local Planning Panel on 7 November 2018, which is within 6 months of the date of determination.

Section 82A(4)(c) provides that the Council may review a determination if in the event that the applicant



has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The amendments to the proposal are outlined in the 'Detailed Description of Works' section of this report.

A review of the original and amended plans has found that there are fundamental similarities between the original and the amended design (being subject of the S82 review) and the nature of the intended land use remains the same. Accordingly it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 82A (4) (c) of the Act.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject 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 2 submission/s from:

Name:	Address:
Renae Ridley	20 Herbert Avenue NEWPORT NSW 2106
Mr Roderick Michael Davies	24 Herbert Avenue NEWPORT NSW 2106

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

- Previous objections apply.
- Privacy remains a concern due to the Level 2 deck. The deck should be further reduced and screened.
- The proposal impacts on views. Additionally, existing vegetation causes view loss.
- The lights on the existing balcony cause disturbance.
- The application reference documentation able to be obtained by the objector.
- The glazing to the Level 1 bathroom and Level 2 kitchen is unreasonable and should be replaced with a solid wall.
- Geotechnical and stormwater management concerns are not addressed in the application.
- The submitted landscape plan is inaccurate.
- Planting is not consistent with the Spotted Gum forest.

The matters raised within the submissions are addressed as follows:

- Previous Objections
Comment:

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Objections raised in relation to N0209/17 and N0426/17 are addressed in the corresponding Assessment Reports.

- Privacy
Comment:
The proposal incorporates the recommendations made by the previous Development Determination Panel in relation to privacy. As such, the proposal is considered acceptable in relation to privacy.
- View Loss
Comment:
The proposal incorporates the recommendations made by the previous Development Determination Panel in relation to view loss. As such, the proposal is considered acceptable in relation to view loss. The impact of existing vegetation on current views is not a relevant matter for planning assessment as part of this application.
- Lighting on Existing Deck
Comment:
Impacts of existing lighting is not a relevant matter for planning assessment as part of this application.
- Reference Documentation
Comment:
Access to information referred to in this or any other development application can be obtained through Councils online service or an Informal Information Request, via Council's website.
- Bathroom and Kitchen Glazing
Comment:
The proposal incorporates the recommendations made by the previous Development Determination Panel in relation to the treatment of glazing to the bathroom and kitchen windows. As such, the proposal is considered acceptable in relation to the windows on the eastern elevation.
- Geotechnical and Stormwater Concerns
Comment:
An assessment of the proposal in relation to geotechnical hazards and stormwater management was completed in the Assessment Report for N0426/17, and remains applicable to this review.
- Landscape Plan
Comment:
The proposed Landscape Plan has been reviewed by Council's Senior Landscape Officer, who raised no objections with the proposal, subject to recommended conditions.
- Planting / Spotted Gum Forest
Comment:
Council's Senior Landscape Officer and Consulting Arboriculturist/Biodiversity Officer, who raised no objections with the proposal, subject to recommended conditions.



MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The landscape component of the proposal is acceptable subject to completion of landscaping and protection of existing trees and vegetation.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls:</p> <p>C1.1 Landscaping</p>
NECC (Bushland and Biodiversity)	<p>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 previously recommended conditions.</p>
NECC (Coast and Catchments)	<p>12 Development on land within the coastal vulnerability area</p> <p><i>Development consent must not be granted to development on land that is within the area identified as "coastal vulnerability area" on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:</i></p> <ul style="list-style-type: none"> (a) <i>if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and</i> (b) <i>the proposed development:</i> <ul style="list-style-type: none"> (i) <i>is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i> (ii) <i>is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and</i> (iii) <i>incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i> (c) <i>measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i> <p><u>Comment:</u> The subject land is not within the area that has been identified as a</p>



Internal Referral Body	Comments
	coastal vulnerability area on the Coastal Vulnerability Area Map under <i>State Environmental Planning Policy (Coastal Management) 2018</i> (CM SEPP). In accordance with Part 2 Division 5 Clause 15 of the CM SEPP the proposed development is not likely to cause increased risk of coastal hazards on the subject land or other land. As such, it is considered that the application complies with the requirements of the <i>State Environmental Planning Policy (Coastal Management) 2018</i> as they relate to a coastal vulnerability area.
NECC (Development Engineering)	Review of the driveway details prepared by Trace Architects drawing no DA-13 dated 16/10/18 issue F is satisfactory. The applicant has demonstrated that an easement could not be obtained from the downstream property(s) and the Geotechnical Engineer has provided a letter supporting the proposed method of stormwater disposal. No objection to approval, subject to conditions.
Traffic Engineer	<p>Traffic: The proposed development is not anticipated to generate any unacceptable levels of traffic.</p> <p>Traffic Team raise no objection.</p> <p>Parking: Number of spaces is deemed adequate for the development type.</p> <p>Traffic Team raise no objection.</p> <p>Access: The applicant has stated in their report that they have not altered the existing ramp grades leading into the adjoining property at 24 Herbert Avenue. They are only adding an additional section of concrete to create an access to the proposed carport. However, it is advised that as they are attempting to modify parts of the driveway, they should attempt to remove the existing scrapping concerns along the full length of the driveway.</p> <p>An appropriate Right Of Way (ROW) should be placed against the title to ensure all legal matters relating to the shared driveway are addressed.</p> <p>Traffic Team raise no objection subject to confirmation of existing ramp grades and and comparison of the proposed. The applicant should provide this detail prior to CC and will be conditioned accordingly. (Development Engineer to provide comment)</p> <p><u>Assessing Officer's Comment:</u> Access to Nos. 22 and 24 Herbert Avenue is via an existing shared driveway, wholly on Council land. No travel over private land at No. 22 is required to access No. 24, and vice versa. As such, no easement for right of way is required, as confirmed by Council's Senior Traffic Engineer.</p>



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)

Nil

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:	10m	10m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes



Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Original (N0426/17)	Proposed	% Variation*	Complies
Front building line	6.5m	0 (Garage) 7.5m (Dwelling)	0m (Carport) 7.5m (Dwelling)	100% N/A	No Yes
Rear building line	6.5m	18.2m	18.8m	N/A	Yes
Side building line	2.5m	1.68m (North)	1.68m (North)	32.8%	No
	1m	1m (South)	1m (South)	N/A	Yes
Building envelope	3.5m	Outside envelope	Up to 2.3m outside envelope	Up to 44.2%	No
	3.5m	Outside envelope	Up to 2.5m outside envelope	Up to 38.4%	No
Landscaped area	60%	63.5% (352sqm - incl. impervious)	63.5% (352sqm - incl. impervious)	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	No	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.5 Off-Street Vehicle Parking Requirements - Low Density Residential (Amended 14/11/15 See B6.3)	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.5 Visual Privacy	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

Detailed Assessment

A4.10 Newport Locality

The proposed development includes three storeys, where the locality calls for two storey development. However, the proposed development involves minimal environmental impact, is set below the general tree canopy height, includes building modulation to minimise bulk, steps with the topography of the land, and provides an appropriate balance between respecting the landform and encouraging development. As such, the proposed development achieves the intention of the desired character of the



area and is acceptable in this regard.

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

The proposed development includes a carport with a nil setback to the front boundary. An assessment of this non-compliance in the Assessment Report relating to the original application N0426/17 demonstrates that the front building line breach is acceptable on merit.

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

The proposed development includes a side setback to 1.68m to the western side boundary. An assessment of this non-compliance in the Assessment Report relating to the original application N0426/17 demonstrates that the side building line breach is acceptable on merit.

D10.11 Building envelope (excluding Newport Commercial Centre)

The proposed development includes breaches to the building envelope on both the eastern and western elevations. An assessment of this non-compliance in the Assessment Report relating to the original application N0426/17 demonstrates that the building envelope breaches are acceptable on merit, subject to compliance with recommended design changes to the proposed decks. These changes have been incorporated into the amended proposal subject of this review application. As such, the non-compliance 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

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;
- 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 REV2018/0014 for Review of Determination of Application N0426/17 for demolition of existing dwelling and construction of a new dwelling, carport and landscaping on land at Lot 131 DP 13457, 22 Herbert Avenue, NEWPORT, 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
DA-02 Site Plan	16 July 2018	Trace Architects
DA-03 Level 0 Plan	16 July 2018	Trace Architects
DA-04 Level 1 Plan	16 July 2018	Trace Architects
DA-05 Level 2 Plan	16 July 2018	Trace Architects
DA-06 Roof Plan	16 July 2018	Trace Architects
DA-07 Elevations - North	16 July 2018	Trace Architects
DA-08 Elevations - South	16 July 2018	Trace Architects
DA-09 Elevations - East	16 July 2018	Trace Architects
DA-10 Elevations - West	16 July 2018	Trace Architects
DA-11 Sections - A, B	16 July 2018	Trace Architects
DA-12 Sections - C, D	16 July 2018	Trace Architects
DA-13 Driveway Plan / Section	16 October 2018	Trace Architects



Engineering Plans		
Drawing No.	Dated	Prepared By
D01 Stormwater Management Drainage Plan & Notes	June 2016	Northern Beaches Consulting Engineers
D02 Level One Drainage Plan	June 2016	Northern Beaches Consulting Engineers
D03 Level Two Drainage Plan	June 2016	Northern Beaches Consulting Engineers
D04 Roof Drainage Plan	June 2016	Northern Beaches Consulting Engineers
D05 Drainage Details	June 2016	Northern Beaches Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Ground Clearance Assessment	October 2018	ML Traffic Engineers
Arboricultural Impact Assessment Report	11 September 2017	Damian Green
Geotechnical Opinion Proposed Dispersion System	20 August 2017	JK Geotechnics
Geotechnical Assessment	22 March 2016	JK Geotechnics
Thermal Comfort Assessment	6 September 2017	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:

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape Plan	September 2017	Duncan Mitchell

Waste Management Plan		
Drawing No.	Dated	Prepared By
Waste Management Plan	12 September 2017	Trace Architects

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)

Draft Conditions of Approval

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



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

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
3. A sign must be erected in a prominent position onsite only showing:
 - a) the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b) the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - c) that unauthorised entry to the work site is prohibited.The sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
4. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - a) in the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor, and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
 - b) in the case of work to be done by an owner-builder:
 - i. The name of the owner-builder, and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
 - c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under a or b above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
5. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
6. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.



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

1. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.
2. 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.
3. Weeds listed in Greater Sydney Regional Strategic Weed Management Plan 2017 - 2022 must be removed and managed continuously.
4. No environmental weeds are to be planted on the site.
5. Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.
6. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland or foreshore, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.
7. No building materials or other materials are to be placed on Bushland vegetation. Sediment is not to leave the site or enter areas of Bushland vegetation, and the appropriate sediment fencing is to be installed.
8. As part of an integrated on-site stormwater management system a minimum 6,000 litre on-site stormwater detention tank is to be installed, operated and maintained in association with the development.
9. Stormwater discharge from the on-site stormwater detention system is to be discharged to an appropriately located on-site infiltration dispersion trench in accordance with the report of Northern Beaches Consulting Engineers. The design is to be assessed and certified by a suitably qualified Geotechnical Engineer to ensure the system will not impact upon the geotechnical risks of the subject site. Details demonstrating compliance are to be submitted to the Certifying Authority prior to release of the Construction Certificate.
10. Landscaping is to be implemented in accordance with the landscape plan, and inclusive of any conditions of consent.
 - a) any new tree planting must be located a minimum of 5 metres from existing and proposed built structures or 3 metres where pier and beam footings are present. Each tree is to have a minimum deep soil area of 3m x 3m,
 - b) native screen planting along the eastern and western boundaries as indicated on the landscape plan shall achieve a mature height of at least 3 metres,
 - c) 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 landscape plan and inclusive of any conditions of consent. is to be implemented in accordance with the approved Landscape Plan by Duncan Mitchell, Rev 3 (No drawing number provided). 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.

11. 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.

12. 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.

13. In accordance with Pittwater 21 DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.

14. Two (2) *Corymbia maculata* (Spotted Gum) are to be planted in the front setback outside the subject property (within the Council nature reserve on the western side but NOT under the existing Power Lines). Trees are to be evenly spaced and have a minimum 100Litre in pot size and to be protected by a permanent tree guard of either metal or timber to facilitate establishment. Timber guards to consist of a minimum of 4 x 95mm square posts and rails at two heights a minimum of 150 x 50mm. Timber is to be stained or painted an approved colour. Street trees, guards and planting works as approved are to be maintained for a period of 12 months after issue of the Occupation Certificate.

15. A minimum of 200mm clearance is to always be maintained to the tree trunk from proposed bearers, joists and decking.

16. At the completion of the landscape maintenance period, as specified in the landscape working drawings and specifications submitted with the Construction Certificate application where it extends beyond the issue of an Occupation Certificate the consultant landscape architect/designer is to submit a final report to the Principal Certifying Authority within 7 working days, certifying that all plant material has been successfully established and that all of the outstanding maintenance works or defects have been rectified prior to preparation of the report and that a copy of the landscape maintenance strategy has been provided to the owner/occupier.

17. No water pollution shall result from the operation of any plant or equipment or activity carried out.

18. Noise from the operation of any plant or equipment at the premises shall comply with the noise provisions of the Protection of the Environment Operations Act, 1997.

19. No odour nuisance to the public or any adjoining premises, shall be created by the operation of any plant or equipment or any procedure carried out at the premises.

20. No emissions causing air pollution shall be created by the operation of any plant equipment or any procedure carried out at the premise.

21. The operation of any plant or equipment or any procedure carried out at the premises shall



not cause land pollution.

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

23. Exterior lighting is to comply with the provisions of Australian Standard 4282-1997: Control of the obtrusive effects of outdoor lighting, and should not cause any unreasonable nuisance to adjoining properties.

24. Materials and colour schemes are to be in accordance with the sample scheme approved by Council.

25. The existing trees located in the eastern side setback, between the development and eastern property boundary, are to be maintained at a maximum height of 8m.

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

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

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.

2. Prior to the issue of a Construction Certificate, the immature and semi-mature trees on site (located along the eastern boundary and within the northern rear yard) are to be assessed by a suitably qualified Arborist and certification is to be provided to the Principal Certifying Authority that once maturity is reached, the subject trees shall not result in any impacts upon the development, including structural integrity, and can be safely retained. The assessment should also take into account any earthworks required in relation to the development. A tree is defined as being 5m or over in height.

3. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:

- a) after excavation for, and prior to the placement of, any footings, and
- b) prior to pouring any in-situ reinforced concrete building element, and
- c) prior to covering of the framework for any floor, wall, roof or other building element, and
- d) prior to covering waterproofing in any wet areas, and
- e) prior to covering any stormwater drainage connections, and
- f) after building work has been completed and prior to any occupation certificate being issued in relation to the building.

To allow a Principal Certifying Authority to carry out critical stage inspections, at least 48 hours notice must be given before building work is commenced and prior to further work being undertaken.

4. Construction works approved by this consent must not commence until:

- a) Construction Certificate has been issued by a Principal Certifying Authority
- b) a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
- c) at least 2 days notice, in writing has been given to Council of the intention to commence work.

5. In accordance with section 34 of the Building and Construction Industry Long Service



Payments Act 1986, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.

6. Structural Engineering details relating to the development are to be submitted to the Accredited Certifier or Council prior to release of the Construction Certificate. Each plan/sheet is to be signed by a qualified practising Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field.

7. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate or complying development plans and specifications are fulfilled.

8. Engineering plans including specifications and details of the on-site stormwater detention system and stormwater management are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Such details are to be accompanied by a certification by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with the B5 controls of Pittwater 21 DCP, the Building Code of Australia and any relevant Australian Standards. The stormwater management of the site and development should ensure that no nuisance is caused to adjoining properties. Certification by a qualified experience practicing Geotechnical Engineer, confirming that the plans/details are consistent with the Geotechnical Report and accompanying opinion for the proposed dispersion system by JK Geotechnics dated 22 March 2016 and 20 August 2017 respectively is to be provided. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

9. An application for driveway levels and formwork inspections shall be made with Council subject to the payment of the applicable fee which includes all Council inspections relating to the crossing construction. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

10. Civil engineering details of the proposed excavation/landfill are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who has corporate membership of the Institution of Engineers Australia (M.I.E) or who is eligible to become a corporate member and has appropriate experience and competence in the related field.

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

12. The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties (including 20 and 24 Herbert Avenue) and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

13. External glazing must be of low glare and reflectivity. The reflectivity index (expressed as a



percentage of the reflected light falling upon any surface) of all external glazing is to have a maximum reflectivity index of 25%. Written confirmation of the reflectivity index of the material is to be submitted with the Construction Certificate. (Note: the reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement. This is to ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development). Roofing materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and textures must be provided to the Certifying Authority.

14. Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's PITTWATER DCP21, and the concept drawing by NB Consulting Engineering, drawing number (160358) D01 issue C, D02 issue B and D05 issue B dated 12.08.2016. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

15. The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by JK Geotechnics (Ref: 29214Zrpt) dated 22 March 2016 and letter(s) dated 20 August 2017 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

16. 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 of the common driveway and crossing through the nature strip which are to be generally in accordance with the plans prepared by Trace Architects Drawing No: DA-13 issue F dated 16/10/18 and Development Application and Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified structural engineer. The design must include the following information:

Detail proposed driveway levels for the proposed car space whilst maintaining the existing vehicular access levels to the shed at 24 Herbert Avenue.

Detail pavement and design levels are to be shown on the plan.

All trees to be protected are to be indicated with an Arborist report approving the method of proposed pavement construction.

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 Certifying Authority prior to the issue of the Construction Certificate

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

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

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

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



2. Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-2001 The Demolition of Structures.
Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
- a) Protection of site workers and the general public.
 - b) Erection of hoardings where appropriate.
 - c) Asbestos handling and disposal where applicable.
 - d) Any disused service connections shall be capped off.
- Council is to be given 48 hours written notice of the destination/s of any excavation or demolition material. The disposal of refuse is to be to an approved waste disposal depot.
3. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
4. Safe pedestrian access (including any temporary access during construction) shall be maintained from Herbert Avenue to 24 Herbert Avenue at all times.
5. Vehicular access through Herbert Avenue is to be maintained at all times and the construction works are not to impact upon access to neighbouring properties.
6. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.
7. A layback 3 metres wide (excluding the wings) is to be constructed in accordance with Northern Beaches Council Drawing No A4-2276/B and specifications.
8. The provision of one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/7 ML and specifications. The crossing is to include a 150mm high concrete kerb along the low side commencing 1500mm away from the road edge. 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.
9. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
10. 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.
11. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
12. 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.



13. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.

14. The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations

15. 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.

16. No works are to be carried out in Council's Road Reserve without the written approval of the Council. Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc.), and landscaping works within Council's Road Reserve.

17. A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.

18. No skip bins or materials are to be stored on Council's Road Reserve.

19. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by Damian Green, dated 1/5/2017 & amended dated 11/9/2017 are required to be complied with before and throughout the development period, particularly with regard to the following:

i. In relation to Tree 5 & 6 (numbers as per report) these trees are to be removed and replaced instead of the proposed retention. Tree 1 is being removed by Council for other reasons outside the proposed development.

ii. Works, erection/demolition of structures, excavation or changes to soil levels within the notional Tree Protection Zones (TPZ) of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;

iii. Where specified, tree guards and/or ground and stem protection are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;

iv. All works within the notional Tree Protection Zones (TPZ) of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree. Should tree retention not be found viable following required root severance (or excessive pruning) to accommodate works a Section 96 Application to Council will be required.

v. Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the notional Tree Protection Zones (TPZ) of existing trees.

vi. Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.



20. The project manager is to erect signs advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.

21. Tree guards are to be provided around all trees as indicated on Survey Plan Reference No. 6981, Issue A, authored by SDG Land Development Solutions, or where after approval of the relevant Construction Certificate Application/s, trees stand within the envelope of approved buildings or within the alignment of approved permanent paved vehicular access roads and parking areas. The tree guards are to be installed prior to the commencement of any work on the site. No works, including utility installations (eg water, sewer, telephone, drainage), are to be undertaken within the notional Tree Protection Zones (as per provided Arborist Report) of any such trees. The tree guards shall be a minimum 1200mm high at least four (4) metres from the base of the nominated tree/s and constructed from timber posts and rails or posts and suitable plywood panels.

22. Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved Arborist Report by Damian Green dated 1/5 & 11/9/2017 are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate.

23. When working within the notional Structural Root Zones of trees to be retained, hand digging is to occur. Liaison on a daily basis is to be maintained during the excavation works between the Builder and Arborist. No filling or compaction shall occur over tree roots within the area defined by the outer drip line of the crown. Root protection/ compaction mitigation in the form of planks or metal decking supported clear of the ground fixed to scaffolding is to be installed as required.

23. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas. Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.

24. In the event that any tree required to be retained is damaged during works on the site, the person acting upon this consent shall advise Council in writing within 48 hours of the damage being identified.

25. All works within notional Tree Protection Zones of the existing trees to be retained including pruning, demolition, excavation, civil works, fencing and the like must be carried out by hand under the supervision of an experienced and qualified Arborist. All pruning is to be carried out by a minimally AQF Level 3 Arborist. Should roots larger than 50mm be encountered all excavation works are to cease immediately and a qualified Arborist is to advise on the impacts of the roots removal on the tree's survival and report to the Principal Certifying Authority prior to works recommencing. If tree roots are present a pier and beam method of footing construction is to be adopted (If feasible) so as to bridge/span any identified lateral roots.

26. Council acknowledges that the trees in conflict with the proposed/approved driveway require removal (Tree 5-9), however the removal of these trees are not considered an urgent matter for Council to attend to under normal tree maintenance circumstances, therefore the removal of these trees to facilitate the construction of the driveway will be at your own expense. Approved Council contractors must carry out the works.

27. Demolition works must be carried out in compliance with WorkCovers Short Guide to



Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures. The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400mm x 300mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility. All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal. Adjoining property owners are to be given at least seven (7) days notice in writing of the intention to disturb and remove asbestos from the development site.

28. The Applicant is to prepare a dilapidation report prior to the commencement of any works on site in accordance with condition C13.

29. The construction Traffic Management Plan must be complied with throughout the construction period.

30. A satisfactory construction traffic management plan (CTMP) prepared by a suitably qualified traffic consultant is required to be submitted to the Private Certifying Authority prior to the commencement of any site works. The plan is to detail:

- a) Quantity of material to be transported
 - b) Proposed truck movements per day
 - c) Proposed hours of operation
 - d) Proposed traffic routes, noting that 3 tonne load limits apply to some roads within the former Pittwater Council Local Government Area
 - e) Location of on/off site parking for construction workers during the construction period.
- No truck more than 8.8m in length is permitted within Herbert Avenue. This should be considered in the CTMP.

31. A clearly legible Site Management Sign is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:

- a) The builder's name, builder's telephone contact number both during work hours and after hours.
- b) That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
- c) That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
- d) That no skip bins or materials are to be stored on Council's Road Reserve.
- e) That the contact number for Northern Beaches Council for permits is 9970 1111.

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

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



accredited certifier in relation to the recovery of costs to effect such works.

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

1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
2. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.
3. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.
4. Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
5. The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.
A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards must be provided.
6. The applicant must obtain written confirmation from Council that all works in the road reserve have been completed in accordance with the conditions of the Driveway Levels Approval.
7. The applicant must prepare and submit a post-construction dilapidation report. The report must clearly detail the final condition of all property, infrastructure, natural and man-made features that were originally recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.
8. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
9. Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved Arborist Report by Paul Shearer Consulting, Version 2, dated 27th September 2017 are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate.
10. Street numbers are to be affixed so that they are clearly displayed and visible from a public place.
11. A positive covenant shall be created on the title of the land requiring the proprietor of the



land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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

12. The original completed request forms (NSW Land Registry 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 Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

13. An appropriately qualified and practicing Structural Engineer shall certify to the Council / Principal Certifying Authority that the elevated parking facility was constructed in accordance with this consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation (or Subdivision).

14. 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.

G. Advice:

1. Failure to comply with the relevant provisions of the Environmental Planning and Assessment Act, 1979 (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.

2. Dial before you dig: Prior to excavation the applicant is advised to contact Australia's National Referral Service for Information on Underground Pipes and Cables telephone 1100 or www.1100.com.au

3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.

4. To ascertain the date upon which a consent operates, refer to Section 83 of the

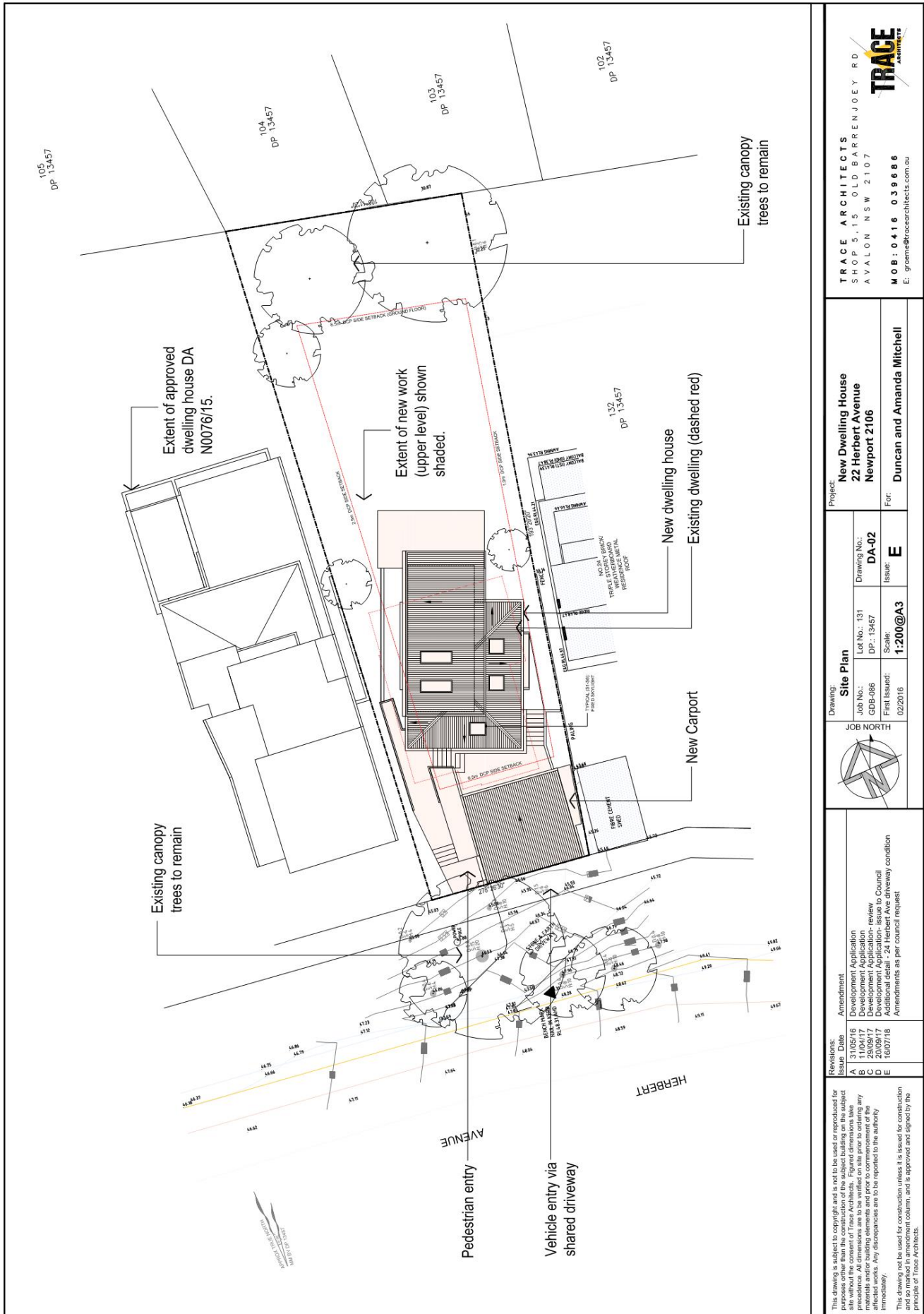


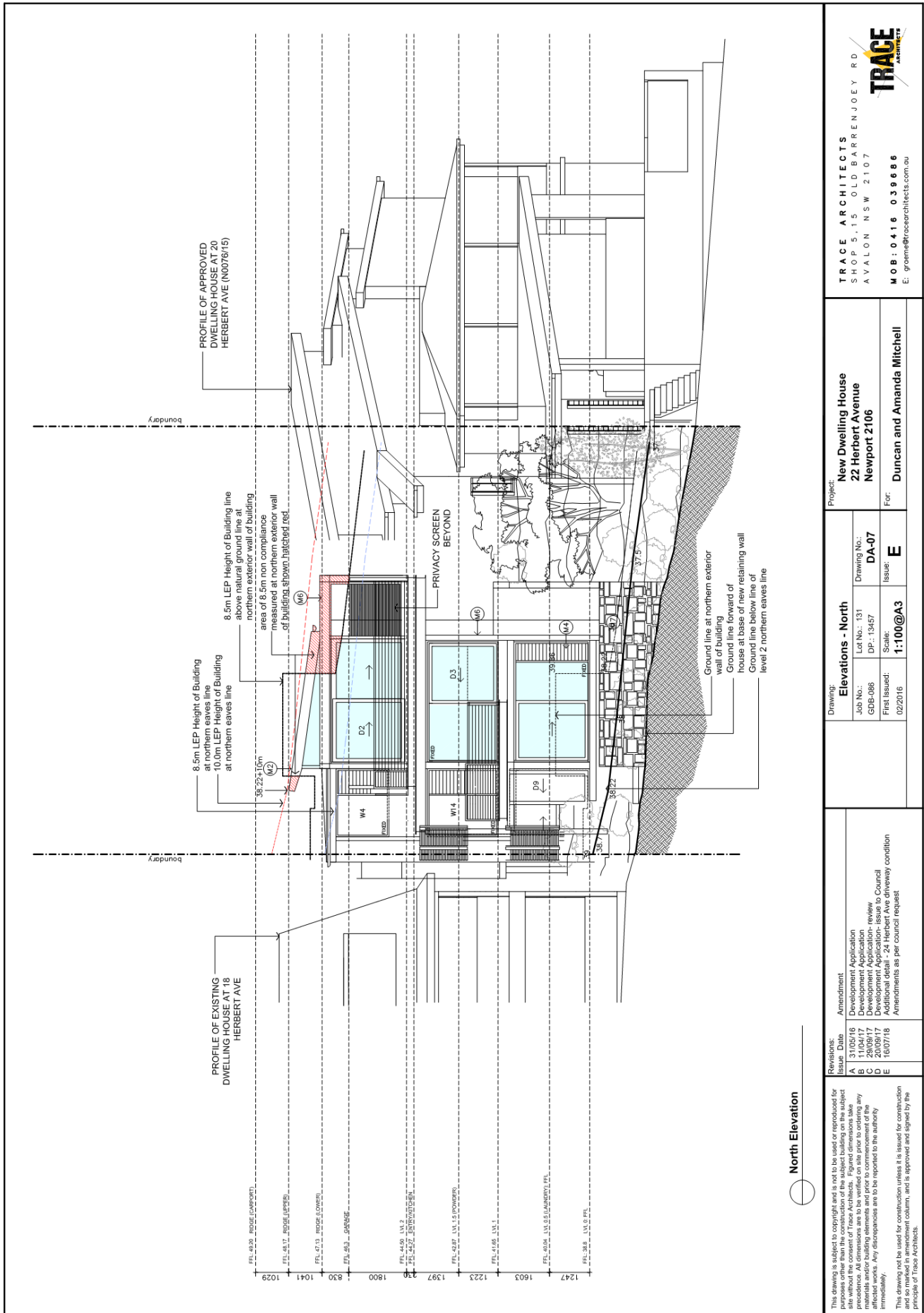
Environmental Planning and Assessment Act, 1979 (as amended).

5. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 6 months of the determination.

6. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.

7. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.

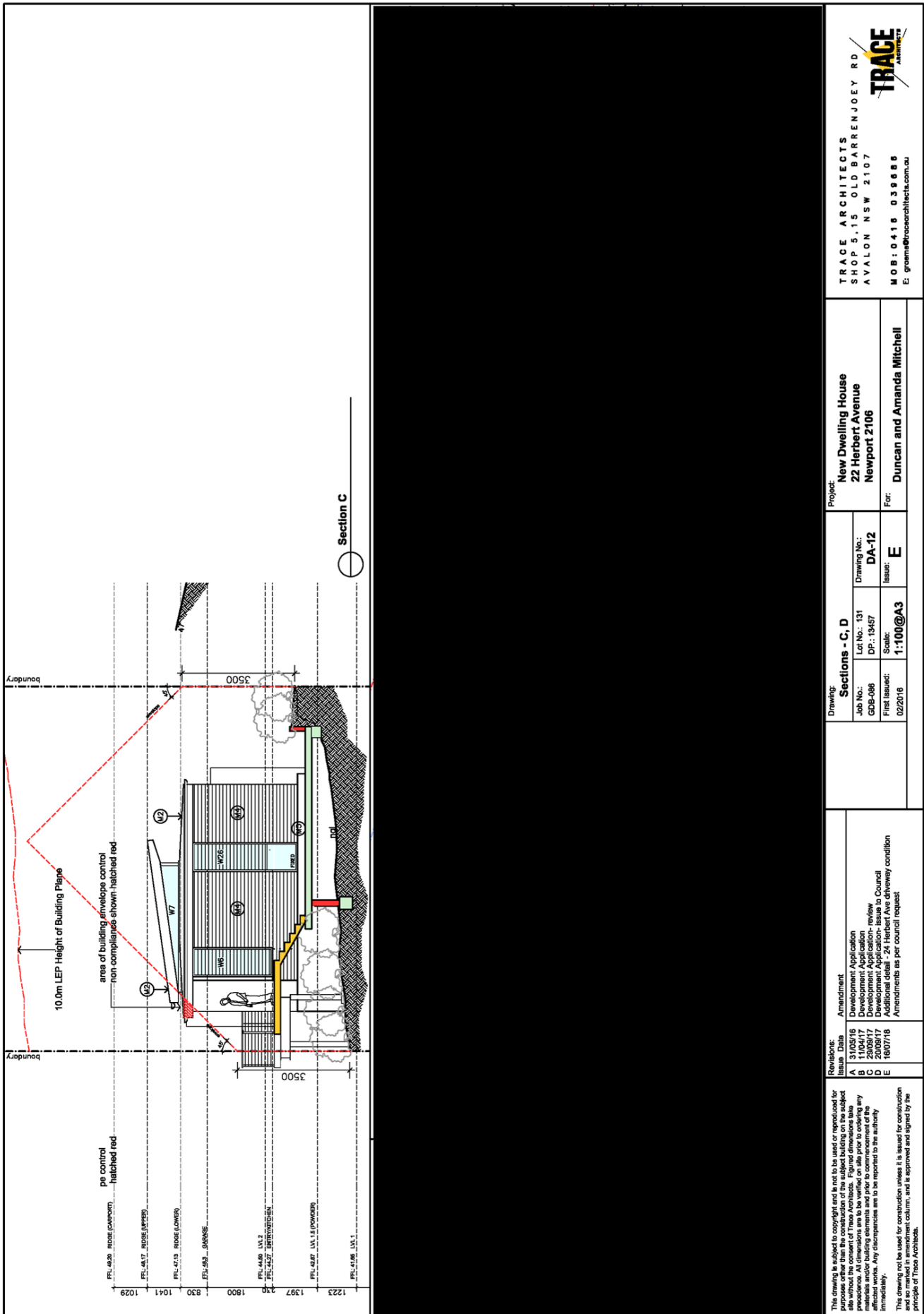


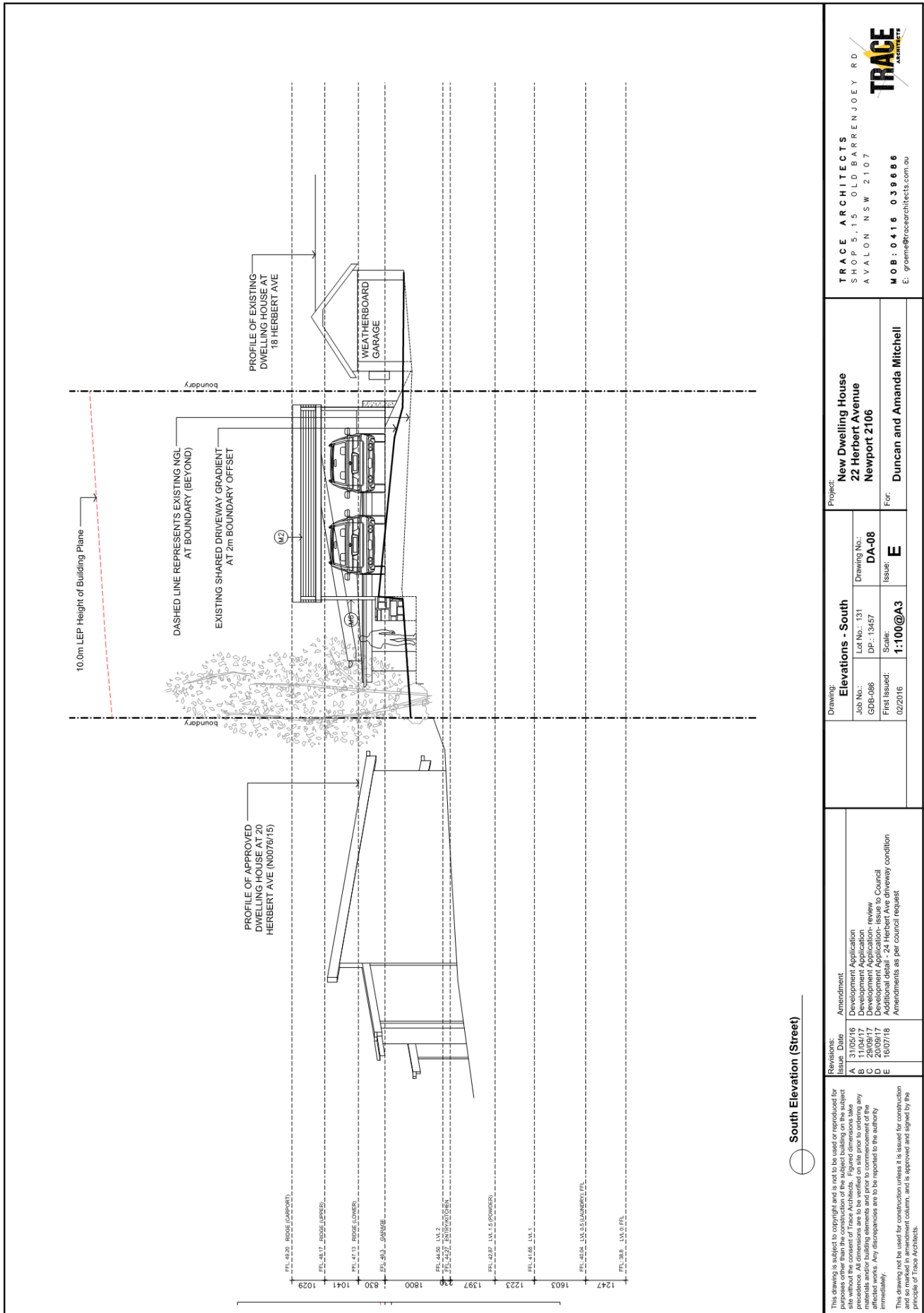


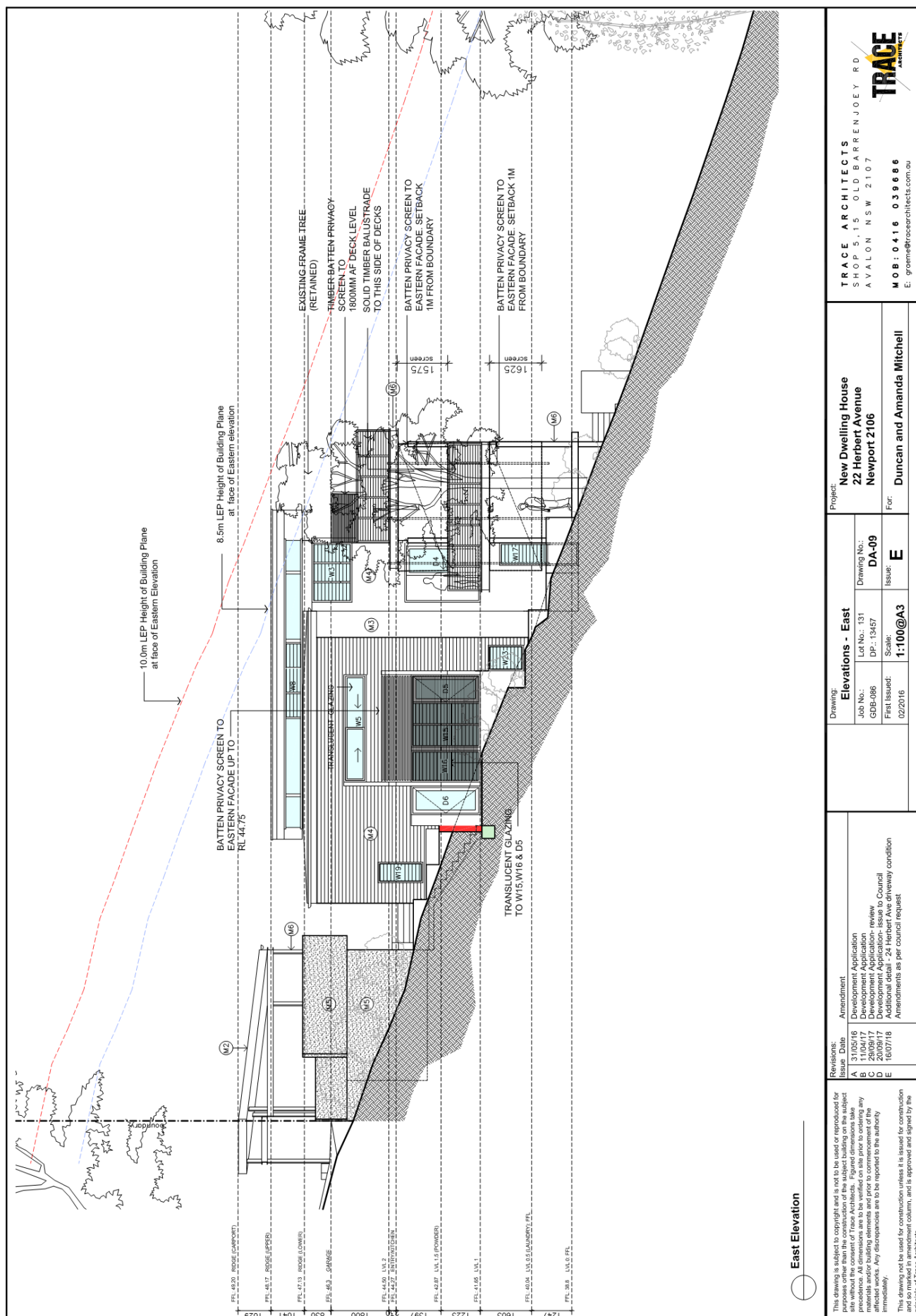
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Project:
New Dwelling House
22 Herbert Avenue
Newport 2106
For: **Duncan and Amanda Mitchell**

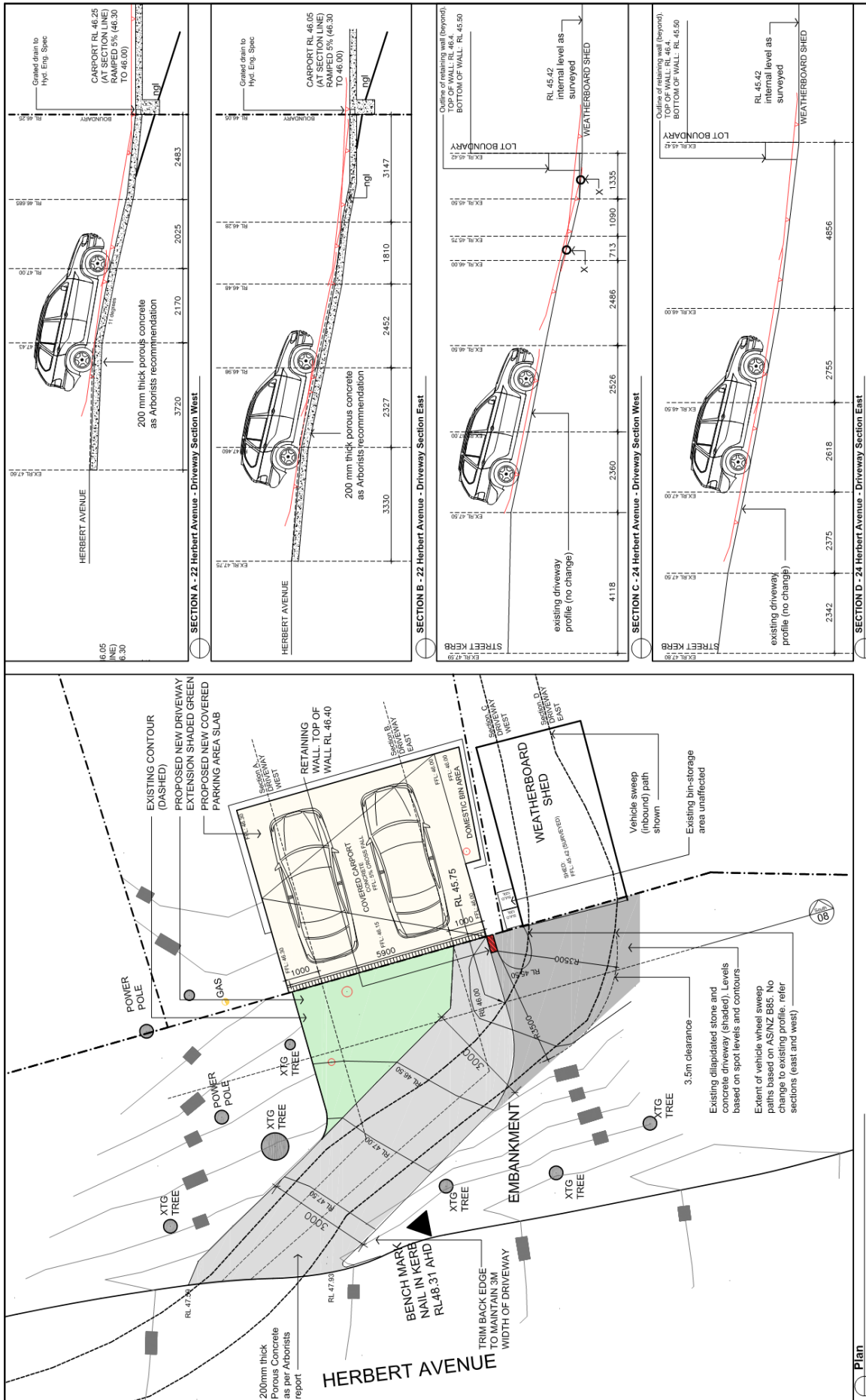
Drawing:
Elevations - North
Job No.: 131
Lot No.: 131
Drawing No.: **DA-07**
First issued: 02/2016
Scale: **1:100@A3**
Issue: **E**












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	Issue: Date	Development Application 31/05/16 Development Application 11/04/17 Development Application - review 25/09/17 Development Application: issue to Council 16/07/18 Additional detail - 24 Herbert Ave driveway condition 16/10/18 Amendments as per council request Amendments as per council request	Lot No: 131 Drawing No: DA-13 GDB-088 DP: 13457		For:	New Dwelling House 22 Herbert Avenue Newport 2106 Duncan and Amanda Mitchell		

ITEM 3.2	DA2018/0654 - 95A CHERYL CRESCENT, NEWPORT - CONSTRUCTION OF A SECONDARY DWELLING WITH ATTACHED CARPORT
REPORTING MANAGER	MATTHEW EDMONDS
TRIM FILE REF	2018/700646
ATTACHMENTS	1 Assessment Report 2 Site Plan and Elevations

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.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/0654 for construction of a secondary dwelling with attached carport on land at Lot 1 DP 746046, 95A Cheryl Crescent, Newport subject to the conditions outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0654
Responsible Officer:	Nick Armstrong
Land to be developed (Address):	Lot 1 DP 746046, 95 A Cheryl Crescent NEWPORT NSW 2106
Proposed Development:	Construction of a secondary dwelling with attached carport
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Kim Menzies
Applicant:	Smithy's Constructions Pty Ltd
Application lodged:	24/04/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	01/05/2018 to 15/04/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval
Estimated Cost of Works:	\$ 250,000.00

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of DA2018/0654)



- 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 - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - C1.7 Private Open Space
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 - D10.16 Construction, Retaining walls, terracing and undercroft areas

SITE DESCRIPTION

Property Description:	Lot 1 DP 746046 , 95 A Cheryl Crescent NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one (1) allotment which is accessed via a Right of Carriageway from Cheryl Crescent to the east.</p> <p>The site is battle-axe in shape with no road frontage. The site has a surveyed area of 1607m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a two storey clad residence located centrally and a detached carport located towards the northern boundary.</p> <p>The site has a fall of approximately 12.2m from the northwestern corner to the southern boundary.</p> <p>The site contains multiple canopy trees, the majority of which are located within the rear yard towards the southern boundary, with several pockets of dense hedging and shrubs also present.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low density residential dwellings within a landscaped setting.</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:

Property History

14/02/2013

Tree Removal Application T0031/13 for the removal of two trees was granted consent.

04/03/2016

Tree Removal Application T0576/16 for the removal and replacement planting of two trees was withdrawn.

31/08/2016

Tree Removal Application T0370/16 for the removal and replacement planting of two trees was granted consent.

09/11/2017

Pre-lodgement Report PL0024/2017 was prepared for the owner of the subject site for the construction of a secondary dwelling, carport and internal driveway.

Application History

12/06/2018

An inspection of the subject property was conducted.

22/06/2018

A letter was forwarded to the applicant which raised the following concerns:

- The application was submitted without an Arborist Report and Landscape Plan to appropriately consider the impacts of the development to trees within the immediate vicinity of the works

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09/07/2018

A Landscape Plan and Landscape Plan Practical notes was submitted from the applicant in an attempt to resolve the issues raised.

06/08/2018

A letter was forwarded to the applicant which raised the following concerns:

- The planner did not support of the proposed secondary dwelling on building height grounds, as the application does not comply with the 5.5m height limit for detached secondary dwellings within the E4 zone. The submitted Clause 4.6 Statement was not supported, as it did not adequately address the relevant assessment criteria.
- Biodiversity did not support the application due to a lack of an Arborist Report, Landscape Plan, Survey Plan consistent with the current site conditions and development drawings consistent with the survey.
- Engineering did not support the application due to inconsistencies with the stormwater management plan and geotechnical report with the selected method of stormwater disposal. Further concern were also raised in relation to access. Evidence behind the legal right to the existing carriageway were to be provided.

20/08/2018

Information was received from the applicant in response to the issues raised within the previous letter.

22/08/2018

A letter was forwarded to the applicant which raised the following concerns:

- The planner did not support the proposed secondary dwelling on building height grounds, as the application does not comply with the 5.5m height limit for detached secondary dwellings within the E4 zone. The submitted Clause 4.6 Statement was not supported, as it did not adequately address the relevant assessment criteria.
- Biodiversity did not support the application due to the submitted Arborist Report not addressing the relevant criteria required for assessment.

28/08/2018

Engineering provided further comments in relation to the previously submitted information which again raised concerns over the proposed access. A copy of the title deed was requested to provide evidence of a legal right of access to the carriageway.

30/08/2018

A meeting was held between the planner and the owners of the subject site to discuss the issues raised within the previous letters. Several recommendations were provided to the owners to address these issues which included, but were not limited to:

- Reducing the extent of the deck to minimise the height breach
- Employing a certified Town Planner or experienced Architect to prepare the Clause 4.6 Statement if a variation to the height of buildings development standard is still intended to be breached
- Providing an Arborist Report prepared by a suitably qualified Institute of Australian Consulting Arboriculturalist's (IACA) to ensure the report complies with Council's submission requirements
- Providing a copy of the title deed to confirm legal right of access to the carriageway



14/09/2018

Information was submitted from the owners in response to the previous letter and recommendations provided within the recent meeting.

26/09/2018

Referral responses were provided for the information submitted.

28/09/2018

The applicant was asked to further amend the submitted Clause 4.6 to correct the building height calculation and to include the measurement of the crossfall of the building footprint.

17/10/2018

Additional information was submitted to show the correct building height measurement on the plans.

29/10/2018

Amended Clause 4.6 submitted.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for a secondary dwelling. In particular, the application includes the following:

- construction of a new secondary dwelling and attached deck; and
- construction of a new carport and internal driveway

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	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>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p>Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this</p>

Section 4.15 Matters for Consideration'	Comments
	<p>application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.



Section 4.15 Matters for Consideration'	Comments
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.

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
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Landscape Officer	<p>The Survey Plan Boundary and Peg & Contour Plan submitted by Donovan Associates, dated, 7.09.2017 shows that a number of trees may be impacted by the proposed development.</p> <p>An Arboricultural Impact Assessment is required to provide clarification on the impact of the development upon existing trees and vegetation, including existing trees and vegetation on adjoining properties located 5 metres from the development.</p> <p>The report shall be prepared by a qualified Arborist (Minimum AQF Level 5) and shall cover assessment of excavation and construction impacts upon the SRZ and TPZ, tree protection requirements, and recommendations.</p> <p>The DA plans are inconsistent.</p>

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Internal Referral Body	Comments
	<p>The Landscape Plan, submitted by RK Designs, dated: 13.02.18, indicates all existing vegetation along the proposed driveway are to be removed. The Site and Roof Plan indicates all existing vegetation as retained.</p> <p>Planner Comment</p> <p>Concerns originally raised have now been satisfied with an Arborist Report, amended survey, amended plans and amended landscape plan which are now all consistent with one another. Council's Biodiversity Officer has assessed the relevant information submitted and is now satisfied with the proposal from a Biodiversity and Landscaping perspective. Conditions have been included within the draft consent below.</p>
NECC (Bushland and Biodiversity)	<p>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.</p>
NECC (Development Engineering)	<p>The submitted concept On Site Detention plan does not provide any details of the method of stormwater piped discharge to Council drainage system. The geo-technical report recommends that the stormwater is to be piped to the road.</p> <p>The proposed car port relies on the right of carriageway over 89-95 Cheryl Crescent. No evidence of rights of carriageway over these properties have been provided.</p> <p>As a result Development Engineers can not support the proposed development due to the proposed car space.</p> <ul style="list-style-type: none"> Does not meet the objectives and requirements set under the controls set for B6 <i>Access and Parking controls</i> of Pittwater 21 DCP 2014. Does not meet the objectives and requirements set under the controls set for 5.10 <i>Stormwater Discharge into Public Drainage System</i> Pittwater 21 DCP 2014. <p>Amended Comments Dated 24/09/2018</p> <p>The amended plans submitted addresses the issues that were raised above. No Development Engineering objection is raised to the proposed development subject to conditions.</p>

External Referral Body	Comments
<p>Ausgrid: (SEPP Infra.)</p> <p>DA2018/0654</p>	<p>The proposal was referred to Ausgrid. No response has been</p>



External Referral Body	Comments
	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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 904447S, dated 18/04/2018).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	50

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:	5.5m	6.8m	23.64%	No



Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.4 Controls relating to miscellaneous permissible uses	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 height of the proposed secondary dwelling exceeds the maximum 5.5m requirement for detached secondary dwellings located within the E4 Environmental Living zone as per Clause 4.3(2FA). The applicant has submitted a Clause 4.6 Statement to formally request a variation to the height of buildings development standard. Please refer to the consideration of Clause 4.6 within the section below.

4.6 Exceptions to development standards

The following is a consideration of the Applicant's formal request to vary Clause 4.3 Height of buildings within PLEP 2014.

Description of non-compliance:

Requirement:	5.5m
Proposed:	6.8m
Is the planning control in question a development standard?	Yes
If numerical enter a % variation to requirement	23.64%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 - Height of building development standard has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* and an assessment of the request to vary the development standard in accordance with the requirements of Clause 4.6 is provided below:

Application of Clause 4.6 Exceptions to development standards

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

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

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

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

Comment:

Clause 4.3 Height of buildings development standard is not expressly excluded from the operation of this clause.

Clause 4.6 Justification Assessment

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

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

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request seeking to justify the contravention a development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). Clause 4.6(3) contains two matters for consideration, which have been addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request aims to provide evidence which seeks to justify that the contravention of the development standard is unreasonable or unnecessary in the circumstances of the case through the following points:

- *The proposed development will be in the public interest on the basis it is consistent with the*

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objectives of the E4 Environmental Living zone in which the development is proposed to be carried out.

- Departure from the standard on this occasion will achieve a better built outcome for and from the proposed development, will not raise any matter of significance for state and or regional environmental planning and no particular public benefit will be served by maintaining the standard
- The maximum height of the actual dwelling is only 3.2m, with the additional height comprised of the void beneath the building
- The secondary dwelling is compatible with the E4 zoning of the land and the desired future character
- The development is intended to be constructed out of a bearer and joist construction to minimise on the site and local environment
- The proposed secondary dwelling is significantly lower than the 8.5m permitted for primary dwellings within the zone, which by nature are larger in size, comprise more bedrooms and accommodate substantially more occupants than a secondary dwelling which is in contrast and by restriction, generally only comprise one bedroom for use and by no more than two occupants.
- The height and scale of the proposed dwelling is consistent with and in fact lower than the majority of existing dwellings in the surrounding area, which range in height from one to three storeys depending on the individual site and topography.
- The area is characterised by either steep or undulating topography that has resulted in a substantial number of two and three storey dwellings being built to either the 8.5m limit or in many cases higher as a means to respond to the difficulties posed by this topography.
- Many dwellings in this area have been constructed to such heights as a means to avoid substantial cut and fill and minimise earthworks and excavation, thereby minimising the impact on the environment and natural ground level where possible.
- The deck has been reduced in size from 4m to 3m to further minimise the impact of the development and to ensure it has greater regard for the potential impact on neighbouring properties and better integrates with the surrounding locality.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by Clause 4.6(3)(a).

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

Comment:

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

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

Section 1.3 of the Environmental Planning and Assessment Act 1979 reads as follows:

1.3 Objects of Act (cf previous s 5)

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The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The Applicant's written request provides the following points as evidence that there are sufficient environmental planning grounds to justify contravening the development standard:

- *By actually contravening – or not complying with – the 5.5m development standard in this instance, an improved outcome is actually achieved. In this regard, to lower the height of the secondary dwelling to comply with the 5.5m height requirement, would require further excavation, earthworks and general disturbance of the site and local environment, which would in fact be contrary to the E4 zone objectives.*
- *The crossfall of the site where the secondary dwelling is intended to be located has been measured at 43% north-to-south and 28.5%.*
- *Under the current proposal, the gradient of the driveway is compliant with AS 2890.1, with any shortening of its length to pull the dwelling back to reduce its height likely to result in a non-compliant driveway. This would make access for the future residents of the dwelling both impracticable and potentially dangerous. As such, not allowing the variation in this instance would actually result in a poorer outcome for future residents than would be the case if actually allowing the variation.*
- *The proposed contravention of the development standard has not been requested to increase the yield, as the size of the secondary dwelling is limited to an area of 60m² regardless of the height or any other factors. Rather, it is simply proposed to deliver a better built form outcome that provides greater utility and amenity for the future residents of the dwelling; which has less impact on the natural environment; and which is consistent with the character of the surrounding area, outcomes which are consistent with the following objectives of Pittwater LEP 2014:*

(j) to protect and promote the health and well-being of current and future residents of Pittwater.

(f) to encourage a range of housing in appropriate locations that provides for the needs of the community both now and in the future,

(g) to protect and enhance Pittwater's natural environment and recreation areas,

(a) to promote development in Pittwater that is economically, environmentally and socially



sustainable,
(b) to ensure development is consistent with the desired character of Pittwater's localities.

- *The proposed development is compliant with all remaining standards pertaining to secondary dwellings, with the proposed variation minimal and largely unavoidable due to the considerable slope of the land and essentially of no consequence given the encroachment is comprised predominantly of void below the structure.*

In doing so, the applicant's written request has demonstrated that the proposed development is a compatible use and on the land and that the building is of a well thought-out design that will protect the amenity of the surrounding built environment therefore satisfying Section 1.3(c)(g) of the EPA Act.

In this regard, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by Clause 4.6(3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6 Public Interest Assessment

Clause 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(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:

In considering whether or not the proposed development will be in the public interest consideration must be given to the underlying objectives of the Height of building development standard and the objectives of the E4 Environmental Living zone. An assessment against the zone objectives has been provided below:

Zone E4 Environmental Living

Objectives of the zone

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

Comment:

The subject development is for the construction of a secondary dwelling, which is a permitted type of residential development within the zone.

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

Comment:

The development has been designed to minimise cut and fill by being located on poles and bearers. Concerns were initially raised regarding tree retention, however multiple trees to the



east of the secondary dwelling are now able to be retained as per the Arborist Report (Raintree Consulting, dated 13/09/2018).

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

Comment:

The development is for the purposes of a secondary dwelling, which is a type of low density residential development. The land has a steep crossfall of 43% from north-to-south and 28.5% and east to west, at the intended location of the secondary dwelling which has created difficulties in achieving a fully compliant development. Despite this, the development is consistent with the character of the built form of surrounding low-density residential dwellings, affected by the steep and undulating topography.

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

Comment:

The subject site is not located within land mapped as a riparian or wildlife corridor.

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the E4 Environmental Living zone.

Objectives of Development Standard

The underlying objectives of cl 4.3 Height of building development standard are:

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

Comment:

With a height of only 6.8m and the adoption of a bearer and joist construction to specifically minimise impact on the site and local environment, the proposed development is clearly consistent with this objective of the E4 zone and in turn, the desired character of the locality.

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

Comment:

The height and scale of the proposed dwelling is consistent with and in fact lower than the majority of existing dwellings in surrounding area, which range in height from one to three storeys depending on the individual site and topography of same. In this regard, the area is characterised by either steep land or undulating topography that has resulted (necessitated) a substantial number of two and three storey dwellings being built to either to 8.5 metre height limit or in many cases higher as a means to respond to the difficulties posed by this topography. Many of these dwellings have also been constructed to such



heights as a means to avoid substantial cut and fill and minimise earthworks and excavation (often via pole homes or dwellings on bearers and joists), thereby minimising the impact on the environment and natural ground levels where possible. This is clearly also the case in this instance, except that the dwelling in question – at only 6.8m in height – is substantially lower than the height of these surrounding dwellings.

(c) to minimise any overshadowing of neighbouring properties,

Comment:

Given the topography, the small size of the building footprint, the position of the dwelling on the site and the substantial size of the subject property and those surrounding, the resulting impact of the proposed development in terms of overshadowing on neighbouring properties is extremely limited and hence considered reasonable.

(d) to allow the reasonable sharing of views,

Comment:

Due to the small building footprint, the position of the proposed dwelling on the site and the substantial size of the property and those surrounding (which has created large separation distances between residences), it is apparent that any potential view loss from surrounding properties has been minimised.

Views from this site and those surrounding are already extremely filtered due to the extensive tree cover in the locality, meaning the proposed dwelling is likely to have little impact on views. The fact that no submissions have been lodged to the application in an area where views would be highly valued is confirmation that adjoining residents are satisfied the proposed development will be of little consequence in terms of view loss.

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

Comment:

The proposed dwelling is to be built on bearers and joists to limit excavation and minimise impact on the environment. As such, the 1300mm encroachment of the height limit is a result of the topography of the site, with the building exceeding 5.5m in height only due to the fall of the land and as means of actually limiting its impact. This is discussed in more detail above, where it is noted that the slope across and down the site is considerable (28% and 43% respectively).

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

Comment:

The visual impact of the additional height on the surrounding neighbours is minimal due to the natural topography of the site. The minor encroachment above the height limit is primarily a function of topography and this is limited to only a small portion of the deck, with the remainder of the dwelling being either at or below the 5.5m height limit. It is also re-iterated that much of the height encroachment is comprised of a void beneath the dwelling rather than comprising a solid structure.

Conclusion:

The proposed development satisfies the underlying objectives of the height of building development standard.



Concurrence of the Secretary Assessment:

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

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. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings development standard is assumed by the Northern Beaches Council's Development Determination Panel (DDP).

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Northern building line	Merit	21.5m	N/A	Yes
Southern building line	Merit	7.15m	N/A	Yes
Eastern building line	Merit	2.5m	N/A	Yes
Western building line	Merit	25.4m	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	60%	62.9%	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
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
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Clause	Compliance with Requirements	Consistency Aims/Objectives
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
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
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes
C1.23 Eaves	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Yes	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	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

C1.5 Visual Privacy

The application includes a screening device (privacy wall) along the eastern elevation of the decking in the form of a solid wall with horizontal louvers. It is recommended that these louvers have a maximum opening angle of 45 degrees so as to prevent overlooking into the neighbouring property.

C1.7 Private Open Space

Due to the extensive slope of the rear yard, the property is unlikely to provide a minimum of 80m² of shared level private open space. The deck adjacent to the secondary dwelling is considered to satisfactorily address this issue, by providing approximately 46m² of level private open space to the potential future residents of the secondary dwelling. This is considered to be acceptable.

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

The northern boundary is considered to resemble a front boundary in this case due to the orientation of

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the dwelling and where vehicle and pedestrian access is gained. The secondary dwelling and carport propose a setback of approximately 21.5m to this boundary which is consistent with the setbacks of neighbouring development. Considered acceptable.

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

The eastern and western boundaries are considered to resemble side boundaries while the southern boundary is considered to be a rear. The development maintains setbacks of 2.5m to the eastern boundary, 25.4m to the west and 7.15m to the south which are all consistent with the numerical requirements to side and rear setbacks as listed under the control. Considered acceptable.

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

The application results in an undercroft area of approximately 4.8m due to the excessive slope of the building footprint, inconsistent with the 3.5m maximum undercroft height prescribed by this control. The undercroft area is unable to be viewed from neighbouring properties due to the presence of existing vegetation along the southern boundary and the large separation distance to neighbouring dwellings. 'Pole Homes' are common development within Newport and within the former Pittwater LGA on sites with steep topography as a means of limiting excavation and environmental impact. The area of development which is supported by the undercroft area is predominately decking, which contains a minimal bulk and scale impact while providing the residents of the secondary dwelling an acceptable, level area of private open space on a site that otherwise does not provide for any areas of private open space. The undercroft area is therefore considered acceptable.

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 DA2018/0654 for Construction of a secondary dwelling with attached carport on land at Lot 1 DP 746046, 95 A Cheryl Crescent, NEWPORT, 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
Sheet 1, Issue D - Site and Roof Plan	04/09/2018	RK Designs
Sheet 2, Issue D - Ground Floor	04/09/2018	RK Designs
Sheet 3, Issue D - Elevations	04/09/2018	RK Designs
Sheet 4, Issue D - Elevations	04/09/2018	RK Designs
Sheet 5, Issue D - Section	04/09/2018	RK Designs

Engineering Plans		
Drawing No.	Dated	Prepared By
026-W18, Sheets 1, 2 and 3, Revision C - Stormwater Plan	16/08/2018	Horizon Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
DA2018/0654		

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Arboricultural Report, Ref. RTC-13918	13/09/2018	Rain Tree Consulting
Geotechnical Risk Report, Ref. J1688	18/04/2018	White Geotechnical Group
BASIX Certificate, Ref. 904447S	18/04/2018	RK Designs

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
Sheet 1 - Revised Landscape Plan	16 August 2018	Coastal Care Horticultural Services

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

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)

4. **Building Materials and 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

FEES / CHARGES / CONTRIBUTIONS

5. **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).

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

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

6. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in



the Geotechnical Report prepared by White geotechnical group (J1688) dated 18th April, 2018 are to be incorporated into the construction plans.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

7. On-site Stormwater Detention Compliance

Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's PITTWATER DCP21 and the concept drawing by Horizon Engineers, drawing number drawing no 026-W18 sheet 1,2 and 3 dated 16/08/2018. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

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

8. 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. The driveway and parking must comply with AS/NZS 2890.1:2004. 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

9. Provision of Landscape Working Drawings

Amended landscape drawings and specification (to that of Coastal Care Horticultural Services, dated August 2018, Project no. SMITH-LCD), which include an additional planting of two (2) replacement locally native canopy trees with a minimum mature height of 10m, and that shall comply in all respects with the conditions of development consent, are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be certified by a qualified landscape architect, landscape designer/environmental designer or horticulturist, confirming that the plans/details for the works to be carried out will achieve the relevant conditions of the development consent. In particular, the landscape working drawing is to provide full details of the following:

- a) The usage of the dominant native species growing in the area or locally indigenous species for understorey planting and with provision of at least two (2) additional trees (to those already submitted and approved) which will meet a minimum mature height of 10m;
- b) Clear indication of the location of all existing trees and vegetation to be retained, removed and/or proposed. This should incorporate the TPZ and SRZ as stated within the associated arborist report, no planting of stock in excess of 100mm is approved within TPZ of existing prescribed trees nor the alteration of ground levels;
- c) A planting schedule including stratum, species/common names, species quantities, pot sizes and staking details of the two (2) additional trees;
- d) The proposed finished treatment of garden areas, including soil depth and retaining



walls and the location of underground services.

Reason: To ensure adequate and appropriate landscaping is carried out to retain the Urban Forest/Natural Environment.

10. **Compliance with Standards**

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

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

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

11. **External Finishes**

The external finish to the roof and external walls shall have a medium to dark range (BCA classification M and D) and be consistent with Council's desired external colours listed under P21 DCP Control D10.4 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)

12. **Sewer / Water Quickcheck**

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

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

- 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 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. **Tree Protection - Arborist Supervision of Works**

All works within the defined TPZ of the existing trees to be retained including pruning,



demolition, excavation, civil works, fencing and the like must be carried out by hand under the supervision of an experienced and minimally AQF Level 5 qualified Arborist. Should roots larger than 40mm be encountered all excavation works are to cease immediately and a qualified Arborist is to advise on the impacts of the roots removal on the tree's survival and report to the Principal Certifying Authority prior to works recommencing. If tree roots are present a pier and beam method of footing construction is to be adopted so as to bridge/span any identified lateral roots.

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

15. **Stockpiling of Topsoil**

During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.

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

16. **Arborist Recommendations to be Implemented**

As there are existing trees to be retained in close proximity of proposed development works, all recommendations (including but not limited to - Section 2.2, Figure & Table 2) as outlined in the supplied arborist report by Raintree Consulting - Mark Kokot, dated 13/9/2018, no. RTC-13918 are required to be complied with before and throughout the development period, particularly with regard to the following:

- a) Works, erection/demolition of structures, excavation or changes to soil levels within the defined TPZ of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within the defined TPZ of a tree to be retained is not permitted;
- b) Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
- c) All works within the defined TPZ of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
- d) Signage is to be erected advising all contractors and visitors to the site that no works or storage is to take place within the calculated Tree Protection Zone (TPZ) of existing trees.

Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.

Reason: To ensure the retention of the Urban Forest/Natural Environment and remain consistent with approved reports.

17. **Limitation of Excavation**

No over excavation shall occur in relation to the proposed driveway or retaining walls.



Reason: To retain and protect the Natural Environment (DACNEBOC2)

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

18. **Authorisation of Legal Documentation Required for Onsite Detention**

The original completed request forms (NSW Land Registry 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 or Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

19. **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.

20. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard

21. **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.

22. **Geotechnical Certification Recommendations have been Implemented**

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Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

Reason: To ensure geotechnical risk is mitigated appropriately.

23. **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.

24. **Tree Protection to be Certified by Arborist**

Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved Arborist Report by Raintree Consulting, dated 13/9/2018, no. RTC-13918 are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate. Documented evidence of a qualified arborist having supervised the works in proximity to trees being retained and ensuring that all tree protection measures are adopted as specified in the approved 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.

25. **Practical Completion of Landscape Works**

A landscape practical completion report is to be prepared by the consultant landscape architect/designer and submitted to the Principal Certifying Authority with the Occupation Certificate application. This report is to certify that all landscape works have been completed in accordance with the landscape working drawings and specifications.

Reason: To ensure landscaping is adequate and consistent with approved plans.

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

26. **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.

27. **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 no. 296851 and additional trees as per Raintree Consulting Arborist Report 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.



28. **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.

29. **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.

30. **Landscape Plan to be Implemented**

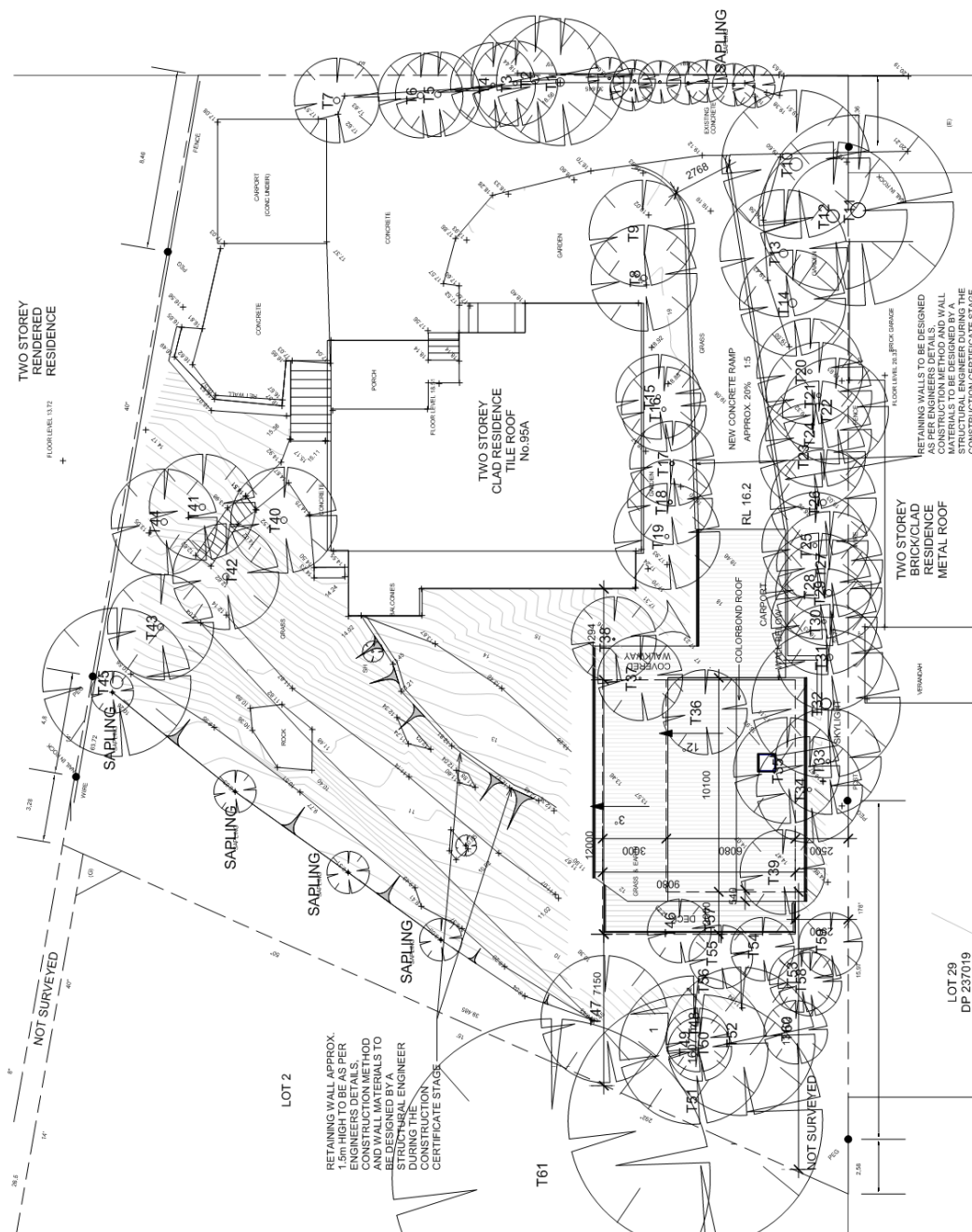
Landscaping is to be implemented in accordance with the approved Landscape Plan by Coastal Care Horticultural Services - Geoff Burton dated July 2018 Project no. SMITH-LCD (amended as per previous conditions). The new landscaping is to be approved as completed by the accredited certifier upon issue of 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.

31. **Privacy**

The horizontal louvers which form a part of the 'privacy wall' on the eastern elevation of the deck are to have a maximum opening angle of 45 degrees.

Reason: Maintain residential amenity and privacy



SITE AND ROOF PLAN

1 : 200



IMPORTANT NOTE
THESE DRAWINGS HAVE BEEN ISSUED FOR DEVELOPMENT APPLICATION PURPOSES ONLY. THEY ARE NOT ISSUED FOR CONSTRUCTION OR CONSTRUCTION CERTIFICATE OR FOR THE PURPOSES OF PRICING BY ANY CONTRACTOR

RK
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project
95A CHERLY CRESCENT, NEWPORT

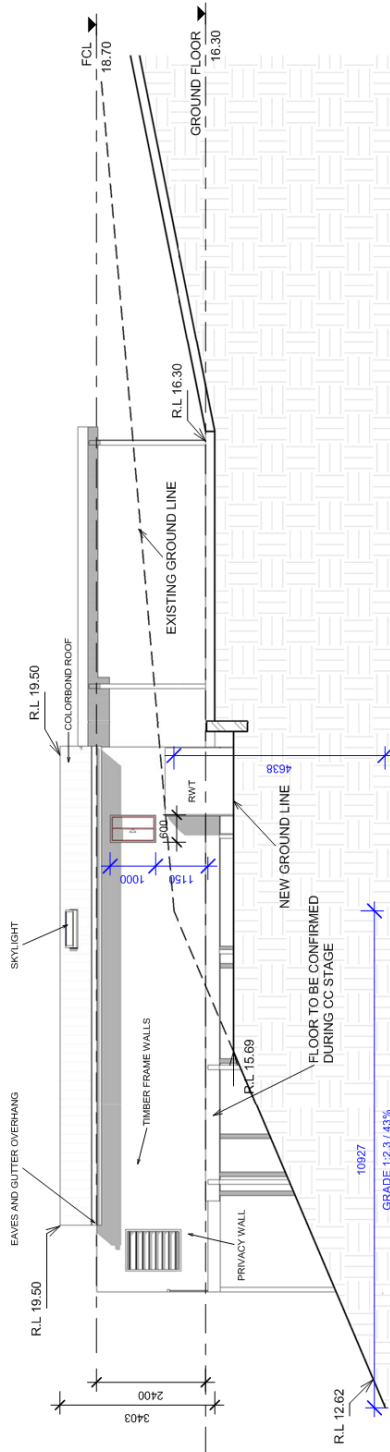
client
CHRIS SMITH

drawing
SITE AND ROOF PLAN
project no. date sheet no.

true north

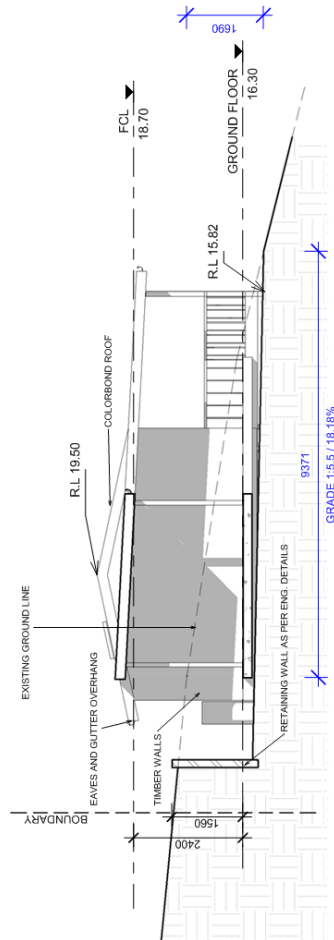
drawn	date	issue	amendment
RK	17/09/28	A	ISSUE FOR DA
RK	01/02/18	B	REVISED AS PER DA
RK	16/08/18	C	REVISED AS PER COUNCIL LETTER DATED 06.08.18
RK	04/09/18	D	REDUCED DECK WIDTH AS PER COUNCIL RECOMMENDATIONS

[illegible]



EAST ELEVATION

1 : 100



NORTH ELEVATION

2 : 100

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spaces designed for life

**RK
DESIGNS**

project
95A CHERLY CRESCENT, NEWPORT

client
CHRIS SMITH

drawing
ELEVATIONS

project no
17-76

date
13.02.18

scale @ A3 issue
1 : 100

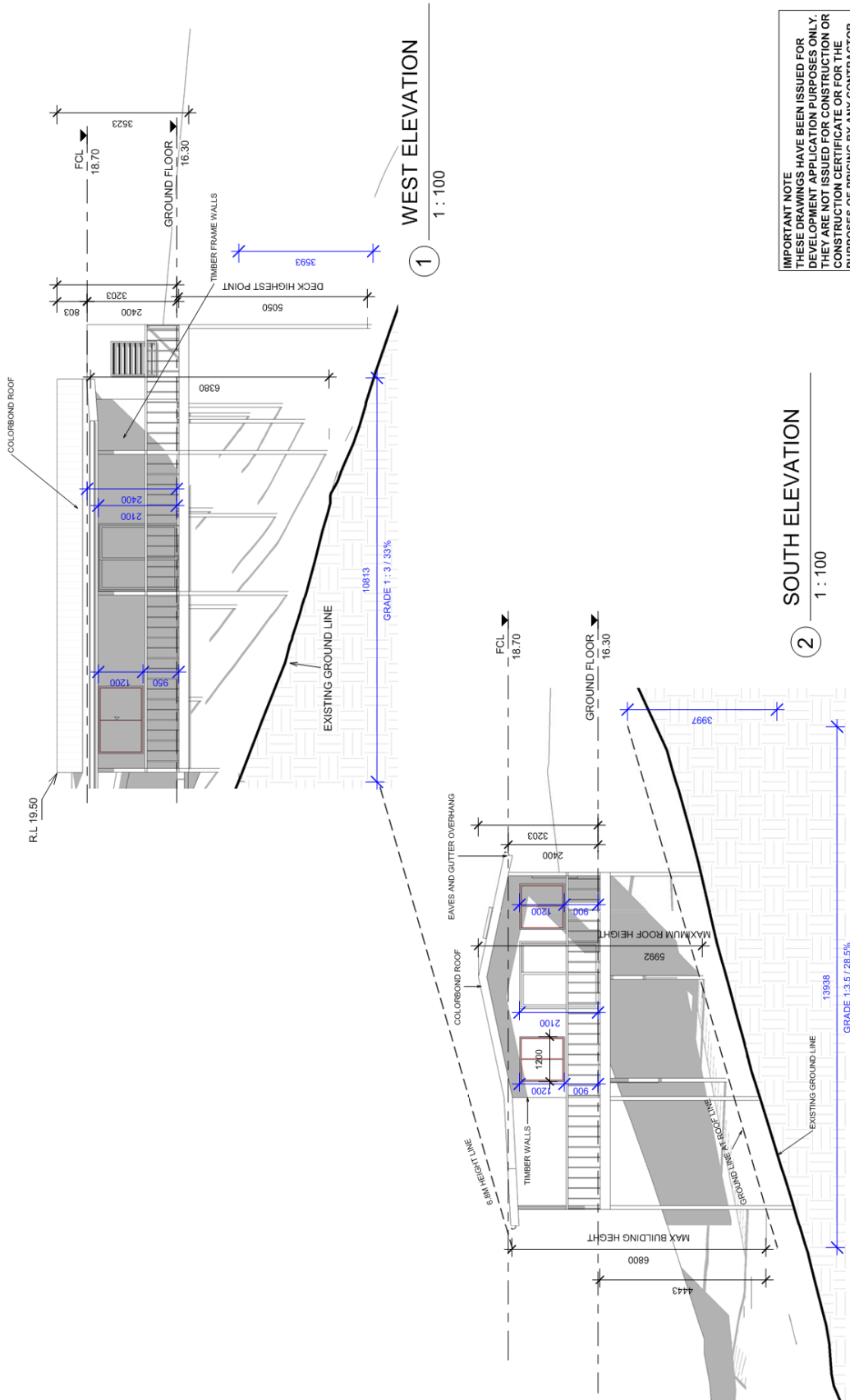
drawn
D

sheet no
3

drawn	date	issue	amendment
RK	17/09/28	A	ISSUE FOR DA
RK	01/02/18	B	REVISED AS PER DA
RK	16/08/18	C	REVISED AS PER COUNCIL LETTER DATED 06/08/18
RK	04/09/18	D	REDUCED DECK WIDTH AS PER COUNCIL RECOMMENDATIONS

GENERAL NOTES

- All dimensions are to be confirmed on site by the builder/contractor. The Designer must be reported to the Designer before commencement of any work.
- In the event of encountering any discrepancies on these drawings, specification or subsequent instructions issued, the Builder/contractor shall contact the Designer immediately.
- The Builder/contractor will be held responsible for the interpretation of the drawings for a minimum period of two years after the date of practical completion.
- All construction, material and specification shall be in strict accordance with Designer's and/or Engineer's details. No joints or breaks other than specified, are allowed without written permission from the Designer and/or Engineer.
- Measurements for the fabrication of secondary components, such as, windows, doors, structural steel components and the like, are not to be taken until the relevant components have been approved by the Designer and/or Engineer.
- All structural components shall be in strict accordance to details and specifications as prepared by a structural engineer, and those details from part of the total design shall be confirmed by the Designer and/or Engineer.
- All building structures need to be submitted for structural adequacy, and it is the Contractor's responsibility to ensure that a certificate of structural adequacy is available prior to the start of any work.
- No construction work shall commence until a full survey has been completed. This work must be performed by a registered surveyor.



IMPORTANT NOTE
THESE DRAWINGS HAVE BEEN ISSUED FOR DEVELOPMENT APPLICATION PURPOSES ONLY. THEY ARE NOT ISSUED FOR CONSTRUCTION OR CONSTRUCTION CERTIFICATE OR FOR THE PURPOSES OF PRICING BY ANY CONTRACTOR



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project	95A CHERLY CRESCENT, NEWPORT
client	CHRIS SMITH
drawing	ELEVATIONS
project no	17-76
date	13.02.18
scale	1 : 100
drawn	D
checked	RK

drawn	date	issue	amendment
RK	17/09/28	A	ISSUE FOR DA
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RK	16/08/18	C	REVISED AS PER COUNCIL LETTER DATED 06.08.18
RK	04/09/18	D	REDUCED DECK WIDTH AS PER COUNCIL RECOMMENDATIONS

GENERAL NOTES

- All dimensions are to be confirmed on site by the builder/contractor. The Designer is not responsible for the accuracy of any work.
- In the event of any discrepancies on these drawings, specification or subsequent instructions issued, the Builder/contractor shall contact the Designer for clarification.
- The Builder/contractor will be held responsible for the construction of the building for a minimum period of two years after the date of practical completion.
- All construction, including joints and separation joints in the wall, floors, roof, and other structural components, shall be in accordance with Designer's Engineering details. No joints or breaks other than specified, are allowed without written permission from the Designer and/or Engineer.
- Measurements for the fabrication of secondary components, such as, windows, doors, structural steel components and the like, are not to be taken from the drawings. They are to be taken from the actual components and the like, and those details from part of the total.
- All structural components shall be in full accordance to details and specifications as prepared by a structural engineer, and those details from part of the total.
- All building structures need to be submitted for structural adequacy, and it is the Contractor's responsibility to ensure that a certificate of structural adequacy is available prior to the start of any work.
- No construction work shall commence until a full survey has been completed. This work must be performed by a registered Surveyor.

ITEM 3.3	DA2018/0260 - 59 CUTLER ROAD, CLONTARF - ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING HOUSE
REPORTING MANAGER	RODNEY PIGGOTT
TRIM FILE REF	2018/707482
ATTACHMENTS	1 Assessment Report 2 Site Plan and Elevations

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 and floor space ratio.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/0260 for alterations and additions to the existing dwelling house on land at Lot 29 DP 25654, 59 Cutler Road, Clontarf subject to the conditions outlined in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0260
Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 29 DP 25654, 59 Cutler Road CLONTARF NSW 2093
Proposed Development:	Alterations and additions to the existing dwelling house.
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Jie Chen
Applicant:	Yucachia Design & Construction Pty Ltd
Application lodged:	21/02/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	07/09/2018 to 25/09/2018
Advertised:	Not Advertised
Submissions Received:	4
Recommendation:	Approval
Estimated Cost of Works:	\$ 400,000.00

ASSESSMENT INTRODUCTION

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

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

- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Development Control Plan - 3.4.2 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

SITE DESCRIPTION

Property Description:	Lot 29 DP 25654 , 59 Cutler Road CLONTARF NSW 2093
Detailed Site Description:	<p>The subject site consists of an allotment located on the south-eastern side of Cutler Road.</p> <p>The site is an irregular shape with a frontage which follows the curvature of the road in this location (along Cutler Road). The site has a surveyed area of 601.25m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a dwelling on site.</p> <p>The site has a slope of 3-4 metres from the north to the south of the site.</p> <p>The site has a vegetative buffer to the north and along the street edge.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by dwellings on both sides of Cutler Road, being predominantly 2 and 3 storey dwellings.</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:

- A building card, BA8/64, "Additions, Brick, W/B, Tile" with the applicant listed as Beasley and Mrs HR.
- A building card, BA439/64, "Addition of bathroom" with the applicant listed as Coates.
- A building card, BA439/64, "Addition of Swimming pool" with the applicant listed as Coates

PROPOSED DEVELOPMENT IN DETAIL

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

Ground Floor

- Entrance and hall
- Cinema
- Footing Space
- Garage
- Toilet/Laundry
- Wine Cellar

First Floor

- 4 bedrooms
- Living area
- Meal
- Kitchen
- 2 Bathrooms

Second Floor Plan

- Master Room
- Retreat
- Walk in Robe

DA2018/0260

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-Ensuite

It is noted that amended plans were submitted on 7 September to address the issue of view loss raised by Council.

These plans were re-notified in accordance with the Manly DCP from 7 September 2018 to 25 September 2018.

The below photos show the change in design as represented by the height poles:



Photo 1: Height poles representing originally submitted plans



Photo 2: Height Poles giving representation of plans submitted on 7 September 2018

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

are:

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

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

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.

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 process council is in receipt of 4 submission/s from:

Name:	Address:
Mr Frank Jeremy Hopson	61 Cutler Road CLONTARF NSW 2093
David Grice	8 Delaigh Avenue NORTH CURL CURL NSW 2099
Mr John Rowland Grice	57 Cutler Road CLONTARF NSW 2093
Ms Jessica Hee Jin Jun	61 Cutler Road CLONTARF NSW 2093

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

- Overshadowing and insufficient shadow diagrams
- Lack of Landscape Plan, non compliance with landscaped area control and Waste Management Plan.
- Privacy/overlooking
- Setbacks
- Floor Space and Building Height
- Rainwater Tank
- Stormwater, civil works and retaining wall
- Loss of views and view creep
- Request for roof to have dark colours.
- Inadequate details for plans, survey and submitted documents for the application

The matters raised within the submissions are addressed as follows:

- Insufficient shadow diagrams
Comment:
This was raised with the applicant including that diagrams for Winter Solstice diagrams had not been provided. As a result, adequate diagrams were submitted with the plans submitted on 7 September 2018. These diagrams demonstrated compliance with the Sunlight Access and Overshadowing controls under the Manly DCP 2013.
- Lack of Landscape Plan, non compliance with landscaped area control and Waste Management Plan.
Comment:
A Landscape Plan was submitted with the amended plans on 7 September 2018 and the proposal is compliant with the control for Landscaped area under the Manly DCP 2013. A condition has been imposed to require that a Waste Management Plan in accordance with the Manly DCP be submitted prior to the issue of a Construction Certificate.
- Privacy/Overlooking
Comment:
An assessment of privacy under the Manly DCP in this report has found the proposal to be reasonable subject to a condition being imposed to ensure the design of windows at the south elevation minimises opportunity for overlooking. It is noted that ground floor windows are to be retained during the conversion of the rumpus to cinema.
- Setbacks
Comment:
An assessment of Setbacks can be found under the Manly DCP section of this report. This

assessment has found the proposal to be reasonable.

- Floor Space Ratio and Building Height
Comment:
Written requests to vary the development standards for Floor Space Ratio have been provided in accordance with Clause 4.6 of the Manly LEP. These requests adequately addressed the requirements of Clause 4.6 (see assessment below).
- Rainwater tank
Comment:
There is no reference to a RWT on the plans recommended for approval.
- Stormwater, civil works and retaining wall
Comment:
Conditions have been applied to ensure impact is mitigated and minimised.
- Loss of views and view creep
Comment:
An assessment of views under the court established principle in this report has found the proposal to be reasonable. This is substantially a result of the reasonable setbacks to the top floor which maintain view corridors and reduce impact of view creep.
- Request for roof to have dark colours.
Comment:
A condition has been imposed in this regard.
- Inadequate details for plans, survey and submitted documents for the application
Comment:
The plans and details submitted on 7 September 2018 provided enough detail to assess the application. Conditions have also been applied to ensure the details will be adequate for the Construction Certificate stage. This includes a condition that requires a maintenance in level of the existing first floor for the proposed first floor.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	In this regard, the applicant is required to demonstrate compliance with Council's Drainage Easements Policy – D100.

Internal Referral Body	Comments
	<p>To demonstrate compliance with the policy it is recommended that the following details are submitted with the application:</p> <ul style="list-style-type: none"> · Accurately locate, confirm dimensions including depth and plot to scale Council's stormwater pipelines and associated infrastructure on the DA site plans that outline the proposal. This should be carried out by a service locating contractor and registered surveyor. (Evidence of methodology used for locating stormwater system should be provided). · All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with the above-mentioned policy. · Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance with Council's policy are to be submitted. · The policy also requires the developer to create an easement over the Council pipeline if there is not currently one in place. <p><u>Assessing Officer comment</u></p> <p>As a result, a deferred commencement condition was recommended by Council's Engineer and this has been imposed to ensure the proposal provides appropriate details for Stormwater.</p>

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.
NSW Rural Fire Service – local branch (s79BA EPAA)	A letter has been provided by the New South Wales Rural Fire Service which provides conditions. This letter has been attached as reference documentation to this consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

application hereunder.

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A307276).

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.

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	7.9m-9.1m	7%	No, see comments.
Floor Space Ratio Site area: 601.25m ²	FSR: 0.4:1 (240.5m ²)	FSR: 0.58:1 (350m ²)	45.5%	No, See comments.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
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	N/A
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Height of building

Description of non-compliance:

Requirement:	8.5m
Proposed:	9.1m
Is the planning control in question a development standard?	YES
If numerical enter a % variation to requirement	7%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 - Height of building development standard has taken into consideration the recent judgement contained within Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 and an assessment of the request to vary the development standard in accordance with the requirements of Clause 4.6 is provided below:

Clause 4.6 Exceptions to development standards:

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

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

Comment:

Clause 4.3 Height of building development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Secretary has been obtained.

cl 4.6 (4)(a)(i) (Justification) assessment:

cl 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6 (3) and these are addressed as follows:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment:

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

grounds to justify contravening the development standard:

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

The Applicant's written request has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard. The Applicant's written request submits that the proposal provides that the proposal provides the bulk and scale that would be much lesser than other approvals for alterations and additions in the area, and will result in no unreasonable amenity impacts to surrounding properties. The applicant also suggests the result would be a better urban design outcome with adequate occupant amenity.

In doing so, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land and that the building is of a good design and will protect the amenity of the surrounding built environment therefore satisfying cl 1.3(c)(g) of the EPA Act.

In this regard, the applicants written request has adequately demonstrated the that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

cl 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(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:

In considering whether or not the proposed development will be in the public interest consideration must be given to the underlying objectives of the Height of building development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of cl 4.3 Height of building development standard are:

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

Comment:

The proposed height of building, roof form, and associated presentation in the locality is consistent with the prevailing building height and topographic landscape of the area. In particular, the building height is proposed to be at a lower level than the heights of buildings up slope to the north and east. Along with the provided consistency of development stepping down with the topography of the area, vegetation surrounding the site assists in providing a desirable presentation for the low density living environment.

The development satisfies this objective.

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

Comment:

As a result of surrounding vegetation, topography of the area and location of this dwelling downslope, the presentation of the height non-compliance will be minimised when viewed from areas upslope on Cutler Road (to the north and east). Additionally, the compliant setbacks provided by the top storey ensures this top section of the building is appropriately modulated to minimise amenity impact and provide an adequate visual presentation of bulk and scale, despite the height non-compliance.

The development satisfies this objective.

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

Comment:

As a result of the compliant side setbacks at the top level of the dwelling and the view corridor maintained for the dwelling at 57 Cutler Road, the proposed height non-compliance is reasonable. An assessment has also been made under 'Maintenance of Views' of the Manly DCP in this report (including an consideration in regards to the Land and Environment established court principle and found the proposal to be reasonable in terms of impacts on views and view sharing.

The development satisfies this objective.

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

Comment:

As a result of the subdivision pattern, the majority of overshadowing is to open space areas to adjoining properties at the south and east. The proposal complies with the requirements for sunlight to adjoining private open space and solar access to living rooms of adjacent properties under Clause 3.4.1 of the Manly DCP. This provides a reasonable outcome for solar access.

The development satisfies this objective.

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

Conclusion:

The proposed development satisfies the underlying objectives of the Height of building development standard.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone

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

Comment:

The proposal provides alterations and additions to a dwelling.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents. Provide for a variety of housing types and densities.*

Comment:

Not applicable.

Conclusion:

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

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

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

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. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Development Determination Panel.

Floor Space Ratio

Description of non-compliance:

Requirement:	0.4:1 (240.5m ²)
Proposed:	0.58:1 (350m ²)
Is the planning control in question a development standard?	YES
If numerical enter a % variation to requirement	45.5%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 - Floor space ratio development standard has taken into consideration the recent judgement contained within Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 and an assessment of the request to vary the development standard in accordance with the requirements of Clause 4.6 is provided below:

Clause 4.6 Exceptions to development standards:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

Comment:

Clause 4.4 Floor space ratio development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development

standard unless:

- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Secretary has been obtained.

cl 4.6 (4)(a)(i) (Justification) assessment:

cl 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6 (3) and these are addressed as follows:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native

animals and plants, ecological communities and their habitats,
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
(g) to promote good design and amenity of the built environment,
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
(j) to provide increased opportunity for community participation in environmental planning and assessment.

The Applicant's written request has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard. The Applicant's written request submits that the proposal would provide a built form that is appropriate given what has been recently approved in the area. The proposal is compatible with other examples of infill development in the area and the development would not result in no unreasonable amenity impacts to surrounding properties.

In doing so, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land and that the building is of a good design and will protect the amenity of the surrounding built environment therefore satisfying cl 1.3(c)(g) of the EPA Act.

In this regard, the applicants written request has adequately demonstrated the that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

cl 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(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:

In considering whether or not the proposed development will be in the public interest consideration must be given to the underlying objectives of the Floor space ratio development standard and the objectives of the R1 General Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of cl 4.4 Floor space ratio development standard are:

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

Comment:

The proposed dwelling is sited in an area in which the presentation of bulk and scale is varied due to

the land sloping in varying directions. However, as a result of the landscaped character surrounding the subject site and the compliant setback of the top floor, the proposal will be consistent with the characteristic of the area that the presentation of bulk and scale is generally reduced, as the land slopes downward.

The development satisfies this objective.

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

Comment:

The proposal provides for a 3 storey new dwelling that has a second floor storey setback from the lower floors to be compliant with the setback control. In addition, the open space and landscaped area are compliant with the controls in the Manly DCP to provide a control on bulk that would provide a reasonable outcome for access to views of surrounding features. In particular the setback of the top floor ensures a corridor for views through the southern setback of the development.

The development satisfies this objective.

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

Comment:

The subject site is located behind vegetation on the street, down slope on Cutler Road and has a curved street frontage. These features of this site and area in combination with the compliant setback to the top floor, provide a presentation of bulk for the proposed development that is reasonably minimised to complement the surrounding area.

The development satisfies this objective.

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

Comment:

As a result of the compliant setbacks, adequate view corridors, complementary building height, compliant open space and compliant landscaped area, the proposal would sufficiently minimise environmental impacts and the use of the surrounding land. The impact on amenity for surrounding dwellings is also further assessed as being reasonable under Part 3 of the Manly DCP in this report.

(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.

Conclusion:

The proposed development satisfies the underlying objectives of the Floor space ratio development

standard.

The underlying objectives of the R2 Low Density Residential zone

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

Comment:

The proposal provides alterations and additions to a dwelling.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents. Provide for a variety of housing types and densities.*

Comment:

Not applicable.

Conclusion:

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

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

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

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. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Development Determination Panel.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 601.25m²	Requirement	Proposed	Complies
4.1.2.1 Wall Height	East: 6.5m	First Floor: 3.4m Top Level: 6m	Yes.
	South: 6.6m	First Floor: 5.3m Top Level: 8.1m	No, see comments. (Yes for first floor.)
4.1.2.2 Number of Storeys	3	2	No, see

			comments.
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	5-16m.	No, see comments.
4.1.4.2 Side Setbacks and Secondary Street Frontages	East: First Floor: 1.13m Top Level: 2m	First Floor Level: 0.85m-3.65m Top Level: 5.12m	No, see comments. (Yes for top level)
	South: First Floor: 1.76m Top Level: 2.7m	First Floor Level: 1.5m Top Level: 4m	No, see comments. (Yes for top level)
4.1.4.2 Windows that face side boundaries	3m	1.5m-4m	No, see comments.
4.1.4.4 Rear Setbacks	8m	1.5m-10.24m	No, see comments.
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 45% of site area (150.31m ²)	51.6% (310m ²)	Yes.
4.1.5.2 Landscaped Area	Landscaped area 40% of open space	45% (140m ²)	Yes.
4.1.5.3 Private Open Space	18m	40sqm	Yes.
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	6m	Yes.
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	Yes.

***Note:** It is noted that the site only has 3 site boundaries due to its irregular shape. The rear setback is nominated as the southern setback but this setback is also considered a side setback for the purposes of providing a reasonable and relevant numerical control given the subdivision pattern.

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
3.7 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)	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.2.1 Wall Height	No	Yes
4.1.2.2 Number of Storeys	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.4.1 Street Front setbacks	No	Yes
4.1.4.2 Side setbacks and secondary street frontages	No	Yes
4.1.4.4 Rear Setbacks	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements	Yes	Yes
4.1.5.2 Landscaped Area	Yes	Yes
4.1.5.3 Private Open Space	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

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:

A condition has been imposed to reduce the size of windows that are non-compliant with the setback control for new windows facing the boundary. This condition requires the windows at the first floor level to be reduced to 1.5 metres in height from floor level as follows:

"The proposed windows at the first floor level for the meal and kitchen areas are to be one of the following:

-Highlight windows with a solid sill height to a level of at least 1.5 metres from finished floor level (first floor)

-Provided with fixed louver screening for the full length of the window, with the louvers at a right angle

*to the window and with no individual opening of greater than 30 millimetres.
-Wholly obscured and fixed (not able to be opened) glazing up to a height of 1.5 metres
Details are to be provided prior to the issue of a Construction Certificate.
Reason: To minimise angle of overlooking to neighbouring property whilst maintaining a reasonable opportunity for outlook at the subject site."*

This condition ensures that there is an appropriate minimisation in design of windows to ensure there is not unreasonable opportunity for unreasonable downward overlooking to the neighbouring property at 61 Cutler Road.

The proposal also reasonably separates proposed open space from the neighbouring properties including providing the balcony at top floor level to the front of the site.

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

Comment:

The proposal includes a top level that has compliant setbacks from side boundaries to provide corridors and opportunity for access to light and air. Additionally, the condition requiring windows to at first level to be set above floor level (1.5m) will reduce impact on privacy whilst also providing opportunity for outlook and access to light.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal provides a balcony to the front of the property along with windows and door which 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.

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 subject site is located in an area in which there is an unusual subdivision pattern and extensive opportunity for views to the south. As such, access to views for dwellings is often gained through a number site boundaries in this area. The subject site has opportunity for views through site boundaries at 61 Cutler Road, 6 Castle Rock Crescent and 5 Castle Rock Crescent. The neighbouring site at 57 Cutler Road has access to views through these properties as well as the subject site. These views

become more vulnerable as a result of being obtained over a number of site boundaries. The proposal provides a top level with compliant setbacks to provide a corridor of views for 57 Cutler Road over each of these site boundaries (61 Cutler Road, 6 Castle Rock Crescent and 5 Castle Rock Crescent). Given this retention of a reasonable section of this vulnerable view and the opportunity for subject site to also obtain views to the south, view sharing is reasonable. The reasonable setback to the top floor also ensure that an adequate corridor remains for dwellings further to the east.

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).

57 Cutler Road

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 proposal would affect partial water views of North Harbour and headland views that include 'Wyarigine Point' and 'The Spit'. The water views, to the right of the poles in the photo below, are partial as a result of existing vegetation and development.



Photo 1: Taken from side deck at 57 Cutler Road.

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:

The views are obtained from two deck areas on the western side of the dwelling as well as from living areas in between these decks at the western elevation. These views are obtained from the front and rear of the property and over the western side boundary. The views can be obtained from both standing and sitting position.

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:

As a result of the views being over a side boundary, the retention of whole water views through a corridor at the south and the partial nature of the impacted water views, the overall impact is assessed as minor.

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

Comment:

The proposed development is non-compliant with Floor Space Ratio and Height of Building. However, the more substantial water view from 57 Cutler Road can be retained through a reasonable setback of the top level from the eastern boundary (see photo above). As a result of this proposed setback and the associated water view retained the view sharing is reasonable.

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 proposed top floor being setback from the eastern boundary, the proposed development would reasonably minimise loss of views and potential for view creep.

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 proposed wall height at the south elevation is 8.1m with the control of 6.6m. The proposal is also non-compliant with the control for number of storeys being 3, with the control of 2.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control 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 height of building, roof form, and associated presentation in the locality is consistent with the prevailing building height and topographic landscape of the area. In particular, the building height is proposed to be at a lower level than the heights of buildings up slope to the north and east. Along with the provided consistency of development stepping down with the topography of the area, vegetation surrounding the site assists in providing a desirable presentation for the low density living environment.

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

Comment:

As a result of surrounding vegetation, topography of the area and location of this dwelling downslope, the presentation of the height non-compliance will be minimised when viewed from areas upslope on Cutler Road (to the north and east). Additionally, the compliant setbacks provided by the top storey ensures this top section of the building is appropriately modulated to minimise amenity impact and provide an adequate visual presentation of bulk and scale, despite the wall height non-compliance.

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

Comment:

As a result of the compliant side setbacks at the top level of the dwelling and the view corridor maintained for the dwelling at 57 Cutler Road, the proposed height non-compliance is reasonable. An assessment has also been made under 'Maintenance of Views' of the Manly DCP in this report (including an consideration in regards to the Land and Environment established court principle and found the proposal to be reasonable in terms of impacts on views and view sharing.

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

Comment:

As a result of the subdivision pattern, the majority of overshadowing is to open space areas to adjoining properties at the south and east. The proposal complies with the requirements for sunlight to adjoining

private open space and solar access to living rooms of adjacent properties under Clause 3.4.1 of the Manly DCP. This provides a reasonable outcome for solar access.

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

Comment:

Not applicable.

Having regard to the above 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 front setback of 6m with the proposal being for 5-16m.

The proposal is non compliant with side setbacks at first floor level but s compliant with side setbacks at top floor level. The proposal also provided windows within this setback and within the setback that has a control of 3m for new windows to boundaries (being proposed at 1.5m-4m).

The proposal is non-compliant with the rear setback control of 8m with the proposed setback varying from 1.5m-10.24m.

It is noted that the side only has 3 site boundaries due to its irregular shape. The rear setback is nominated as the southern setback but this setback is also considered a side setback for the purposes of providing a reasonable and relevant numerical control given the subdivision pattern.

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 subject site is the shape of a sector as a result of the location within the subdivision pattern that includes a curved section of the road and end of a row of rectangular shaped lots (see Figure 1). As a result of this location within the pattern, the subject lot is in two rows of dwellings in which it shares a front building line, being to the east and south. The proposed front building line is set further back than the average line in both of these rows. Along with the existing landscape in the street, this maintains adequate spacing for presentation of the dwelling at all locations in the streetscape.

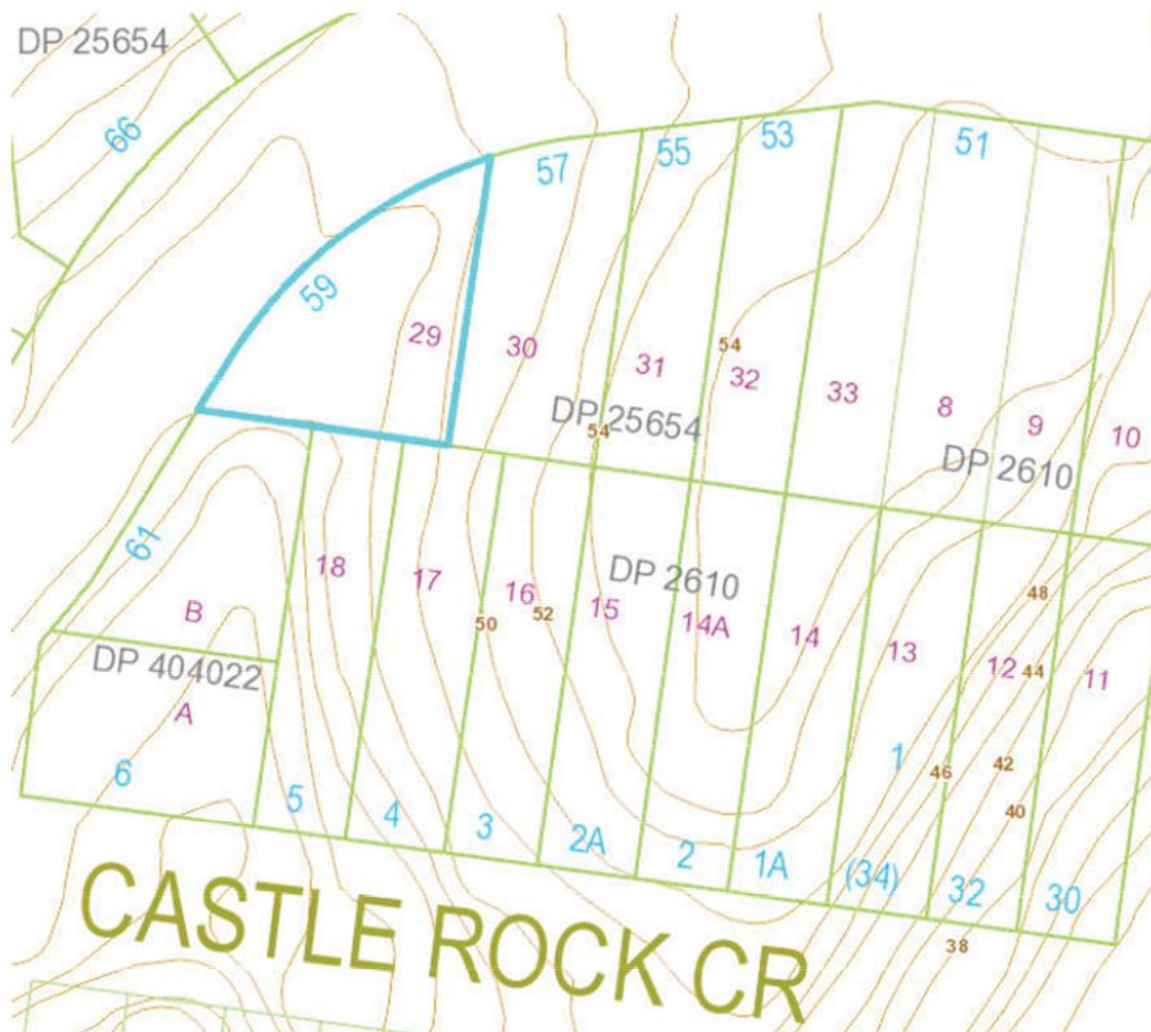


Figure 1: Subdivision pattern

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:

Subject to conditions, the proposal will provide an appropriate outcome for privacy through adequate physical separation and appropriate design and location of windows. As a result of the compliant side setbacks to the top level, the proposal would also provide compliance in accordance with the controls in

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the Manly DCP for Sunlight Access and Overshadowing. In addition, the compliant eastern side setback to the top level provides a view corridor for dwelling at 57 Cutler Road ensure consistency with the Land and Environment court established planning principle for views (as discussed under Maintenance of views).

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

Comment:

As a result of the unique lot shape within the subdivision pattern, the rear setback control is not reasonable or relevant. As such flexibility is warranted to provide a large non-compliance with the numerical control. The proposal is partially non-compliant with the numerical control for front setbacks but this is reasonable due to the proposed dwelling being behind the average front building line to both the east and south. Flexibility is also warranted to the non-compliance with the side setbacks due to a lack of unreasonable impact on amenity and appropriate presentation in the street.

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 reasonably maintains natural features and is compliant with the control for landscaped open space.

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

Comment:

A letter has been provided by NSW RFS and included in the conditions of consent.

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 DA2018/0260 for Alterations and additions to the existing dwelling house. on land at Lot 29 DP 25654, 59 Cutler Road, CLONTARF, subject to the conditions printed below:

DEFERRED COMMENCEMENT CONDITIONS

1. **Council's Pipeline survey**

A survey of Council's pipelines prepared by a registered surveyor to indicate the accurate location and dimensions of the pipelines and associated infrastructure on the site.

The survey plan shall be overdrawn on the site plan.

Details demonstrating compliance are to be submitted to Council prior to the activation of the consent.

Reason: Protection of Council's Infrastructure (DACENADC1)

2. **Certification building works over Council's pipelines**

An appropriately qualified and practicing Structural Engineer shall certify the proposed alteration and additional work in compliance with Council's D100 Drainage Easement - construction over Drainage Easement.

Reason: Details demonstrating compliance are to be submitted to Council prior to the activation of the consent. (DACENADC2)

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

3. **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
A04- Demolition of Existing Ground Floor Plan	5 September 2018	Yu Cachia
A05- Demolition of Existing First Floor Plan	5 September 2018	Yu Cachia
A11- Proposed Roof Plan	5 September 2018	Yu Cachia
A12- Proposed Ground Floor Plan	5 September 2018	Yu Cachia
A13- Proposed First Floor Plan	5 September 2018	Yu Cachia
A14- Proposed Second Floor Plan	5 September 2018	Yu Cachia
A15- Elevations	5 September 2018	Yu Cachia

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
NSW RFS Letter "D18/779, DA18022711964LR"	2 March 2018	NSW RFS

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement

Conditions of this consent as approved in writing by Council.

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape	5 September 2018	Yu Cachia

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)

4. **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)

5. 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)

6. **General requirements (Demolition):**

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- o 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 a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. 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) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

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

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

(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.

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

7. 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

8. 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).

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

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

A Bond of \$ 10000 as security against any damage or failure to complete the construction of Stormwater drainage works as part of this consent.

Reason: Protection of Council's Infrastructure

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

10. **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.

11. **Pre-Construction Stormwater Assets Dilapidation Report**

Survey a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure

12. **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)

13. Privacy

The proposed windows at the first floor level for the meal and kitchen areas are to be highlight windows to a level of at least 1.5 metres from finished floor level (first floor). Details are to be provided The proposed windows at the first floor level for the meal and kitchen areas are to be one of the following:

-Highlight windows with a solid sill height to a level of at least 1.5 metres from finished floor level (first floor)

-Provided with fixed louvre screening for the full length of the window, with the louvers at a right angle to the window and with no individual opening of greater than 30 millimetres.

-Wholly obscured and fixed (not able to be opened) glazing up to a height of 1.5 metres Details are to be provided prior to the issue of a Construction Certificate.

Reason: To minimise angle of overlooking to neighbouring property whilst maintaining a reasonable opportunity for outlook at the subject site. (DACPLCPCC1)

14. First Floor Level

The proposed first floor level is to remain as existing. Details are to be provided prior to the issue of a Construction Certificate.

Reason: To minimise amenity impact of a raised floor level and to ensure utilisation of the existing dwelling rather than construction of a new dwelling. (DACPLCPCC2)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. 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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. 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

17. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at

all times during the course of the work.

Reason: Public Safety.

18. **Maintenance of Sediment**

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

Reason: To ensure sediment controls are effective

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

19. **Authorisation of Legal Documentation Required for Onsite Detention**

The original completed request forms (NSW Land Registry 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 Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

20. **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.

21. **On-Site Stormwater Detention Compliance Certification**

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

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 stormwater disposal is constructed to Council's satisfaction. (DACENF10)

22. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification). Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only

(no trees are permitted) - Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure

23. **Creation of Positive Covenant and Restriction as a User**

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 Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER 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.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard

24. **Post-Construction Dilapidation Survey**

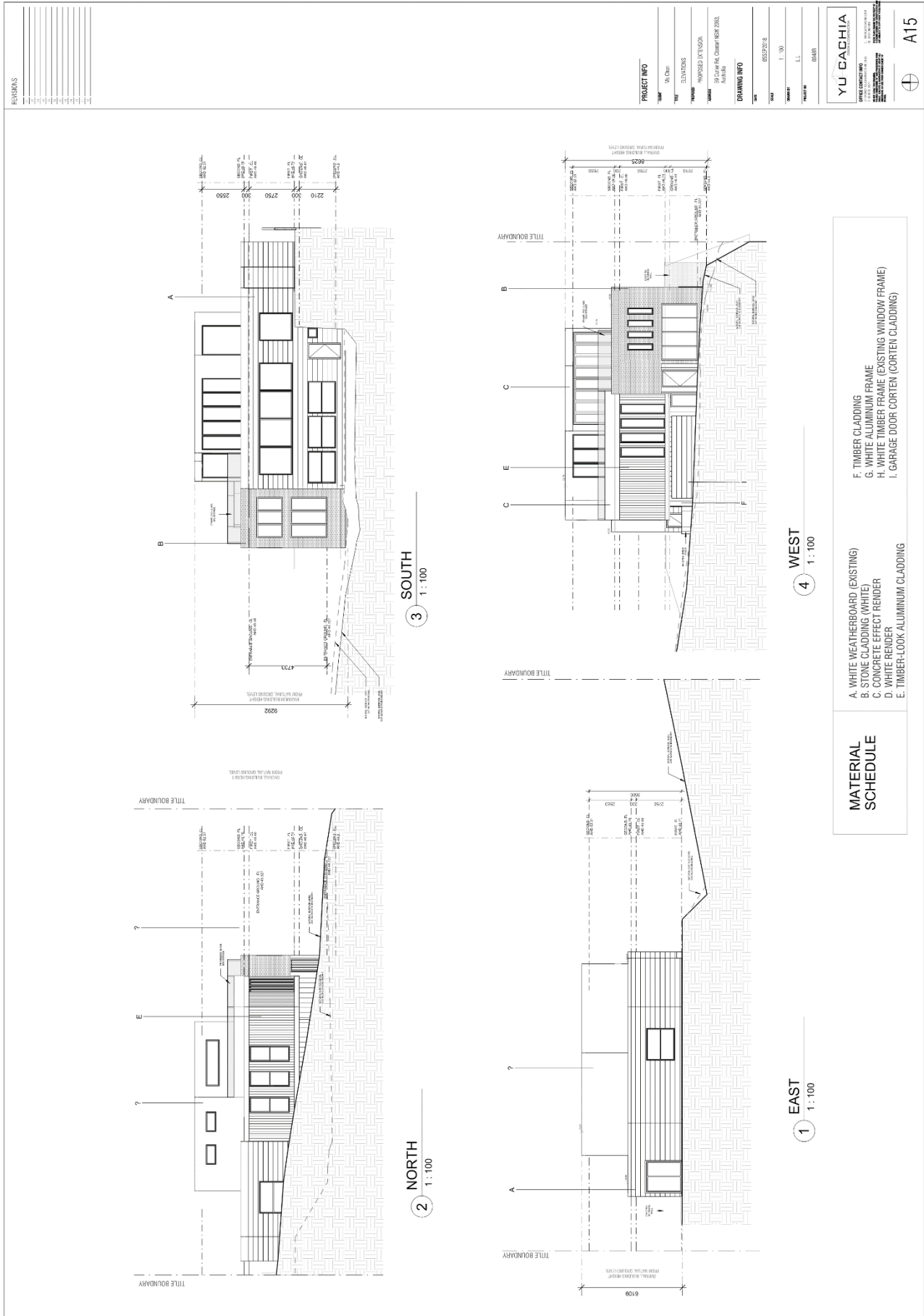
A post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The post construction dilapidation report must be submitted to the Council for review and the Principal Certifying Authority prior to the issue of the Occupation Certificate. Any damaged to Council's stormwater infrastructure is to be rectified in accordance with Council's technical specifications prior to the release of the security bond.

Reason: Protection of Council's Infrastructure





ITEM 3.4	DA2017/1140 - 57-59 NORTHCOTT ROAD, CROMER - SITE CLEARING AND CONSTRUCTION OF A DWELLING HOUSE, INCLUDING A GRANNY FLAT, OUTBUILDING, DRIVEWAY ACCESS AND ANCILLARY SITE WORKS
REPORTING MANAGER	ANNA WILLIAMS
TRIM FILE REF	2018/701213
ATTACHMENTS	1 Assessment Report 2 Site Plan and Elevations

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **refuse** Development Application DA2017/1140 for site clearing and construction of a dwelling house, including a granny flat, outbuilding, driveway access and ancillary site works on land at Lot 835 DP 752038 & Lot 836 DP 752038, 57-59 Northcott Road, Cromer for the reasons outlined in the Assessment Report.



RESIDENTIAL DEVELOPMENT – DEVELOPMENT APPLICATION ASSESSMENT REPORT

Development Application Number:	DA2017/1140
Assessment Officer:	Alex Keller
Property Address:	Lots 835 and 836 DP752038 57-59 Northcott Road CROMER
Proposal Description:	Category 2 Development - "Housing" – B2 Oxford Falls Valley Locality Warringah Local Environmental Plan 2000 Development application (DA) for site clearing and construction of a dwelling house including a granny flat, outbuilding, driveway access with ancillary site works.
Recommendation:	REFUSAL
Clause 20 Variation:	No
Proposal in Detail:	<ul style="list-style-type: none"> Construction of a two storey dwelling house (in a "Manor House" style) configured as: <ul style="list-style-type: none"> Lower Floor RL 121.0 to 122.0 – Garage carparking (5 car), home gym, water tank, studio room, granny flat (living / kitchen), stair access, bathroom, storage, terrace, deck (2). Ground Floor RL124.7 - Kitchen / living / dining area, bedrooms (2), granny flat bathroom & bedrooms (2), study, storage, stair access, bathrooms (2) laundry, garden / rumpus, room, entry foyer. First Floor RL127.7 – Bedrooms (2), bathrooms (2), storage, lounge room, terrace, stair access Driveway (250 metre (m)) from Northcott Road. Excavation and site works to accommodate sewer line connection (within the site) and drainage. Construction of a tennis court, swimming pool and horse paddock with fencing. Bushfire protection clearing (Asset protection zone). Landscaping and ancillary site works.



History and Background:

The subject land is currently two (2) lots that comprise an “existing parcel” with a single dwelling entitlement pursuant to the B2 Oxford Falls Valley housing density controls. The land is vacant bushland with some vegetation disturbance (within 50m of the urban fringe) along the eastern and northern boundary of Lot 836.

Pre-lodgement meeting No. PLM2012/0063 was held with Council on 22 August 2012 for the construction of a two-storey “Manor style” house and granny flat, including driveway access, site clearing, swimming pool and tennis court.

The major concerns raised in the PLM related to bushfire clearing and access, impact on flora and fauna habitat (including threatened species), waterway impacts, visual impact, impact on natural rock outcrops and potential inconsistency with the *B2 Oxford Falls Locality Desired Future Character Statement* of WLEP 2000.

At the time of the PLM a short driveway access was proposed extending from an existing right-of-way (ROW) at the end of Pinduro Place. However, the DA re-located the proposed driveway to access from Northcott Avenue, therefore avoiding potential legal issues from using the shared ROW.

The PLM made the following conclusion “*subject to satisfying these critical matters, the proposed dwelling and associated structures and activities are generally satisfactory*”.

Development Application No.DA1996/80 for a SEPP 5 Seniors housing development, comprising 96 dwellings, was refused by Council on 2 July 1996. A *NSW Land & Environment Court* appeal (No.1996/10218) lodged against the DA refusal was discontinued (by the applicant of that DA).

Report Section	Applicable – Yes or No
Section 1 – Code Assessment	Yes
Section 2 – Issues Assessment	No
Section 3 – Site Inspection	Yes

Notification Required:	Yes	14 Days
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Submissions Received:	Yes	Number of Submissions: 8
Cost of Works:	\$ 1,113,325	Trade & construction summary report provided
Section 94A Applicable:	Yes (Refer to Table below)	TOTAL: \$11,133.25

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of	\$	1,113,325
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	\$10,576.59
S94A Planning and Administration	0.05%	\$556.66
Total	1.0%	\$11,133.25

SECTION 1 – CODE ASSESSMENT REPORT

ENVIRONMENTAL PLANNING INSTRUMENTS

Warringah Local Environmental Plan 2000

Locality:	B2 Oxford Falls Valley
Development Definition:	"Housing", and "Other buildings, works, places or land uses not prohibited or in Category 1 or 3"
Category of Development:	Category 2

Desired Future Character Statement:

The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.

Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will



be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.

Is the development consistent with the Locality's Desired Future Character Statement? Yes – refer to detailed merit assessment below.

Category 2 Assessment against the Desired Future Character Statement

DFC Requirement: *Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses.*

Comment:

The proposal is for a detached house with ancillary works and must satisfy the following housing density provisions as part of the DFC.

"The maximum housing density is 1 dwelling per 20 ha of site area, except:

(a) where this standard would prevent the erection of one dwelling on an existing parcel of land, being all adjacent or adjoining land held in the same ownership on 8 March 1974 and having a combined area of not less than 2 ha, and

(b) on Portions 199, 200, 985, 986, 1001, 1002, 1003, 1004, 1011, 1012, 1018 and 1019 Parish of Manly Cove and Lot 33 DP 870625 Pinduro Place, Cromer, where one dwelling may be erected provided the land exceeds 4,000m² in area and was lawfully created prior to 13 August 1982, or was otherwise lawfully created, and

(c) on land that adjoins a locality primarily used for urban purposes and on which a dwelling house is permissible, where there is no maximum housing density if the development is for the purpose of "housing for older people or people with a disability" and the development complies with the minimum standards set out in clause 29."

The site is 5.46 hectares (ha) in area but is not listed under clause (b) above. Lots 835 and 836 DP752038 are original DP Parish lots that were held in the same ownership on 8 March 1974. As a result, the two lots together are an "existing parcel" being not less than 2 ha and share a single dwelling entitlement, regardless of the present day ownership between the subject lots.



The applicant has not proposed to consolidate the two lots in order to rationalise the shared building entitlement. The applicant has considered the option of a boundary adjustment (re-subdivision) to create large principal lot for the dwelling and a smaller residue lot in the north-east corner of the site. However, this would automatically create an additional legal entitlement for both lots to have a dwelling house by the new Torrens Title subdivision of land. The location of the proposed the house is setback 10 metres from the internal boundary between Lot 835 and 836. Therefore, the development does not restrict the adjoining lot from development and as such it is recommended that only a "restriction to user" be applied by condition to the remainder of the site, to prevent the erection of a second detached dwelling within the other half of the "existing parcel". Council would be empowered to vary this restriction, if warranted under existing or future land use planning instruments.

The housing density control is satisfied as per paragraph (a) of the Locality Housing Statement. Since granny flats *"are not considered to be a dwelling"* if they are internally connected to the main house. In this aspect the proposal remains consistent the LEP 2000 for the housing density provisions for the B2 Oxford Falls Valley Locality.

The WLEP notes that Category Two development is *"development that may be consistent with the desired future character of the locality"*. Therefore, as the proposal is Category Two it cannot be assumed that the dwelling house, including ancillary works are automatically generally consistent with the DFC as might occur with "Category One" development. The development must therefore also be deemed consistent with being "low intensity, low impact".

In assessing low intensity low impact considerations the *NSW Land and Environment* judgement *"Vigor Master Pty Ltd v Warringah Shire Council [2008] NSWLEC 1128"* is relevant. The following definition was provided in the judgement:

"Intensity" - is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore *"low intensity"* would constitute a development which has a low level of activities associated with it.

Impact - is commonly used in planning assessment to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape privacy, solar access etc. Therefore *'low impact'* would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to significantly change the amenity of the locality."

Low Intensity assessment: The proposal satisfies the housing density provision to be regarded as a single dwelling house. This is consistent with a low intensity use of the site for rural residential occupancy since other permitted housing uses could have a substantially higher density of occupation, by comparison. The remaining intensity of use within the site is also low, being ancillary to the dwelling, in terms of traffic generation, effluent discharge (to sewer), area of vegetation to be retained. The deletion of the proposed tennis court and horse keeping on the property is recommended to further reduce the intensity of use on the land. Subject to conditions the proposal will satisfy the "low intensity" test.



Low Impact assessment: A number of concerns have been identified with regard to the impacts of the development on the land. These principally relate to the extent of vegetation removal (construction and bushfire protection) as well as long term impacts of the land use, including flora and fauna protection, wastewater disposal, erosion control, visual impact and ancillary "property improvements".

Impacts of traffic, noise, solar access, streetscape and privacy are not considered to be unreasonable for the proposed rural residential dwelling. This is principally due to the large area of the site that allows for substantial separation buffers to the adjacent neighbours. Having the driveway access from Northcott Road has addressed traffic concerns at using the ROW from Pinduro Place. However, this increases the site disturbance impact due to the associated driveway excavation, landfill, drainage management, erosion control and tree removal. The applicant has provided a detailed plan of the driveway and included a civil design that minimises the required tree removal by avoiding large rock outcrops and any canopy trees where practicable. Subject to approval conditions are recommended to ensure construction of driveway area is closely monitored and "best practice" methods are used to minimise erosion and site disturbance either side of the driveway axis to maintain a low impact on the site.

Issues of effluent disposal have been addressed by the amended DA details that proposed to connect the dwelling to the existing *Sydney Water* sewer line located toward the north-eastern corner of the site. This will ensure that no onsite disposal of polluted water from the house or pool backwash is discharged on site therefore, minimising any associated impacts on native flora, local water quality or potential weed growth. Subject to approval, conditions are recommended to ensure the sewer line trenching and connection work does not impact any significant rock outcrops or canopy trees.

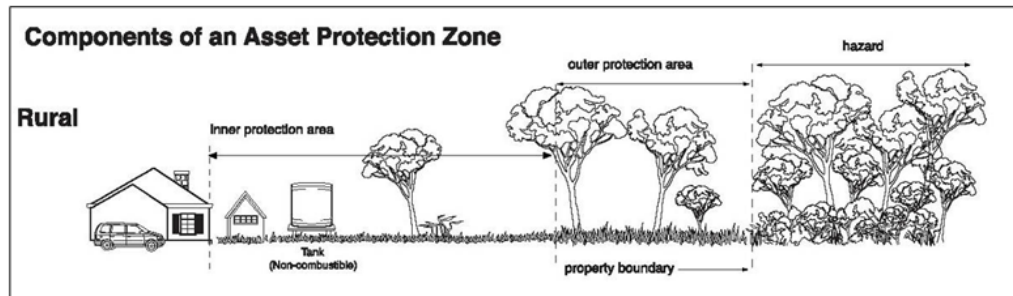
Visual impacts of the dwelling are assessed in the context of the opportunities within the site for a suitable building envelope and similarities with pattern of rural residential development in the locality. By comparison large rural residential land holdings in the locality demonstrate a pattern of development for large dwelling houses. These are often accompanied by expansive lawn areas and ancillary structures such as a pool, tennis court, livestock yards, sheds and the like. The visual impact of the proposal is consistent with the accepted pattern of rural residential development in the *Oxford Falls Valley Locality*. Subject to approval however, conditions are recommended to delete the tennis court structure and horse stables in order to retain vegetation along the ridgetop and reduce the extent of tree clearing.

The house is located in a suitable area of the site that has a lesser slope than other areas closer to the road and creek line. The two-storey dwelling will be prominent on the site. However, it is 10m to 15m lower than the ridgeline to the south that provides a landscape backdrop. The dwelling footprint is not located in a position that requires the removal of any significant rock outcrops. A conventional single storey dwelling on the lower steeper slopes would significantly increase the excavation and also reduce the amenity of the dwelling from having access to some distant coastal views. In context of the surrounding pattern of land use the property is located adjacent an established residential area and subject to conditions is consistent with the visual impact of development along the urban-rural interface.

The impact of tree clearing required for the driveway formation, dwelling platform and swimming pool takes up two percent of the site. The extent of clearing required is also



extended by the bushfire asset protection zone (APZ) needed to comply with *Planning for Bushfire Protection (PBP) 2006*.



Source : Planning for Bushfire Protection 2006

Concerns originally raised regarding the immediate and long term impact on flora and fauna within the site have been lessened by the applicant offering to accept changes to reduce unnecessary clearing. This involves reducing the outer limits of site clearing where not essential to the APZ, and “graduating” the clearing density between the inner and outer protection areas as show in PBP 2006. Additionally, subject to approval, conditions are recommended to delete the tennis court structure and horse paddocks from the proposal that will further reduce any extra clearing for these ancillary areas. The imposition of a “restriction on user” for the remaining undisturbed area of the site is recommended to reduce longer term impacts on flora and fauna, in order to retain the majority of remnant bushland.

In summary, the proposal complies with the housing density, all the built form controls and will maintain 98% of the site as landscaped open space (including the APZ). Therefore, subject to conditions of approval, the proposal satisfies requirements for Category 2 development to be “low intensity / low impact” and is consistent with the desired future character.

Notwithstanding the above DFC assessment, Clause 12 of the WLEP 2000 sets out that the Consent Authority must also be satisfied that “*the development is consistent with the General Principles of Development Control*”. Issues raised with respect to Clause 12 are addressed under the heading General Principles within this report This includes issues of insufficient information to satisfy particular environmental assessment consideration s as detailed within specific Internal Referral responses discussed later within this report.

DFC Requirement: There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

Comment:

The DA plans show a tennis court and horse stables near the ridgetop which would disrupt the skyline and is inconsistent with the DFC. This issue is recommended to be addressed by condition to delete the tennis court and stables, with that area to remain as bushland at the edge of outer-protection zone. The dwelling house and pool structure is 10m to 15m below the ridgetop to the south which provides landscaped backdrop for the dwelling. The largest canopy trees near the dwelling will be retained (subject to no-interlocking canopy for bushfire protection) which will also assist to reduce the visual impact of the dwelling. Overall



the dwelling location and visual impact is consistent with the pattern of rural residential development toward the western end of Northcott Avenue and the site is not readily visible from Narrabeen Lagoon or the Wakehurst Parkway.

Requirement: *The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services.*

Comment:

The position of the dwelling is in a less steep area of the site with sparser vegetation than the lower slopes near Northcott Road where land is adjacent a small creek line. The natural landscape of the site forms part of a small valley head and the landform is crossed with bands of exposed sandstone ledges and outcrops. The majority of these sandstone features are being protected to a reasonable degree by locating the dwelling higher up where the dwelling footprint requires less excavation. Relocation of the dwelling closer to Northcott Avenue would increase impacts on the denser riparian vegetation within the site and potentially require greater excavation and removal of rock outcrops in the lower area of the site.

While the road access is substantially longer than if it connected to Pinduro Place, the access has been designed to avoid major rock outcrops, significant canopy trees and natural water courses. The remaining area of the site frontage will form an undisturbed landscaped buffer along Northcott Avenue to retain the bushland valley setting.

A significant amount of tree removal is required for the asset protection zone around the house. The dwelling is a spacious rural home, similar in size to other rural residential dwellings in the area and the required clear area around the house would be relatively similar whichever quadrant of the site it was located. The bushfire protection works allow for an inner and outer protection zone. Therefore, the level of tree and shrub clearing is graduated and becomes less beyond the inner 30m setback from the dwelling. The use of rural land for housing and horse paddocks / sheds is common to the Oxford Falls Locality. Subject to conditions of consent, the impact of the proposed development on the existing landform is considered to be acceptable.

Requirement: *Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.*

Comment:

The dwelling has external masonry cladding for the walls (faux sandstone) and a hipped roof form with slate tiles. Therefore, the external colours are a natural sandstone colour, with a mid-grey colour roof, suitable for the natural surroundings and in accordance with this requirement of the DFC.

Requirement: *Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.*



Comment:

The site is covered by remnant bushland and a local creek-line borders the northern boundary of the property. Erosion and sediment controls management details have been provided including a construction management plan. Details address the area to be disturbed with appropriate recommendations to ensure best practice techniques are used to minimise erosion and siltation risk to Narrabeen Lagoon.

The proposal was submitted with the intent to use an aerated wastewater treatment system (AWTS). However, to reduce potential pollution risks and impacts on native vegetation the dwelling will be connected to *Sydney Water* sewer. A sewer line is located within Lot 836, to the west of No.7 Gipps Place. Subject to conditions of approval the development will not create increase pollution risks to Narrabeen Lagoon or South Creek catchment.

In summary, the proposal is considered to be consistent with the Desired Future Character Statement for a Category 2 development.

Clause 18 How will the built form of development be controlled?

(1) Built form will be controlled in accordance with the general principles of development control, the desired future character of the locality and the development standards set out in the Locality Statement.

(2) Strict compliance with development standards, however, does not guarantee that the development is consistent with either the general principles of development control or the desired future character of the locality.

(3) Nothing in this plan requires development to comply strictly with a quantitative requirement made in any general principle of development control.

Pursuant to Clause 12 and Clause 18 of the WLEP the proposal is deemed to satisfy the DFC subject to conditions to address those elements of the proposal that are specified. Additional environmental considerations are required under the General Principles and in summary the applicant has not provided sufficient information to satisfy all of the relevant assessment requirements under Part 4 of the WLEP.

BUILT FORM CONTROLS

Built Form Compliance Table B2 Oxford Falls Valley Locality Statement					
Built Form Standard		Required	Proposed	Comment	Compliance
Building Height	Ridge	8.5 metres (m)	Dwelling: 8.5m	Complies. (Refer to Section G & Section H plans)	Yes
			Cabana 3.4m	Complies	

Built Form Compliance Table B2 Oxford Falls Valley Locality Statement					
Built Form Standard		Required	Proposed	Comment	Compliance
	Ceiling	7.2m	Dwelling: 7.0m	Complies. Refer to Section G and Section H plan.	Yes
Housing Density		1 dwelling per 20,000sqm and not less than 2ha for an "existing parcel".	1 dwelling per 5.46ha	Complies. Existing parcel comprised of Lots 835 and 836, totalling 5.46 ha. A dwelling house (including attached granny flat) is permitted as Category 2.	Yes See discussion under Desired Future Character Statement in this report.
Front Setback (North boundary)		20m (Landscaped and free of structures (driveway / fencing excepted)	145m (dwelling)	Complies.	Yes
Side Setback (East boundary)		10m	58m (dwelling) 12m (Driveway)	Complies.	Yes
Side Setback (West boundary)		10m	10m to Lot 836 boundary (dwelling and pool cabana)	Complies. (Lot 835 adjoins Wheeler Reserve)	Yes



Built Form Compliance Table B2 Oxford Falls Valley Locality Statement				
Built Form Standard	Required	Proposed	Comment	Compliance
Rear Building Setback (South boundary)	10m Landscaped and free of structures (driveway / fencing excepted)	51m (Dwelling) 44m (Cabana) 36m (Pool)	Complies. (Tennis court deleted from Lot 835 by condition)	Yes
Landscape Open Space (Site area 5.46ha)	30%	98% (5.39ha)	Complies. (Tennis court deleted by condition)	Yes

Compliance with the Built Form Controls (BFC):

Clause 20 of the WLEP includes provision that:

“Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.”

As detailed within the Built Form Controls compliance table above, the proposal complies with all BFC under the Locality Statement. It should be noted that some ancillary elements of the proposal as submitted have been deleted including the tennis court, horse yards and waste water treatment structure leaving only the dwelling, cabana, pool and driveway as the principal built structures. In summary, no further merit assessment is required pursuant to Clause 20 to address any variation to the built form controls.

Clause 22 Site Analysis

The proposal has been submitted with a detailed site analysis. The site analyst addresses the requirements of Schedule 8 including site suitability, site characteristics, DFC considerations, visual impact, solar access, surrounding land uses, services, access, location of structures, noise, natural hazards, vegetation and landform and aboriginal heritage. The site analysis satisfies the information requirements of this clause.

Part 4 - GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	Yes	<p>The colours and materials chosen are of natural tones including (faux) sandstone and slate roof tiles. A landscape setting will also be maintained for the dwelling due to the site being a large rural residential property in a bushland environment. Any solar panels for the dwelling should be ground mounted to reduce potential glare or reflection from the roof area.</p> <p>Subject to conditions of approval the proposal is consistent with the objectives and assessment requirements of this general principle.</p>	<p>Yes Subject to conditions.</p>
CL42 Construction Sites	Yes	<p>The access point for construction will be via the proposed driveway extending 250m from Northcott Road. The construction access and traffic for a construction of a single dwelling will not be significant and will not create any unreasonable impact on surrounding streets.</p> <p>The temporary location of two (2) x 20 foot shipping containers is proposed for the secure storage of building materials. The anticipated removal of the containers is at the milestone of lockup stage for the residence. The temporary access and platform for these containers is to be compressed road base. The completed driveway finish and the dwelling platform are concrete.</p> <p>Cut and fill around the driveway and construction areas will have batters contoured to meet existing land levels. Sediment control will be via hay bales and sediment fencing around the low side of any disturbed soil.</p> <p>Subject to conditions of approval</p>	<p>Yes Subject to conditions</p>

General Principles	Applies	Comments	Complies
		<p>construction of the house will be managed according to the requirements and recommendations of the submitted <i>Waterway Impact Statement, Flora and Fauna Report, Biodiversity Management Plan</i> and the <i>Construction Sedimentation control plan</i>.</p> <p>The proposal is consistent with the objectives and assessment requirements of this general principle.</p>	
CL43 Noise	Yes	<p>The location of the site and proposed rural residential use is unlikely to result in any unreasonable noise impacts from the land use. No air-conditioning is proposed for the dwelling and the pool pump is located sufficient distance from the property boundary to avoid any unreasonable noise disturbance.</p> <p>Subject to standard conditions of approval the proposal is consistent with the objectives and assessment requirements of this general principle.</p>	<p>Yes</p> <p>Subject to conditions</p>
CL44 Pollutants	Yes	<p>Council's Environmental Health and Protection Officer has provided conditions of consent and is satisfied the proposal will not create adverse pollutions risks. This is subject to the dwelling being connected to <i>Sydney Water</i> sewer assets already available within the site.</p> <p>Subject to conditions of approval the proposal is consistent with the objectives and assessment requirements of this general principle.</p>	<p>Yes</p> <p>Subject to conditions</p>
CL48 Potentially Contaminated Land	Yes	<p>No Stage 2 report is required as the land is undeveloped and considered suitable for a residential dwelling and ancillary structures. No evidence of potential existing contamination has</p>	<p>Yes</p>

General Principles	Applies	Comments	Complies
		<p>been identified by site inspection.</p> <p>The proposal is consistent with the objectives and assessment requirements of this general principle, without the need for special conditions.</p>	
CL50 Safety & Security	Yes	<p>The use of the currently vacant lot. The construction of a rural residential dwelling will not create any unreasonable safety and security risk in the area.</p> <p>The proposal is consistent with the objectives and assessment requirements of this general principle without the need for special conditions.</p>	Yes
CL51 Front Fences and Walls	Yes	<p>No front fencing is proposed along Northcott Road. To maintain consistency with the DFC, it is recommended that any front fencing is to be of a wooden post and rail style, with "stock-tight" mesh if required.</p> <p>Therefore, subject to conditions of approval, the proposal is consistent with the objectives and assessment requirements of this general principle, subject to condition</p>	Yes Subject to conditions
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	Yes	<p>The proposal adjoins Wheeler Reserve, however no development work is proposed close to the common boundary with the reserve.</p> <p>The proposal is consistent with the objectives and assessment requirements of this general principle with no special conditions.</p>	Yes
CL54 Provision and Location of Utility Services	Yes	An aerated waste water system (AWTS) was originally proposed, but connection to the <i>Sydney Water</i> sewer line located	No Insufficient information.

General Principles	Applies	Comments	Complies
		<p>in the north eastern corner of the site is now proposed to avoid the ongoing environmental impacts of an AWTs. No advice has been provided from <i>Sydney Water</i> that connection presumed. These details are yet to be submitted. Refer to Environmental Health Referral Response and Natural Environment Unit (NEU) Referral Response for further details.</p> <p>For electrical supply, the owners intend to be "off-grid" with a 10-15kW solar electrical system. Thus, there will be no <i>Ausgrid</i> connection. Subject to approval a condition is recommended that the solar panels be ground mounted to reduce reflection from the roofline.</p> <p>The property Title includes a ROW to Pinduro Place (as shown on DP869612 & Section 88 certificate) and town water and telecommunications will be provided through this right of way, or from and alternate point on Northcott Avenue. All costs will be borne by the owners for these service connections.</p> <p>Insufficient information has been provided to fully address the assessment requirements of this general principle.</p>	
CL56 Retaining Unique Environmental Features on Site	Yes	<p>The proposal will not unreasonably detract from any unique features of the site as the building is located between two linear areas of exposed rock outcrops. The road access has been located on the eastern side of the existing linear rock outcrops that are a feature of the site. Therefore, despite the length of the driveway, its construction will avoid the larger rock outcrops that are in the central area of the site.</p> <p>Subject to conditions of approval the</p>	Yes Subject to conditions

General Principles	Applies	Comments	Complies
		proposal is consistent with the objectives and assessment requirements of this general principle, as recommended within Council's Landscape Officer Referral Response.	
CL57 Development on Sloping Land	Yes	<p>The site broadly slopes from a ridge line near the southern boundary, then sloping variously from 20% to 30% or greater in the steepest sections. The detail of the Council's <i>Slope Constraints Land Map</i> shows that the driveway and the building platform occupy the shallower slopes without encroaching on the ridgeline.</p> <p>Cut and fill has been minimised through the design of the dwelling floor plate being stepped with the terrain. Detailed plans of cut and fill depths are provided in the elevation plans and section plans</p> <p>The application includes a Geotechnical Report. The site conditions and slope does not pose any significant risk to the road construction stability or the dwelling house and pool structure.</p> <p>Subject the recommendations within the <i>Geotechnical Report 2016-060</i>, prepared by <i>Crozier Geotechnical Consultants</i>, dated April 2016, the proposal is consistent with the objectives and assessment requirements of this general principle,</p>	Yes Subject to conditions
CL58 Protection of Existing Flora	Yes	<p>The application includes a <i>Flora and Fauna Report</i> by <i>Abel Ecology</i> dated 2017 to address this general principle.</p> <p>The report assesses the likely impacts of clearing of native vegetation for the construction of the residential dwelling and associated bushfire asset protection zone (APZ) on species present within the site, and whether</p>	No Insufficient information

General Principles	Applies	Comments	Complies
		<p>there is likely to be any significant effect on any endangered ecological community, endangered population, threatened species or their habitats, as per the listings in the <i>Threatened Species Conservation Act 1995</i> (TSC Act 1995) (NSW), the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act 1999) (National) and other applicable local or regional policies. Over 4 Ha of remnant bushland will remain unaffected by the development. Twelve (12) identified trees will need to be removed. Smaller trees (<5m) and shrubs also to be removed in the works area are not shown on the plans as they do not trigger TSC or other DA requirements.</p> <p>A weed control program is proposed to be undertaken to remove all weed species from Class 1 to Class 5 categories, consistent with the provisions of the <i>Noxious Weeds Act 1993</i>.</p> <p>Felled timber during clearing works will be distributed within the site to maintain ground level habitat. Similarly, surface bush rock in the site work areas will be relocated where practical, near the site work areas to maintain ground level habitat.</p> <p>Grazing of domestic livestock (horses) is recommended to be restricted by conditions to reduce overgrazing, soil erosion from paddock area.</p> <p>Council's NEU – Biodiversity does not support the proposal due to insufficient information to satisfy the objectives and assessment requirements of this general principle. Notwithstanding, additional flora and fauna assessment details were submitted in July 2018, but</p>	

General Principles	Applies	Comments	Complies
		<p>have not fully addressed concerns previously raised by NEU – Biodiversity. See details provided within NEU Biodiversity Referral Response within this report.</p> <p>In summary, the impact on flora is not supported and is not consistent with the objectives and assessment requirements of this general principle or Schedule 6- Preservation of Bushland.</p>	
CL59 Koala Habitat Protection	Yes	<p>No koala population has been identified on or adjacent the site pursuant to this clause. Potential core habitat assessment details are provided within the <i>Flora and Fauna</i> assessment submitted by <i>Abel Ecology</i> with the application.</p> <p>The proposal is consistent with this general principle with no special conditions recommended.</p>	Yes
CL60 Watercourses & Aquatic Habitats	Yes	<p>The nearest watercourse to the subject site is situated along the road reserve of Northcott Road, and not specifically on the site itself. As the driveway is within 40m of this watercourse (20m at closest), a <i>Waterway Impact Statement 568-REP-68</i>, prepared by <i>Abel Ecology</i>, dated 15 June 2016, has been submitted to address this general principle.</p> <p>Subject to conditions the proposal will not have any significant impact on the ecology of the open creek channel adjacent Northcott Road.</p> <p>Subject to approval, conditions are recommended that erosion and sediment control structures are installed prior to any earthworks. These structures must be maintained and</p>	Yes Subject to conditions

General Principles	Applies	Comments	Complies
		<p>remain in place until the completion of all building works and the re-establishment of any vegetation on disturbed areas on the site.</p> <p>Excess stormwater (not used for domestic rainwater supply) from the house area is intended to be dispersed by level spreader and infiltrated into the ground along the downslope edge of the Asset Protection Zone. Driveway runoff is directed to the side of the carriageway at regular intervals and dispersed as infiltration.</p> <p>Subject to conditions of approval within Council's NEU Riparian Referral Response, the proposal is consistent with the objectives and assessment requirements of this general principle.</p>	
CL61 Views	Yes	<p>No submissions have been received regarding view loss. Given the location of the site at head of a small valley and the proposed development being adjacent vacant bushland to the west and south, no unreasonable view loss issues are raised.</p> <p>The proposal is consistent with the objectives and assessment requirements of this general principle, with no special conditions recommended.</p>	Yes
CL62 Access to sunlight	Yes	<p>Due to the significant side boundary setbacks the development will not overshadow any neighbouring land. No special conditions are recommended.</p> <p>The proposal is consistent with the objectives and assessment requirements of this general principle.</p>	Yes
CL63 Landscaped	Yes	The site (Lot 835 & 836) has had no previous development and is covered	Yes Subject to

General Principles	Applies	Comments	Complies
Open Space		<p>by remnant bushland. Approximately 1.5 Ha of vegetation will be modified or removed for the construction of the buildings, pool and driveway. Therefore, 98% of the site will be retained as landscaped open space. This is either in the form of remnant bushland, cleared areas for bushfire protection or landscaped gardens near the house.</p> <p>The tree canopy within the inner protection area near the house is to be reduced to 15% cover and maintained in perpetuity. The outer protection area (approximately 20m to 60m) from the house must be cleared of dense shrubs / small trees / ground fuel and selected larger trees removed / thinned to ensure no interlocking canopy.</p> <p>The proposed APZ provides a direct benefit to the adjacent dwellings in Pinduro Place by reducing the bushfire threat to those properties. The applicant has also proposed to use the APZ as a grazing paddock for horses. However, such use is not recommended for approval with the DA, due to associated impacts of grazing that would increase erosion risk.</p> <p>Subject to conditions of approval recommended within Council's Landscape Assessment Referral Response, the proposal is consistent with the objectives and assessment requirements of this general principle.</p>	conditions
CL63A Rear Building Setback	Yes	<p>The rear of the site will remain landscaped and generally unaffected by the development. The location of the tennis court is recommended to be deleted to retain existing bushland along the ridge top area.</p> <p>Subject to conditions of approval, the proposal is consistent with the</p>	Yes Subject to conditions.

General Principles	Applies	Comments	Complies
		objectives and assessment requirements of this general principle.	
CL64 Private open space	Yes	<p>The site and area around the dwelling has appropriate and usable private open space area for the dwelling.</p> <p>The proposal is consistent with the objectives and assessment requirements of this general principle.</p>	Yes
CL65 Privacy	Yes	<p>The development will not have any unreasonable privacy impacts given the rural location and wide separation distance to neighbouring dwellings.</p> <p>The proposal is consistent with the objectives and assessment requirements of this general principle.</p>	Yes
CL66 Building bulk	Yes	<p>The development complies with all built form controls. The dwelling house is a large two storey rural home designed in the "Manor house" style. The surrounding pattern rural residential development in the locality is dominated by large dwellings on properties of 2 Ha or more.</p> <p>While the dwelling is substantially larger than the adjacent dwelling in the urban zone to the east of the site it is consistent with the size and scale of adjacent dwellings to the north and north west of the site and throughout the <i>B2 Oxford Falls Valley</i> locality.</p> <p>The proposal is consistent with the objectives and assessment requirements of this general principle.</p>	Yes
CL67 Roofs	Yes	The proposed roofing is comprised of hipped roof style that is compatible with the area. The slate tile roofing material	Yes Subject to

General Principles	Applies	Comments	Complies
		<p>is mid grey colour will not create unreasonable glare or visual impact on the surrounding landscape. Subject to approval it is recommended that solar panels be ground mounted to reduce reflection from having them attached to the dwelling roof.</p> <p>The proposal is consistent with the objectives and requirements of this general principle.</p>	conditions
CL68 Conservation of Energy and Water	Yes	<p>A BASIX certificate has been provided. Subject to approval a condition of consent will ensure that the requirements of the BASIX certificate are followed.</p> <p>The proposal is consistent with the objectives and requirements of this general principle.</p>	Yes Subject to conditions
CL70 Site facilities	Yes	<p>There is ample room on site for necessary domestic site facilities to serve the occupants residential needs.</p> <p>The proposal is consistent with the objectives and requirements of this general principle.</p>	Yes
CL71 Parking facilities (visual impact)	Yes	<p>The proposed parking is set well back from the road and integrated into the dwelling at the ground floor and will not create any unreasonable visual impact of the parking area.</p> <p>The proposal is consistent with the objectives and assessment requirements of this general principle.</p>	Yes
CL72 Traffic access & safety	Yes	<p>The property will be accessed from a new driveway off Northcott Road. Council's Traffic Engineers have assessed the driveway and are not satisfied with the driveway design.</p>	No Insufficient information

General Principles	Applies	Comments	Complies
		<p>Insufficient information has been submitted to comply with this clause.</p> <p>The proposal has not demonstrated consistency with the objectives and information requirements of this clause.</p>	
CL74 Provision of Carparking	Yes	<p>Three carparking spaces are provided in the garage area and the forecourt provides adequate space for visitor parking.</p> <p>The proposal complies with Schedule 17 and is consistent with the objectives and requirements of this general principle.</p>	Yes
CL75 Design of Carparking Areas	Yes	<p>The triple garage provided within the dwelling footprint has adequate internal dimensions to comply with Australian Standards AS2890.</p> <p>The proposal is consistent with the objectives and assessment requirements of this general principle.</p>	Yes
CL76 Management of Stormwater	Yes	<p>Council's Development Engineers and NEU - Water Management section have assessed the application and are not satisfied that stormwater will be adequately managed due to insufficient information. Additional details are required to address on-site detention and Council's water sensitive urban design strategy (WSUD).</p> <p>Therefore due to insufficient information, the proposal is not consistent with the objectives and assessment requirements of this general principle.</p>	No Insufficient information
CL77 Landfill	Yes	Landfill will not be brought to the site as excavated material from the proposed	Yes

General Principles	Applies	Comments	Complies
		<p>site works will be used for batters and any re-formation / earthwork contouring. Excavated rock will be used on site for retaining walls where practicable.</p> <p>The proposal is consistent with the objectives and assessment requirement of this general principle.</p>	
CL78 Erosion & Sedimentation	Yes	<p>A <i>Sediment and Erosion Control Plan</i> has been provided with the application. A condition of consent will ensure these measures are put into practice during construction works.</p> <p>Subject to conditions of approval, the proposal is consistent with the objectives and assessment requirement of this general principle.</p>	Yes Subject to conditions
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	Yes	<p>The site does not contain any registered aboriginal heritage sites. Consultation was made with the MALC in preparation of the Archaeological assessment.</p> <p>The proposal is consistent with the objectives and assessment requirement of this general principle.</p>	Yes
CL83 Development of Known or Potential Archaeological Sites	Yes	<p>The application was referred to the <i>Aboriginal Heritage Office</i> to assess the proposal with respect to impact on any potential Aboriginal site or relics. No objection to approval is raised, subject to conditions ensuring appropriate action if any relics are found or uncovered during works.</p> <p>The proposal is consistent with the objectives and assessment requirement of this general principle.</p>	Yes Subject to conditions

SCHEDULES

Schedule	Applicable	Compliant
Schedule 5 State policies	Yes	Yes
Schedule 6 Preservation of bushland	Yes	No
Schedule 7 Matters for consideration in a subdivision of land	N/A	N/A
Schedule 8 Site analysis	Yes	Yes
Schedule 9 Notification requirements for remediation work	N/A	N/A
Schedule 10 Traffic generating development	N/A	N/A
Schedule 11 Koala feed tree species and plans of management	Yes	Yes
Schedule 12 Requirements for complying development	N/A	N/A
Schedule 13 Development guidelines for Collaroy/Narrabeen Beach	N/A	N/A
Schedule 14 Guiding principles for development near Middle Harbour	N/A	N/A
Schedule 15 Statement of environmental effects	N/A	N/A
Schedule 17 Carparking provision	Yes	Yes

OTHER RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS:

STATE ENVIRONMENTAL PLANNING POLICIES, REGIONAL ENVIRONMENTAL PLANS			
POLICY	ASSESSMENT	APPLICABLE?	COMPLIES
SEPP - BASIX	BASIX Certificate supplied?	Yes	Yes
SEPP – 55	Based on the previous land uses if the site likely to be contaminated? Is the site suitable for the proposed land use?	No Yes	Yes
SEPP INFRASTRUCTURE	Is the proposal for a swimming pool, or Within 30m of an overhead	Yes	Yes – Ausgrid did not respond to the referral within the



STATE ENVIRONMENTAL PLANNING POLICIES, REGIONAL ENVIRONMENTAL PLANS

SREP-Sydney Regional Environmental Plan – Sydney Harbour Catchment (If applicable)	line support structure?	No	21 day period. It is assumed there are no objections and no conditions of consent.
	Within 5m of an overhead power line?	No	
		No	N/A

EPA REGULATION CONSIDERATIONS:

Regulation Clause	Applicable? Yes / No / N/A	Conditioned
Clause 54 & 109 (Stop the Clock)	Yes	N/A
Clause 92 (Demolition of Structures)	No	N/A
Clause 92 (Government Coastal Policy)	No	N/A
Clause 93 & 94 (Fire Safety)	N/A	N/A
Clause 94 (Upgrade of Building for Disability Access)	N/A	N/A
Clause 98 (BCA)	Yes	Yes

REFERRALS

Referral Body Internal	Comments	Consent Recommended
Natural Environment Unit – Water Management	<p><i>The proposal has been reviewed with regard to Councils Water Management Policy requirements.</i></p> <p><i>The development triggers the water quality requirements of the Water Management Policy; however the proposal does not demonstrate compliance with these requirements.</i></p> <p>1. As such the development is recommended for refusal. Should the application be resubmitted to Council, a WSUD Strategy must be prepared in accordance with Council's WSUD Technical Guidelines to demonstrate compliance with</p>	<p>No</p> <p>Insufficient information</p>

Referral Body Internal	Comments	Consent Recommended
	<p><i>Council's Water Management Policy.</i></p> <p>2. <i>Details required include WSUD site plan, catchment analysis, water conservation details, stormwater quality & control plan, MUSIC model, urban integration and bio-retention. See the Development Engineering comments for any relevant stormwater drainage asset comments and conditions.</i></p> <p><u>Planning Comment:</u> The detailed assessment information required above cannot be conditioned and has not been submitted with the lodgement of the development application to the satisfaction of Council's NEU - Water Management section. This warrants refusal of the development application for insufficient information.</p>	
Natural Environment Unit – Riparian	<i>No objection to the proposal with conditions recommended including sediment control, riparian protection, weed control and submission of a works environmental protection plan (WEPP).</i>	Yes Subject to conditions
Natural Environment Unit – Coastal	<i>No objection to approval and no conditions are recommended.</i>	Yes
Natural Environment Unit - Biodiversity	<p><i>The amended biodiversity components of the application have been revised it is recommend refusal of the Development Application on biodiversity grounds.</i></p> <p>1. <i>The development will result in removal / modification of approximately 1.4 hectares of undeveloped remnant bushland for only a single dwelling. This clearing includes a 220 metre driveway, house footprint, car parking for 5 vehicles, paddock, garden areas, and APZ (which will include a pool and tennis court as a separated Development Application). This is considered excessive clearing for a single dwelling in this particular location due to the sensitivity of the bushland environment.</i></p> <p>2. <i>The 220 metre driveway is required to dissect a large section remnant bushland to access the house. The house could be relocated closer to</i></p>	No Insufficient information

Referral Body Internal	Comments	Consent Recommended
	<p><i>Northcott road to minimise disturbance. This location has already been identified by David and Jenny Simpfendorfer in the Biodiversity Management Plan (further information provided below).</i></p> <p>3. <i>The APZ clearing is for a BAL 19 construction – this BAL level could be increased to reduce the required APZ which is considered prudent in this situation considering the sensitivity of the surrounding environment.</i></p> <p>4. <i>It is considered the development has not been sited and designed to minimise impact on remnant indigenous flora. The house is located in the centre of the lot and on the top of a slope adjoining high quality remnant bushland. It will have considerable ongoing direct and indirect impacts on the adjoining high quality bushland within and adjacent to the lot as a result of the clearing required to facilitate the development. These include weeds as a result of edge effects and additional nutrients as a result of the paddock, lawn and APZ clearing. Mitigation measure provided are considered inadequate and it is unlikely these will be implemented over the long term.</i></p> <p>5. <i>The Biodiversity Management Plan prepared by David and Jenny Simpfendorfer states ‘ the environmental impact of proposed development has been minimised....falling with the contours to minimise cut and fill...to minimise effects on flora, fauna and neighbours’. However it has been noted that the owners intend undertake a future boundary readjustment creating an additional house lot to the north-west of the site, to the west of 55 Northcott Road. This potential new lot, considered appropriate for a single dwelling and considerably less impact on the environment should be considered as a more viable option for this proposal.</i></p> <p>6. <i>The draft Biodiversity Management Plan does not comply with Council's guidelines and provides minimal information on how impacts on biodiversity will be managed on this site as a</i></p>	

Referral Body Internal	Comments	Consent Recommended
	<p><i>result of the development proposal.</i></p> <p><u>Conclusion:</u> For approval to go ahead with the current design, it is strongly recommended establishing a Biodiversity Stewardship Site or similar within remaining bushland within Lots 835 and 836.</p> <p><u>Planning Comment:</u> The applicant is not prepared to enter into a stewardship or bio-banking offset arrangement for the proposal. In addition, the detailed assessment information required above cannot be conditioned and has not been submitted with the lodgement of the development application to the satisfaction of Council's NEU - Biodiversity section. This warrants refusal of the development application for insufficient information.</p>	
Traffic Engineer	<p><i>The proposed driveway is very long and at a width of 3m is insufficient for two vehicles to pass each other. It is also winding and steep which restricts sight distance on the driveway and increases the difficulty in reversing back to a passing bay. Although passing opportunities have been provided at two locations along the 240m length of the driveway AS2890.1 section 3.2.2 requires that passing opportunities be provided at least every 30m. Amended plans should be submitted to meet this requirement.</i></p> <p><u>Planning Comment:</u> The detailed assessment information required above cannot be conditioned and has not been submitted with the lodgement of the development application to the satisfaction of Council's Traffic Engineering section. This warrants refusal of the development application for insufficient information.</p>	No Insufficient information
Development Engineers	<p><i>The applicant is required to provide the following information to enable further assessment.</i></p> <ol style="list-style-type: none"> <i>1. A stormwater management plan indicating details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments.</i> <i>2. An onsite stormwater detention (OSD) checklist.</i> <p><i>Proposal is not supported due to insufficient information</i></p>	No Insufficient information

Referral Body Internal	Comments	Consent Recommended
	<p><i>and is recommended for refusal.</i></p> <p><u>Planning Comment:</u> The detailed assessment information required above cannot be conditioned and has not been submitted with the lodgement of the development application to the satisfaction of Council's Development Engineering section. This warrants refusal of the development application for insufficient information.</p>	
Road Asset Engineers	<p><i>Need to assess condition of existing road and conditions regarding access. Insufficient information to address Crown road access.</i></p> <p><u>Planning Comment:</u> The Crown Road assessment information required above cannot be conditioned and has not been submitted with the lodgement of the development application to the satisfaction of Council's Road Assets Engineering section. This warrants refusal of the development application for insufficient information.</p>	No Insufficient information
Landscape Officer	<p><i>The location of the dwelling and cabana is indicated to sit below the top ridge-line of the site, which is supported to assist in minimising visual impact of the substantial dwelling proposed. (Cabana roof ridge is indicated at RL133.90 and the dwelling roof ridge at RL133.13. The survey plan indicates that the top of the site ridge above the buildings is around RL136).</i></p> <p><i>The materials indicated in the information provided are considered to be in keeping with the colours of the natural landscape, which is supported.</i></p> <p><i>The proposed drive alignment will require considerable alteration to the site, however the alignment selected provides opportunity to retain some significant trees and significant rock outcrops between the dwelling and Northcott Rd. The site is relatively steep and it is noted that the dwelling is located on a less steep portion of the site, necessitating the driveway to traverse steeper sections.</i></p> <p><i>The site is currently undeveloped and construction of a residential dwelling will fundamentally change its current nature. Numerous small trees and other native vegetation not indicated on the Survey Plan will be</i></p>	Yes Subject to conditions

Referral Body Internal	Comments	Consent Recommended
	<p><i>required to be removed to address access, building works, Asset Protection Zones for bush-fire and the installation of utility services to the buildings. As the site is large, opportunities are available to maintain the natural environment outside of the areas required to be disturbed.</i></p> <p><i>To this end, it is recommended that the extent of disturbance be restricted to areas around the dwelling which are required to be altered for the reasons indicated above. The APZ zone would appear to be the logical area for such ancillary uses.</i></p> <p><i>It is noted that the response from the Rural Fire Service nominates different APZ areas to those indicated on the plans and the bushfire report provided.</i></p> <p><i>Additional conditions will be required to be drafted regarding restriction of ancillary uses to be within the APZ and restriction on filling if considered suitable from a planning perspective.</i></p> <p><i>Recommended for approval, subject to conditions</i></p>	
Waste Services	<i>No objection to approval subject to conditions.</i>	Yes Subject to conditions
Environmental Health and Protection – Unsewered Land	<p><i>Applicant shall initially request connection to Sydney Water sewer main (located within 70 m of the proposed dwelling). If approval by Sydney water is granted the applicant is to apply for a Section 68 approval to install pump to sewer.</i></p> <p><i>No sewer connection plans or details from Sydney Water have been submitted.</i></p>	No Insufficient information.
Environmental Health and Protection – Solid Fuel Heaters	<p><i>There is no detail provided with regards to the make and model of the heater and any installation details that will determine if the appropriate Australian Standards will be met.</i></p> <p><i>Recommended for refusal due to insufficient information regarding design requirements of the solid fuel heater.</i></p> <p><u>Planning Comment:</u> <i>The detailed assessment information required above</i></p>	No Insufficient information

Referral Body Internal	Comments	Consent Recommended
	cannot be conditioned and has not been submitted with the lodgement of the development application to the satisfaction of <i>Council's Environmental Health and Protection – Solid Fuel Heaters</i> section. This warrants refusal of the development application for insufficient information.	
Building Assessment	<p><i>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department.</i></p> <p><i>There are no objections to approval of the development.</i></p> <p><i>Note: The proposed development may not comply with some requirements of the BCA. Issues such as fire separation between the Coach House and the Manor House may be determined at Construction Certificate stage.</i></p>	Yes Subject to conditions

Referral Body External	Comments	Consent Recommended
Aboriginal Heritage Office	<p>The proposal was referred to the Aboriginal Heritage Office and a referral response was received on the 4 April 2017 with the following requirements / advice:</p> <p><i>There are known Aboriginal sites in the area although no sites are recorded in the current lot. An Aboriginal heritage due diligence report was carried out (An Aboriginal Cultural Heritage Due Diligence Assessment 57-59 Northcott Road, Lots 835-836 DP752038, by Abel Archaeology) and no unrecorded sites were identified.</i></p> <p><i>However, some areas of sensitivity were identified around a number of sandstone outcrops. These have not been mapped or clearly designated. The Aboriginal Heritage Office has reviewed the above report and supports the recommendations.</i></p> <p><i>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.</i></p>	Yes Subject to conditions

Referral Body External	Comments	Consent Recommended
	<i>No objection to approval subject to conditions as recommended by the project archaeologist and standard conditions.</i>	
Ausgrid	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.	Yes
NSW Rural Fire Service	<p>The NSW RFS provided a referral response on 18 January 2018. No objection to approval, subject to the conditions, pursuant to Section 79BA of the EP&A Act 1979.</p> <p>Conditions of consent relate to:</p> <ul style="list-style-type: none"> • Asset Protection Zones (clearance distances), • Water and Utilities (supply and fittings), • Access (road design), • Design and Construction (dwelling), • Landscaping (maintenance). 	Yes Subject to conditions.

APPLICABLE LEGISLATION/ EPI'S /POLICIES:	
<p><u>Environmental Planning and Assessment Regulations 2000</u></p> <p>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p>Clauses 54 and 109 of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. Additional information was requested to confirm the capital works costs which the Applicant provided on 11 December 2017.</p> <p>On the 6 April 2018 the Applicant provided a revised <i>Biodiversity Management Plan</i> in response to Council's NEU online referral comments recommending refusal of the application.</p>	Yes

APPLICABLE LEGISLATION/ EPI'S /POLICIES:	
<p>On the 11 May 2018 the applicant was requested to withdraw the proposal due to insufficient / inadequate flora and fauna assessment details. The applicant declined to withdraw the proposal as new DA would trigger recent legislation changes in relation to biodiversity and bio-banking assessment provisions. The Applicant considers these provisions unwarranted for a dwelling house on this site whereby the land does not contain core habitat and the flora is well represented in the wider area. Therefore, the Applicant is not seeking to commit to any stewardship or bio-banking offset regime.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. The site contains not buildings or other built structures to be demolished.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). The site contains no buildings or other built structures to be upgraded.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the <i>Home Building Act 1989</i>. Subject to approval, this matter is appropriately addressed by conditions.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the <i>Building Code of Australia</i> (BCA). Subject to approval, this is appropriately addressed by conditions.</p>	
EPA&A Act 1979 Matters for consideration - cf previous s 79C	Yes
Local Government Act 1993 <i>Section 68 – Installation of solid fuel heater.</i>	Yes
Roads Act 1993 Driveway access to Northcott Road reserve.	Yes
Swimming Pools Act 1992 <i>Construction of an in-ground swimming pool</i>	Yes
SEPP No. 55 – Remediation of Land No further investigations required.	Yes
SEPP BASIX Subject to approval – standard conditions.	Yes



APPLICABLE LEGISLATION/ EPI'S /POLICIES:	
WLEP 2000 <i>B2 Oxford Fall Valley Locality.</i>	Yes
WDCP <i>Notification</i>	Yes
S94A Development Contributions Plan	Yes

Section 4.15 "Matters for Consideration"	
Section 4.15 (1) (a)(i) – Have you considered all relevant provisions of any relevant environmental planning instrument?	Yes
Section 4.15 (1) (a)(ii) – Have you considered all relevant provisions of any provisions of any draft environmental planning instrument	N/A
Section 4.15 (1) (a)(iii) – Have you considered all relevant provisions of any provisions of any development control plan	Yes
Section 4.15 (1) (a)(iiia) - Have you considered all relevant provisions of any Planning Agreement or Draft Planning Agreement	N/A
Section 4.15 (1) (a)(iv) - Have you considered all relevant provisions of any Regulations?	Yes
Section 4.15 (1) (b) – Are the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality acceptable?	No Refer to reasons for refusal
Section 4.15 (1) (c) – Is the site suitable for the development?	No Refer to reasons for refusal
Section 4.15 (1) (d) – Have you considered any submissions made in accordance with the EPA Act or EPA Regs?	Yes
Section 4.15 (1) (e) – Is the proposal in the public interest?	No Refer to reasons for refusal

NOTIFICATION AND PUBLIC SUBMISSIONS



The development application was notified pursuant to the EP&A Regulations 2000 and WDP to 19 adjoining land owners and occupiers. The notification period commenced on 30 November 2017 and ended on 18 December 2017. The proposal is not integrated development and does not require advertising pursuant to WLEP 2000.

In response to the notification 9 submissions were received:

R Curulli	29 Pinduro Place Cromer
H & M Mahr	27 Pinduro Place Cromer
S & C Madikian	33 Pinduro Place Cromer
V McGahey	3/3 Pinduro Place Cromer
B & W Vale	31 Pinduro Place Cromer
P Waters	23 Pinduro Place Cromer
S Szabo	7 Gipps Place Cromer
A.Sharp (Friends of Narrabeen Lagoon)	PO Box 845 Narrabeen
C. Harris (EnviroLink)	Lot 2671 Morgan Road Belrose

Summary of submission issues:

1. *Traffic access (ROW from Pinduro Place)*
2. *Waste water pollution*
3. *Clearing & flora removal*
4. *Canopy trees and unique rock outcrops*
5. *Impact on fauna and threatened species*
6. *Resort style development for subdivision*
7. *Keeping of livestock*
8. *Inconsistency with the DFC*
9. *Impact on riparian land*
10. *Unsuitable visual impact from site works*

Consideration of Public Submission Issues

1. Issue:

Concern that the proposal will try to use access through the Right of Carriageway extending from the cul-de-sac at the end of Pinduro Place that will create legal access issues, traffic disturbance, maintenance and safety issues

Comment:

The applicant originally considered access from Pinduro Place however due to issues raised by the neighbours that share the ROW driveway access with now be constructed from Northcott Avenue. This includes construction access. Therefore, this issue has been resolved by the Applicant and is no longer relevant to the DA. This issue does not warrant refusal of the application.

2. Issue:

Concern that the proposal will increase water pollution of the creek and spread invasive weeds on the site by the disposal of effluent water using an AWTS.



Comment:

A sewer main is located within Lot 836 and water main lines are located within Pinduro Place and Northcott Avenue. Connection to these infrastructure assets is controlled and directed by *Sydney Water*. Standard conditions are recommended to ensure compliance with *Sydney Water* requirements to connect to these utility services.

3. Issue:

Concern that the proposal requires removal a large area of trees and other vegetation for the road construction and dwelling house location, including the bushfire protection zones.

Comment:

Approximately 1.5 Ha of the site will be subject to clearing in order to provide the required APZ, road access and building platform for the house, pool and cabana. Subject to conditions of approval the majority of the site will be retained in its present natural state. The APZ does not require complete removal of all trees but can have graduated clearing to ensure no-interlocking tree canopy.

The vegetation types to be affected by the proposal are well represented in the surrounding area and throughout the rural Localities of the Northern Beaches Council area however the applicant has not provided sufficient information to address impacts on flora. This issue is discussed in detail under the section "NEU Biodiversity Referral Response" within this report.

In summary the proposal has not satisfied the objectives and assessment requirements under the *General Principles - Clause 58 Protection of Flora*. This issue warrants refusal of the application for reasons of insufficient information.

4. Issue:

Concern that proposal will require the removal of some large canopy trees and unique rock outcrops within the site for the construction of the driveway and dwelling.

Comment:

The largest canopy trees and rock outcrop zones have been shown on the plans where they are near areas of the site that will be impacted by civil works. Twelve canopy trees are to be removed, but a lot of smaller trees and shrubs will also be cleared. The driveway has been designed to avoid the largest trees that are near the eastern boundary and also avoid the rock outcrops that are a feature of the site. While the house is near a rock outcrop at the top of the site only minor excavation around the edge of this rock outcrop is required. Overall the proposal will not have significant adverse impact on the majority of canopy trees within the site or the existing rock outcrops.

Tree protection and impacts on existing sandstone features within the site has been assessed by Council's Landscape Officer and subject to approval, conditions recommended to address this issue.

5. Issue:



Concern that the proposal will have an adverse impact on fauna, including any threatened species habitat that may exist on the site.

Comment:

The impacts on fauna have been assessed within the *Flora and Fauna Report* by Abel Ecology dated 2017. No core habitat has been identified on the site or recording of threatened fauna that would require additional assessment of significance under the EP&A Act 1979. The report contains recommendations to minimise impacts on local wildlife, including fencing types, re-distributing disturbed bush rock and felled timber to maintain habitat within undisturbed areas of the site.

The proposal will not isolate the site from adjacent bushland and with therefore still allow wildlife migration through the site. Subject to conditions of approval this issue does not warrant refusal of the application.

6. Issue:

Concern that proposal has a “resort style” development appearance and will lead to subdivision of the land and more development such as the previous “SEPP 5 housing” proposal for the site.

Comment:

The proposal is for a single rural residential dwelling, with ancillary structures on an “existing parcel” of land. The building is styled on a “Manor house” design for a single family and is not a “resort” development or for “SEPP 5 housing”. No subdivision of the land is proposed and the property does not have sufficient land area to enable further subdivision without a rezoning.

Therefore, given that the proposal does not include any these elements this issue does not have determining weight and does not warrant refusal of the application.

7. Issue:

Concern that the domestic keeping of livestock on the property will create additional impacts of overgrazing, smells and attract vermin.

Comment:

The domestic keeping of livestock is permissible within the Locality and the site is the proposal principally relates to rural residential land use. However, to address this issue conditions are recommended to restrict the use of livestock on the site to prevent associated impacts of overgrazing, sedimentation or pollution and like.

Therefore, subject to conditions of approval this issue does not warrant refusal of the development application.

Therefore, this issue may be addressed by conditions and does not warrant refusal of the application.

8. Issue:

Concern that the proposal is inconsistent with the Desired Future Character statement for the B2 Oxford Falls Valley Locality.



Comment:

This issue has been addressed in detail under the heading Desired Future Character within this report, including an assessment of low intensity low impact. The subject development is Category 2 and therefore is not automatically deemed to be consistent with the DFC. Overall the proposal is considered to satisfy the key requirements of the DFC, subject to conditions.

Therefore, this issue has been addressed and is not considered to warrant refusal of the application.

9. Issue:

Concern that the proposal will have an adverse impact on creek water quality and ecology of the riparian zone.

Comment:

This issue has been addressed in detail under the heading *CL 60 Watercourses and Aquatic Habitats* within this report. In summary, the proposal is not considered to create any significant impact on the adjacent watercourse ecology along Northcott Avenue or South Creek, Cromer. Council's NEU – Riparian section have no objection to the proposed development subject to conditions.

Therefore, subject to conditions of approval this issue does not warrant refusal of the development application.

10. Issue:

Concern that the proposal will have an adverse visual impact due to siting the dwelling house near the top of the property and on sloping land with the impact of associated excavation works, including the provision of utility connections.

Comment:

This issue has been addressed in detail under the DFC assessment, including the general principles of *CL57 Development on sloping land*, *CL 54 Provision and location of utility services*, *CL 67 Roofs* and *CL38 Glare and reflection*. In summary, the dwelling location does not require unreasonable depth of excavation for the building platform and the selected house location is 10m to 15m below the ridge line to maintain a landscape backdrop. The road construction has been designed to avoid significant rock outcrops and significant canopy trees by transitioning up the site with the natural contours of the land.

The proposal will rely on solar panels for electrical supply and therefore not require electricity main connection. The site has suitable access to a water main and a sewer line already located within the property, to enable connection subject to *Sydney Water* requirements.

Therefore, subject to conditions of approval this issue is not considered to warrant refusal of the application.



SECTION 3 – SITE INSPECTION ANALYSIS



SITE AREA: 5.46 hectares (Ha) comprising Lot 835 and Lot 836 DP752038

Detail existing building structures: None (Undeveloped bushland)

Site Features:

The site has trapezoid shape (2 lots together) with a 230 metres (m) frontage to Northcott Road, Cromer along the northern boundary. The site also has legal access to a ROW extending from Pinduro Place along the eastern boundary. There is no constructed vehicle access within the property at present. To the west and south is vacant bushland that is densely vegetated – *Sydney Coastal Dry Sclerophyll Forest* and *Sydney Coastal Heath*.

To the north of the site are a number of rural residential properties on 2Ha or larger lots. The site has been partly disturbed within 50m of the eastern boundary where it adjoins the urban area (R2 Low Density Residential zone - WLEP 2011). A Sydney Water sewer line is located within the north-eastern corner of Lot 836.

The site has the following maximum dimensions:

East – West 226 metres
North – South 276 metres

The site drains toward South Creek Narrabeen and a 40m riparian buffer zone extends



across the northern frontage of the site along Northcott Road. The site is not heritage listed but may contain (unrecorded) potential aboriginal relics or threatened species within the undisturbed bushland areas.

Site constraints and other considerations

Bushfire Prone? NSW RFS Referral response provided for Bushfire Attack Level 19 APZ: North 78m, South 24m, East 60m (to boundary), West 35m.	Yes
Flood Prone?	No
Affected by Acid Sulphate Soils	No
Located within 40m of any natural watercourse?	Yes. Driveway access.
Located within 1km landward of the open coast watermark or within 1km of any bay estuaries, coastal lake, lagoon, island, tidal waterway within the area mapped within the NSW Coastal Policy?	No. 1.45km from South Creek, Narrabeen.
Located within 100m of the mean high watermark?	No
Located within an area identified as a Wave Impact Zone?	No
Any items of heritage significance located upon it?	No
Located within the vicinity of any items of heritage significance?	No
Located within an area identified as potential land slip? A Geotechnical assessment has been provided.	No
Is the development Integrated?	No
Does the development require concurrence?	No
Is the site owned or is the DA made by the "Crown"?	No
Have you reviewed the DP and s88B instrument?	Yes
Does the proposal impact upon any easements / Rights of Way?	No

SITE INSPECTION / DESKTOP ASSESSMENT UNDERTAKEN BY: (Referral Groups and Assessing Officer)

Does the site inspection (Section 3) confirm the assessment undertaken against the relevant EPI's (Section's 1 & 2) within this report?

Yes



Are there any additional matters that have arisen from your site inspection that would require any additional assessment to be undertaken?

Yes – See
NEU Referral
comments.

Are there any existing unauthorised works on site?

No

If YES has the application been referred to compliance section for comments?

N/A

Declaration of any Conflict of Interest?

Nil

A. Keller

Alex Keller, Principal Planner

SECTION 4 – APPLICATION DETERMINATION

Conclusion:

The proposal has been assessed against the relevant matters for consideration under Section 79C of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions.

Issues raised by public submission have been addressed by the applicant within the development application, including amended details submitted to accommodate those concerns. Amended details include that satisfy those concerns include:

- protection of major canopy trees during construction (where practicable),
- not requiring ROW access,
- connection to *Sydney Water* assets for waste water disposal,
- construction access to minimise erosion and other site disturbance
- reduction in the areas of tree clearance and rock disturbance
- use of an environmental construction management plan.

The proposal is Category 2 development and complies with all relevant built form controls and the requirements of the Desired Future Character (DFC) Statement pursuant to Clause 12(2)(b) of the WLEP 2000, including consistency with a "low intensity low impact" development, subject to conditions of approval. However, the additional assessment requirements pursuant to Clause 12(1)(a) have not been supplied with sufficient information to fully satisfy the General Principles of Development for:

- Provision of Utility Services
- Protection of Flora
- Traffic, Safety and Access



- Stormwater Management.

Specifically, Council's Development Engineering section, Traffic Engineering section, Environmental Health section and Natural Environment Unit do not support approval of the proposal due to inadequate detail as outlined in the internal referral responses provided. These issues are unable to be resolved by conditions and therefore warrant refusal of the application.

In conclusion, the proposal is recommended for refusal due to insufficient information to resolve those matters under the General Principles of Development Control and subject to the reasons identified within the internal referral responses provided.

RECOMMENDATION - REFUSAL

That Council as the consent authority refuse development application DA2017/1140 for site clearing and construction of a dwelling house, including a granny flat, outbuilding, driveway access and ancillary building works, on Lots 835 and 836 DP752038 at 57-59 Northcott Road, Cromer.

Reasons for refusal:

1. General Principles of Development Control – Warringah Local Environmental Plan 2000

Pursuant to Section 79C(1) (a) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of the *Warringah Local Environmental Plan 2000* in that the proposal is inconsistent with the 'General Principles of Development Control'. In particular, the proposal does not satisfy the information assessment requirements of:

- *Clause 54 Provision and location of utility services*
- *Clause 58 Protection of existing flora;*
- *Clause 72 Traffic access and safety;*
- *Clause 76 Management of stormwater*
- *Schedule 5 – Bushland in urban areas;*

2. Public Interest under the Environmental Planning and Assessment Act 1979

Pursuant to Section 79C (1) (e) of the *Environmental Planning and Assessment Act 1979* the proposed development is not in the public interest. In particular, the proposal does not meet the provisions of the relevant local environmental planning instrument to fully address the General Principles of development control pursuant to *Warringah LEP 2000*.

3. Inconsistent with the Objects of the Environmental Planning and Assessment Act 1979

Pursuant to Section 5 (a) (i) of the *Environmental Planning and Assessment Act 1979* the proposal is inconsistent with *Clause 5 Objects*, for the provision of housing in a manner that is consistent with the applicable local planning controls to promote a better environment.

**4. Insufficient Information to properly address impacts**

Pursuant to Schedule 1 of the *Environmental Planning and Assessment Act Regulation 2000* the proposal has insufficient information to properly address Crown Road access, site environmental impacts and the steps to lessen expected impacts identified, including requirements under Section 68 of the *Local Government Act 1993*.


5. Inconsistent Information under Environmental Planning and Assessment Act Regulation 2000

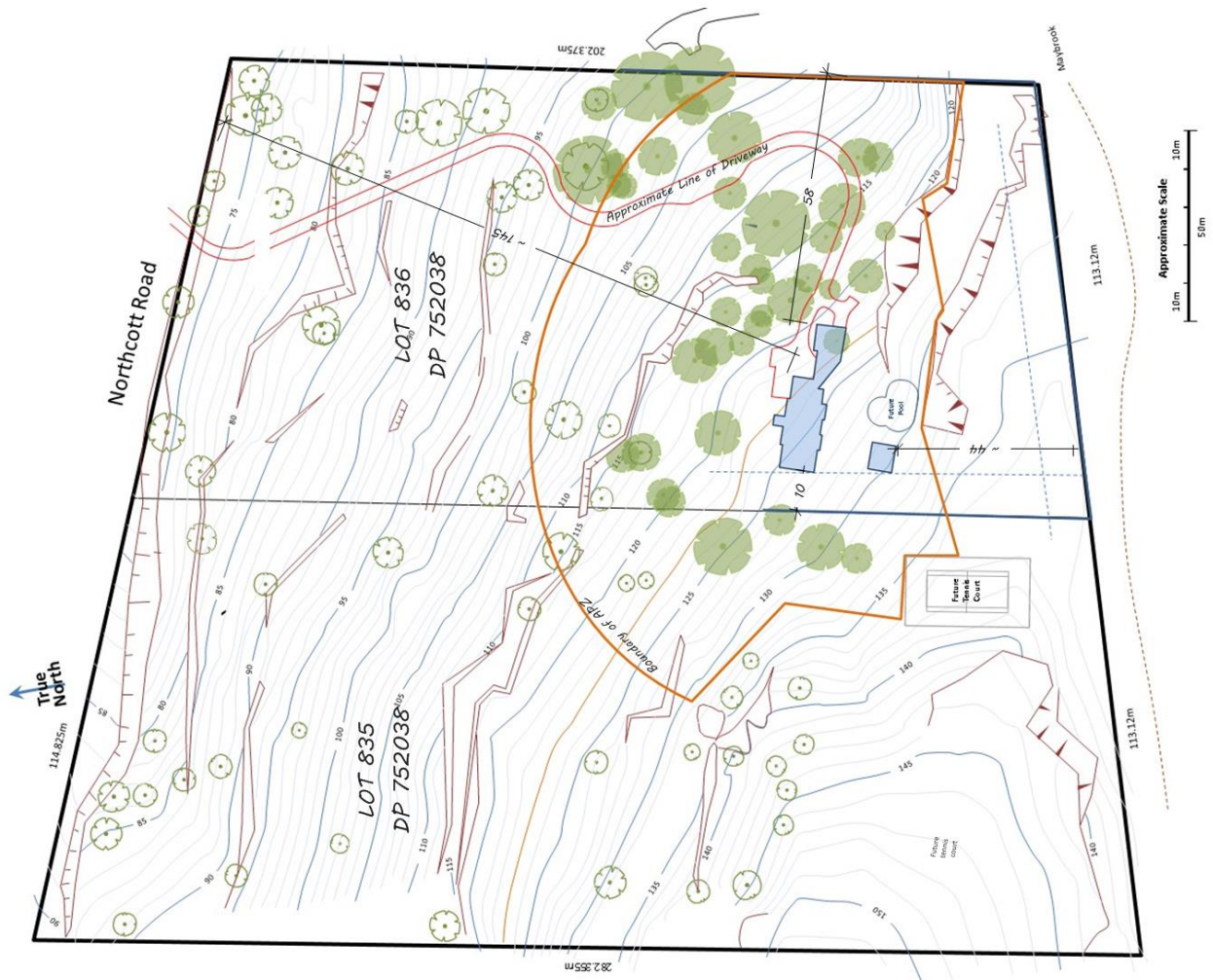
Pursuant to Schedule 1 of the *Environmental Planning and Assessment Act Regulation 2000* the proposal contains inconsistencies between the information submitted from the Bushfire Assessment and the Landscape Plan / Site plan within the area of works shown for the development application.

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with CoSign 

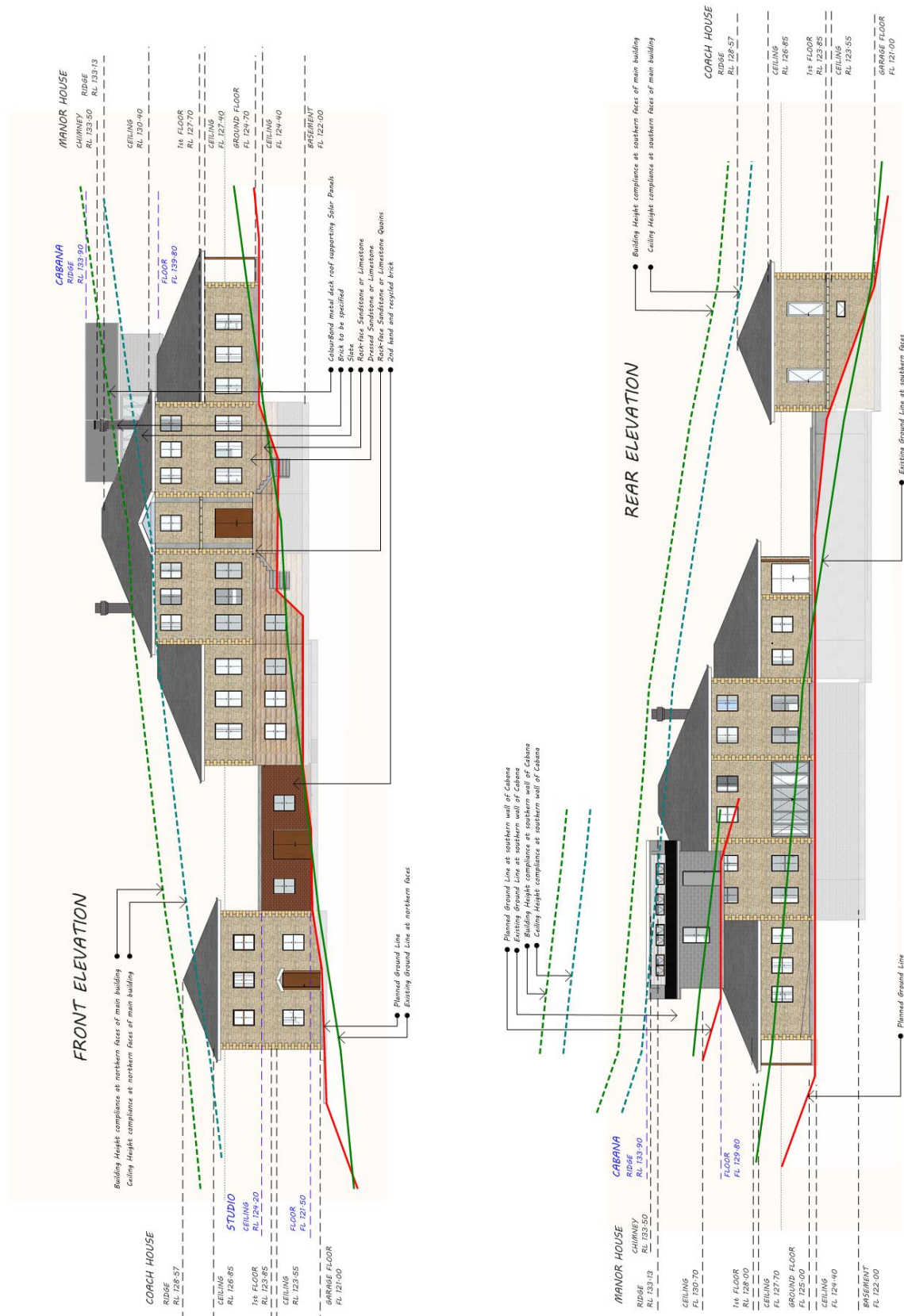
Date

Steve Findlay, Manager Planning Assessment

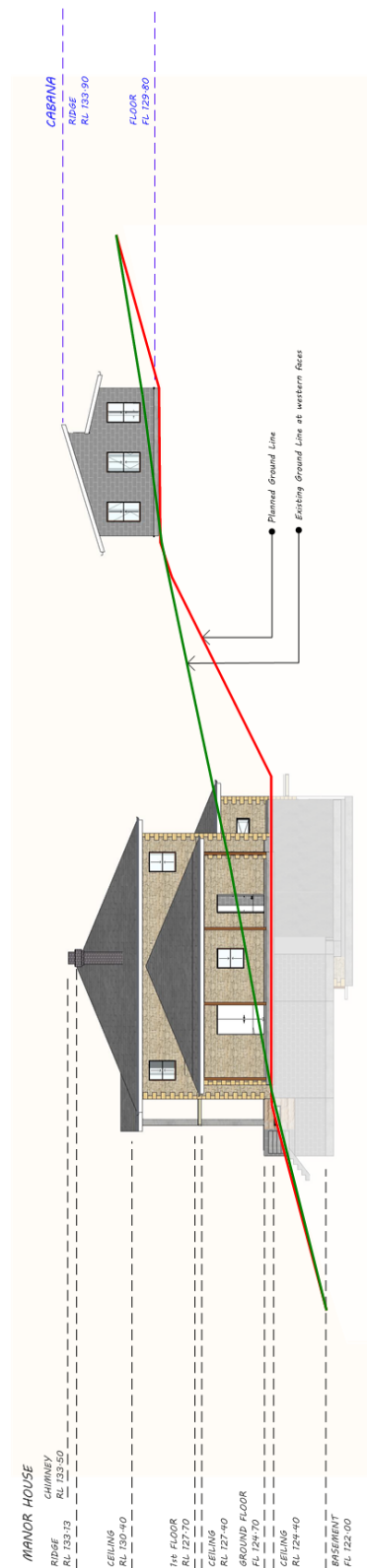
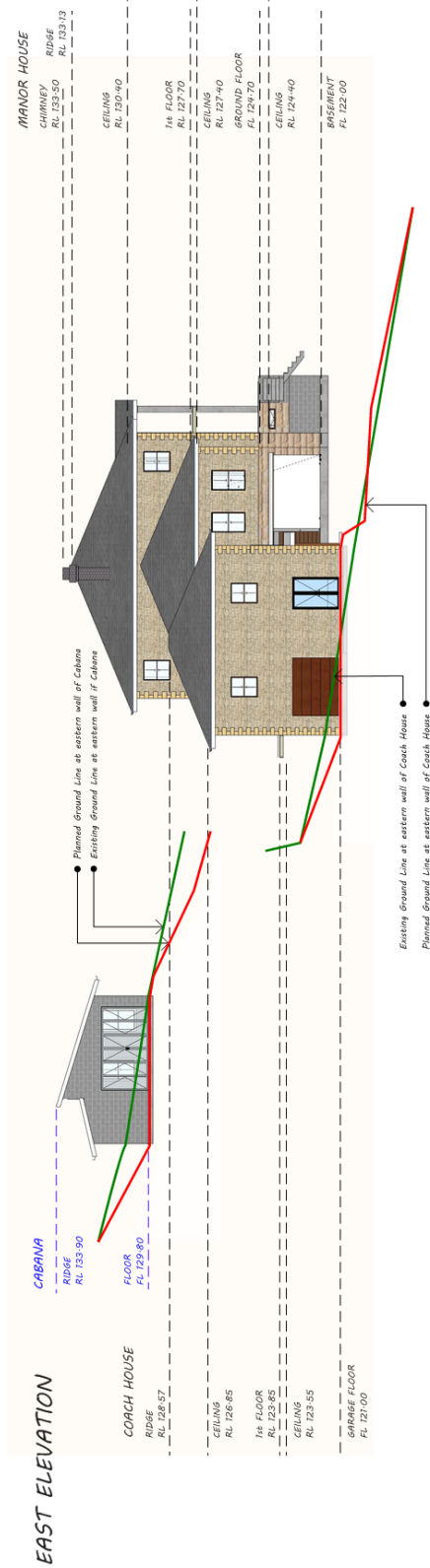
	CLIENT Jenny & David Simpfendorfer Lots 835 & 836 DP 752038 57-59 Northcott Road Cromer Heights, NSW	ISSUE Nov 2017 VERSION 1.7	PROJECT Manor House SCALE as shown AS SHOWN	DRAWN BY DS DESCRIPTION Siting	A 05
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	<p>CLIENT Jenny & David Simpfendorfer Lots 835 & 836 DP 752038 57-59 Northcott Road Cromer Heights, NSW</p>	<p>ISSUE NOV 2017 VERSION 1.7</p>	<p>PROJECT Manor House SCALE at A3 1:200</p>	<p>DRAWN BY DS DESCRIPTION Elevations</p>	<p>A</p>	<p>06</p>
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07	A	DRAWN BY DS	PROJECT Manor House	ISSUE Nov 2017	CLIENT Jenny & David Simpfendorfer Lots 835 & 836 DP 752038 57-59 Northcott Road Cromer Heights, NSW
		DESCRIPTION Side Elevations	SCALE at A3 1:200	VERSION 1.7	



ITEM 3.5	DA2018/1465 - 10 CECIL STREET, FAIRLIGHT - ALTERATIONS AND ADDITIONS TO A SEMI DETACHED DWELLING
REPORTING MANAGER	RODNEY PIGGOTT
TRIM FILE REF	2018/707558
ATTACHMENTS	1 Assessment Report 2 Clause 4.6 Variations Report 3 Site Plan and Elevations

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 **refuse** Development Consent to DA2018/1465 for alterations and additions to a semi-detached dwelling on land at Lot B DP 442575, 10 Cecil Street, Fairlight for the reasons outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1465
Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot B DP 442575, 10 Cecil Street FAIRLIGHT NSW 2094
Proposed Development:	Alterations and additions to a semi detached dwelling
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Loretta Maree Reilly
Applicant:	Loretta Maree Reilly
Application lodged:	04/09/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	10/09/2018 to 26/09/2018
Advertised:	Not Advertised
Submissions Received:	11
Recommendation:	Refusal
Estimated Cost of Works:	\$ 320,000.00

ASSESSMENT INTRODUCTION

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

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



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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
 Manly Local Environmental Plan 2013 - 6.1 Acid sulfate soils
 Manly Development Control Plan - 3.3.1 Landscaping Design
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping
 Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

SITE DESCRIPTION

Property Description:	Lot B DP 442575 , 10 Cecil Street FAIRLIGHT NSW 2094
Detailed Site Description:	<p>The subject site consists of one allotment located on the northern side of Cecil Street.</p> <p>The site is regular in shape with a frontage of 6.04m along Cecil Street and a depth of 35.05m. The site has a surveyed area of 213.5m².</p> <p>The site is located within the R1 General Residential zone and accommodates a semi-detached dwelling.</p> <p>The site slopes 1.4m from front (south) to rear (north).</p> <p>The site contains small trees and vegetation, and one significant tree located in the rear yard.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by generally by detached and semi-detached dwellings and residential flat buildings.</p>

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes alterations and additions to the existing ground floor and a first floor addition resulting in:

Ground floor:

- Kitchen/dining & living room
- Family room
- Bed 1
- Bathroom
- New rear deck

First floor:

- Master bed with balcony
- Bed 2
- Bed 3
- Bathroom

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979,
DA2018/1465

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are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider 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&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>
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Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	This assessment has found the proposal to be contrary to the relevant requirement(s) of the Manly LEP and DCP and will result in a development which will be inconsistent with the aims and objectives of the Manly LEP and DCP and therefore contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject 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 11 submission/s from:

Name:	Address:
Ms Monica Ford	29 Augusta Road FAIRLIGHT NSW 2094
Mr Gordon Eastwood	27 Augusta Road FAIRLIGHT NSW 2094
Ms Rebecca Jane Hanel	25 Augusta Road FAIRLIGHT NSW 2094
Mr Bruce Arnold Christie	23 Augusta Road FAIRLIGHT NSW 2094
Mr Robert Goodson	8 Cecil Street FAIRLIGHT NSW 2094

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Name:	Address:
Victoria Taylor	
Nicole Buckland Oliver Weston	12 Cecil Street FAIRLIGHT NSW 2094
Ms Stephanie Mary Dryden Mrs Cecily Anne Dryden	4 Cecil Street FAIRLIGHT NSW 2094
Mrs Linda Jane Hart	18 Cecil Street FAIRLIGHT NSW 2094
Mr Geoffrey Philip Moore	16 Cecil Street FAIRLIGHT NSW 2094
Mr Francis Thornhill	3 Cecil Street FAIRLIGHT NSW 2094
Mr Steven Garry Witt Mrs Liana Janet Witt	6 Cecil Street FAIRLIGHT NSW 2094

A total of eleven (11) submissions were received by Council in relation to the application, with seven (7) in support and four (4) in objection.

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

- Manly LEP numerical non-compliances
- Manly DCP numerical non-compliances
- Privacy/amenity impacts
- Concern with notification of application
- Submissions in support of the application - the proposal will retain the scale and character of the street without degrading the amenity of surrounding residences.

The matters raised within the submissions are addressed as follows:

- Manly LEP numerical non-compliances
Comment:
The proposal is non-compliant with regard to building height and floor space ratio. A full assessment of these non-compliances is completed under *Part 4 Principal Development Standards*. In summary the issues raised have merit in relation to the Floor Space Ratio control and accordingly this has been included in the Recommendation as a reason for refusal.
- Manly DCP numerical non-compliances
Comment:
A full assessment of the Manly DCP non-compliances is completed under *Part 4 Development Controls*. In summary the issues raised have merit in relation to privacy and setback controls and accordingly this has been included in the Recommendation as a reason for refusal.
- Privacy/amenity impacts
Comment:
The proposal is considered to result in unreasonable privacy/amenity impacts on the adjoining properties to the north. A full assessment of amenity impacts is completed under *Part 3 General Principles of Development*. In summary the issues raised have merit and accordingly this has been included in the Recommendation as a reason for refusal.
- Concern with notification of application
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Comment:

The application was notified to adjoining property owners in accordance with Manly DCP Clause 2.3.

- Submissions in support of the application - the proposal will retain the scale and character of the street without degrading the amenity of surrounding residences.

Comment:

The proposed addition is consistent in appearance with the existing streetscape as viewed from Cecil Street. However, proposal will result in unreasonable visual and amenity impacts on the adjoining properties to the north, as detailed in the report.

MEDIATION

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

REFERRALS

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)

Nil

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?	No
zone objectives of the LEP?	Yes



Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.74m	2.8%	No
Floor Space Ratio	0.6:1 128.1m ²	0.68:1 146m ²	13.97%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	No
4.6 Exceptions to development standards	No
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Requirement:	8.5m
Proposed:	8.74m
Is the planning control in question a development standard?	YES
If numerical enter a % variation to requirement	2.8%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause Height of buildings development standard has taken into consideration the recent judgement contained within Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 and an assessment of the request to vary the development standard in accordance with the requirements of Clause 4.6 is provided below:

Clause 4.6 Exceptions to development standards:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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



excluded from the operation of this clause.

Comment:

Clause 4.3 Height of buildings development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Secretary has been obtained.

cl 4.6 (4)(a)(i) (Justification) assessment:

cl 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6 (3) and these are addressed as follows:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The applicant's written request (attached to this report as an Appendix) has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment:

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

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



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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

The Applicant's written request (attached to this report as an Appendix) has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

In doing so, the applicant's written request has demonstrated that the proposed development satisfies cl 1.3(c)(g) of the EPA Act.

In this regard, the applicants written request has adequately demonstrated the that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

cl 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

- (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:

In considering whether or not the proposed development will be in the public interest consideration must be given to the underlying objectives of the Floor space ratio development standard and the objectives of the R1 General Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

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The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the MLEP 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 and roof form is not excessive and is consistent with the topographic landscape. The RL of the proposed roof ridge is consistent with the previously approved first floor of the adjoining semi-detached dwelling at No. 12 Cecil Street.

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

Comment:

The proposed building height not compliance is minor in extent and does not contribute to unreasonable bulk or scale.

c) to minimise disruption to the following:

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

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

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

Comment:

The proposed non-compliant height will not result in unreasonable disruption to views to, from or between residential development and public spaces.

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 will result in no unreasonable overshadowing of adjoining properties or public 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:

N/A

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Conclusion:

The proposed development satisfies the underlying objectives of the Height of buildings development standard.

Zone objectives

The underlying objectives of the R1 General Residential zone

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

- Comment:

The proposal retains the existing residential use.

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

- Comment:

The proposal retains the existing housing type and density.

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

- Comment:

N/A

Conclusion:

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

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

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

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 is not greater than 10%. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Development Determination Panel.

Description of non-compliance:

Requirement:	0.6:1 (128.1m ²)
Proposed:	0.68:1 (146m ²)
Is the planning control in question a development standard?	YES
If numerical enter a % variation to requirement	13.97%



Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 - Floor space ratio development standard has taken into consideration the recent judgement contained within Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 and an assessment of the request to vary the development standard in accordance with the requirements of Clause 4.6 is provided below:

Clause 4.6 Exceptions to development standards:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

Comment:

Clause 4.4 Floor space ratio development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Secretary has been obtained.

cl 4.6 (4)(a)(i) (Justification) assessment:

cl 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6 (3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a). The applicant's written request (attached to this report as an Appendix) claims consistency with the objectives of the Floor space ratio development standard.

The written request is not considered to adequately demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case for the following reasons:

- The proposal does not maintain an appropriate visual relationship between the subject site and properties to the rear (north). The properties on the northern side of Cecil Street are generally single storey with the exception of first floor additions constructed at No. 6 and the adjoining semi-detached dwelling at No. 12, which is more modest in scale with a significant rear setback.
- The proposed additions are assessed as excessive in bulk and scale and result in unreasonable privacy impacts on the adjoining properties to the rear.

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,



(j) to provide increased opportunity for community participation in environmental planning and assessment.

The applicant's written request (attached to this report as an Appendix) has not demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant's written request claims that there are sufficient environmental planning grounds to justify contravening the development standard.

The written request is not considered to adequately demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard for the following reasons:

- The proposal is assessed as resulting in unreasonable environmental and amenity impacts, specifically in relation to privacy impacts and bulk and scale.

As such, the applicant's written request has not demonstrated that the proposed development is consistent with cl 1.3(c)(g) of the EPA Act.

In this regard, the applicants written request has not adequately demonstrated the that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6(3)(b).

Therefore, Council is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

cl 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(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:

In considering whether or not the proposed development will be in the public interest consideration must be given to the underlying objectives of the Floor space ratio development standard and the objectives of the R1 General Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of cl 4.4 Floor space ratio development standard are:

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

Comment:

The proposed first floor addition, as viewed from Cecil Street, is consistent with existing examples of first floor additions within the streetscape.

The development satisfies this objective.



(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 bulk of the proposed additions will not unreasonably obscure any important landscape or townscape features.

The development satisfies this objective.

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

Comment:

The proposed addition is excessive in bulk and scale and is not considered to maintain an appropriate visual relationship with the existing character and landscape of the area.

The development does not satisfy this objective.

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

Comment:

The amenity impacts resulting from the bulk of the proposed additions will have an adverse impact on the use and enjoyment of adjoining land.

The development does not satisfy this objective.

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

Comment:

N/A

Conclusion:

The proposed development does not satisfy the underlying objectives of the Floor space ratio development standard.

Zone objectives

The underlying objectives of the R1 General Residential zone

- To provide for the housing needs of the community.

Comment:

The proposal retains the existing residential use.



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

Comment:

The proposal retains the existing housing type and density.

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

Comment:

N/A

Conclusion:

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

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

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

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 is not greater than 10%. Following the release of PS-003, Council received correspondence from a delegate of the Secretary which granted Council staff, for a period of 12 months from 1 March 2018, the ability to assume the Secretary's concurrence for Class 1 buildings which seek to vary a development standard by more than 10%.

As the application seeks to vary the development standard by more than 10% the concurrence of the Secretary is assumed subject to determination by Council's Development Determination Panel.

6.1 Acid sulfate soils

Clause 6.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

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

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

No significant excavation is proposed.



Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 213.5m ²	Requirement	Proposed	Complies
4.1.2.1 Wall Height	East: 6.8m	Bed 2: 6.6m	Yes
		Master bed: 6.2m - 6.8m	Yes
4.1.2.2 Number of Storeys	2	2	Yes
4.1.2.3 Roof Height	Height: 2.5m	1.97m	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Porch: 4.7m	Yes
		Dwelling: 6.83m	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	Bed 2: 2.2m	1.8m	No
	Master bed: 2.1m - 2.27m	1.18m	No
4.1.4.4 Rear Setbacks	8m	Deck: 5m	No
		Dwelling: 8m	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS1/2/3/4	Open space 55% of site area 117.4m ²	42.6% 90.9m ²	No
4.1.5.2 Landscaped Area	Landscaped area 35% of open space 31.8m ²	81.7% 74.3m ²	Yes
	1 native trees	0 trees	No
4.1.5.3 Private Open Space	18m ² per dwelling	> 18m ²	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	0 spaces	Existing

***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
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	No	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	No	No
3.4.3 Maintenance of Views	Yes	Yes
3.7 Stormwater Management	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	No
4.1.5 Open Space and Landscaping	No	Yes

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Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

3.3.1 Landscaping Design

The proposal provides a compliant landscaped area but does not include any native tree planting in accordance with Clause 4.1.5.2. The proposal could comply subject to condition.

3.4.1 Sunlight Access and Overshadowing

The proposal will result in no unreasonable overshadowing impacts, with the majority of additional overshadowing falling on the road reserve of Cecil Street to the south.

3.4.2 Privacy and Security

Description of non-compliance

The proposal is inconsistent with objectives 1 and 2 below.

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 proposal will result in unreasonable privacy and direct viewing between the subject site and adjoining properties to the rear. The proposed ground floor rear deck setback is non-compliant and the topography of the area allows for significant overlooking due to the elevation of the deck above the properties to the rear. As such, the proposal is not appropriately designed to minimise loss of 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:

The proposal will not compromise access to light and air, but does not provide sufficient privacy to the adjoining properties.



Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal does not impact opportunities for passive surveillance.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent 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 not supported, in this particular circumstance.

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

Description of non-compliance

The proposed ground floor rear and first floor side setbacks are non-compliant.

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 consistent with surrounding development as viewed from Cecil Street and will not unreasonably impact 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:

The proposal does not unreasonably impact sunlight access, views, streetscape character or traffic conditions. The proposed side setback does result in no unreasonable privacy impacts, subject to the inclusion of conditions requiring windows 04 and 06 to be highlight windows. However, the proposed rear setback non-compliance to the ground floor deck is considered to result in unreasonable overlooking of the adjoining properties to the rear and is not supported. The rear setback to the first floor is inadequate to maintain privacy to the northern neighbours due to the topography of the land and also enables overlooking. Further, the bulk and scale of the proposal would be reduced with a greater



rear setback consistent with that of the adjoining semi. As such, the proposal is inconsistent with this objective.

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

Comment:

Flexibility in the siting of the dwelling in this case would result in unreasonable privacy impacts, and is not considered 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 proposed total open space area is non-compliant, but a compliant landscape area is provided.

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

Comment:

N/A

Having regard to the above assessment, it is concluded that the proposed development is inconsistent 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 not supported, in this particular circumstance.

4.1.5 Open Space and Landscaping

The proposed total open space is non-compliant but the landscaped area is compliant. The proposal could be conditioned to comply with the native trees requirement of Clause 4.1.5.2.

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

No existing car parking is provided on the site. The provision of on-site car parking would result in unreasonable visual impact on the streetscape and the introduction of vehicular access to the site would result in a reduction in on-street car parking. As such, car parking is not considered necessary or appropriate in the context of the site.

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.

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, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

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

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2018/1465 for the Alterations and additions to a semi detached dwelling on land at Lot B DP 442575, 10 Cecil Street, FAIRLIGHT, for the reasons outlined as follows:

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Environmental Planning and Assessment Act 1979
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Manly Local Environmental Plan 2013.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.4 Floor Space Ratio of the Manly Local Environmental Plan 2013.

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4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.6 Exceptions to Development Standards of the Manly Local Environmental Plan 2013.
5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.4.2 Privacy and Security of the Manly Development Control Plan .
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.1.4 Setbacks (front, side and rear) and Building Separation of the Manly Development Control Plan.
7. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest as the proposal is inconsistent with the aims and objectives of the Manly LEP and DCP.



Minimum Lot Size C – 250m²

Floor Space Ratio Non-compliance

Pursuant to Clause 3.4.2(b) of Residential DCP, *“On sites which are less than the minimum site area required in the relevant density sub-zone, the Council may consider a variation to the floor space ratio provided the applicant can demonstrate the objectives of the DCP can be achieved. This variation shall be limited to the allowable FSR for the minimum lot size in the relevant density sub-zone”*.

However, even though a variation is permitted under Clause 3.4.2(b) of the Residential DCP, a variation is required to be lodged under Clause 4.6 of the Manly LEP 2013 for non-compliance with the FSR standard of 0.6:1.

3.A Clause 4.6 Exceptions to development standards – Floor Space Ratio

Manly LEP 2013 applies to the land. The land is zoned R1 General Residential. The objectives of the zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

A request is made to vary Clause 4.4(2) of the Manly LEP 2013 which states that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the floor space ratio map.

The objectives of Clause 4.4 (relevant to the application) are:

- (a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*
- (b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*
- (c) to maintain an appropriate visual relationship between new development and 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.*

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The floor space ratio of the land is shown on the floor space ratio map to be 0.6:1. The site area is 213.5m². This equates to a maximum floor space of 128.1m². The proposed floor space is 150m² or 0.7:1, a variation of 17%.

It is considered that the proposed area of the first floor addition and overall size of the development proposal meets the objectives of the development standard in the following ways:

- The bulk and scale of the development is consistent with the existing and desired streetscape character which is essentially single storey with a number of sensitively designed first floor additions setback from the ground floor. The bulk and scale of the proposed development is consistent with the first floor addition to the semi-detached dwellings at 6 and 12 Cecil Street. The front part of the first floor addition is stepped in from the boundary of the ground floor and is designed to complement the existing character and streetscape by including a Dutch gable.
- The proposed first floor addition to the semi-detached dwelling at 10 Cecil Street will not obscure any important landscape and townscape features and will not have a negative impact on the public domain.
- The proposed alterations and additions at 10 Cecil Street will maintain an appropriate visual relationship between the new development and the existing character and landscape of the area as the semi-detached dwelling maintains its existing front setback at the ground floor and the first floor is setback behind the roofline of the building consistent with other first floor additions in the street. There will be no change to the existing character façade or verandah.
- It is considered that the bulk and scale of the proposed alterations and additions at 10 Cecil Street will not have an adverse environmental impact on the use and enjoyment of the adjoining properties in regard to privacy or solar access. The proposal meets the standards of the Manly DCP for solar access and privacy.

The proposed alterations and additions are also considered to be consistent with the objectives of the R1 General Residential Zone.

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed alterations and additions to a semi-detached dwelling increase the size of a family home to meet the needs of the family.

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Reasons in support of the exception

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

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

The reasons in support of the variation are:

- The proposed floor space ratio is consistent with previous approvals on lots less than 250m² in size in Fairlight. The Manly Independent Assessment Panel has recently approved an addition to a semi-detached house at 6 Cecil Street which has a FSR of 0.72:1 on a site of 215.7m². The Manly Independent Assessment Panel on 21 March 2013 approved a development at 13 Smith Street which had a proposed FSR of 0.8:1 on a site of 190m². The FSR of 152.42m² represents a non-compliance of 20%.
- The recent Land and Environment Case, Four2Five vs Ashfield Council (2015) NSWLEC 90 requires any variations to the standards to demonstrate something more than just achieving the objectives of the standard. In this case, the Manly DCP gives a floor space ratio allowance of 0.6:1 (the density for the sub-zone) based on a site area of 250m² (minimum allotment size permitted for the sub-zone) for undersized allotments. As a result, Manly Council has consistently approved dwelling houses on undersized allotments with a FSR exceeding 0.6:1.
- Having regard to the matter of Veloshin v Randwick City Council (2007) NSWLEC 428, this is not a case where the difference between compliance and non-compliance is the difference between good and bad design.
- Having regard to the matter of Project Venture Developments v Pittwater Council (2005) NSWLEC 191 the size of the proposed development will not be unsympathetic or jarring within a streetscape context and is compatible with its surroundings.
- It is considered that the non-compliance with the floor space ratio standard will not have any adverse amenity impacts to adjoining properties with regard to visual bulk, overshadowing or loss of privacy.

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That there are sufficient environmental planning grounds to justify contravening the development standard.

The amended proposal will have neutral impact in terms of environmental planning considerations and therefore satisfies the provisions of Clause 4.6(3)(b) of the Manly LEP 2013.

The proposed development has a satisfactory impact on the residential amenity of adjoining properties with regard to views, overshadowing, privacy and landscape quality.

Whether or not compliance is unnecessary or unreasonable in the circumstances and whether the non-compliance raises any matter of significance for State and Regional planning and the public benefit of maintaining the planning controls

The proposed non-compliance with the floor space ratio standard is not considered to raise any matters of significance for State and Regional planning. The proposal complies with the objectives of the standard and the area of non-compliance will not result in any significant environmental affectation. It is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

It is considered that the proposal satisfies the objectives of Clause 4.6

- (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.*

3.B Clause 4.6 Exceptions to development standards – Height

Manly LEP 2013 applies to the land. The land is zoned R1 General Residential. The objectives of the zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

A request is made to vary Clause 4.3(2) of the Manly LEP 2013 which states that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The objectives of Clause 4.3 (relevant to the application) are:

- (a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*
- (b) to control the bulk and scale of buildings,*
- (c) to minimise disruption to the following:*

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- (i) views to nearby residential development from public spaces (including the harbour and foreshores),*
- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),*
- (iii) views between public spaces (including the harbour and foreshores),*
- (d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*
- (e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.*

The maximum height of a building on the site permitted under the LEP is 8.5m. The maximum height of the proposed roof above existing ground level is 8.75m. This equates to a variation of 250mm or 2.9%.

It is considered that the proposed area of the first floor addition and overall size of the development proposal meets the objectives of the development standard in the following ways:

- The bulk and scale of the development is consistent with the existing and desired streetscape character which is essentially single storey with a number of sensitively designed first floor additions setback from the ground floor. The bulk and scale of the proposed development is consistent with the first floor addition to the attached semi at 12 Cecil Street and has the same ridge height (RL 61).
- The proposed first floor addition to the semi-detached dwelling at 10 Cecil Street will not obscure any views to or from the public domain.
- The height of the proposed addition is consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality.
- It is considered that the bulk and scale of the proposed alterations and additions at 10 Cecil Street will not have an adverse environmental impact on the use and enjoyment of the adjoining properties or the public domain in regard to solar access. The proposal meets the standards of the Manly DCP for solar access.

The proposed alterations and additions are also considered to be consistent with the objectives of the R1 General Residential Zone.

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

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

The proposed alterations and additions to a semi-detached dwelling increase the size of a family home to meet the needs of the family.

Reasons in support of the exception

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

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

The reasons in support of the variation are:

- The non-compliance is very minor and the ridge height has the same RL as the adjoining semi.
- The recent Land and Environment Case, Four2Five vs Ashfield Council (2015) NSWLEC 90 requires any variations to the standards to demonstrate something more than just achieving the objectives of the standard. In this case, the proposed building maintains the same ridgeline as the adjacent semi which is consistent with past approvals.
- Having regard to the matter of Veloshin v Randwick City Council (2007) NSWLEC 428, this is not a case where the difference between compliance and non-compliance is the difference between good and bad design.
- Having regard to the matter of Project Venture Developments v Pittwater Council (2005) NSWLEC 191 the size of the proposed development will not be unsympathetic or jarring within a streetscape context and is compatible with its surroundings.
- It is considered that the minor non-compliance with the height standard will not have any adverse amenity impacts to adjoining properties with regard to visual bulk, overshadowing or loss of privacy.

That there are sufficient environmental planning grounds to justify contravening the development standard.

The amended proposal will have neutral impact in terms of environmental planning considerations and therefore satisfies the provisions of Clause 4.6(3)(b) of the Manly LEP 2013.

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The proposed development has a satisfactory impact on the residential amenity of adjoining properties with regard to views, overshadowing, privacy and landscape quality.

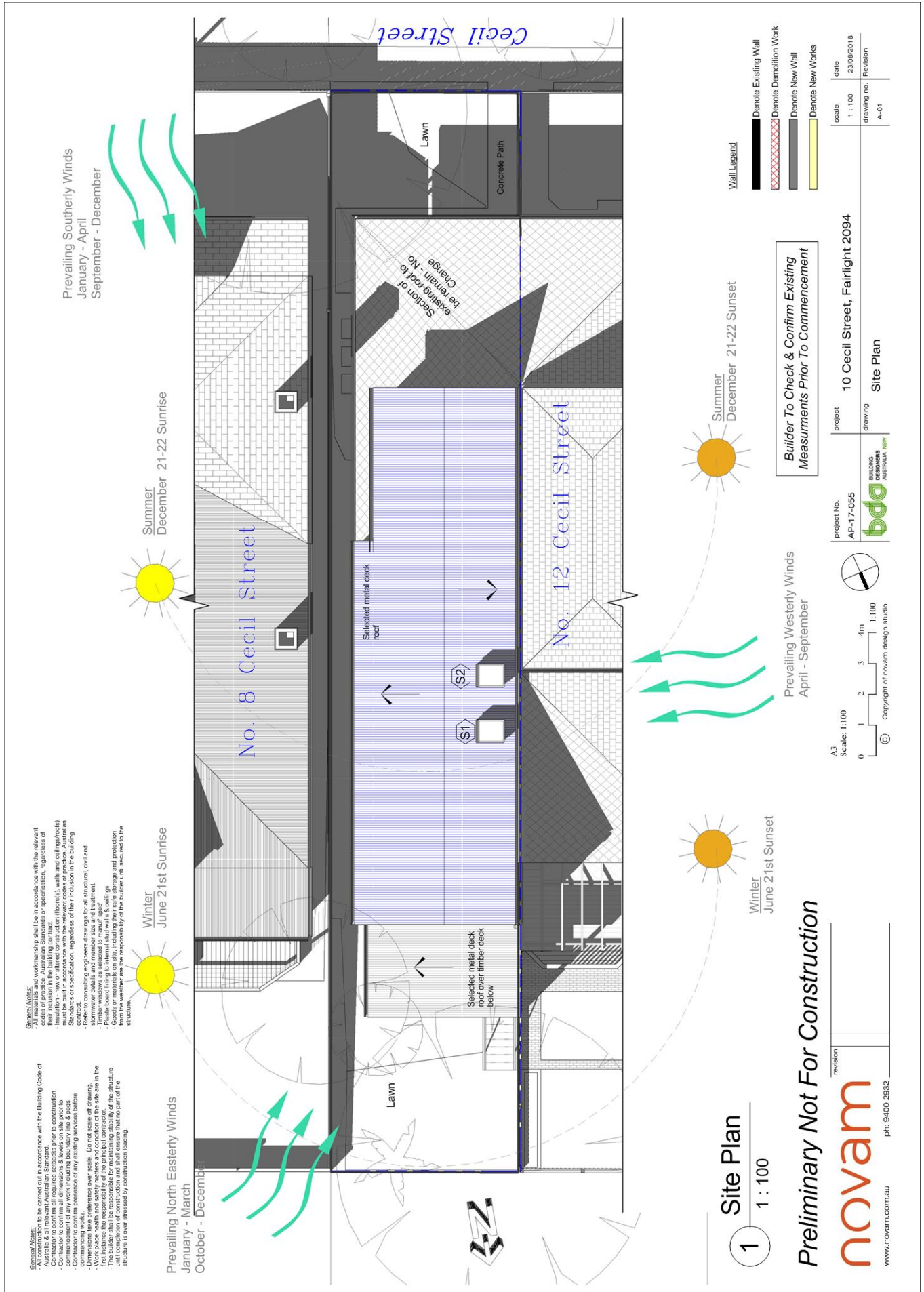
Whether or not compliance is unnecessary or unreasonable in the circumstances and whether the non-compliance raises any matter of significance for State and Regional planning and the public benefit of maintaining the planning controls

The proposed non-compliance with the height standard is not considered to raise any matters of significance for State and Regional planning. The proposal complies with the objectives of the standard and the area of non-compliance will not result in any significant environmental affectation. It is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

It is considered that the proposal satisfies the objectives of Clause 4.6

- (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.*

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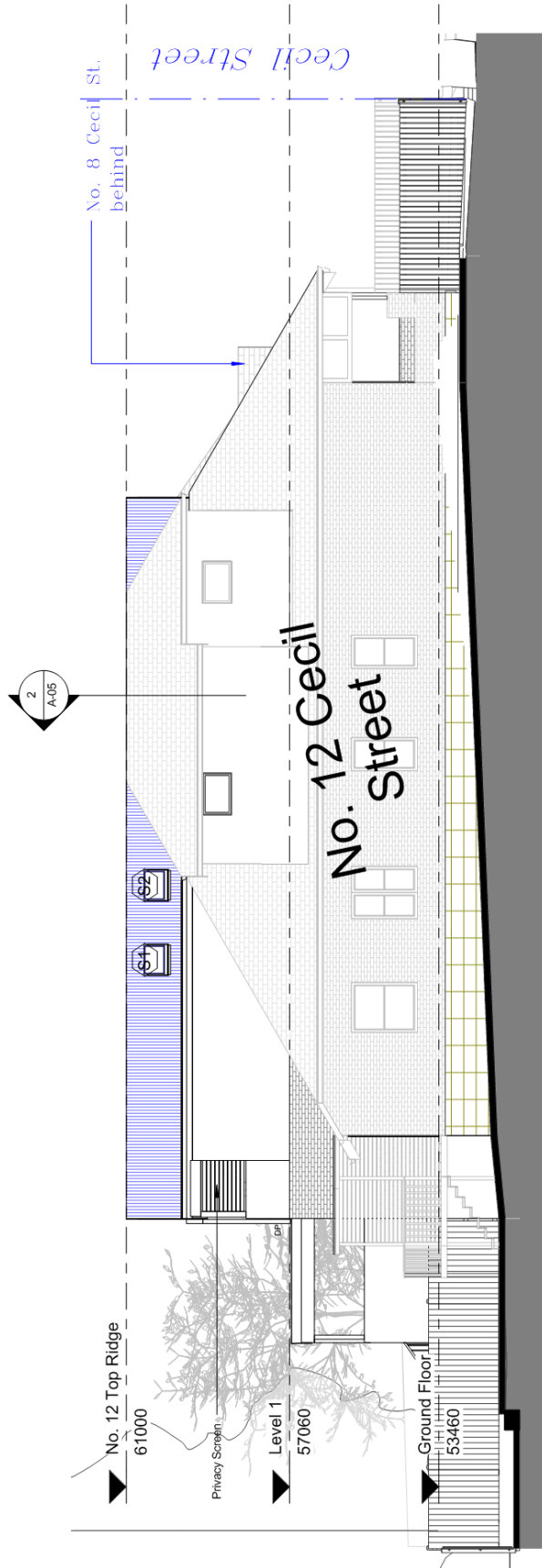
Preliminary Not For Construction

General Notes:

- All materials and workmanship shall be in accordance with the relevant Australian Standards, codes of practice or specification, regardless of their inclusion in the building contract.
- Insulation - new or altered construction (floors, walls and ceilings/roofs) shall be in accordance with the relevant Australian Standards or specification, regardless of their inclusion in the building contract.
- Timber windows are selected to match the existing windows.
- Timber windows are selected to match the existing windows.
- Goods or materials on site, including their safe storage and protection from the weather are the responsibility of the builder until secured to the structure.

General Notes:

- All construction to be carried out in accordance with the Building Code of Australia & all relevant Australian Standards prior to construction.
- Contractor to confirm all dimensions & levels on site prior to commencing any work including boundary line & page.
- Dimensions take preference over scale. Do not scale off drawing.
- The builder shall be responsible for maintaining stability of the structure during construction and shall not be part of the structure is over stressed by construction loading.



Wall Legend

- Demolish Existing Wall
- Demolish Demolition Work
- Demolish New Wall
- Demolish New Works

scale	date
1 : 100	23/08/2018
drawing no.	Revision
A-09	

**Builder To Check & Confirm Existing
Measurements Prior To Commencement**

Scale:	0	1	2	3	4m	1:100

Project No.	Project
AP-17-055	10 Cecil Street, Fairlight 2094
Project	Drawing
bdg BUILDING DESIGNERS AUSTRALIA	Proposed Elevations - Sheet 2

1 Proposed West Elevation
1 : 100

revision	date

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