

Central Coast

Local Planning Panel

Central Coast
Local Planning Panel Meeting
Business Paper
23 September 2021



Meeting Notice

**The Local Planning Panel Meeting
of Central Coast
will be held Remotely - Online,
Thursday 23 September 2021 at 2.00 pm,
for the transaction of the business listed below:**

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1.1	Disclosures of Interest	3
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3.2	DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application)	75
4	PLANNING REPORTS - OUTSIDE OF PUBLIC MEETING	
4.1	DA/62008/2021 - 81 Terrigal Esplanade, Terrigal - Alterations and additions to Terrigal Surf Club	188
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Kara Krason
Chairperson

Item No: 1.1
Title: Disclosures of Interest
Department: Governance

22 July 2021 Local Planning Panel Meeting

Reference: F2020/02502 - D14205789

The NSW Local Planning Panel Code of Conduct states that all panel members must sign a declaration of interest in relation to each matter on the agenda before or at the beginning of each meeting.

Recommendation

That Panel Members now confirm that they have signed a declaration of interest in relation to each matter on the agenda for this meeting and will take any management measures identified.

Item No: 2.1
Title: Confirmation of Minutes of Previous Meeting
Department: Corporate Affairs

23 September 2021 Local Planning Panel Meeting

Reference: F2020/02502 - D14841790

Author: Rachel Callachor, Meeting Support Officer

Summary


The Minutes of the following Meetings of the Local Planning Panel, which have been endorsed by the Chair of that meeting, are submitted for noting:

- **Local Planning Panel Meeting held on 19 August 2021**

Recommendation

That the minutes of the previous Local Planning Panel Meeting held on 19 August which had been endorsed by the Chair of those meetings, are submitted for noting.

Attachments

1   MINUTES - Local Planning Panel - 19 August 2021 D14808781



Local Planning Panel

Minutes of the LOCAL PLANNING PANEL MEETING

Held remotely - online
on 19 August 2021

Panel Members

Chairperson	Donna Rygate
Panel Experts	Grant Christmas Sue Francis
Community Representative/s	Mark Elsley

Central Coast Council Staff Attendance

Scott Cox	Director Environment and Planning
Andrew Roach	Unit Manager Development Assessment
Emily Goodworth	Section Manager Development Assessment North
Alisa Prendergast	Section Manager Development Assessment South
Robert Eyre	Principal Planner Development Assessment South
Martin Ball	Principal Solicitor Governance & Legal
Susana Machuca	Senior Development Planner Development Assessment South
Amy Magurren	Development Planner Development Assessment South (observer)
Johnson Zhang	Team Leader Water Assessment
Danielle Allen	Senior Ecologist Development Assessment Pre Lodgement
Kim Holding	Civil Works Engineer
Rachel Callachor	Meeting Support Officer Civic Support
Kelly Drover	Meeting Support Officer Civic Support
Sophie Kennedy	Civic Support Officer Civic Support
Zoie Magann	Meeting Support Officer Civic Support

The Chairperson, Donna Rygate, declared the meeting open at 2.02pm and advised in accordance with the Code of Meeting Practice that the meeting was being recorded.

The Chair read an acknowledgement of country statement.

Apologies

The Panel noted that no apologies had been received.

Minutes of the Local Planning Panel Meeting 19 August 2021 contd

1.1 Disclosures of Interest

The Panel noted that declaration forms had been received and no conflicts had been identified.

Unanimous

2.1 Confirmation of Minutes of Previous Meeting

The Minutes of previous Local Planning Panel Meetings, which had been endorsed by the Chairs of those meetings, were submitted for noting:

- ***Local Planning Panel meeting held on 22 July 2021***
- ***Electronic Determination regarding DA59637/2020 dated 27 July 2021***

Unanimous

Public Forum

The following people addressed the Panel:

Agenda item 3.1 - DA/57736/2019 - 37 Wards Hill Road, Killcare Heights - Telecommunications Tower

- 1 Josephine Howie - against recommendation
- 2 Rodney Dawson - against recommendation
- 3 Michael Allen - for recommendation
- 4 Mike Allsop (President, Wagstaffe to Killcare Community Association) - for recommendation
- 5 Tony Denny - against recommendation
- 6 Joanna Ward (Lendlease) - on behalf of applicant

Agenda item 3.2 - DA/57957/2020 - 396 & 404 The Entrance Road, Erina Heights - Centre-Based Child Care Facility

- 1 Peta Harris (Perception Planning) - on behalf of applicant

The Local Planning Panel public meeting closed at 2:49pm. The Panel moved into deliberation from 3:02pm, which concluded at 3:30pm.

Minutes of the Local Planning Panel Meeting 19 August 2021 contd

3.1 DA/57736/2019 - 37 Wards Hill Road, Killcare Heights - Telecommunications Tower

Site Inspected	Site orientation via video conference
Relevant Considerations	As per Council assessment report Supplementary memo dated 18.08.21
Material Considered	<ul style="list-style-type: none">• Documentation with application• Council assessment report• Submissions• Council advice regarding notification Addresses in public meeting and responses to Panel questions
Council Recommendation	Approval
Panel Decision	<p>1 The Local Planning Panel notes the advice received from Council in relation to the fourth round of notification of previous submitters in relation to this matter and is satisfied that notification has occurred consistent with Council's policies.</p> <p>2 The Panel is satisfied with Council's legal advice on the issue of whether the subject site is Community/Operational land.</p> <p>3 The Local Planning Panel however deferred the determination of the application to allow the applicant to submit a revised Clause 4.6 request . Such revised request to be provided within four weeks of today's meeting.</p> <p>4 The Panel also requests Council to consult Darkinjung Local Aboriginal Land Council (DLALC) about the application during this period and to report their response, if any, to the Panel</p> <p>The Panel requests Council to submit a supplementary assessment report addressing the above matters to a special electronic Panel public meeting within 8 weeks of today's meeting.</p>
Reasons	<p>1 The Panel considers that the Applicant's Clause 4.6 request submitted with the Addendum to the Statement of Environmental Effects does not fully satisfy the requirements of clause 4.6(3) of the Gosford LEP 2014.</p>

Minutes of the Local Planning Panel Meeting 19 August 2021 contd

While the Panel accepts the advice from Council staff in respect of current protocols, the Darkinjung Local Aboriginal Land Council should be consulted about the proposal, with the outcome included in a supplementary report to the LPP.

Votes The decision was unanimous

3.2 DA/57957/2020 - 396 & 404 The Entrance Road, Erina Heights - Centre-Based Child Care Facility

Site Inspected Site orientation via video conference

Relevant Considerations As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report
- Submissions
- Address in public meeting and responses to Panel questions

Council Recommendation Approval

Panel Decision

- 1** *That development consent be granted to DA57957/2020 for a Centre-Based Child Care Facility on No. 396 and 404 The Entrance Road, Erina Heights subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.*
- 2** *That Council advise those who made written submissions of the Panel's decision.*
- 3** *That Council advise relevant external authorities of the Panel's decision.*

Reasons

- 1 The proposal is satisfactory having regard to the relevant environmental planning instruments, plans and policies.
- 2 The proposal has been considered against the provisions of Interim Development Order No 122 and has been found to be satisfactory.

Minutes of the Local Planning Panel Meeting 19 August 2021 contd

- 3 There are no significant issues or impacts identified with the proposal under s.4.15 of the *Environmental Planning and Assessment Act 1979*.

Votes The decision was unanimous

4.1 DA/61991/2021 - 23 Anchorage Crescent, Terrigal - Alterations and Additions

Site Inspected Site orientation via video conference

Relevant Considerations As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report

Council Recommendation Approval

Panel Decision **1** ***That development consent be granted to DA61991/2021 Part 1 - LOT: 15 DP: 202199, 23 Anchorage Crescent, Terrigal - Alteration/Additions to Existing Dwelling subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.***

Reasons

1 The proposal is satisfactory having regard to the relevant environmental planning instruments, plans and policies.

2 The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development.

3 Subject to the imposition of appropriate conditions, the proposed development is not expected to have an adverse social or economic impact.

4 It is considered that the proposed development will complement the locality and meet the desired future character of the area.

Minutes of the Local Planning Panel Meeting 19 August 2021 contd

Votes The decision was unanimous

4.2 DA/61627/2021 - 7 Helen Drive, Copacabana - Demolition of Existing and new Three Storey Dwelling

Site Inspected Site orientation via video conference

Relevant Considerations As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report

Council Recommendation Deferred Commencement Approval

Panel Decision

1 *That the Local Planning Panel assumes the concurrence of the Secretary of the Department of Planning to Permit the non-compliance with the development standard under Clause 4.6 of the Gosford Local Environmental Plan 2014, in accordance with the provisions of Clause 64 of the Environmental Planning and Assessment Regulation 2000.*

The Panel agrees that the written request demonstrates that compliance with the development standard is unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the development standard.

Further, the Panel considers that the proposed development will be in the public interest because it is consistent with the objectives of the Height of Buildings development standard and the objectives for development within zone R2 – Low Density Residential in which the development is proposed to be carried out.

2 *That deferred development consent be granted to DA61627/2021 – 7 Helen Drive, Copacabana - Demolition of dwelling and construction of single dwelling over three levels - subject to appropriate conditions as detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act.*

Reasons

1 The proposal is satisfactory having regard to the relevant

Minutes of the Local Planning Panel Meeting 19 August 2021 contd

environmental planning instruments, plans and policies.

- 2 The development is considered suitable for the site despite the listed variations.

Votes The decision was unanimous

5.1 Request to prepare a Planning Proposal for 437 Wards Hill Road, Empire Bay

The Panel supports Council progressing with the Planning Proposal, however Council should ensure that any subsequent development application for use of the land thoroughly addresses the issues of flooding, evacuation and suitability of the future proposed use.

Item No: 3.1
Title: DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes
Department: Environment and Planning

23 September 2021 Local Planning Panel Meeting

Reference: DA/221/2014/B - D14825047
Author: Nathan Burr, Senior Development Planner
Manager: Emily Goodworth, Section Manager Development Assessment North
Approver: Andrew Roach, Unit Manager, Development Assessment

Summary

Under the provisions of Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, approval is sought to modify Development Consent No. DA/221/2014/A (development consent issued by the former Wyong Shire Council). The proposal involves an increase in the number of approved residential lots from 40 to 43, including minor road layout and drainage changes. The application has been examined having regard to the matters for consideration detailed in section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

The application is referred to the Local Planning Panel as a result of the number of objections. 15 submissions have been received.

Applicant	Group Development Services Pty Ltd
Owner	Woodcote Developments Pty Ltd
Application No	DA/221/2014/B
Description of Land	31 Aldenham Road, Warnervale – Lot 1 DP 1234942
Proposed Development	Increase to 43 residential lots, minor road layout and drainage changes
Site Area	40,140m ²
Zoning	RE1 Public Recreation and R2 Low Density Residential
Existing Use	Vacant
Employment Generation	n/a
Estimated Value	\$2,510,587.00

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

Recommendation

- 1 That the Local Planning Panel grant consent to DA/221/2014/B – 31 Aldenham Road, Warnervale – Increase to 43 Residential lots, minor road layout & drainage changes, subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.**
- 2 That Council advise those who made written submissions of the Panel’s decision.**
- 3 That Council advise relevant external authorities of the Panel’s decision.**

Key Issues

- Public Submissions and matter raised therein.

Precis:

Proposed Development	Increase in the number of residential lots from 40 to 43 including minor road layout and drainage changes.
Permissibility and Zoning	The subject site is zoned R2 Low Density Residential, RE1 Public Recreation and B7 Business Park under the provisions of <i>Wyong Local Environmental Plan 2013</i> (WLEP). The proposed development is permissible with consent.
Relevant Legislation	<ul style="list-style-type: none"> • <i>Environmental Planning and Assessment Act 1979</i> • <i>Rural Fires Act 1997</i> • <i>Environmental Planning & Assessment Regulation 2000 (EP&A Regulation)</i> • State Environmental Planning Policy 55 – Remediation of Land • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Koala Habitat Protection) 2021 and State Environmental Planning Policy (Koala Habitat Protection) 2020 • <i>Wyong Local Environmental Plan 2013</i> • <i>Draft Central Coast Local Environmental Plan 2020</i>
Current Use	Vacant
Integrated Development	Yes
Submissions	15 Submitters raising concern with the approved development and proposed modification.

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

Variations to Policies

The original assessment identified the following variation which is unaltered by the proposed modification. No further variations are proposed under the proposed modification.

LEP/DCP	WDCP 2013 Part 4 Subdivision
Clause	3.4. Street Layout and Design (p)
Standard	The length of a cul-de-sac is to be no more than 75m.
Departure basis	<p>The proposed cul-de-sac has a length of approximately 110m and represents a variation of 46% to the cul-de-sac length.</p> <p>The proposed variation was supported as per below.</p> <ul style="list-style-type: none">• The shape of the subject site restricts the design of the subdivision resulting in a north/south road orientation.• The cul-de-sac head is north of Aldenham Rd and provides access to six lots and the park.• The length of the cul-de-sac is unavoidable due to the shape of the subject site and the existing location of Aldenham Road which provides access to the local road network.• The length of the cul-de-sac is compliant with <i>Planning for Bush Fire Protection 2006</i> and Council's civil guidelines.

The Site and Surrounding Development

The subject site is Lot 1 in DP1234942 and is known as No. 31 Aldenham Road, Warnervale NSW 2259. The site is located on the western edge of the residential neighbourhood comprised of St Albans, Aldenham and Railways Roads between the existing development and the future Link Road. The site is in proximity to the Warnervale train Station and Lakes Anglican Grammar School.

The site is currently accessed by Aldenham Road. A temporary asphalt access road from Aldenham Road to the Link Road crosses the site in an east-west direction. The access road was used for parking and site access during the recent construction of the completed section of the Link Road. The southern boundary of the site adjoins an unformed portion of Railway Road which separates the site from the Main Northern Railway.

The site is currently vacant and has a high point of 27.50(AHD) and falls approximately 12 metres to the north and approximately 15 meters to the southeast. Surface water runoff follows the grade of the site with drainage lines running to the south along the south eastern side of the site and across the site from the southern end of Aldenham Road. The site is not subject to flooding but is bushfire prone.

Aerial photos of the site and environs are included below with the site highlighted in blue.

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)



Figure 1: Aerial Photo of the site and area surrounding Warnervale Train Station



Figure 2: Closer Aerial Photo of the site and surrounding development

The site is zoned R2 Low Density Residential, RE1 Public Recreation and B7 Business Park under the *Wyong Local Environmental Plan 2013* (WLEP 2013). The WLEP sets a minimum lot size for subdivision of 450m² for the portion of the site zoned R2. An extract of WLEP 2013 zone map is included below with the subject site highlighted in blue.

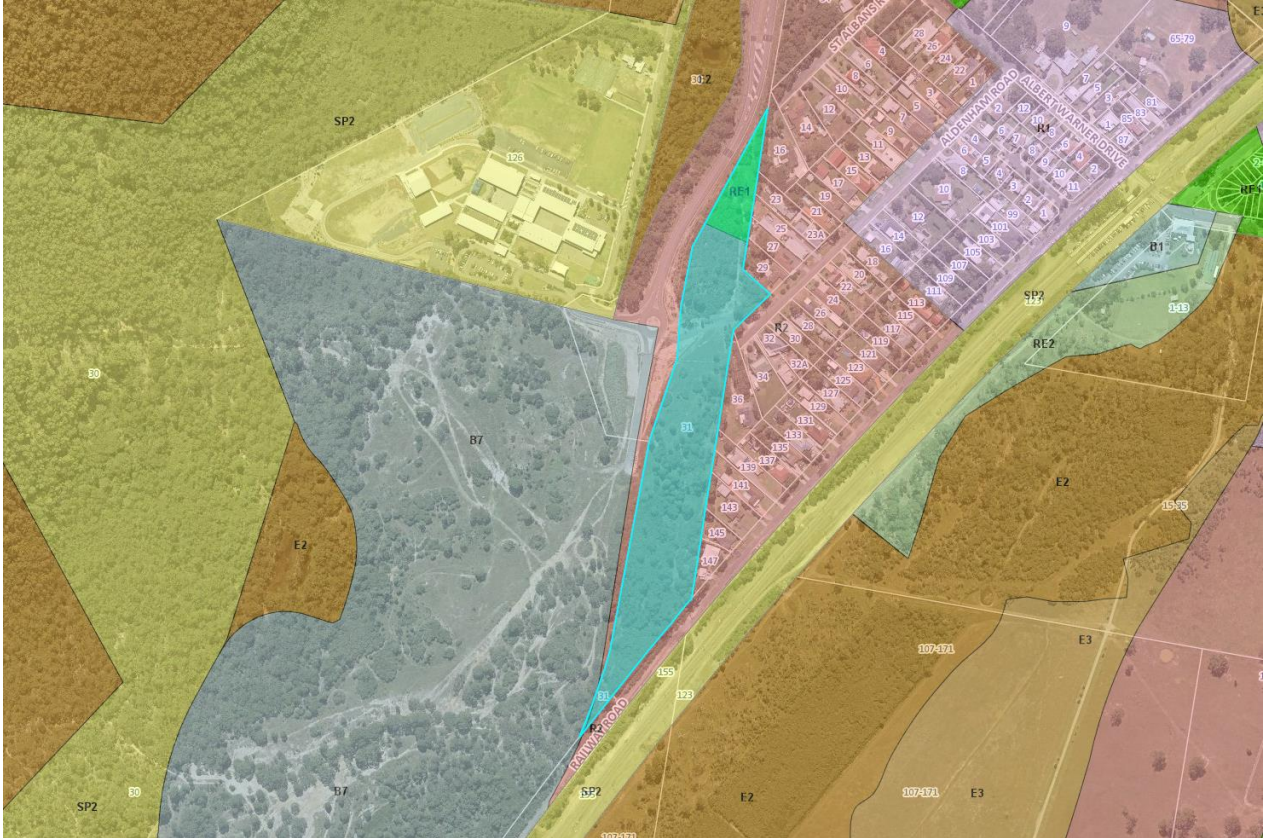


Figure 3: WLEP 2013 Zone Map extract

The Proposed Development

Under the provisions of Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, approval is sought to modify Development Consent No. DA/221/2014 issued by the former Wyong Shire Council, for a 43 lot Torrens title subdivision comprising 40 residential lots, one public reserve, one detention basin and one residue lot (Figure 4).

The proposed modification includes the following:

- Changes to the dimensions and sizes of some lots and an increase in the number of residential lots from 40 to 43 residential lots (Figure 5).
- The proposed inter-allotment drainage arrangement on the eastern side of the north-south road is proposed to be altered to cater for the modified subdivision design. The overall stormwater detention arrangement approved in the original development application is not proposed to be altered.
- The original approval proposed a hammer head turning arrangement at the end of Railway Road (Figure 6). The proposal seeks to alter the design by way of installing a temporary turning head in the road corridor to allow Railway Road to be continued in the future (Figure 7).

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

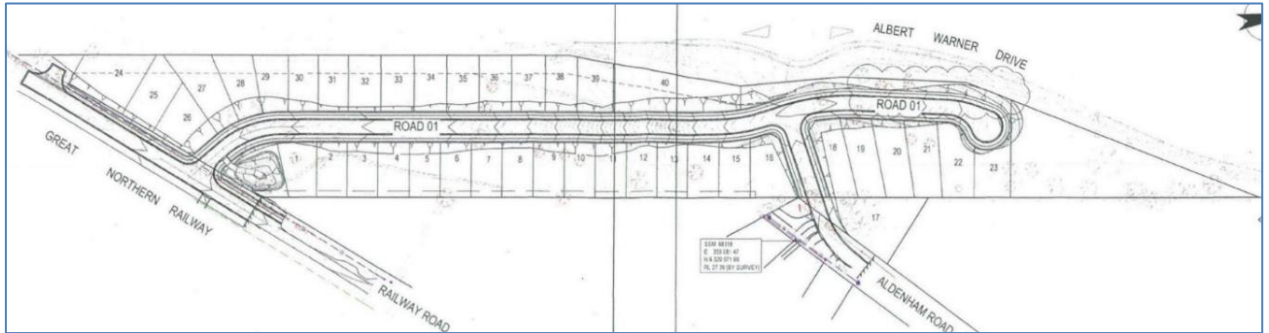


Figure 4: Originally approved subdivision plan



Figure 5: Proposed subdivision plan

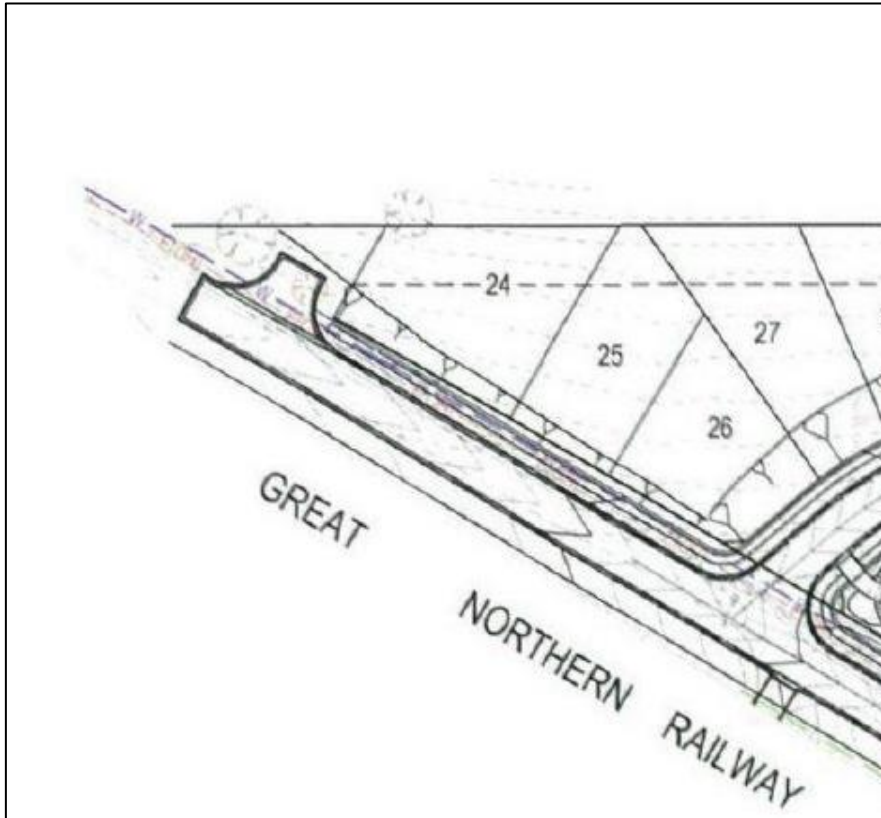


Figure 6: Approved hammerhead turn head on Railway Road

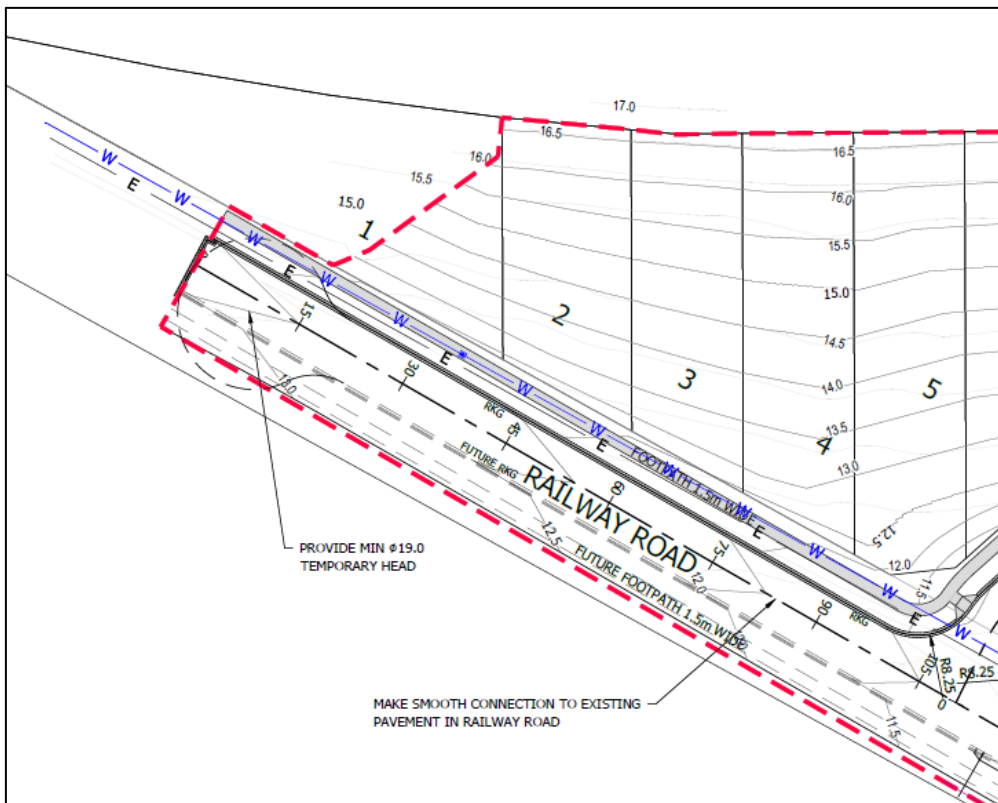


Figure 7: Proposed turn head on Railway Road

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

Modification to Conditions

The modification will require the following changes to the consent.

1. Condition 1 – Approved Plans

The approved plans require modification to reflect the proposed development.

Existing Condition

- The development is to be undertaken in accordance with the approved development plans and specifications listed below except as modified by any conditions of consent and any amendments in red made to the approved plans:

Title	Drawing No.	Revision	Date	Drawn By
General Arrangement Plan	22-16844-C002	D	11.02.15	GHD
Lot Layout Plan	22-16844-C003	D	11.02.15	GHD
Street Tree Planting Plan	22-16844-L001	B	12.02.15	GHD
Site Plan and general location of proposed residential subdivision.	1	-	August 2015	Applicant

Modified Condition

- The development is to be undertaken in accordance with the approved development plans and specifications listed below except as modified by any conditions of consent and any amendments in red made to the approved plans:

Title	Drawing No.	Revision	Date	Drawn By
Subdivision of Lot 1 DP1234942 31 Aldenham Road Warnervale	1	D	May 2021	GDS
Street Tree Planting Plan	22-16844-L001	B	12.02.15	GHD
Revised Tree Removal Plan	SK2	A	May 2021	GDS
Biodiversity Development Assessment Report (BDAR) – Aldenham Road Residential Subdivision		5	11 March 2021	Eco Logical Australia

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

2. New condition 1A

A new condition is required to capture Agency and Authority requirements.

1A Comply with the General Terms of Approval / requirements from the Authorities as listed below and attached as a schedule of this consent.

Government Agency / Department / Authority	Description	Ref No	Date
Transport – Sydney Trains	State Environmental Planning Policy (Infrastructure) 2007 Development Application – DA/221/2014/B 1 Aldenham Road Warnervale	-	16 April 2021
NSW Rural Fire Service	S100B – Subdivision – Torrens Title Subdivision 31 Aldenham Road Warnervale NSW 2259. 1//DP1234942	DA/221/2014/B (CNR-10994)	7 December 2020

~~5 Water, electricity and gas are to comply with the requirements of section 4.1.3 of 'Planning for Bush Fire Protection 2006'.~~

~~6 Public access roads shall comply with section 4.1.3(1) of 'Planning for Bush Fire Protection 2006'.~~

~~7 Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.~~

~~60 Compliance with the conditions of consent issued under Section 100B of the Rural Fires Act 1997 by the Rural Fire Service dated 12 May 2015 attached to this consent.~~

3. Modification of condition 9

Condition 9 requires modification to reflect additional tree removal resulting from the subject modification. The proposed amendments to the condition are highlighted in bold below.

9 Prior to the issue of any Construction Certificate/Commencement of Works (whichever occurs first) the applicant must prepare and submit to Council and obtain approval for a **revised** Vegetation Management Plan (VMP) for the land identified as RE1 Public Reserve. The VMP is to be prepared by a suitably qualified and experienced Ecologist or bush regenerator. The land is to be managed as an asset protection zone and the VMP must be consistent with 'Planning for Bushfire' (RFS 2006). The VMP should also consider the 'Conservation Management Plan – Precinct 7A, Warnervale and Hamlyn

Terrace NSW' (Umwelt 2014). The primary objective of the plan should be tree retention, weed management and if necessary, replanting of canopy species. Implementation of the VMP must commence prior to the Commencement of works. In preparing and implementing the VMP the following criteria must be addressed:

- A suitably qualified and experienced professional bush regeneration contractor is to be engaged to carry out any revegetation planting, restoration and maintenance weed control specified in the VMP. The minimum qualifications and experience required for the bush regeneration contractor are a TAFE Certificate IV in Conservation and Land Management (or equivalent) and three years demonstrated experience (for site supervisor) and a TAFE Certificate 2 in Conservation and Land Management and one year demonstrated experience (for other personnel). In addition, the site supervisor is to be eligible for full professional membership of the Australian Association of Bush Regenerators (AABR).
- A site plan must be prepared at an appropriate scale, clearly showing the area to which the VMP applies, existing vegetation, management zones and extent of dominant weed infestations.
- A tree and native vegetation protection protocol must be provided to apply during site clearing on adjoining land and construction of drainage and services within the Public Reserve. Protocol to be consistent with AS/NZS 4970-2009 - Protection of Trees on Development Sites and Council's Civil Works Design Guidelines.
- A description of existing native vegetation on site. Vegetation species composition, planting layout and densities should be specified, if required.
- A schedule of works must be prepared detailing the sequence and duration of works necessary for the regeneration, any revegetation and maintenance works for each management zone. All primary weed control must be undertaken in the first year following commencement of the VMP, with follow up weed control undertaken in the second and third year following commencement of the VMP.
- The location and type of fencing or other suitable method of restricting unauthorised access or encroachment into the areas to which the VMP applies must be identified.
- A protocol to prevent the transfer of weeds or pathogens onto or off the site is required.
- Weed management areas and replanting to be maintained for a minimum of 12 months. A report certifying completion of the VMP at the end of the period or once the specific objectives of the plan have been met is to be submitted to Council. Any recommended additional actions must be completed to the satisfaction of Council prior to lodgement of the final report.
- **The revised VMP must address the modified development including the revised Tree Removal Plans and Biodiversity Development Assessment Report referred to in this consent. This must include measures to protect trees and vegetation from impacts resulting from construction of the sewer in the VMP area. The VMP must include the impact mitigation and minimisation measures included in Table 19 of the Biodiversity Development Assessment Report (Eco Logical Australia, Version 5, dated 11 March 2021).**

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

New Conditions

New conditions are required to be inserted into the *Prior to Commencement of Works* section of the development consent to capture the offsetting and impact minimisation/mitigation requirements identified in the Biodiversity Development Assessment Report submitted as part of the subject modification application.

Like for like credit retirement

4. New condition 17A

17A Prior to commencement of any works, including any vegetation clearing, the class and number of ecosystem credits in Table 1 must be retired to offset the residual biodiversity impacts of the development.

The requirement to retire ecosystem credits in Table 1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of ecosystem credits or payment to the Biodiversity Conservation Fund must be provided to the consent authority prior to commencement of any works.

Impacted plant community type	Number of ecosystem credits	HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
1590- Spotted Gum - Broad-leaved Mahogany - Red Ironbark shrubby open forest	3	No	Wyong, Hunter, Pittwater and Yengo. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Hunter-Macleay Dry Sclerophyll Forests - < 50% cleared group (including Tier 4 or higher threat status). This includes PCT's: 715, 904, 922, 1178, 1215, 1588, 1589, 1590, 1591, 1592, 1593, 1600, 1601, 1602, 1608, 1612, 1626, 1748

Table 1. Ecosystem credits required to be retired – like for like

Like for like species credit retirement

5. New condition 17B

17B Prior to commencement of works, including any vegetation clearing, the class and number of species credits in Table 2 must be retired to offset the residual biodiversity impacts of the development.

The requirement to retire species credits outlined in Table 2 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of species credits or payment to the Biodiversity Conservation Fund must be provided to the consent authority prior to commencement of any works.

Impacted species credit species	Number of species credits	IBRA sub-region
<i>Calyptorhynchus lathami</i> / Glossy Black-Cockatoo	4	Anywhere in NSW
<i>Cercartetus nanus</i> / Eastern Pygmy- Possum	4	Anywhere in NSW
<i>Ninox connivens</i> / Barking Owl	1	Anywhere in NSW
<i>Ninox strenua</i> / Powerful Owl	1	Anywhere in NSW
<i>Tyto novaehollandiae</i> / Masked Owl	1	Anywhere in NSW

Table 2. Species credits required to be retired – like for like

6. New condition 17C

17C Comply with impact mitigation and minimisation measures as stated in Table 19 of the Biodiversity Development Assessment Report (BDAR) (Eco Logical Australia, Version 5, dated 11 March 2021). Where the recommendations contained within the Biodiversity Development Assessment Report are inconsistent, the conditions of consent prevail.

A new condition is required to be inserted in the area of the consent under the section *During Construction Works* which capture the impact minimisation/mitigation requirements identified in the Biodiversity Development Assessment Report submitted as part of the subject modification application.

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

Comply with the Biodiversity Development Assessment Report

7. New condition 24A

24A Comply with impact mitigation and minimisation measures as stated in Table 19 of the Biodiversity Development Assessment Report (BDAR) (Eco Logical Australia, Version 5, dated 11 March 2021). Where these recommendations contained within the Biodiversity Development Assessment Report are inconsistent, the conditions of consent prevail.

New Condition

A new condition is required to be inserted in the area of the consent under *Ongoing Operation* which capture the impact minimisation/mitigation requirements identified in the Biodiversity Development Assessment Report submitted as part of the subject modification application.

Comply with the Biodiversity Development Assessment Report

8. New condition 62A

62A Comply with impact mitigation and minimisation measures as stated in Table 19 of the Biodiversity Development Assessment Report (BDAR) (Eco Logical Australia, Version 5, dated 11 March 2021). Where these recommendations contained within the Biodiversity Development Assessment Report are inconsistent, the conditions of consent prevail.

9. Amend condition 40

Condition 40 requires modification to reflect the additional contributions payable as a result of the creation of additional lots.

Existing condition

40 Prior to the issue of any Subdivision Certificate, the payment to Council of developer contributions as calculated in the formula below and contained in the attached schedule:

$$\text{Developer contribution} = \$1,224,196.73 \times \text{Current CPI} \div \text{Base CPI}$$

where "Current CPI" is the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Statistician at the time of payment of developer contributions pursuant to this condition, and "Base CPI" is the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Statistician at the date of this consent.

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

This condition is imposed pursuant to Section 94 of the Environmental Planning and Assessment Act 1979.

Modified Condition

40 Prior to the issue of any Subdivision Certificate, the payment to Council of developer contributions as calculated in the formula below and contained in the attached schedule:

$$\text{Developer contribution} = \$1,453,467.93 \times \text{Current CPI} \div \text{Base CPI}$$

where "Current CPI" is the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Statistician at the time of payment of developer contributions pursuant to this condition, and "Base CPI" is the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Statistician at the date of this consent.

This condition is imposed pursuant to Section 7.11 of the *Environmental Planning and Assessment Act 1979*.

History

- Development Consent No. DA/221/2014 was granted by way of an ordinary meeting of the former Wyong Shire Council on 9 September 2015, for a 43 Lot subdivision comprising 40 residential lots, one public reserve, one detention basin and one residue lot. The site at that time was known as 30 Jack Grant Avenue, Warnervale legally described as Lot 26 DP 1159349, which had an area of approximately 455.7ha and No. 31 Aldenham Road, Warnervale, legally described as Lot 51 DP 9215. At the time development application 221/2014 was determined, the site was owned by former Wyong Shire Council. The original site and approved subdivision area are depicted in figure 8 below.

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

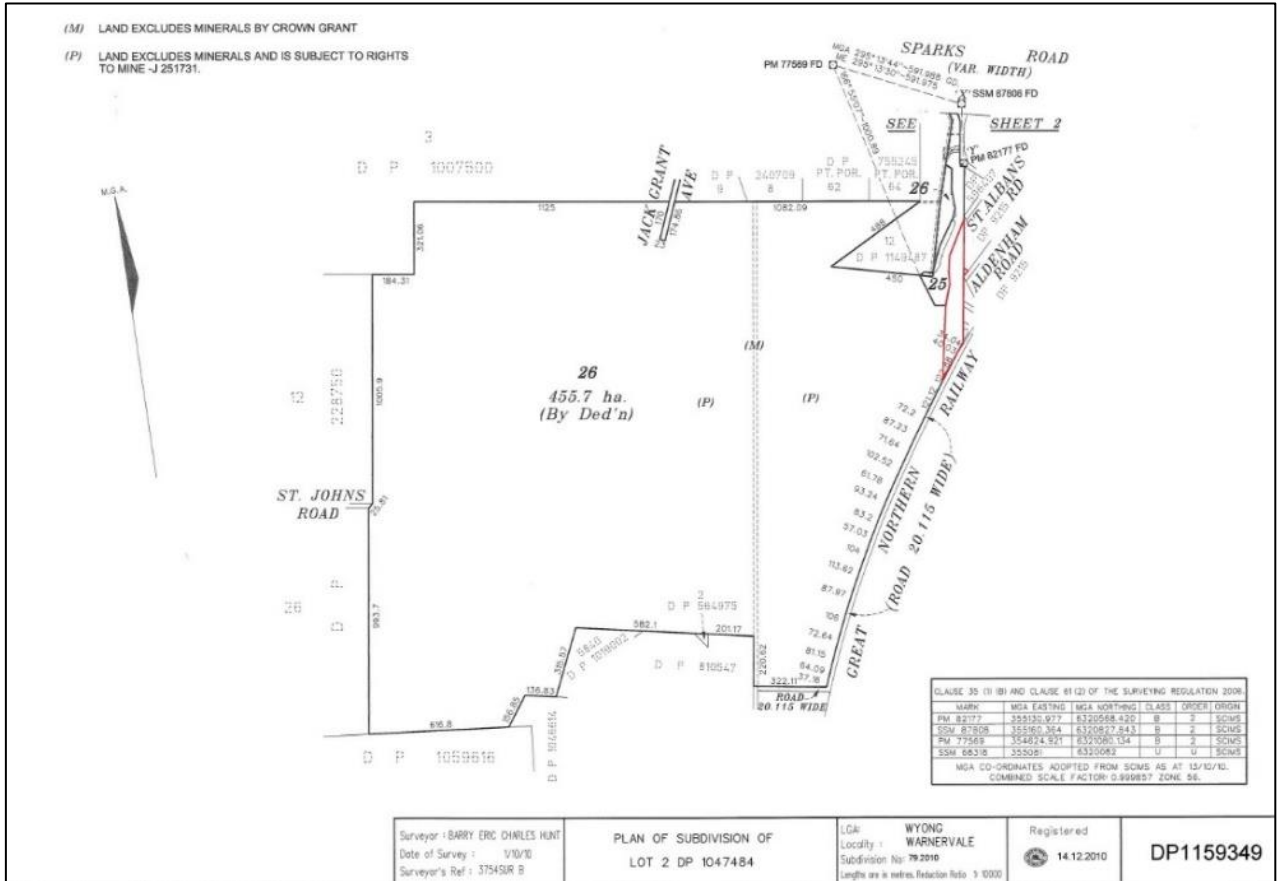


Figure 8: Deposited Plan of Lot 26 DP 1159349 showing the location of the proposed subdivision edged in red

- A modification to the consent was approved on 2 June 2017 to insert Condition No. 56 which states the following:
 - The park zoned RE1 and detention basin are to remain in Council's ownership as operational land. The lots are to be identified with individual lot numbers with the registration of the subdivision plan.*
- Development Consent No. DA/933/2016 was issued by Central Coast Council on 15 May 2017 for the subdivision of Lot 26 DP1159349 and Lot 51 DP9215 into 2 lots. Lot 1 being the area to be subdivided pursuant to DA/221/2014 with lot 2 being the residue.

The subdivision approved under DA/933/2016 has been registered, hence the site having a different lot description to the original application. An easement for bushfire protection purposes benefiting Lot 1 has been created adjacent to the western boundary of Lot 1 which is depicted in figure 9.

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

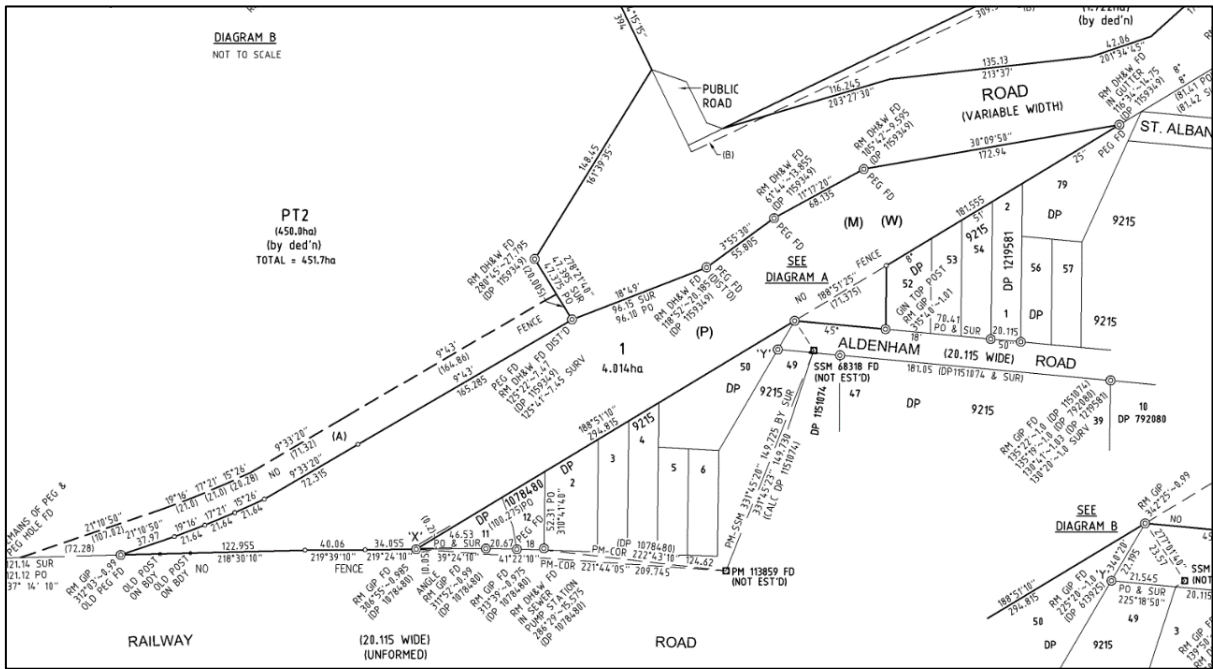


Figure 9: Part Deposited Plan of Lot 1 DP 1234942

Physical Commencement of Consent (DA/221/2014/A)

The development consent operated from 17 September 2015 and held a lapse date of 17 September 2017. An extension to the lapsing date was granted and extended the consent to 17 September 2018.

A Geotech report prepared by Consulting Earth Scientists, dated 28 August 2018, was submitted to Council indicating (as per para 3.1.1) that six test pits were excavated across the site on 13 August 2018 for the purpose of preparing that report, which was in advance of the lapsing date on 17 September 2018.

Under section 4.53(4) of the Act, a development consent for the erection of a building, the subdivision of land or the carrying out of a work will lapse unless building, engineering or construction works are physically carried out on the land to which the consent applies before the lapsing date.

There is significant case law that considers what constitutes 'physical commencement' under the Act. The leading authority is *Hunter Development Brokerage Pty Ltd v Cessnock City Council; Tovedale Pty Ltd v Shoalhaven City Council* [2005] NSWCA 169 (Hunter Development and Tovedale). In that case, the Applicant contended that survey work, geotechnical investigation and landscaping works had been carried out prior to the lapsing date, in satisfaction of the criteria in the former section 95(4) of the Act (now section 4.53(4) of the Act).

The Geotechnical report prepared, arguably relates to the development the subject of the Consent as per Condition 11, which would further satisfy the requirements in Hunter

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

Development and Tovedale, and the investigations noted in that report, including drilling of boreholes, were all undertaken prior to the lapsing date of the Consent including preparation of the report itself.

The consent is considered to have been commenced and has not lapsed accordingly the current application relates to the modification to a lawful consent.

Assessment

Having regard for the matters for consideration detailed in Sections 4.55 and 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, Council's policies and Section 10.7 Certificate details, the assessment has identified the following key issues, which are elaborated upon for the Panel's information.

Environmental Planning and Assessment Act, 1979

Section 4.55 – Modification of Consents

In accordance with Section 4.55(2), the consent authority may consider a modification of development consent provided:

- (2) *Other modifications A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—*
- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
 - (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
 - (c) *it has notified the application in accordance with—*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
 - (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan as the case may be.*

Subsections (1) and (1A) do not apply to such a modification.

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

- (3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*
- (4) *The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

With regard to ss.2(a), the consent authority must be satisfied that the development, as modified, will be substantially the same development as that originally approved.

The proposed modification involves a reconfiguration of the proposed lots which results in an additional three residential lots. The additional lots have been created through the reconfiguration of larger approved lots, particularly in the western part of the site in the area adjacent to the intersection of Railway Road and Road 01, and approved lot 17.

The proposed modification will have the result of increasing the frontage for the majority of the allotments south of Aldenham Road (approximately 30 lots) with converse increases in lot area resulting from the additional lot width.

The typical increase in lot frontage and area is less than 10%. On the eastern side of Road 01 the additional frontage and lot area is achieved by reducing the number of lots south of Aldenham Road by one. The approved lots north of Aldenham Road have been reconfigured and two additional lots proposed in this area.

The proposed road layout, future public reserve, shape and orientation of the allotments, services and future use of the site, are generally as per the original consent and in this regard the proposed modification to the configuration and number of allotments is considered to be substantially the same as the originally approved subdivision.

The modification application includes additional tree removal as detailed in the following excerpt from the Biodiversity Development Assessment Report (BDAR) submitted in support of the subject application.

'...The proposed modification will require the removal of an additional 3 trees not previously approved for removal on proposed lots 20 and 21 and an additional 4 trees on proposed lots 26 and 27. It is also noted that although proposed lots 26, 27 and 28 in the east of the study area were included within the original approved development, impacts to biodiversity values within this area were not previously assessed within the Flora and Fauna Assessment prepared by Conacher (2013)...'

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The proposed tree removal is depicted on the following figures (10 and 11). Note from the figures that trees indicated in green are approved to be removed by the existing consent and those in yellow depict the additional tree removal proposed under the current modification application.



Figure 10: Proposed Tree Removal Plan (southern portion)

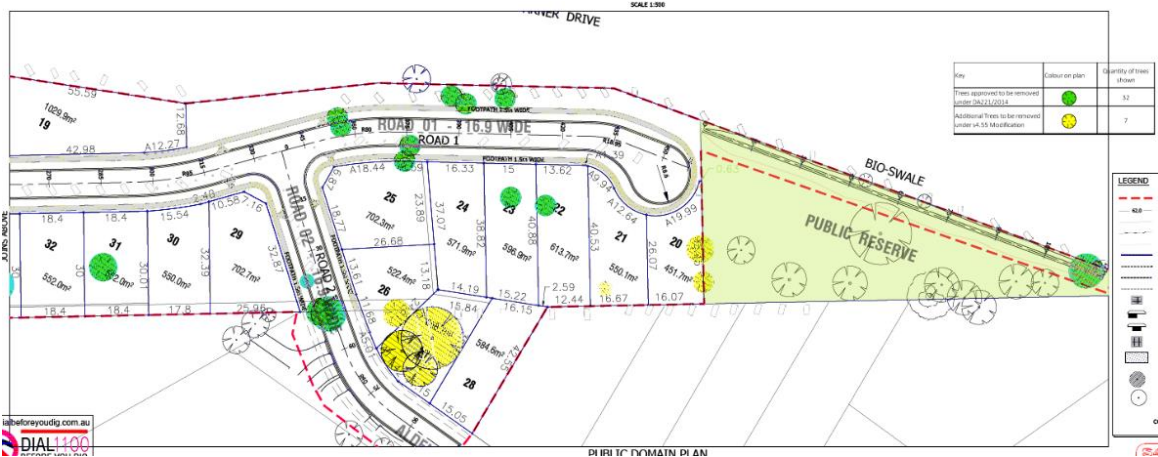


Figure 11: Proposed Tree Removal Plan (northern portion)

The impacts, including the potential ecological impact of the additional tree removal, have been considered in the assessment of the application and there are no impacts in this regard that would lead to the modification not being considered to be substantially the same development.

The NSW Rural Fire Service and Sydney Trains have been consulted with respect to ss.2(b) and neither authority has raised objection to the proposed modification subject to recommended conditions of consent.

The application has been notified in accordance with Council's policy (ss.2(c) & (d)) and 15 submissions were received. The submissions have been considered as part of the assessment and are addressed later in this report.

In determining an application for modification of a consent under s.4.55 the consent authority must take into consideration such of the matters referred to in s.4.15 (1) as are of

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Reasons for Decision

When the consent was originally granted there was no statutory requirement to provide reasons for the decision and none have been recorded. As such, there are no reasons given as to the merits of the granting of consent to the originally approved development, only reasons as to why the decision is one that can be made in the proper exercise of the Council's functions. Accordingly, it is not possible to identify any essential element from the circumstances of the grant of consent.

The proposed modification has been assessed against the matters for considerations under Section 4.15 of the Act and found to be satisfactory. Even though there were no formally specified reasons for the granting of the original consent, a review of the report for the originally approved application has been undertaken and the conclusion and findings of that assessment have been taken into consideration as part of the assessment of the subject application.

STATUTORY PROVISIONS:

SECTION 4.15(1) HEADS OF CONSIDERATION

(a) The provisions of

(i) Any environmental planning instrument:

State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) (SEPP Infrastructure)

The original assessment report does not contain details of the consideration of the provisions of SEPP Infrastructure however, the following matters are relevant to the proposed modification.

Electricity transmission or distribution networks

Clause 45 – Determination of DA's – other development

The overhead transmission network present within the Railway Road frontage of the site is not part of the electricity distribution network but is rather a rail service line and therefore consultation with respect to the impacts of the development on the overhead transmission network has been carried out pursuant to Division 15 as discussed below.

Railways

Clause 84- Development involving access via level crossings

Clause 84 of the Infrastructure SEPP applies to, among other things, development that is likely to significantly increase the total number of vehicles or the number of trucks using a level crossing as a result of the development, and requires the consent authority to seek the concurrence of the Rail Authority.

It is considered that the provisions of clause 84 of SEPP Infrastructure are not engaged as the development does not meet any of the criteria within subclause 84(1) and therefore concurrence of Sydney Trains is not required for the modification to the proposed development. Notwithstanding, the Rail Authority has provided their concurrence with respect to clause 86 and in doing so raised no concern with respect to clause 84 matters.

Clause 85 – Development Adjacent to rail corridors

The subject site is located within 5 metres of an exposed overhead electricity power line that is used for the purposes of railways or rail infrastructure facilities.

Subclause 85(2) provides that *Before determining a development application for development to which this clause applies, the consent authority must—*

- (a) *within 7 days after the application is made, give written notice of the application to the rail authority for the rail corridor, and*
- (b) *take into consideration—*
 - (i) *any response to the notice that is received within 21 days after the notice is given, and*
 - (ii) *any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.*

Conditions of consent have been recommended by Sydney Trains, which have been included in new condition 1A.

Clause 86 – Excavation in, above, below or adjacent to rail corridors

The clause applies to development which is within 25m of a rail corridor and involves penetration of the ground to a depth of at least 2m. The frontage of the site is within 25m of the rail corridor and involves ground penetration which may be 2m in depth for the installation of services and the like.

Sydney Trains has been provided with a copy of the modification application and in response requested further information on two separate occasions. The applicant provided additional information to the Rail Authority. It is noted that for the purposes of subclause

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86(3), concurrence is not required pursuant to subclause 86(5). Notwithstanding this, Sydney Trains has further assessed the proposal and has raised no further concerns and has provided conditions.

Sydney Trains has issued concurrence under this clause and those conditions are reflected in recommended **condition 1A**.

Clause 87 – Impact of rail noise or vibration on non-rail development

Condition 53 of the original consent contains the following provision to address the potential impact of road and rail noise and vibration on the future residential development within the newly created lots.

53 Restriction on the use of Land' requiring that the future dwelling-houses on all proposed lots are to be designed in accordance with NSW Department of Planning's Development Near Rail Corridors and Busy Roads.

The proposed modification does not significantly alter the development and in this regard, does not alter the original consideration of noise and vibration impacts. Accordingly, modification of existing condition 53 is not required.

Roads and traffic

Clause 100 – Development on proposed classified road

The site adjoins land reserved for the purpose of a future classified road but does not include land reserved for the future classified road, therefore there is no concurrence requirement for the development under clause 100.

Clause 101 – Development with a frontage to classified road

The consent authority must not grant consent to the development unless it is satisfied that,

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

Comment:

No direct vehicular access to the future link road is proposed.

- b) *the safety, efficiency and on-going operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*

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- (ii) *the emission of smoke or dust from the development, or*
- (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*

Comment:

The development is a subdivision and will not generate traffic of a volume or nature that is likely to detrimentally impact on the safe and efficient operation of the classified road. Access to the future classified road would be via an existing signalised controlled intersection, designed and constructed to cater for future traffic volumes.

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

Comment:

The subdivision makes provision for subsequent residential development which is potentially sensitive to traffic noise and vehicle emissions. The original application was supported by an acoustic assessment which considered the impact of both road and rail on the future dwellings, which resulted in the imposition of the condition 53 of the consent.

It is noted that in relation to the future classified road, the preliminary design incorporates the erection of an acoustic attenuating wall between the subject site and the roadway. There are no matters raised in relation to the modified proposal that warrants modification of the existing conditions of consent with respect to the amelioration of traffic noise or vehicle emissions.

Clause 104 – Traffic-generating development

The development as modified, would not be a traffic generating development for the purposes of clause 104.

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land provides a statewide planning approach to the remediation of contaminated land and states that all remediation work must be carried out in accordance with:

- The contaminated land planning guidelines.
- Any guidelines in force under the *Contaminated Land Management Act 1997*.
- In the case of remediation work defined as category 1 works under SEPP 55, a plan of remediation approved by the consent authority and prepared in accordance with the contaminated land planning guidelines.

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Clause 7(1) of the Policy states that a consent authority must not consent to the carrying out of any development on land unless:

- a) *It has considered whether the land is contaminated, and*
- b) *If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- c) *If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A Phase 1 Contamination Assessment for the subject site was undertaken for the original development application. The assessment found that the contamination risk across the site is low, although there is the potential for a higher risk to exist in localised areas of the site where filling and previous construction work has occurred.

The recommendations made in the Phase 1 Contamination Site Assessment are to be implemented to manage this risk in accordance with condition 10 of the development consent. No amendments are required to the consent in relation to contamination, as a result of the proposed modification.

State Environmental Planning Policy (Koala Habitat Protection) 2021 and State Environmental Planning Policy (Koala Habitat Protection) 2020

The current application was submitted prior to the commencement of the 2021 instrument and while the 2020 and 2021 instruments differ with respect to the requirement for a plan of management regarding development within Koala core habitat, the BDAR submitted in support of the current application indicates that the subject site doesn't contain potential or core Koala habitat and there are no further matters for consideration under either instrument.

Wyong Local Environmental Plan 2013

The subject site is zoned R2 Low Density Residential, RE1 Public Recreation B7 Business Park under the provisions of Wyong Local Environmental Plan 2013 (WLEP).

Any land to which WLEP applies may be subdivided with consent pursuant to clause 2.6, regardless of the zone of that land. The proposed residential lots are zoned R2 except for lot 1, which contains a sliver of approximately 90m² of land zoned B7 Business zone. The future public reserve is zoned RE1. The portion of the site zoned B7 is depicted in the following figure.



Figure 11: B7 zoned portion of the site highlighted

The original assessment considered compliance with the objectives of the R2 Low Density Residential and RE1 Public Recreation zones and the proposed development was considered satisfactory. The proposed modification does not include any elements that would alter that assessment.

Proposed lot 1 of the modified proposal contains approximately 90m² of B7 land. Whilst it would have resulted in more orderly development to have the residential lot entirely zoned for residential purposes, rather than a split zoned parcel, the subdivision of the land in its current approved form and as proposed to be modified, is permissible.

The objectives of the B7 zone are included below.

B7 – Business Park Zone Objectives

- *To provide a range of office and light industrial uses.*
- *To encourage employment opportunities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To permit limited residential accommodation that contributes to the provision of employment opportunities.*

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Whilst the subdivision as approved or modified, does not specifically address the objectives of the B7 zone, the scale of the B7 portion of the site (being 90m²), as approved or modified, will not detrimentally impact the broader B7 zone and is not considered to be adverse to the B7 zone. Dwelling houses are not permissible development within the B7 zone however, the size of the lot is 1029.3m² which will allow for the erection of a dwelling house wholly within the R2 portion of lot 1. There is also opportunity to utilise the provisions of clause 7.19 of WLEP for development near zone boundaries.

Subdivision

Clause 2.6 states that land may be subdivided with development consent.

Minimum subdivision lot size

Under Clause 4.1 of WLEP 2013, the minimum lot size in the R2 Low Density Residential zoned portion of the site is 450m². The residential lots within the subdivision comply with the minimum lot size, with lots varying in size from 550m² to 1157.8m².

The small portion of the site at the northern end is zoned RE1 Public Recreation. The subdivision plan identifies a public reserve in this location of 3627.2m². There is no minimum lot size for land zoned RE1.

Lot 1 contains approximately 90m² of B7 zone. There is no minimum lot size for land zoned B7.

Acid Sulfate Soils

The subject site is identified as being partly affected by Class 5 acid sulfate soils. WLEP 2013 requires additional consideration of such land where works are likely to lower the water table. The proposed development (subdivision) is unlikely to impact the water table in the adjacent Class 3 soils therefore, it is considered that no further detail is required.

Arrangements for Designated State Public Infrastructure

Clause 6.1 refers to satisfactory arrangements being made for the provision of designated State public infrastructure to satisfy the needs that arise from development within urban release areas. However, this clause only applies to those lands that would create smaller lots than those permitted prior to the commencement of WLEP 2013 as follows:

(2) *Development consent must not be granted for the subdivision of land in an urban release area **if the subdivision would create a lot smaller than the minimum lot size permitted on the land** immediately before:*

(a) *in relation to land identified as "Gwandalan (North)" on the [Urban Release Area Map](#)—1 September 2008, or*

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- (b) *in relation to land identified as "Louisiana Road, Hamlyn Terrace (West)" on the [Urban Release Area Map](#)—18 July 2008, or*
- (c) *in relation to land identified as "**Warnervale South (Part A)**" on the [Urban Release Area Map](#)—the commencement of this Plan, or*
- (d) *in any other case—immediately before the land became, or became part of, an urban release area,*

In this case the subject site is within the urban release area identified as Warnervale South (Part A) on the urban release area map. The site was zoned 2(a) Residential and 6(a) Open Space and Recreation in 2000 under WLEP 1991. The minimum lot size under the 2(a) Residential zone was 450m² with no minimum lot size allocated to the 6(a) Open Space and Recreation zone.

The proposed lot sizes are not less than those permissible prior to the making of the current plan and the Director-General's certification for the provision of designated State public infrastructure is therefore not required.

Public utility infrastructure

Clause 6.2 requires that development consent must not be granted unless it is satisfied that adequate arrangements have been made for essential public utility infrastructure. The development will require extension of all services, including water supply, electricity, telecommunications and sewerage in accordance with the adopted servicing strategies. Adequate arrangements can be achieved to service the development and have been addressed through conditions of consent.

Essential Services

Clause 7.9 states that development consent must not be granted to a development application unless the consent authority is satisfied that the services that are essential for the development are available or that adequate arrangements have been made to make them available. The site has access to all required services and appropriate conditions were imposed on the original consent.

(ii) Any proposed instrument (Draft LEP etc)

Draft Central Coast Local Environmental Plan 2018

Draft Central Coast Local Environmental Plan (CCLEP) 2018 was adopted by Council on 14 December 2020. The draft CCLEP upon commencement, will replace the WLEP as the relevant Local Environmental Plan applicable to the land. Under Draft CCLEP, the site will retain its R2 Low Density Residential, B7 Business Park and RE1 Public Recreation zonings, and development for the purpose of subdivision will remain permissible with consent.

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The exhibited draft CCLEP maps indicate that the part B7 zoning of proposed lot 1, discussed above with respect to the WLEP, will remain present under the future instrument. There are no new or amended Clauses or provisions warranting further discussion.



Figure 12: B7 zoned portion of the site highlighted

(iii) Any development control plan

Wyong Development Control Plan 2013 (WDCP 2013)

Chapter 1.2 -Notification of Development Proposals

This modification application was notified in accordance with Chapter 1.2 Notification of Development Proposals from 21 August 2020 to 18 September 2020 with 15 submissions received from 14 separate parties, raising concerns with the original approval and proposed modification. The issues raised in public submissions are discussed further below.

Chapter 3.6 – Tree Management

The original assessment considered the provisions of Chapter 3.6. The content of Chapter 3.6 has changed considerably since the original assessment, and the proposed modification satisfies the requirements of Chapter 3.6 by seeking consent for tree removal.

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Part 4 – Subdivision

Part 4 of WDCP 2013 applies to subdivision and provides a comprehensive set of controls for subdivision. The subject site is within the Warnervale Town centre and pursuant to clause 1.4 of Chapter 6.5 Warnervale South, Chapter 6.5 prevails over all other Chapters of WDCP 2013 or local policy instruments, to the extent to which the provisions of Part 4 of WDCP 2013 apply to the development. The modification is considered acceptable.

Wyong Development Control Plan 2013 – Chapter 6.5 – Warnervale South

Chapter 6.5 of the WDCP 2013 contains a comprehensive set of development controls for the development of Warnervale South and the proposed modification continues to comply with Chapter 6.5. The original approval has departures to the desired dwelling density (12 dwellings per Ha approved, 15 dwellings per Ha desired) and the road location being central to the lots rather than along the boundary with the existing residential lots.

The proposed modification does not alter the acceptability of the approved development with respect to the provisions of Chapter 6.5. With regard to dwelling density, it is noted that the extent of departure is slightly reduced by the proposal.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Built Environment

The original assessment had regard for any potential impacts on the built environment and in particular Roads, Access and Traffic, Drainage, Sewerage, Water, Noise and Vibration, The Main Northern Railway, The Link Road, and Acoustic Wall, in addition to the Context and Setting, and found the proposal to be satisfactory. The proposed modification does not alter the original findings of the assessment.

Natural Environment

Impacts to the natural environment were considered under the original assessment which found the impacts to the natural environment to be acceptable, subject to conditions of consent. The proposed modification includes the removal of additional vegetation which has been reviewed by Council's Ecologist and found to be acceptable. The reconfiguration of the allotments does not alter the findings of the original assessment.

(c) The suitability of the site for the development

There have been no changes in environmental constraints of the land or modifications proposed that alter the original considerations regarding the suitability of the site. In this regard and subject to the conditions of consent, the site is considered suitable for the development as modified.

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(d) Any submissions made in accordance with this Act or the regulations

In accordance with DCP 2013, Chapter 1.2 - Notice of Development Proposals, the proposal was advertised with 15 submissions being received. The submissions raised the following issues:

- *There are issues with regard to vehicles speeding along Aldenham Road.*

Comment:

This is an issue beyond the scope of the subject modification application and is a regulatory matter.

- *It is unclear why the link road cannot be used for access to the subdivision as it can handle traffic much more effectively than Aldenham Road.*

Comment:

The Link Road is proposed as a major collector road connecting between the Pacific Highway and Sparks Road. To maximise safety and capacity along the future link road the number of intersections will be limited. The inclusion of an intersection on the future classified road from the subdivision would be contrary to the provisions of SEPP Infrastructure which requires that access be derived from roads other than a classified road.

There is a significant level difference between the site and the future Link Road which would make the construction of an access to the future classified road a challenge in terms of achieving safe grade and transition of grade within the roads. A concept design has not been requested to investigate the construction of an access to the future Link Road because an access has not been proposed and the nature of the proposed modification does not warrant the imposition of conditions to require one.

- *There is poor lighting, a lack of footpaths, lack of kerb and guttering and poor road condition on Aldenham Road. The site is used by school children to access the nearby school.*

Comment:

The subdivision will include adequate civil infrastructure to provide an acceptable level of safety for potential pedestrians within the subdivision. It is beyond the scope of the original approval and the proposed modification to provide for infrastructure and facilities within the surrounding area.

There is no nexus to require the applicant to upgrade the lighting, foot paving, kerb and guttering and road condition of the existing portion of Aldenham Road other than via the payment of contributions under the relevant contributions plan. Pedestrian access to the

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

future Link Road will be limited and school pedestrian traffic will not be able to short-cut through the subject site.

- *Google maps indicates that there will be access to Aldenham Road from the Link Road via the proposed subdivision which will have a detrimental impact on traffic and safety. Aldenham Road should remain a no through road.*

Comment:

The subdivision will result in providing a connection between Aldenham Road and Railway Road. As discussed previously, no connection is proposed from Aldenham Road to the Link Road.

The subject modification application does not seek to amend the originally approved access points to the subdivision, and it is considered that the existing road network has sufficient capacity to accommodate the quantum of traffic likely to be generated by the future development of the residential lots.

- *Aldenham Road is only seven metres wide. If you have vehicles parked on either side of the road, there is room for only one vehicle to pass.*

Comment:

During the assessment of the original application, it was established that Aldenham Road was of a suitable width and condition to be able to cater for the increase in traffic resulting from the subdivision. The proposed modification does not materially change the quantum or nature of traffic associated with the development.

- *When houses are built in the subdivision there will be an additional 80 cars using Aldenham Road. In addition, there is a recently approved townhouse development on the street which will result in an additional 28 vehicles*

Comment:

As discussed further in the report, Council's Traffic and Transport Engineer has reviewed the proposed modification and is of the opinion that the modified subdivision will generate approximately 38 peak hour trips split between Aldenham Road and Railway Road. Assuming 80% out in the AM and 20% in (reversed for the PM) this equates to 30 trips out and 8 in. Split between the two adjoining roads results in 15 out and 4 in each. The existing local roads can more than adequately accommodate the additional traffic generated by the subdivision.

- *There have been no physical works carried out on the site since the original consent was granted and the consent may have lapsed. The NSW Government planning website confirms that works for surveying, boreholes and the like do not count for commencing a development application.*

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

Comment:

A review of Council's files has been conducted with respect to establishing if the original consent has lapsed or not and, in this instance, as previously discussed, the consent was commenced and has not lapsed. Clause 124AA of the *Environmental Planning and Assessment Regulation 2000* does more rigorously define what works may be taken to have commenced a consent however, that particular clause is not retrospective and does not apply in this instance as the original consent was issued prior to 15 May 2020.

- *The development will generate heavy vehicle traffic during the construction phase.*

Comment:

It is noted that the local streets do not have restricted access for heavy vehicles. Construction traffic is proposed to be routed along Albert Warner Drive from the Link Road outside of commuter and school peak periods, to avoid conflict with school children and to limit the impact on existing peak period traffic. An appropriate condition of consent was imposed on the original consent requiring an audit of road conditions prior to, and post development, and to require rectification where necessary.

- *What does the applicant have to pay for access and upkeep of Aldenham Road?*

Comment:

The developer will be required to pay contributions in accordance with Section 7.11 of the *Environmental Planning and Assessment Act 1979*. These fees will include a contribution payment towards the roads, drainage, open space and community facilities in the area. These payments can be used by Council to improve the condition of Aldenham Road in the future.

- *The Development Control Plan shows a bush barrier between the objector's southern boundary and a road then a single row of houses.*

Comment:

Chapter 6.5 of WDCP 2013 includes various structure and concept plans for the development of the locality and the original approval departed with the structure plan insofar that the new road was depicted along the boundary of what is now the approved lots and the existing residential lots. An extract of the Chapter 6.5 structure plan is included below. The proposed modification does not materially alter the approved development, including the approved location and design of the new road.



Figure 13: Structure Plan

- *Concern is raised in relation to the earthworks proposed for Lots 29-34. There are already issues with regard to large amounts of water flowing off this area and onto the objector's block. The earthworks will raise the height of the land and potentially funnel more water onto their land. Also, changing the height of land may have detrimental impact on the trees on the objector's block.*

Comment:

The concept earthworks and drainage plans indicate that the lots referred to either grade toward the street or are connected to interallotment drainage. The levels adjoining the boundary are indicated as being at the natural level or reduced up to 500mm to facilitated drainage, and no diversion or mounding is anticipated at the rear of the lot mentioned in the submission.

- *The tree removal plan shows that only five trees will be retained on the 44 blocks. This is a very poor outcome.*

Comment:

The proposed modification seeks the removal of an additional 7 trees which would be impacted by services or the future residential development. The impacts of this tree removal have been the subject of a BDAR and found to be acceptable, albeit through offsetting. The additional tree removal proposed under the modification is considered not to have changed the character of the proposed development.

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

- *The development has a much higher density of housing than the surrounding area and does not fit within the character of the existing homes which are built on large blocks.*

Comment:

The existing residential lots in the locality are relatively large with typical lot sizes circa 1300m² however, the proposed modification does not alter the character of the approved development which is for smaller lots as per chapter 6.5 of WDCP 2013 which specifies a target density of 10 dwellings per hectare for the existing area and 15 dwellings per hectare on the subject site.

- *The extension of Aldenham Road also raises concerns. Water from the roadway will likely flow downhill in the direction of the objector's property there is no additional stormwater drainage to be added in this area. The road will be merged with the existing road and kerbs added but where will the water flow. The existing driveways will be extended to meet the new road. Will this include extending the driveway onto the objector's property to meet up with their existing driveway? Or will there be a gravel road gap in between?*

Comment:

Condition 11 of the consent requires that street drainage be provided including transitions to existing infrastructure and the reconstruction of the vehicle access crossing(s) affected by the road works in Aldenham Road.

- *Also changing the height of the land may have a detrimental effect on the root systems of trees on my land near the fence line. There are less and less trees remaining in this area and I will protect my trees fiercely. The planned services for the easement along our fence line may also damage the roots of our trees and I would like to know how these would be protected.*

Comment:

Condition 26 of the current development consent requires protection of trees to be retained in accordance with AS/NZS 4970-2009 - *Protection of Trees on Development Sites* and Council's *Civil Works Construction Specification*, this includes where works are to be carried out within the canopy of a retained tree.

(e) The public interest

The original assessment found that the proposed subdivision for future residential development provides for the efficient development of the subject site and is in keeping with the broader planning for the area. The development is generally compliant with Council's WLEP with minor DCP variations which are considered reasonable and justified in this instance.

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

The proposal is in the public interest due to its general compliance with the required legislation and policies and the creation of residential allotments to provide for a variety of residential development. The modified proposal will continue to provide for greater housing choice and increased supply within proximity to a public transport facility.

Having regard to the assessment contained in this report, it is considered that approval of the development is in the public interest. The proposed modification does not alter the original findings in relation to the public interest.

Internal Consultation

Traffic and Transport Engineer	No objection to proposed modification.
Development Engineer	No objection to proposed modification.
Ecologist	Supported subject to conditions 9, 17A, 17B, 24A and 62A.
Contributions	Supported subject to amended condition 40.
Water and Sewer	No objection to proposed modification.

Principal Development Design Engineer

The main engineering matter is the rising sewer main passing through the new lot and the associated easement requirements which may impact the developable area of the affected lot(s). The specific location and requirements associated with the rising main will be addressed by Council's Water and Sewer Section as part of the s.306 Requirements. There are no modifications to the existing engineering conditions warranted by the proposed modification.

Traffic and Transport Engineer

Once completed, the link road will become a classified road carrying upwards of 15,000 - 20,000 vehicles per day and the number of intersections on the road will be limited. Access from the local road network to the future link road is more appropriate from Albert Warner Drive and the existing traffic signals on the link road.

The modified subdivision will generate approximately 38 peak hour trips split between Aldenham Road and Railway Road. Assuming 80% out in the AM and 20% in (Reversed for the PM) this equates to 30 trips out and 8 in, split between the 2 adjoining roads results in 15 out and 4 in each. The existing local roads can more than adequately accommodate the additional traffic generated by the subdivision.

Ecologist

Council's Ecologist is satisfied that the Biodiversity Development Assessment Report (BDAR) (Eco Logical Australia, Version 5, dated 11 March 2021, CM D14534795) covers all additional

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

biodiversity impacts of the modification and that the identified impacts are minor in nature. **Refer to conditions 9, 17A, 17B, 17C, 24A and 62A.**

Contributions Officer

The proposed modification results in additional development units and accordingly it is recommended that **condition 40** be amended to reflect the contributions due as a result of the additional lots.

Water and Sewer

The proposed modification has been reviewed by Council's Water and Sewer Section who have confirmed that there are adequate arrangements in place for the provision of reticulated services to the development.

Water Supply

Water service is available for the new proposed development from Aldenham Road and Railway Road (100mm AC). Council's existing system is adequate to provide water supply to the proposed development (refer Figure 14).

The developer will be required to extend the existing water main from Aldenham Road and Railway Road to service the proposed subdivision. The final design will be subject to Water Authority approval prior to the carrying out of works.

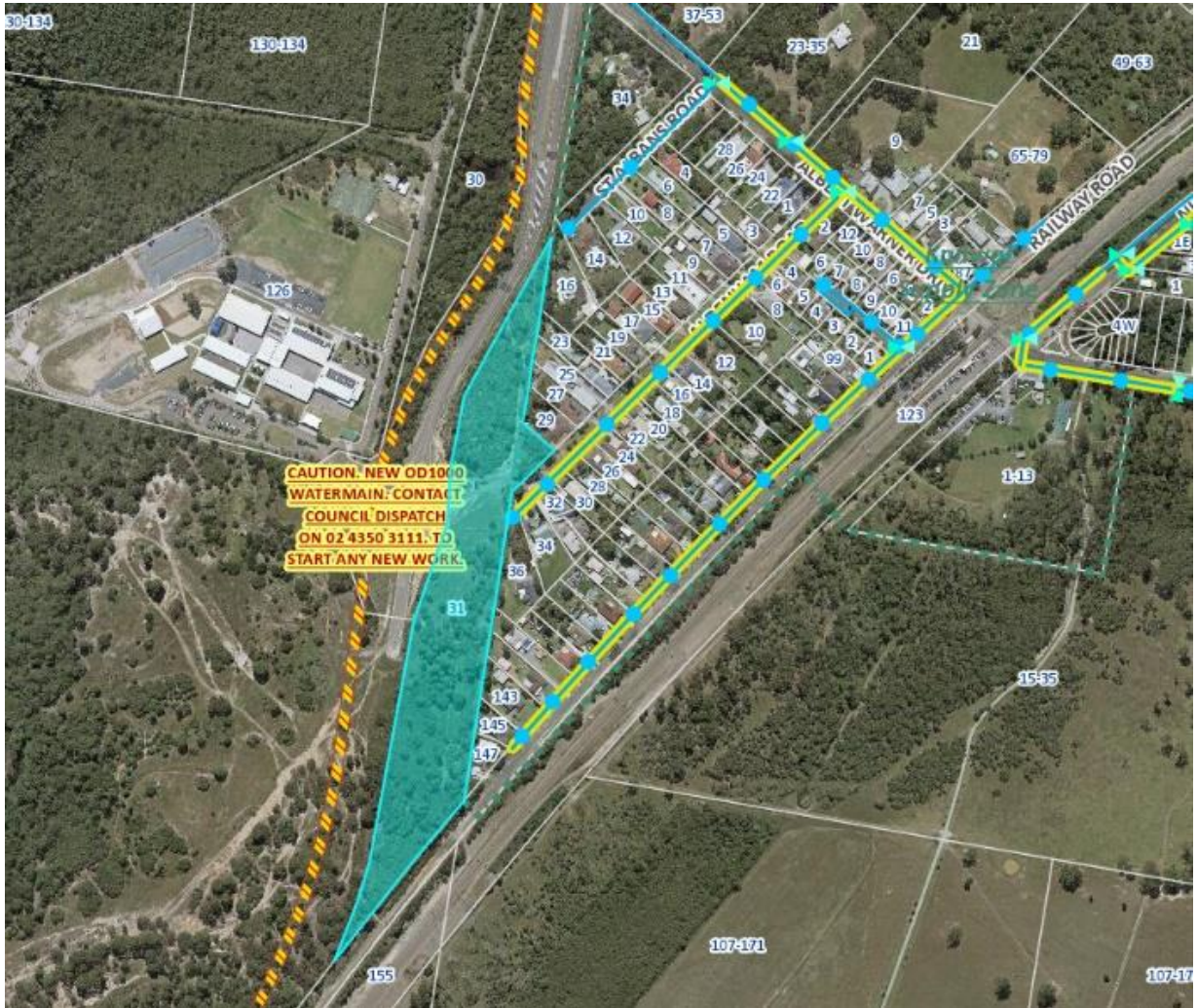


Figure 14: Water Supply Arrangements

Sewer

The site is currently not connected to the reticulated sewer system. Council's existing sewer line (line 1) at the back of 27 Aldenham Road, and existing sewer infrastructure along Railway Road are the connection point for the proposed development (refer Figure 15). There is sufficient capacity in the existing sewerage network to accommodate the proposed development.



Figure 15: Existing Sewerage Infrastructure

The proposed alignment of the sewer main within and adjacent to proposed lot 26 includes bends which are intended to route the main adjacent to boundary of proposed lot 26. These bends are not supported by the Sewer Authority as a straight alignment is desirable for efficiency and maintenance purposes.

The final design is subject to the approval of the Water and Sewer Authority prior to any works being carried out, and the alignment of the sewer main will be addressed in the requirements of the Water and Sewer Authority. The proposed modification may be approved on this basis.

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

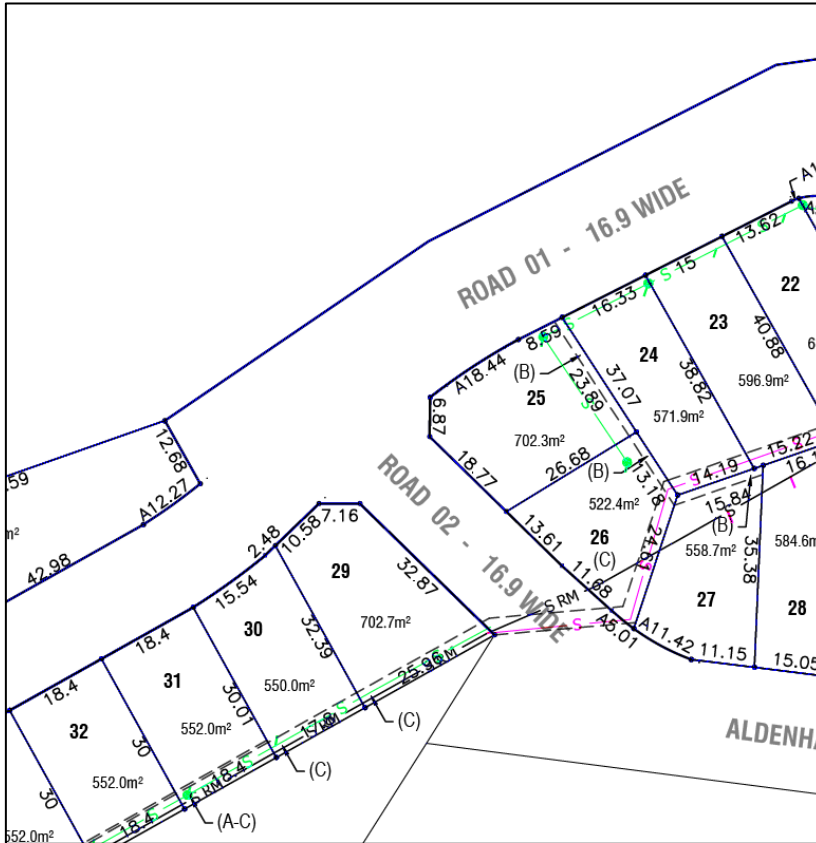


Figure 16: Proposed Modification including service locations

External Consultation

The application was referred to the following agencies:

NSW Rural Fire Service	Supported subject to condition 1A . See comments below.
Transport – Sydney Trains	Supported subject to condition 1A . See comments below.

Transport - Sydney Trains

Trains has advised that concurrence has been granted pursuant to clause 86(4) of *State Environmental Planning Policy (Infrastructure) 2007*. Sydney Trains' requirements have been included into the modified consent via **recommended condition 1A**.

NSW Rural Fire Service

The NSW Rural Fire Service has issued revised GTA's in the form of an updated Bushfire Safety Authority (BSA). The updated BSA requirements have been included in the modified consent via **recommended condition 1A**.

Ecologically Sustainable Principles

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal has an acceptable impact on flora or fauna habitats and is unlikely to significantly affect fluvial environments.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application. This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope / combat / withstand these potential impacts. In this particular case, the following matters are considered to warrant further discussion, as provided below:

Bushfire Protection: The site is identified as bushfire prone land and was referred to the NSW RFS as integrated development due to the proposal being for a residential subdivision. The RFS has provided a BSA which requires the provision of temporary Asset Protection Zones (APZ's) to several of the proposed lots. The APZs can be removed upon development of the extension of the Link Road.

Other Matters for Consideration

Contributions

The site falls under the Warnervale District Section 7.11 Contributions Plan – Precinct 7A and the Shire Wide Section 7.11 Plan. The following contributions are applicable:

- Shire wide contributions
- District Administration
- Studies
- Roads
- Drainage Land & Works
- Water Quality Works catchment
- Environmental Restoration Works
- Open Space Land & Works
- Community Facilities Land & Works

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

The contributions have been calculated based on 43 lots over 350m² in size, with a credit for the existing serviced lot.

Contributions have not been levied for proposed lot 44 on the basis that it is identified as a detention basin on the associated engineering plans.

It should be noted that the contributions levied under the existing consent have not been paid as they are only required to be paid prior to the issue of a Subdivision Certificate.

Conclusion

After consideration of the development against Sections 4.55(2) and 4.15 of the *Environmental Planning and Assessment Act 1979* and the relevant statutory instruments and policy provisions, the proposed modification is considered suitable for the site and in the public interest. As such, it is recommended that the Section 4.55(2) modification be approved.

Recommendation:

A That development consent 221/2014 be modified as follows:

1. Amend condition 1 to read:

1. The development is to be undertaken in accordance with the approved development plans and specifications listed below except as modified by any conditions of consent and any amendments in red made to the approved plans:

Title	Drawing No.	Revision	Date	Drawn By
Subdivision of Lot 1 DP1234942 31 Aldenham Road Warnervale	1	D	May 2021	GDS
Street Tree Planting Plan	22-16844- L001	B	12.02.15	GHD
Revised Tree Removal Plan	SK2	A	May 2021	GDS
Biodiversity Development Assessment Report (BDAR) – Aldenham Road Residential Subdivision		5	11 March 2021	Eco Logical Australia

2. Insert new conditions 1A, 17A, 17B, 17C, 24A and 62A.

1A Comply with the General Terms of Approval / requirements from the Authorities as listed below and attached as a schedule of this consent.

Government Agency / Department / Authority	Description	Ref No	Date
Transport – Sydney Trains	State Environmental Planning Policy (Infrastructure) 2007 Development Application – DA/221/2014/B 1 Aldenham Road Warnervale	-	16 April 2021
NSW Rural Fire Service	S100B – Subdivision – Torrens Title Subdivision 31 Aldenham Road Warnervale NSW 2259. 1//DP1234942	DA/221/2014/B (CNR-10994)	7 December 2020

17A Prior to commencement of any works, including any vegetation clearing, the class and number of ecosystem credits in Table 1 must be retired to offset the residual biodiversity impacts of the development.

The requirement to retire ecosystem credits in Table 1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of ecosystem credits or payment to the Biodiversity Conservation Fund must be provided to the consent authority prior to commencement of any works.

Impacted plant community type	Number of ecosystem credits	HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
1590- Spotted Gum - Broad-leaved Mahogany - Red Ironbark shrubby open forest	3	No	Wyong, Hunter, Pittwater and Yengo. or Any IBRA subregion that is within 100	Hunter-Macleay Dry Sclerophyll Forests - < 50% cleared group (including Tier 4 or higher threat status). This includes PCT's: 715, 904, 922, 1178, 1215, 1588, 1589, 1590, 1591, 1592, 1593, 1600, 1601, 1602, 1608, 1612, 1626, 1748

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

Impacted plant community type	Number of ecosystem credits	HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
			kilometers of the outer edge of the impacted site.	

Table 1. Ecosystem credits required to be retired – like for like

17B Prior to commencement of works, including any vegetation clearing, the class and number of species credits in Table 2 must be retired to offset the residual biodiversity impacts of the development.

The requirement to retire species credits outlined in Table 2 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of species credits or payment to the Biodiversity Conservation Fund must be provided to the consent authority prior to commencement of any works.

Impacted species credit species	Number of species credits	IBRA sub-region
<i>Calyptorhynchus lathami</i> / Glossy Black-Cockatoo	4	Anywhere in NSW
<i>Cercartetus nanus</i> / Eastern Pygmy- Possum	4	Anywhere in NSW
<i>Ninox connivens</i> / Barking Owl	1	Anywhere in NSW
<i>Ninox strenua</i> / Powerful Owl	1	Anywhere in NSW
<i>Tyto novaehollandiae</i> / Masked Owl	1	Anywhere in NSW

Table 2. Species credits required to be retired – like for like

17C Comply with impact mitigation and minimisation measures as stated in Table 19 of the Biodiversity Development Assessment Report (BDAR) (Eco Logical Australia, Version 5, dated 11 March 2021). Where the recommendations contained within the Biodiversity Development Assessment Report are inconsistent, the conditions of consent prevail.

24A Comply with impact mitigation and minimisation measures as stated in Table 19 of the Biodiversity Development Assessment Report (BDAR) (Eco Logical Australia, Version 5, dated 11 March 2021). Where these recommendations contained within the Biodiversity Development Assessment Report are inconsistent, the conditions of consent prevail.

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

62A Comply with impact mitigation and minimisation measures as stated in Table 19 of the Biodiversity Development Assessment Report (BDAR) (Eco Logical Australia, Version 5, dated 11 March 2021). Where these recommendations contained within the Biodiversity Development Assessment Report are inconsistent, the conditions of consent prevail.

3. Amend condition 9 to read:

9. *Prior to the issue of any Construction Certificate/Commencement of Works (whichever occurs first) the applicant must prepare and submit to Council and obtain approval for a **revised** Vegetation Management Plan (VMP) for the land identified as RE1 Public Reserve. The VMP is to be prepared by a suitably qualified and experienced Ecologist or bush regenerator. The land is to be managed as an asset protection zone and the VMP must be consistent with 'Planning for Bushfire' (RFS 2006). The VMP should also consider the 'Conservation Management Plan – Precinct 7A, Warnervale and Hamlyn Terrace NSW' (Umwelt 2014). The primary objective of the plan should be tree retention, weed management and if necessary, replanting of canopy species. Implementation of the VMP must commence prior to the Commencement of works. In preparing and implementing the VMP the following criteria must be addressed:*

- *A suitably qualified and experienced professional bush regeneration contractor is to be engaged to carry out any revegetation planting, restoration and maintenance weed control specified in the VMP. The minimum qualifications and experience required for the bush regeneration contractor are a TAFE Certificate IV in Conservation and Land Management (or equivalent) and three years demonstrated experience (for site supervisor) and a TAFE Certificate 2 in Conservation and Land Management and one year demonstrated experience (for other personnel). In addition, the site supervisor is to be eligible for full professional membership of the Australian Association of Bush Regenerators (AABR).*
- *A site plan must be prepared at an appropriate scale, clearly showing the area to which the VMP applies, existing vegetation, management zones and extent of dominant weed infestations.*
- *A tree and native vegetation protection protocol must be provided to apply during site clearing on adjoining land and construction of drainage and services within the Public Reserve. Protocol to be consistent with AS/NZS 4970-2009 - Protection of Trees on Development Sites and Council's Civil Works Design Guidelines.*
- *A description of existing native vegetation on site. Vegetation species composition, planting layout and densities should be specified, if required.*
- *A schedule of works must be prepared detailing the sequence and duration of works necessary for the regeneration, any revegetation and maintenance works for each management zone. All primary weed control must be undertaken in the first year following commencement of the VMP, with follow up weed control undertaken in the second and third year following commencement of the VMP.*

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

- *The location and type of fencing or other suitable method of restricting unauthorised access or encroachment into the areas to which the VMP applies must be identified.*
- *A protocol to prevent the transfer of weeds or pathogens onto or off the site is required.*
- *Weed management areas and replanting to be maintained for a minimum of 12 months. A report certifying completion of the VMP at the end of the period or once the specific objectives of the plan have been met is to be submitted to Council. Any recommended additional actions must be completed to the satisfaction of Council prior to lodgement of the final report.*
- ***The revised VMP must address the modified development including the revised Tree Removal Plans and Biodiversity Development Assessment Report referred to in this consent. This must include measures to protect trees and vegetation from impacts resulting from construction of the sewer in the VMP area. The VMP must include the impact mitigation and minimisation measures included in Table 19 of the Biodiversity Development Assessment Report (Eco Logical Australia, Version 5, dated 11 March 2021).***

4. Amend condition 40 to read:

40. Prior to the issue of any Subdivision Certificate, the payment to Council of developer contributions as calculated in the formula below and contained in the attached schedule:

$$\text{Developer contribution} = \$1,453,467.93 \times \text{Current CPI} \div \text{Base CPI}$$

where "**Current CPI**" is the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Statistician at the time of payment of developer contributions pursuant to this condition, and "**Base CPI**" is the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Statistician at the date of this consent.

This condition is imposed pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979*.

5. Delete conditions 5, 6, 7 and 60.

~~Bush Fire Requirements~~

5 Deleted.











6 Deleted.

3.1 DA/221/2014/B - 31 Aldenham Road, Warnervale - Increase to 43 residential lots, minor road layout and drainage changes (contd)

7 Deleted.

60 Deleted.

Attachments

1	 	Recommended Conditions of Consent DA221/2014/B	D14826669
2	 	Plans DA221/2014/B	D14826673
3	 	Tree Removal Plan DA221.2014B	D14826678
4	 	RFS Bushfire Safety Approval DA/221/2014/B	D14826683
5	 	Sydney Trains response DA221.2014B	D14826688

Attachment – DA/221/2014/B Recommended Conditions

1. Replace condition 1 with the following condition.

1. The development is to be undertaken in accordance with the approved development plans and specifications listed below except as modified by any conditions of consent and any amendments in red made to the approved plans:

Title	Drawing No.	Revision	Date	Drawn By
Subdivision of Lot 1 DP1234942 31 Aldenham Road Warnervale	1	D	May 2021	GDS
Street Tree Planting Plan	22-16844- L001	B	12.02.15	GHD
Revised Tree Removal Plan	SK2	A	May 2021	GDS
Biodiversity Development Assessment Report (BDAR) – Aldenham Road Residential Subdivision		5	11 March 2021	Eco Logical Australia

2. Insert the following condition at the relevant part of the consent.

- 1A Comply with the General Terms of Approval / requirements from the Authorities as listed below and attached as a schedule of this consent.

Government Agency / Department / Authority	Description	Ref No	Date
Transport – Sydney Trains	State Environmental Planning Policy (Infrastructure) 2007 Development Application – DA/221/2014/B 1 Aldenham Road Warnervale	-	16 April 2021
NSW Rural Fire Service	S100B – Subdivision – Torrens Title Subdivision 31 Aldenham Road Warnervale NSW 2259. 1//DP1234942	DA/221/2014/B (CNR-10994)	7 December 2020

- 5 Water, electricity and gas are to comply with the requirements of section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

- 6 Public access roads shall comply with section 4.1.3(1) of 'Planning for Bush Fire Protection 2006'.
 - 7 Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.
 - 59 Compliance with the conditions of consent issued under Section 100B of the Rural Fires Act 1997 by the Rural Fire Service dated 12 May 2015 attached to this consent.
4. Replace condition 9 with the following condition.
- 9 *Prior to the issue of any Construction Certificate/Commencement of Works (whichever occurs first) the applicant must prepare and submit to Council and obtain approval for a revised Vegetation Management Plan (VMP) for the land identified as RE1 Public Reserve. The VMP is to be prepared by a suitably qualified and experienced Ecologist or bush regenerator. The land is to be managed as an asset protection zone and the VMP must be consistent with 'Planning for Bushfire' (RFS 2006). The VMP should also consider the 'Conservation Management Plan – Precinct 7A, Warnervale and Hamlyn Terrace NSW' (Umwelt 2014). The primary objective of the plan should be tree retention, weed management and if necessary, replanting of canopy species. Implementation of the VMP must commence prior to the Commencement of works. In preparing and implementing the VMP the following criteria must be addressed:*
 - *A suitably qualified and experienced professional bush regeneration contractor is to be engaged to carry out any revegetation planting, restoration and maintenance weed control specified in the VMP. The minimum qualifications and experience required for the bush regeneration contractor are a TAFE Certificate IV in Conservation and Land Management (or equivalent) and three years demonstrated experience (for site supervisor) and a TAFE Certificate 2 in Conservation and Land Management and one year demonstrated experience (for other personnel). In addition, the site supervisor is to be eligible for full professional membership of the Australian Association of Bush Regenerators (AABR).*
 - *A site plan must be prepared at an appropriate scale, clearly showing the area to which the VMP applies, existing vegetation, management zones and extent of dominant weed infestations.*
 - *A tree and native vegetation protection protocol must be provided to apply during site clearing on adjoining land and construction of drainage and services within the Public Reserve. Protocol to be consistent with AS/NZS 4970-2009 - Protection of Trees on Development Sites and Council's Civil Works Design Guidelines.*
 - *A description of existing native vegetation on site. Vegetation species composition, planting layout and densities should be specified, if required.*
 - *A schedule of works must be prepared detailing the sequence and duration of works necessary for the regeneration, any revegetation and maintenance works for each management zone. All primary weed control must be undertaken in the first year following commencement of the VMP, with follow up weed control undertaken in the second and third year following commencement of the VMP.*

- The location and type of fencing or other suitable method of restricting unauthorised access or encroachment into the areas to which the VMP applies must be identified.
- A protocol to prevent the transfer of weeds or pathogens onto or off the site is required.
- Weed management areas and replanting to be maintained for a minimum of 12 months. A report certifying completion of the VMP at the end of the period or once the specific objectives of the plan have been met is to be submitted to Council. Any recommended additional actions must be completed to the satisfaction of Council prior to lodgement of the final report.
- The revised VMP must address the modified development including the revised Tree Removal Plans and Biodiversity Development Assessment Report referred to in this consent. This must include measures to protect trees and vegetation from impacts resulting from construction of the sewer in the VMP area. The VMP must include the impact mitigation and minimisation measures included in Table 19 of the Biodiversity Development Assessment Report (Eco Logical Australia, Version 5, dated 11 March 2021).

5. Insert the following condition at the relevant part of the consent.

17A - Like for like credit retirement

Prior to commencement of any works, including any vegetation clearing, the class and number of ecosystem credits in Table 1 must be retired to offset the residual biodiversity impacts of the development.

The requirement to retire ecosystem credits in Table 1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator. Evidence of the retirement of ecosystem credits or payment to the Biodiversity Conservation Fund must be provided to the consent authority prior to commencement of any works.

Table 1. Ecosystem credits required to be retired – like for like

Impacted plant community type	Number of ecosystem credits	HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
1590- Spotted Gum - Broad-leaved Mahogany - Red Ironbark shrubby open forest	3	No	Wyong, Hunter, Pittwater and Yengo. or Any IBRA subregion	Hunter-Macleay Dry Sclerophyll Forests - < 50% cleared group (including Tier 4 or higher threat status). This includes PCT's: 715, 904, 922, 1178, 1215, 1588, 1589, 1590, 1591, 1592, 1593, 1600, 1601, 1602, 1608, 1612, 1626, 1748

Impacted plant community type	Number of ecosystem credits	HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
			that is within 100 kilometers of the outer edge of the impacted site.	

6. Insert the following condition at the relevant part of the consent.

17B - Like for like species credit retirement

Prior to commencement of works, including any vegetation clearing, the class and number of species credits in Table 2 must be retired to offset the residual biodiversity impacts of the development.

The requirement to retire species credits outlined in Table 2 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of species credits or payment to the Biodiversity Conservation Fund must be provided to the consent authority prior to commencement of any works.

Table 2. Species credits required to be retired – like for like

Impacted species credit species	Number of species credits	IBRA sub-region
<i>Calyptorhynchus lathami</i> / Glossy Black-Cockatoo	4	Anywhere in NSW
<i>Cercartetus nanus</i> / Eastern Pygmy- Possum	4	Anywhere in NSW
<i>Ninox connivens</i> / Barking Owl	1	Anywhere in NSW
<i>Ninox strenua</i> / Powerful Owl	1	Anywhere in NSW
<i>Tyto novaehollandiae</i> / Masked Owl	1	Anywhere in NSW

7. Insert the following condition at the relevant part of the consent.

17C Comply with impact mitigation and minimisation measures as stated in Table 19 of the Biodiversity Development Assessment Report (BDAR) (Eco Logical Australia, Version 5, dated 11 March 2021). Where these recommendations contained within the Biodiversity Development Assessment Report are inconsistent, the conditions of consent prevail.

8. Insert the following condition at the relevant part of the consent.

24A. Comply with impact mitigation and minimisation measures as stated in Table 19 of the Biodiversity Development Assessment Report (BDAR) (Eco Logical Australia, Version 5, dated 11 March 2021). Where these recommendations contained within the Biodiversity Development Assessment Report are inconsistent, the conditions of consent prevail.

9. Insert the following condition at the relevant part of the consent.

60A. Comply with impact mitigation and minimisation measures as stated in Table 19 of the Biodiversity Development Assessment Report (BDAR) (Eco Logical Australia, Version 5, dated 11 March 2021). Where these recommendations contained within the Biodiversity Development Assessment Report are inconsistent, the conditions of consent prevail.

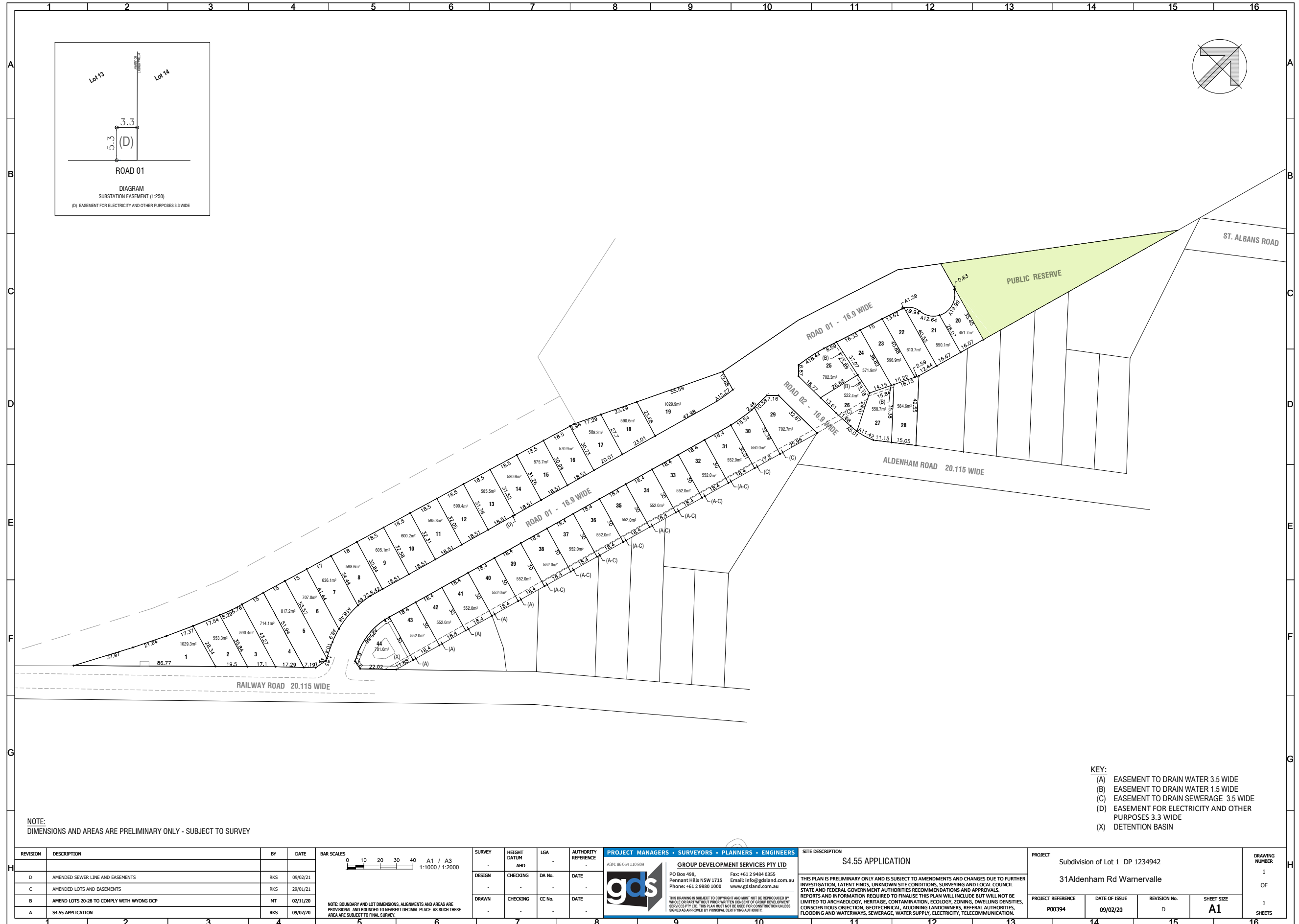
10. Replace condition 40 with the following condition

40. *Prior to the issue of any Subdivision Certificate, the payment to Council of developer contributions as calculated in the formula below and contained in the attached schedule:*

Developer contribution = \$1,453,467.93 X Current CPI ÷ Base CPI

where "Current CPI" is the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Statistician at the time of payment of developer contributions pursuant to this condition, and "Base CPI" is the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Statistician at the date of this consent.

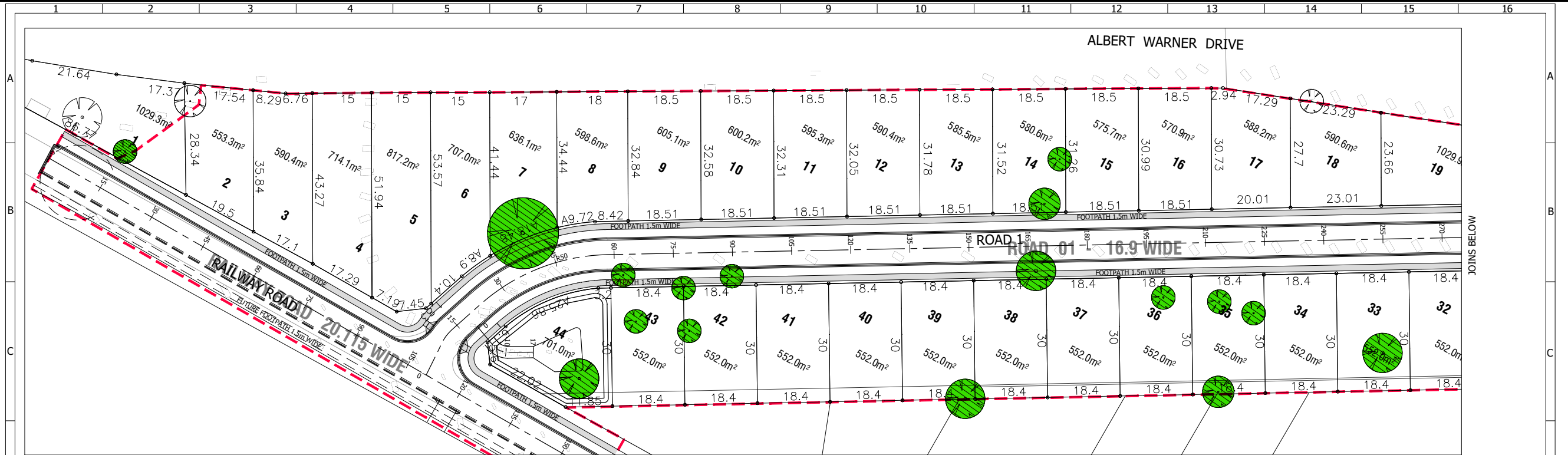
This condition is imposed pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979*.



NOTE:
DIMENSIONS AND AREAS ARE PRELIMINARY ONLY - SUBJECT TO SURVEY

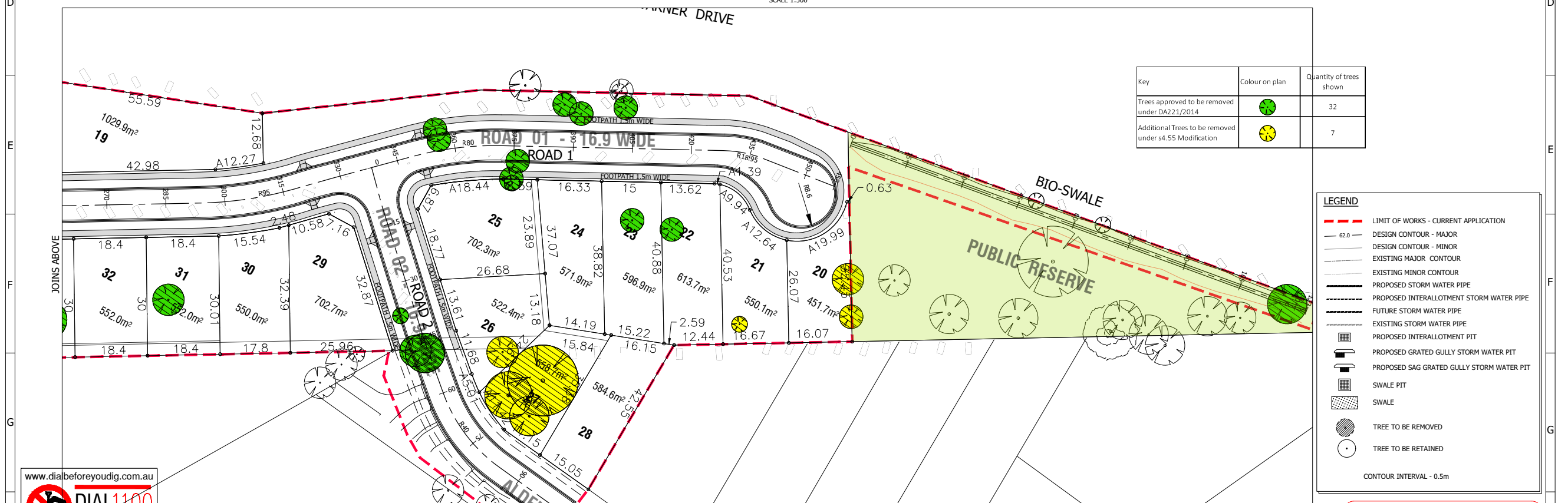
- KEY:
- (A) EASEMENT TO DRAIN WATER 3.5 WIDE
 - (B) EASEMENT TO DRAIN WATER 1.5 WIDE
 - (C) EASEMENT TO DRAIN SEWERAGE 3.5 WIDE
 - (D) EASEMENT FOR ELECTRICITY AND OTHER PURPOSES 3.3 WIDE
 - (X) DETENTION BASIN

REVISION	DESCRIPTION	BY	DATE	BAR SCALES	SURVEY	HEIGHT DATUM	LGA	AUTHORITY REFERENCE	PROJECT MANAGERS • SURVEYORS • PLANNERS • ENGINEERS	SITE DESCRIPTION	PROJECT	DRAWING NUMBER
D	AMENDED SEWER LINE AND EASEMENTS	RKS	09/02/21	0 10 20 30 40 A1 / A3 1:1000 / 1:2000	-	AHD	-	-	PROJECT MANAGERS • SURVEYORS • PLANNERS • ENGINEERS A/N: 86 064 110 809 GROUP DEVELOPMENT SERVICES PTY LTD PO Box 498, Pennants Hills NSW 1715 Phone: +61 2 9980 1000 Fax: +61 2 9484 0355 Email: info@gdsland.com.au www.gdsland.com.au <small>THIS DRAWING IS SUBJECT TO COPYRIGHT AND MUST NOT BE REPRODUCED BY WHOLE OR PART WITHOUT PRIOR WRITTEN CONSENT OF GROUP DEVELOPMENT SERVICES PTY LTD. THIS PLAN MUST NOT BE USED FOR CONSTRUCTION UNLESS SIGNED AS APPROVED BY PRINCIPAL CERTIFYING AUTHORITY.</small>	S4.55 APPLICATION THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO AMENDMENTS AND CHANGES DUE TO FURTHER INVESTIGATION, LATENT FINDS, UNKNOWN SITE CONDITIONS, SURVEYING AND LOCAL COUNCIL STATE AND FEDERAL GOVERNMENT AUTHORITIES RECOMMENDATIONS AND APPROVALS. REPORTS AND INFORMATION REQUIRED TO FINALISE THIS PLAN WILL INCLUDE BUT WILL NOT BE LIMITED TO ARCHAEOLOGY, HERITAGE, CONTAMINATION, ECOLOGY, ZONING, DWELLING DENSITIES, CONSCIENTIOUS OBJECTION, GEOTECHNICAL, ADJOINING LANDOWNERS, REFERRAL AUTHORITIES, FLOODING AND WATERWAYS, SEWERAGE, WATER SUPPLY, ELECTRICITY, TELECOMMUNICATION.	Subdivision of Lot 1 DP 1234942 31Aldenham Rd Warnervale	1 OF 1 SHEETS
C	AMENDED LOTS AND EASEMENTS	RKS	29/01/21	DESIGN	CHECKING	DA No.	DATE					
B	AMENDED LOTS 20-28 TO COMPLY WITH WYONG DCP	MT	02/11/20	DRAWN	CHECKING	CC No.	DATE					
A	S4.55 APPLICATION	RKS	09/07/20									



PUBLIC DOMAIN PLAN

SCALE 1:500



PUBLIC DOMAIN PLAN

SCALE 1:500

REVISION	DESCRIPTION	BY	DATE	SITE DESCRIPTION	BAR SCALES	SURVEY	HEIGHT DATUM	LGA	AUTHORITY REFERENCE	PROJECT MANAGERS - SURVEYORS - PLANNERS - ENGINEERS	PROJECT	DRAWING NUMBER	
A	ISSUED FOR APPROVAL	MT	26/02/2021	SUBDIVISION OF LOT 26 DP 1159349 31 ALDENHAM ROAD, WARNERVALE	1:500 A1	-	AHD	HATLAND CITY COUNCIL	-	PROJECT MANAGERS - SURVEYORS - PLANNERS - ENGINEERS GDS GROUP DEVELOPMENT SERVICES PTY LTD PO Box 498, Pennant Hills NSW 1715 Phone: +61 2 9980 1000 Email: info@gdsland.com.au www.gdsland.com.au	31 ALDENHAM ROAD, WARNERVALE TREE PLAN	SK2	
				THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO AMENDMENTS AND CHANGES DUE TO FURTHER INVESTIGATION, LATENT FINDS, UNKNOWN SITE CONDITIONS, SURVEYING AND LOCAL COUNCIL STATE AND FEDERAL GOVERNMENT AUTHORITIES RECOMMENDATIONS AND APPROVALS. REPORTS AND INFORMATION REQUIRED TO FINALISE THIS PLAN WILL INCLUDE BUT WILL NOT BE LIMITED TO ARCHITECTURE, HERITAGE, CONTAMINATION, ECOLOGY, ZONING, DWELLING DENSITIES, CONSCIENTIOUS OBJECTION, GEOTECHNICAL, ADDING LANDOWNERS, FEDERAL AUTHORITIES, FLOODING AND WATERWAYS, SEWERAGE, WATER SUPPLY, ELECTRICITY, TELECOMMUNICATION.	NOTE: BOUNDARY AND LOT DIMENSIONS, ALIGNMENTS AND AREAS ARE PROVISIONAL AND ROUNDED TO NEAREST DECIMAL PLACE. AS SUCH THESE AREAS ARE SUBJECT TO FINAL SURVEY.	DESIGN	CHECKING	DA No.	DATE	gds	P00394		
						DRAWN	CHECKING	CC No.	DATE		DATE OF ISSUE	REVISION No.	SHEET SIZE
											30/07/2020	A	A1



NSW RURAL FIRE SERVICE

Central Coast Council
PO Box 20
WYONG NSW 2259

Your reference: DA/221/2014/B (CNR-10994)
Our reference: DA20201027003934-Original-1

ATTENTION: Central Coast Council
ATTENTION:

Date: Monday 7 December 2020

Dear Sir/Madam,

Integrated Development Application
s100B - Subdivision - Torrens Title Subdivision
31 Aldenham Road Warnervale NSW 2259, 1//DP1234942

I refer to your correspondence dated 26/10/2020 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amended information. General Terms of Approval are now re-issued, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions.

Asset Protection Zones

Intent of measures: to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.

1. A temporary Asset Protection Zone (APZ) of 20 metres (10 metres Outer Protection Area and 10 metres Inner Protection Area) must be provided from the western boundaries of proposed lots 1-17 within Lot 2 DP 1234942 in accordance with section 88B of the *Conveyancing Act 1919*. A restriction to the land use shall be placed on Council land Lot 2 DP 1234942 requiring the provision of this APZ which shall be maintained as outlined within Appendix 4 of *Planning for Bush Fire Protection 2019*.

2. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, the proposed park, reserve and proposed residential lots must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*. When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

Attachment 4 tree canopies should be separated by 2 to 5m: **RFS Bushfire Safety Approval DA/221/2014/B**

- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover; and
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

Access – Public Roads

Intent of measures: to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.

3. Access roads must comply with the requirements of Table 5.4b of *Planning for Bush Fire Protection 2019*.

Water and Utility Services

Intent of measures: to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

4. The provision of water, electricity and gas must comply with Table 5.3c of *Planning for Bush Fire Protection 2019*.

General Advice – Consent Authority to Note

This letter is in response to additional information submitted and supersedes our previous correspondence dated 16 September 2020.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated .

For any queries regarding this correspondence, please contact Emma Jensen on 1300 NSW RFS.

Yours sincerely,

Kalpana Varghese
Team Leader, Dev. Assessment & Planning
Planning and Environment Services



NSW RURAL FIRE SERVICE

BUSH FIRE SAFETY AUTHORITY

Subdivision - Torrens Title Subdivision
31 Aldenham Road Warnervale NSW 2259, 1//DP1234942
RFS Reference: DA20201027003934-Original-1
Your Reference: DA/221/2014/B (CNR-10994)

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority supersedes the previous Bush Fire Safety Authority (none) issued on and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under s100b of the Rural Fires Act 1997.

Kalpana Varghese

Team Leader, Dev. Assessment & Planning
Planning and Environment Services

Monday 7 December 2020



16 April 2021

The General Manager
Central Coast Council
PO Box 20
Wyong NSW 2259

ATTENTION: Shannon Butler

Dear Sir/Madam,

**STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007
DEVELOPMENT APPLICATION – 221/2014/B
1 ALDENHAM ROAD WARNERVALE**

I refer to Council's Referral requesting concurrence for the above development application in accordance with Clause 86 of the above SEPP.

Council is advised that Sydney Trains, via Instruments of Delegation, has been delegated to act as the rail authority for the Central Coast & Newcastle Line heavy rail corridor and to process the concurrence for this development application.

As such, Sydney Trains now advises that the proposed development is being assessed in accordance with the requirements of Clause 86(4) being:

- a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:
 - i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and
 - ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and
- b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.

In this regard, Sydney Trains has taken the above matters into consideration and has decided to grant its concurrence to the development proposed in development application **221/2014/B** subject to Council imposing the operational conditions listed in Attachment A that will need to be complied with.



Should Council choose not to impose the operational conditions in Attachment A (as written), then concurrence from Sydney Trains has not been granted to the proposed development.

In the event that this development proposal is the subject of a Land and Environment Court appeal, Council's attention is drawn to Section 8.12 of the Environmental Planning and Assessment Act 1979 which requires Council to give notice of that appeal to a concurrence authority. Sydney Trains therefore requests that Council comply with this requirements should such an event occur.

Council is also advised that the Sydney Trains concurrence is not to be amended, replaced or superseded by any concurrence issued by any other rail authority, without the further agreement from Sydney Trains.

Please contact Sydney Trains Town Planning Management via email to DA_sydneytrains@transport.nsw.gov.au should you wish to discuss this matter. Finally, Sydney Trains requests that a copy of the Notice of Determination and conditions of consent be forwarded to Sydney Trains.

Yours sincerely,

Digitally signed
by Anthony
Moeller
Date: 2021.04.17
08:18:28 +10'00'

Anthony Moeller
Director, Property & Commercial Services
Sydney Trains



Attachment A

- A1.** *Prior to the issue of a Subdivision Certificate, the Applicant shall prepare and submit to Sydney Trains for endorsement a “blow-out”. The blow-out report must show the proposed subdivision in relation to the Sydney Trains electrical asset located within Railway Road which includes blow-out design and calculations, and compliance with all relevant Safety and Electrical Standards including AS7000 and ISSC 20, Work Cover requirements and the Safe Approach Distances (SADs) in the Sydney Trains Document titled “SMS-06-GD-0268 – Working Around Electrical Equipment”. Should the blow-out report indicate that the blow-out area is within the proposed subdivision allotments along Railway Road then the Applicant must grant an easement Sydney Trains/TAHE (Transport Asset Holding Entity) at nil cost for this encroachment. The location of the new easement (including easement terms) will be in accordance with Sydney Trains/TAHE requirements. A Plan of Survey and associated easement terms defining the new extent of the easement is required to be submitted to Sydney Trains/TAHE for endorsement. The responsibility of creating and registering the new easement shall be the Applicant’s and at their cost. The Principal Certifying Authority is not to issue any Subdivision Certificate until written confirmation has been received from Sydney Trains confirming of its endorsement of the new easement (including easement terms).*
- A2.** *The Applicant is advised that Sydney Trains will not agree to the relocation of any of its electrical power poles.*
- A3.** *All finished road surface works &/or their supporting activities are limited to +/- 250mm near the Sydney Trains electrical power poles and power lines. Any variance to this requirement shall not be undertaken without prior approval from Sydney Trains.*
- A4.** *Prior to the issuing of a Construction Certificate, the Applicant shall prepare and provide to Sydney Trains for review and endorsement in relation to drainage that enters the open culvert in Railway Road:*
- a. *Detailed Hydrology Calculations/Information advising what impact (if any) may be experienced by Sydney Trains.*
 - b. *Calculations &/or reports demonstrating that the existing rail drainage system can accommodate the additional water entering the corridor.*
- A5.** *The Applicant shall not commence any works associated with the construction of an drainage that connects to the open culvert until Sydney Trains/TAHE confirms as to whether the culvert is currently under licence with Council, and if not, Council agrees to enter into a licence/agreement Sydney Trains/TAHE that covers this culvert/drainage area.*



- A6.** *No work is permitted within the rail corridor, or any easements (including the HTTL Electrical Easement) which benefit Sydney Trains/TAHE (Transport Asset Holding Entity), at any time, unless the prior approval of, or an Agreement with, Sydney Trains/TAHE (Transport Asset Holding Entity) has been obtained by the Applicant. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- A7.** *Sydney Trains advises there is a 66kV High Voltage Aerial Transmission Line in close proximity to the proposed works. All works within 6 metres of the nearest transmission line conductor must comply with:*
- *ISSC 20 – Guideline for the Management of Activities within Electricity Easements and Close to Electricity Infrastructure.*
 - *The Safe Approach Distances (SADs) in the Sydney Trains Document titled “SMS-06-GD-0268 – Working Around Electrical Equipment”.*
 - *“WorkCover Code of Practice – Work near Overhead Power Lines (The Code)”*
- A8.** *Prior to the issue of a Construction Certificate, the Applicant shall include into a Construction Methodology safety measures and methods ensuring that the Sydney Trains electrical power poles will be protected from impact for the duration of the works. This Construction Methodology shall be in accordance with Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- A9.** *The Applicant/Developer shall not at any stage block rail related use of Railway Road or the corridor access gate off Railway Road. To ensure continuous provision for easy and ongoing 24/7 access by rail vehicles, plant and equipment to support maintenance and emergency activities:*
- a. *The Applicant/Developer must give Sydney Trains written notice at least 5 business days before any necessary closure or partial closure of Railway Road; and*
 - b. *The Applicant/Developer must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.*



- A10.** *The Applicant shall provide Sydney Trains with driveway/layback to its access gate located opposite the intersection between proposed Road No1 and Railway Road. The driveway/layback shall be delivered at the timing agreed with Sydney Trains and meet Sydney Trains requirements.*
- A11.** *If required by Sydney Trains, prior to the issue of a Construction Certificate or the commencement of works (whichever occurs first) within 25m of the rail corridor, a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- A12.** *No metal ladders, tapes, and plant, machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and catenary, contact and pull-off wires of the adjacent tracks, and to any aerial power supplies within or adjacent to the rail corridor.*
- A13.** *Excess soil is not allowed to enter, be spread or stockpiled within the rail corridor (and its easements) and must be adequately managed/disposed of.*
- A14.** *If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains External Interface Management team to determine the need for public liability insurance cover. If insurance cover is deemed necessary this insurance be for sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure and must be maintained for the duration specified by Sydney Trains. The Applicant is to contact Sydney Trains External Interface Management team to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.*
- A15.** *If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains External Interface Management team to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.*



- A16.** *Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, must be permitted to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and the requirements of this consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.*
- A17.** *Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains or TAHE (Transport Asset Holding Entity) must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate or Occupation Certificate.*
- A18.** *The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who:*
- *oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;*
 - *acts as the authorised representative of the Applicant; and*
 - *is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.*
- A19.** *Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.*
- A20.** *Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains External Interface Management team. In this instance the relevant interface team is North Interface and they can be contacted via email on North_Interface@transport.nsw.gov.au.*

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Item No: 3.2
Title: DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application)
Department: Environment and Planning

23 September 2021 Local Planning Panel Meeting

Reference: DA/1849/2005/B - D14810016
Author: Rebecca Samways, Development Planner
Manager: Emily Goodworth, Section Manager Development Assessment North
Approver: Andrew Roach, Unit Manager, Development Assessment

Summary

A section 4.55(2) application has been received to modify a consent for a residential flat building (comprising 45 units) and demolition of existing structures. The application has been examined having regard to the matters for consideration detailed in section 4.15 and Section 4.55 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

The application is required to be determined by the Local Planning Panel because it has received 25 submissions of objection.

Applicant	Planning Lab
Owner	Fincorp Pty Ltd
Application No	DA/1849/2005/B
Description of Land	Lot 200 DP 1140826, Lot B DP 364571 & Lot C DP 364571 2-6 Fairport Avenue & 46 – 48 Ocean Parade, The Entrance
Approved Development	Residential Flat Building comprising 45 units and Demolition of Existing Structures
Proposed modification	Increase in the number of units from 45 to 56, removal of level 3 basement carpark and reduction of carparking spaces from 84 to 72, internal reconfiguration of apartments, change of rooftop private open space to communal open space, increase in building height and external design changes
Site Area	3258m ²
Zoning	R3 Medium Density Residential
Existing Use	Multi dwelling housing/vacant lot
Employment Generation	Nil
Estimated Value	\$20,731,286

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

Recommendation

- 1 That the Local Planning Panel approve the modifications to Development Application 1849/2005/B at Lot 200 DP 1140826, Lot B DP 364571 & Lot C DP 364571, 2-6 Fairport Ave & 56-48 Ocean Parade, THE ENTRANCE subject to the amendments detailed in the schedule attached to the report and having regard for the matters for consideration detailed in Section 4.15 and Section 4.55(2) of the Environmental Planning and Assessment Act 1979.**
- 2 That Council advise those who made written submissions of the Panel's decision.**

Key Issues

- Consent was granted for a residential flat building comprising of 45 units and demolition of existing structures on 19 June 2006.
- Physical commencement was confirmed by Council on 23 September 2009.
- The original development was approved under Wyong LEP 1991 which permitted a maximum building height 18 metres. The current Wyong LEP 2013 identifies a maximum permitted building height of 12 metres.
- An increase in building height of the southern building section by 500mm and southern lift overrun by 1.23 metres is proposed.
- The original development was approved under Wyong LEP 1991 which permitted a maximum FSR of 2:1. The current Wyong LEP 2013 identifies a maximum permitted FSR of 0.9:1.
- The proposal remains compliant with SEPP 65 and Apartment Design Guide.
- The development will result in substantially the same development to that which was originally granted consent.
- The proposed modification remains consistent with the objectives of the zone.
- It is considered there will be no additional amenity impacts to those that were considered upon the granting of the original development consent.
- 25 submissions of objection to the section 4.55(2) application were received

Precis:

Proposed Development	Modification of consent for a residential flat building and demolition of existing structures
Permissibility and Zoning	The site is zoned <i>R3 Medium Density Residential</i> under <i>Wyong Local Environmental Plan 2013 (WLEP)</i> . A residential flat building is permissible in the zone.
Relevant Legislation	<ul style="list-style-type: none"> • <i>Environmental Planning & Assessment Act 1979 (EP&A Act)</i> • <i>Environmental Planning & Assessment Regulation 2000 (EP&A Regulation)</i> • <i>State Environmental Planning Policy No. 65 (SEPP 65)</i>

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

	<ul style="list-style-type: none"> • Apartment Design Guide (ADG) • <i>State Environmental Planning Policy (Coastal Management) 2018</i> • <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)</i> • <i>State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)</i> • <i>Wyong Local Environmental Plan 1991</i> • <i>Wyong Local Environmental Plan 2013</i> • <i>Draft Central Coast Local Environmental Plan 2018</i> • Wyong Development Control Plan 2005 • Wyong Development Control Plan 2013
Current Use	Multi dwelling housing/vacant lot
Integrated Development	No
Submissions	25 submissions

Variations to Policies

There are no variations to report.

The Site

The subject site (figures 1 and 2) is irregular shaped and comprises three lots. The site is located on the corner of Fairport Avenue and Ocean Parade. The site has a 69.6m frontage to Fairport Avenue and a 41.5m frontage to Ocean Parade with an area of 3258m².

The site has a fall of approximately 4.5m towards the north eastern side boundary. No. 2-4 Fairport Avenue is currently vacant while No. 44-48 Ocean Parade currently has two 3-storey residential apartment buildings known as the 'Paradise Apartments'. The site has previously been used for residential development.

Surrounding Development

The surrounding development is predominantly medium density residential development. Buildings vary from low scale one and two storey single residential dwellings to residential flat buildings of up to nine storeys as shown in figure 3.

Adjoining the site to the east is a seven storey residential flat building known as 'The Harriot' and a three storey residential flat building known as 'Blue Pacific'. Directly adjoining the site to the north-east is a seven storey residential flat building known as the 'Tasman Towers'.

Opposite the site on Fairport Avenue is a mix of two and three storey residential developments. Directly opposite the site to the west on the corner of Fairport Avenue and Ocean Parade is a vacant site which currently has an approved seven storey residential flat

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

building under DA/95/2003 which has been commenced. Opposite the site to the south west on Ocean Parade are two residential apartment buildings known 'Fairport Court' and 'Scenic Court', both four storeys in height.



Figure 1: Aerial photo showing the subject site and surrounding development



Figure 2: Site as viewed from the corner of Fairport Avenue and Ocean Parade

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)



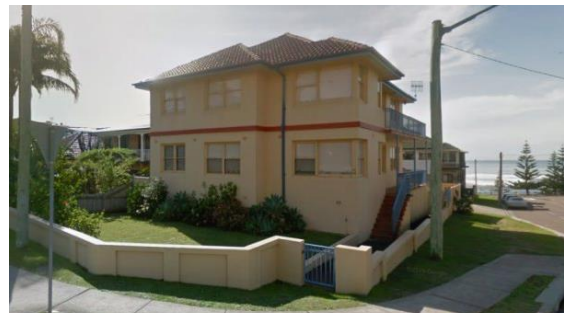
30 Marine Parade ('Tasman Tower')



50-54 Ocean Parade ('The Harriot')



26-28 Fairport Avenue



44 Ocean Parade



43-49 Ocean Parade (artist's render approved 7 storey RFB, DA/95/2003)



55 Ocean Parade ('Fairport Court')



57-59 Ocean Parade ('Scenic Court')



30 Marine Parade ('Blue Pacific')

Figure 3: Existing and approved surrounding development

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

The site is currently zoned R3 Medium Density Residential under Wyong LEP 2013 as shown in figure 4. The B2 Local Centre land of The Entrance Town Centre is located further to the west of the site. RE1 Public Recreation zoned land is to the north and east of the site along The Entrance Beach and foreshore and further west of the site at Shore Park and Taylor Park.



Figure 4: Land zoning of subject site and surrounding locality

The Proposed Modification

Under the provisions of Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, approval is sought to modify development consent 1849/2005 for a residential flat building comprising 45 units and demolition of existing structures. The proposed modification includes the following:

Basement

- Removal of Basement 3
- Relocation of the southern outer wall to the boundary to increase the parking area floorplate and the north-western and south-western basement walls away from the boundary
- Reduction in the provision of car parking spaces from the approved 84 to 72 (62 resident spaces + 10 visitor spaces)
- Inclusion of 16 bicycle and 2 motorbike parking spaces on Basement Level 2

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

Ground Floor

- Rearrangement of unit layouts resulting in an amended unit mix from 4 x one bedroom units, 2 x two bedroom units and 1 x three bedroom units to:
 - 1 x Studio
 - 1 x one bedroom unit
 - 5 x two bedroom units
 - 1 x three bedroom unit
- Provision of three "cross through" lobbies with three principle access gates on Fairport Avenue and secondary single access from Ocean Parade
- Deletion of communal cinema and gym in the north western part of the building.
- Inclusion of new ground level courtyards on the south eastern elevation to provide private open space to the units
- Reconfiguration of driveway area at the north-western corner of the property to provide a paved hardstand for waste truck manoeuvring and accommodate on-site waste collection
- General reconfiguration of landscape design of private courtyards and common area gardens including the removal of the communal swimming pool

Level 1 to Level 4

- Rearrangement of unit layouts resulting in an amended unit mix from 3 x two bedroom units and 5 x three bedroom units to:
 - 2 x one bedroom unit
 - 7 x two bedroom units (1 adaptable)
 - 1 x three bedroom unit (adaptable)
- Inclusion of new balconies to units on the southern corner of the building.

Level 5

- Rearrangement of unit layouts resulting in an amended unit mix from 2 x two bedroom units and 4 x three bedroom units to:
 - 5 x two bedroom units
 - 3 x three bedroom unit
- Reduction of balcony area to north-eastern elevation and south-western elevation and the inclusion of new balconies to the units on the southern corner of the building.

Roof Level

- Removal of approved private terraces including swimming pools and operable shade structures
- Provision of communal open space with BBQ are and shaded seating zones

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

- New lift access to communal terrace
- Inclusion of extensive soft landscaping and planting

Exterior

- Amendments to the approved building facades, including:
 - Incorporation of off form concrete, precast concrete elements, façade recesses and articulate openings
 - Use of materials which are considered more appropriate for the local climate, are durable and require low maintenance
 - Higher levels of articulation to the east and west façades

General

- Reduction of the building's circulation cores from 4 to 3
- Increase in finished floor levels to have a minimum 300mm freeboard from the 1% AEP flood levels.
- Increase in building height due to the increased floor levels and the southern lift overrun to access the rooftop communal open space.
- Change to waste servicing arrangements from kerbside pickup to on-site collection in the northern corner of the site.

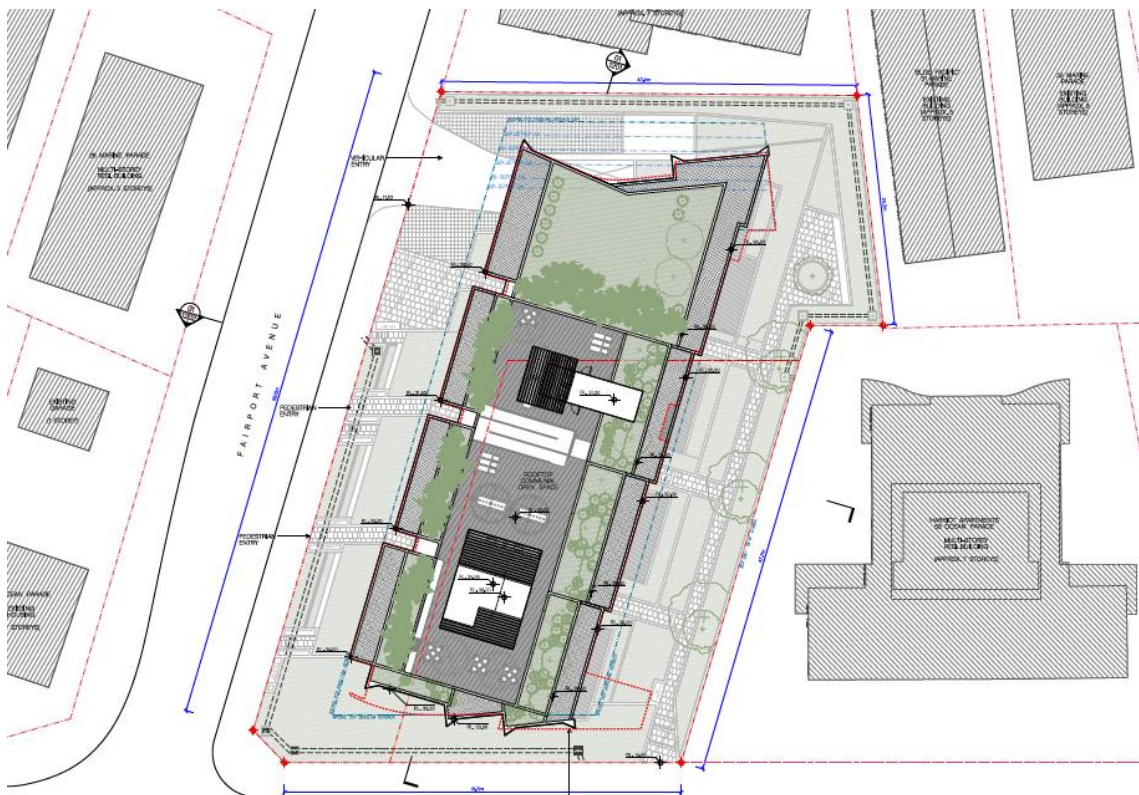


Figure 5: Site plan of proposed development

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)



Figure 6: North-western (Fairport Avenue) front elevation

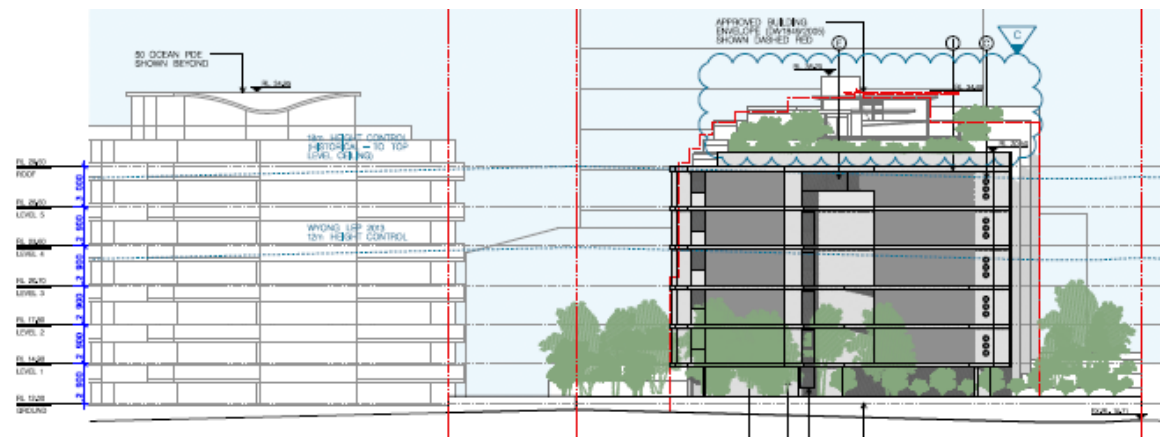


Figure 7: North-eastern elevation side elevation



Figure 8: South-eastern rear elevation

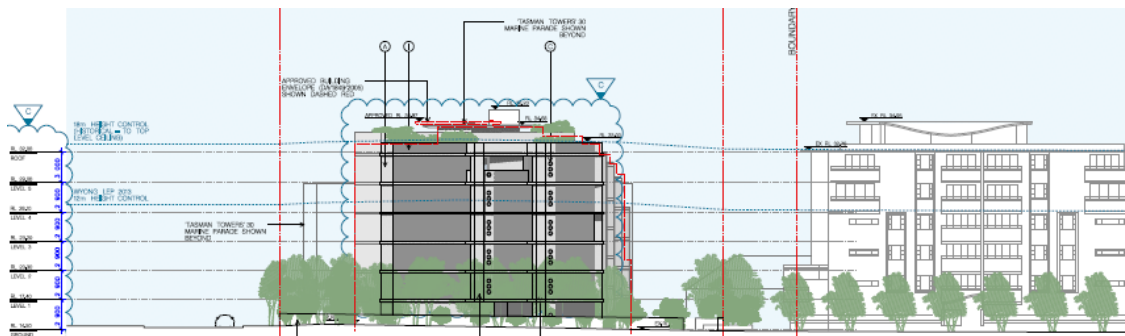


Figure 9: south-western (Ocean Parade) side elevation

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The Section 4.55(2) modification will involve the following modifications to the consent (modifications shown in red text on the following pages).

1 Modify description of land

Original description of land:

Lots 16 and 17 DP 18810, Lot A DP 364571, Lot 0 SP 18493
Nos 2-4 Fairport Avenue & 44-48 Ocean Parade THE ENTRANCE

Amend description of land to read:

Lot 200 DP 1140826, Lot B DP 364571 & Lot C DP 364571
Nos 2-6 Fairport Avenue & 46 – 48 Ocean Parade, THE ENTRANCE NSW 2261

Comment:

As part of the physical commencement of the consent lots 16 and 17 in DP 18810 and lot A in DP 364571 were consolidated to partially satisfy condition 54. Subsequently, the description of land has changed since the original granting of the consent and is required to be modified to reflect the current description of the land.

2 Modify description of proposal

Original description of proposal:

Residential Flat Building comprising 45 units and Demolition of Existing Structures

Amend description of proposal to read:

Residential Flat Building comprising 56 units and Demolition of Existing Structures

Comment:

The proposed modification includes changes to the apartment mix from 45 units to 56 units. To reflect the changes to the number of units, the description of proposal is required to be updated to describe the correct number of units proposed in the modification.

3 The modification of condition 1

Original condition 1:

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

- 1 The development taking place in accordance with the approved development plans reference number DA0501C, DA1101B as amended by DA1101C, DA1102B as amended by DA1102C, DA1201C as amended by DA1201D, DA1202C, DA1301C, DA1302C, DA1303C, DA1304C, DA1305D, DA1401D, DA1451C, DA1501C, DA1502C, DA1601B, DA1602C and DA1603A, DA1604A and DA1605B, except as modified by any conditions of this consent, and any amendments in red.

Amend condition 1 to read:

- 1 Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "Development Consent" unless modified by any following condition.

Architectural Plans by: RJS & CE Price

Drawing	Description	Issue	Date
S4.55 - 1100	Site Plan	C	7/04/2021
S4.55 - 1101	Basement 2 Floor Plan	C	7/04/2021
S4.55 - 1102	Basement 1 Floor Plan	B	23/02/2021
S4.55 - 1103	Ground Floor Plan	C	7/04/2021
S4.55 - 1104	Level 1-4 Floor Plans	C	7/04/2021
S4.55 - 1105	Level 5 Floor Plan	C	7/04/2021
S4.55 - 1106	Roof Plan	C	7/04/2021
S4.55 - 1201	Section	C	7/04/2021
S4.55 - 1301	Elevation - North	C	7/04/2021
S4.55 - 1302	Elevation - East	C	7/04/2021
S4.55 - 1303	Elevation - South	C	7/04/2021
S4.55 - 1304	Elevation - West	C	7/04/2021

Comment:

The plans are to be updated to reflect the modified development subject to this section 4.55(2) application.

4 The modification of condition 5

Original condition 5:

- 5 The payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act

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and Council's Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.

Amend condition 5 to read:

- 5 Pursuant to Section 7.11 of the *Environmental Planning and Assessment Act 1979* pay to Council a total contribution amount of **\$526,945.14** that may require adjustment at the time of payment, in accordance with The Entrance District Development Contributions Plan with the applicable amounts as follows:

THE ENTRANCE/LONG JETTY ROADS	\$ 278,626.63
THE ENTRANCE/LONG JETTY OPEN SPACE LAND	\$ 12,420.02
THE ENTRANCE/LONG JETTY OPEN SPACE WORKS	\$ 87,383.85
THE ENTRANCE COMMUNITY FACILITIES LAND	\$ 58,445.24
THE ENTRANCE COMMUNITY FACILITIES WORKS	\$ 90,069.40
Total	\$ 526,945.14

The contributions amount must be indexed each quarter in accordance with the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician as outlined in the contributions plan.

Contact Council on 1300 463 954 for an up-to-date contribution payment amount.

Any Construction Certificate must not be issued until the developer has provided the Certifier with a copy of a receipt issued by Council that verifies that the contributions have been paid. A copy of this receipt must accompany the documents submitted by the certifying authority to Council under Clause 104/Clause 160(2) of the *Environmental Planning and Assessment Regulation 2000*.

A copy of the Contribution Plan may be inspected at the offices of Central Coast Council, 2 Hely Street Wyong or 49 Mann Street Gosford or on Council's website: [Development Contributions](#)

'Section 7.11 contributions may be satisfied by the value of works as part of a "Works in Kind" agreement with Council. Works in kind to be carried out shall be agreed to by Council in writing prior to the payment of the contributions and issue of a construction certificate (related to the works in kind). All such agreements shall be in accordance with Council's policies.'

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Comment:

Section 7.11 contributions are applicable to the proposed development. As the proposed modification involves changes to the number of units proposed, condition 5 is required to be updated to reflect the updated contributions applicable to the modified development.

5 The modification of condition 14

Original condition 14:

- 14 The provision of a footpath and gutter crossing in accordance with Council's Development Control Plan 2005 Chapter No 67 - Engineering Requirements for Development. The design plans must be approved by Council prior to the issue of a Construction Certificate.

Amend condition 14 to read:

- 14 The provision of a footpath and gutter crossing in accordance with Council's **current Civil Works Design Specification**. The design plans must be approved by Council prior to the issue of a Construction Certificate.

Comment:

Condition required to be updated to ensure development is constructed in accordance with Council's current Civil Works Design Specification.

6 The modification of condition 15

Original condition 15:

- 15 The provision at no cost to Council of concrete footpaving for the full street frontage of the development in Ocean Parade and Fairport Avenue. The footpath design is to be 1.2 metres wide and is to include a minimum 100mm concrete path with SL72 reinforcement and is to be constructed on 75mm compacted roadbase and on compacted subgrade. All other details are to be in accordance with Council's Development Control Plan 2005 Chapter No 67 - Engineering Requirements for Development. The design plans must be approved by Council under the *Roads Act 1993* prior to issue of the Construction Certificate.

Amend condition 15 to read:

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

- 15 The provision at no cost to Council of concrete footpaving for the full street frontage of the development in Ocean Parade and Fairport Avenue **and the connection to pram ramps at the roundabout intersection**. The footpath design is to be 1.5 metres wide and is to include a minimum 100mm concrete path with SL72 reinforcement and is to be constructed on 75mm compacted roadbase and on compacted subgrade. All other details are to be in accordance with Council's **Civil Works Design Specification**. The design plans must be approved by Council under the *Roads Act 1993* prior to issue of the Construction Certificate.

Comment:

Condition required to be updated to ensure development is constructed in accordance with Council's current Civil Works Design Specification and appropriate 'tie-in' works are carried out.

7 The modification of condition 16

Original condition 16:

- 16 Design Plans to be submitted to Council for approval under the Roads Act need to include the relocation of the existing raised pedestrian crossing in Fairport Avenue at the front of the development, and in the vicinity of the proposed access to the development. All works associated with the relocation of this crossing including all design and construction related costs including restoration of road pavements and kerb and gutter, and extensions of footpaths to suit the relocated crossing will be at the full cost to the developer, and to Council's satisfaction. The design plans must be approved by Council and the Local Traffic Committee prior to the issue of a Construction Certificate and prepared in accordance with Council's Development Control Plan 2005 Chapter No 67 - Engineering Requirements for Development.

Amend condition 16 to read:

- 16 Design Plans to be submitted to Council for approval under the Roads Act need to include the relocation of the existing raised pedestrian crossing in Fairport Avenue at the front of the development, and in the vicinity of the proposed access to the development. All works associated with the relocation of this crossing including all design and construction related costs including restoration of road pavements and kerb and gutter, and extensions of footpaths to suit the relocated crossing will be at the full cost to the developer, and to Council's satisfaction. The design plans must be approved by Council and the Local Traffic Committee prior to the issue of a Construction Certificate and prepared in accordance with Council's **Civil Works Design Specification**.

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

Comment:

Condition required to be updated to ensure development is constructed in accordance with Council's current Civil Works Design Specification.

8 The modification of condition 17

Original condition 17:

- 17 The submission to and approval by Council of stormwater drainage details with water quality control facilities in accordance with Council's Development Control Plan 2005 Chapter No 67 - Engineering Requirements for Development prior to issue of the Construction Certificate.

Amend condition 17 to read:

- 17 The submission to and approval by Council of stormwater drainage details with water quality control facilities in accordance with Council's **Civil Works Design Specification** prior to issue of the Construction Certificate.

Comment:

Condition required to be updated to ensure development is constructed in accordance with Council's current Civil Works Design Specification.

9 The modification of condition 18

Original condition 18:

- 18 Stormwater drainage works discharging from the site into a public system or public land require approval from Council under Section 68 of the Local Government Act. The extent of work must be determined by Council prior to issue of a Construction Certificate. All works are to be designed and constructed in accordance with Council's Development Control Plan 2005 Chapter 67 - Engineering Requirements for Development. Design plans must be approved by Council prior to issue of the Construction Certificate.

Amend condition 18 to read:

- 18 Stormwater drainage works discharging from the site into a public system or public land require approval from Council under Section 68 of the Local Government Act. The extent of work must be determined by Council prior to issue of a Construction Certificate. All works are to be designed and constructed in accordance with Council's **Civil Works Design Specification**.

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

Design plans must be approved by Council prior to issue of the Construction Certificate.

Comment:

Condition required to be updated to ensure development is constructed in accordance with Council's current Civil Works Design Specification.

10 The modification of condition 19

Original condition 19:

- 19 Stormwater generated from roofed areas is to be collected and stored for re-use within the development site for landscaping, pools and car washing. Details indicating the balance between the projected water usage and the capacity for collection are to be submitted to and approved by Council. A minimum storage of 25,000L will be required.

Amend condition 19 to read:

- 19 Stormwater generated from roofed areas is to be collected and stored for re-use within the development site **for irrigation of landscaped areas and other non-potable purposes as required by BASIX**. Details indicating the balance between the projected water usage and the capacity for collection are to be submitted to and approved by Council. A minimum storage of **23,000L** will be required.

Comment:

The modified development includes a stormwater tank with a total capacity of 23kL. The stormwater tank will collect runoff from the trafficable and non-trafficable areas of the site and water harvesting will be filtered and used for irrigation of landscaped areas and other non-potable purposes as required by BASIX. The condition is to be amended to reflect the revised stormwater management proposed on site and the updated BASIX certificate.

11 The modification of condition 20

Original condition 20:

- 20 The applicant will be responsible for maintaining the flow conveyance of the existing 450mm Council stormwater pipeline within the development site via maintaining the existing pipeline or replacing it with an alternate pipeline. All works associated in satisfying this condition including all design and

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

construction related costs including restoration of land, road pavements and kerb and gutter will be at the full cost to the developer, and to Council's satisfaction. The design plans must be approved by Council prior to the issue of a Construction Certificate and prepared in accordance with Council's Development Control Plan 2005 Chapter No 67 - Engineering Requirements for Development.

Amend condition 20 to read:

- 20 The applicant will be responsible for maintaining the flow conveyance of the existing 450mm Council stormwater pipeline within the development site via maintaining the existing pipeline or replacing it with an alternate pipeline. All works associated in satisfying this condition including all design and construction related costs including restoration of land, road pavements and kerb and gutter will be at the full cost to the developer, and to Council's satisfaction. The design plans must be approved by Council prior to the issue of a Construction Certificate and prepared in accordance with Council's **current Civil Works Design Specification**.

Comment:

Condition required to be updated to ensure development is constructed in accordance with Council's current Civil Works Design Specification.

12 Add new condition 24A

Add new condition 24A which reads as follows:

- 24A Turning areas are to be provided for all blind aisles on both basement levels 1 and 2. Carparking spaces identified in basement 1, number 15 and basement 2, number 1, are to be amended to provide turning areas for vehicles to manoeuvre and circulate in a forward direction.**

Comment:

Council's Traffic Engineer has advised that parking space number 15 on basement level 1 and parking space number 1 on basement level 2 are required to be amended to provide turning areas as they are located at the end of blind aisles. This can be rectified as part of the detailed design plans that will be prepared at Construction Certificate stage.

13 The modification of condition 25

Original condition 25:

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- 25 All water and sewer services necessary to service the development must be provided in accordance with Council's requirements. All services are to be designed and constructed in accordance with Council's Development Control Plan 2005 Chapter 67 - Engineering Requirements for Development and Council's Policy: Building Over and Adjacent to Sewer Mains. The design plans for the required services must be approved by Council prior to the issue of the Construction Certificate.

Amend condition 25 to read:

- 25 All water and sewer services necessary to service the development must be provided in accordance with Council's requirements. All services are to be designed and constructed in accordance with Council's **water and sewer specification** and Council's Policy: Building Over and Adjacent to Sewer Mains. The design plans for the required services must be approved by Council prior to the issue of the Construction Certificate.

Comment:

Condition required to be updated to ensure development is constructed in accordance with Council's current water and sewer specification.

14 The modification of condition 26

Original condition 26:

- 26 The developer will be fully responsible for the funding, design and relocation of the existing sewer line between MH A14/1 and MH A14/2. The design and construction of the sewer relocation are to be in accordance with Council's Engineering Requirements for Development – Sewerage. Design plans are to be submitted to Council for approval prior to the approval of the Construction Certificate.

Amend condition 26 to read:

- 26 The developer will be fully responsible for the funding, design and relocation of the existing sewer line between MH A14/1 and MH A14/2. The design and construction of the sewer relocation are to be in accordance with Council's **Sewer Specifications**. Design plans are to be submitted to Council for approval prior to the approval of the Construction Certificate.

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

Comment:

Condition required to be updated to ensure development is constructed in accordance with Council's current sewer specification.

15 Add new condition 27A

Add new condition 27A which reads as follows:

27A A suitably qualified acoustic consultant shall be engaged to provide recommendations on how to appropriately attenuate the temporary bin holding area so that any noise impact associated with the temporary storage of waste bins is adequately mitigated. The Construction Certificate plans shall detail the recommended attenuation measures and the holding area constructed accordingly.

Comment:

The proposed modification includes the provision of waste collection on-site in the side setback instead of kerb-side pickup as originally approved. The above condition is recommended to ensure that attenuation measures are implemented to minimize any potential unreasonable noise impacts associated with the temporary storage of the waste bins.

Any impacts associated with the modified waste collection location for bulk bin pickup is expected to be commensurate with the noise that would have been anticipated from kerb-side pickup. New conditions have been recommended for this modification which require the bins to be moved to the temporary bin holding area no earlier than the day before waste collection and a requirement for their relocation back to the permanent basement storage area no later than the day of collection.

16 Add new condition 29A

Add new condition 29A which reads as follows:

29A The landscape plan is to be amended to replace the Illawarra flame tree with an alternative species which grows to a mature height of up to 10 metres.

Comment:

The landscape plan submitted for the proposed modification includes an Illawarra flame tree located in the ground level communal open space in the eastern corner of the site. The mature height of the Illawarra flame tree is up to 16 metres which, if it

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achieves full height, has the potential to impact on views from adjoining properties towards Norah Head.

This concern was raised in public submissions and it is considered reasonable to require a different species to be planted in this location. To limit the impact to views the above condition is recommended to reduce the height of any plantings in this location to a maximum of 10 metres, which is consistent with the mature height of the landscaping proposed within the communal open space of the original approval.

17 The modification of condition 51

Original condition 51:

- 51 To encourage the use of alternate transport modes, secure bicycle parking/storage must be provided to accommodate 15 bicycles. The facility must be located in close proximity to the building entrances and be highly visible and well illuminated to minimise the likelihood of theft and vandalism. The installation and dimensions of the facility shall be in accordance with AS 2890.3-1993 – Parking Facilities – bicycle parking facilities.

Amend condition 51 to read:

- 51 To encourage the use of alternate transport modes, secure bicycle parking/storage must be provided to accommodate 19 bicycles. The facility must be located in close proximity to the building entrances and be highly visible and well illuminated to minimise the likelihood of theft and vandalism. The installation and dimensions of the facility shall be in accordance with AS 2890.3-1993 – Parking Facilities – bicycle parking facilities.

Comment:

The increase in the number of units proposed under the modification will increase the required number of bicycle parking spaces from 15 to 19. The condition is to be amended to update the number of required bicycle parking spaces to 19.

18 The modification of condition 60

Original condition 60:

- 60 The provision and maintenance of landscaping in accordance with Council's Policy Number L1 - Landscape for Category 3 development and generally in accordance with the plans prepared by PBS dated 1/7/05, including the engagement of an approved landscape consultant and contractor to

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undertake the design and construction of the landscaping. All landscaping works are to be completed prior to issue of the Occupation Certificate.

Amend condition 60 to read:

- 60 The provision of landscaping in accordance with the plans prepared by **Narelle Sonter Botanica dated 2/10/2020** and the **amended landscape plan required under condition 29A**, including the engagement of an approved landscape consultant and contractor to undertake the design and construction of the landscaping.

Written certification from a qualified landscape designer certifying that landscaping has been implemented in accordance with the landscape plan is to be provided to the Principal Certifier prior to issue of the Occupation Certificate.

Comment:

An updated landscape plan has been submitted with the modification which includes more substantial planting at ground level along the rear and side boundaries, changes to landscaping design within the front setback to Fairport Avenue and around the communal open space where the pool has been removed, and changes to the landscaping design on the rooftop to incorporate more substantial planting around the proposed communal open space. The condition is proposed to be amended to reference the updated landscape plans submitted with the current Section 4.55(2) application and the amended plan required under new condition 29A.

19 Delete conditions 76, 77, 78 and 79

Original conditions 76, 77, 78 and 79:

Swimming Pools

- 76 Prior to the pool being filled with water, the swimming pool, safety fences and gates being installed in accordance with the approved plans and specifications and the Swimming Pools Act 1992 and Regulations and AS 1926 - 1986 including the display of an approved sign regarding pool safety and resuscitation techniques.
- 77 Prior to the use of the swimming pool, the submission to Council of a Compliance Certificate to confirm the construction of the concrete shell in accordance with the design approved by a practicing professional engineer.

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- 78 All swimming pool plant is to be sound insulated so as to minimise the noise to adjoining properties.
- 79 The disposal of filter backwash to the sewer in a manner that will not cause a nuisance or where sewer is not available, the disposal of filter backwash into a rubble absorption trench as identified on the approved development plan.

Comment:

The original development included a pool within the communal open space at ground level and four private pools within the rooftop private open space areas. All the swimming pools are proposed to be deleted under the subject modification application and subsequently conditions 76, 77, 78 and 79 relating to the swimming pools are no longer required.

20 The modification of condition 81

Original condition 81:

- 81 The provision of a minimum number of 70 carparking spaces (with minimum dimensions of 5.5 metres x 2.5 metres) generally in accordance with the layout shown on the approved plans, amended in red and in accordance with Council's Development Control Plan 2005 Chapter No 61 - Carparking. The carparking spaces and any off-street loading and unloading area must be constructed, sealed, marked, drained and maintained in accordance with Council's Development Control Plan 2005 Chapter No 67 – Engineering Requirements for Development. All work must be completed prior to occupation/use of the development.

Amend condition 81 to read:

- 81 The provision of a minimum number of **72** carparking spaces (with minimum dimensions of 5.5 metres x 2.5 metres) generally in accordance with the layout shown on the approved plans, amended in red and in accordance with Council's Development Control Plan 2005 Chapter No 61 - Carparking. The carparking spaces and any off-street loading and unloading area must be constructed, sealed, marked, drained and maintained in accordance with Council's **Civil Works Design Specification**. All work must be completed prior to occupation/use of the development.

Comment:

Condition required to be updated to ensure development is constructed in accordance with Council's current Civil Works Design Specification and reflects the

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minimum number of car parking spaces now required as a result of the proposed change to the number of units within the development.

21 The modification of condition 83

Original condition 83:

- 83 The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation at no cost to Council, in accordance with Council's Development Control Plan 2005 Chapter No 67 - Engineering Requirements for Development. All works must be approved by Council.

Amend condition 83 to read:

- 83 The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation at no cost to Council, in accordance with Council's **Civil Works Design and Construction Specification**. All works must be approved by Council.

Comment:

Condition required to be updated to ensure development is constructed in accordance with Council's current Civil Works Design and Construction Specification.

22 The modification of condition 86

Original condition 86:

- 86 For safety, amenity and maintenance reasons, the waste storage area must be constructed to the following standards:
- Floors must be constructed of concrete, graded and drained to an approved drainage outlet connected to the sewer and finished to a smooth even trowelled surface;
 - Walls must be constructed with solid impervious material and shall be cement rendered internally to a smooth even steel trowelled surface;
 - All intersections between the walls and floors shall be covered with coving having a minimum radius of 25mm;
 - All entry points into the room must be banded to prevent the escape of liquid waste. Bunding shall be for 110% of the likely liquid storage waste and constructed in such a manner that does not obstruct the removal of waste receptacles from the room or create a safety risk to users;
 - Adequate ventilation shall be provided;

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- Adequate lighting shall be provided;
- The ceiling must have a minimum height of 2.1m from floor level and be finished with a smooth faced non-absorbent material capable of being easily cleaned;
- Waste storage areas shall prevent the access of vermin;
- Waste receptacles used shall be compatible with Wyong Council's waste collection service;
- The door to the storage area shall be weatherproof and shall be openable from the inside at all times;
- Hot and cold water hose cocks shall be located inside or within close proximity to the waste storage areas to facilitate cleaning.

Amend condition 86 to read:

- 86 For safety, amenity and maintenance reasons, the waste storage area must be constructed to the following standards:
- Floors must be constructed of concrete, graded and drained to an approved drainage outlet connected to the sewer and finished to a smooth even trowelled surface;
 - Walls must be constructed with solid impervious material and shall be cement rendered internally to a smooth even steel trowelled surface;
 - All intersections between the walls and floors shall be coved with coving having a minimum radius of 25mm;
 - All entry points into the room must be banded to prevent the escape of liquid waste. Banding shall be for 110% of the likely liquid storage waste and constructed in such a manner that does not obstruct the removal of waste receptacles from the room or create a safety risk to users;
 - Adequate ventilation shall be provided;
 - Adequate lighting shall be provided;
 - The ceiling must have a minimum height of 2.1m from floor level and be finished with a smooth faced non-absorbent material capable of being easily cleaned;
 - Waste storage areas shall prevent the access of vermin;
 - Waste receptacles used shall be compatible with Wyong Council's waste collection service;
 - The door to the storage area shall be weatherproof and shall be openable from the inside at all times;
 - Hot and cold water hose cocks shall be located inside or within close proximity to the waste storage areas to facilitate cleaning.
 - **A maximum 3% grade in the temporary bin holding area and waste truck servicing at the front of the temporary bin holding area.**

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Comment:

A maximum 3% grade in the temporary bin holding area and waste truck servicing area is required to achieve safe and practical bulk bin waste storage and collection.

23 Add new condition 87A

Add new condition 87A which reads as follows:

87A Prior to the release of any Occupation Certificate, a certificate of compliance, prepared by a suitably qualified acoustic consultant, must be submitted to Council certifying the attenuation measures recommended for the temporary bin holding area have been implemented.

Comment:

The proposed modification includes provision of waste collection on-site in the side setback instead of bulk bin kerb-side pickup as originally approved. Proposed condition 87A requires certification that appropriate attenuation measures have been implemented in accordance with new condition 27A.

0

24 Add new condition 93A

Add new condition 93A which reads as follows:

93A The waste bins are to be moved to the temporary bin holding area no earlier than the day before waste collection and are to be moved back to the basement waste storage room no later than the day of waste collection.

The above condition is recommended to ensure the waste bins are moved within a reasonable time before and after the waste collection day to minimise any amenity impacts from waste servicing.

25 The modification of condition 94

Original condition 94:

94 The approved landscape design prepared by PBS, including the private front courtyards, is to be maintained to maturity with watering and mulch. Any trees that die are to be replaced.

Amend condition 94 to read:

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- 94 The approved landscape design prepared by **Narelle Sonter Botanica and the updated landscape plan required under condition 29A**, including the private front courtyards, is to be maintained to maturity with watering and mulch. Any trees that die are to be replaced.

Comment:

The condition is proposed to be amended to reference the updated landscape plans submitted with the current Section 4.55(2) application.

26 Add new condition 95

Add new condition 95 which reads as follows:

- 95 **Furniture on the rooftop communal open space is to be safely secured and/or stored during high wind events to prevent the furniture from being blown off the building.**

Comment:

To ensure the safety of the residents of the development and adjoining properties a new ongoing condition is recommended requiring rooftop furniture to be safely secured during high wind events to prevent furniture from being blown from the rooftop.

History

Development Application No. DA/1849/2005 was originally lodged 23 September 2005 and subsequently refused by council on 28 February 2006. A section 82A Review of the application was lodged 13 March 2006 with minor amendments to the application to address the reasons for refusal and was subsequently approved on 19 June 2006 for a residential flat building comprising 45 units and demolition of existing structures.

A Section 96(1A) application was lodged under DA/1849/2005/A on 11 March 2009 to modify the timing of payment of development contributions. The application was withdrawn 29 May 2009.

Council issued a letter on 23 September 2009 advising physical commencement has been achieved in relation to DA/1849/2005. As part of the physical commencement of the development, three dwellings located on lots 16 and 17 in DP 18810 and lot A in DP 364571 were demolished and the lots were consolidated.

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Assessment

Having regard for the matters for consideration detailed in Sections 4.15 and 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and other statutory requirements, Council's policies and Section 10.7 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

Environmental Planning and Assessment Act 1979 – Section 4.55

The applicant is seeking an amendment to the original development under Section 4.55(2) of EP&A Act 1979. In accordance with Section 4.55(2), Council may consider a modification of development consent provided:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with—*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Substantially the same development (s.4.55(2)(a))

The proposed modifications include a number of internal and external changes to the originally approved built form. This has included changes to the dwelling mix, reconfiguration of unit arrangements, refinement of building's presentation and type of residential amenities provided based on detailed market advice. The resulting key driver has been to increase the number of smaller apartments, including the adoption of adaptable and liveable housing

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units and the removal of the private terraces on the rooftop and their replacement with a communal area.

A comparison of the modifications with the approved development has been summarised in the following table.

	Approved	Modification Proposed
Number of apartments	45	56
Apartment mix	4 x 1 bedroom 16 x 2 bedroom 25 x 3 bedroom	1 x studio 9 x 1 bedroom 38 x 2 bedroom 8 x 3 bedroom
Gross floor area (internal area as per WLEP 2013 definition)	6,661m ²	6,463m ²
Number of storeys	6 + 3 basement levels	6 + 2 basement levels
Building height (to top of building as per WLEP 2013 definition)	22.47m	23.7m
Number of lift cores/lobbies	4	3
Parking spaces	84 (74 resident spaces + 10 visitor space)	72 (62 resident spaces + 10 visitor space)
Communal open space	572m ² ground level communal open space with pool No communal open space provided on rooftop (rooftop POS provided)	348m ² ground level communal open space 696m ² communal open space on rooftop to replace approved rooftop POS
Waste servicing	Kerbside collection	On-site collection at ground level
Material palette	Expressed concrete grid (slabs and columns) with glass balustrades. Side walls masonry	Expressed concrete grid (slabs and columns) with masonry balustrades. Side walls in decorative precast concrete
Roof design	Private open space for four units located on roof with 4 separate pools and associated terraces and shade structures	Communal open space area with areas containing BBQ, seating, and landscape planting zones
Pools	5 pools (4 on roof floor and 1 on ground floor)	None

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The above changes maintain the approved building envelope and have retained the key design elements of the approved development. It is considered that nothing has materially changed and that there has been no increase in impacts from those considered under the original assessment. As such, the proposed modification is consistent with case law that the proposal is substantially the same development for which consent was originally granted i.e. the modified development is essentially or materially, or has the same essence, as that which was originally approved.

Chief Justice Preston reiterated the statutory approach, with reference to relevant case law, when assessing whether a modification application satisfies s4.55(2) of the *Environmental Planning & Assessment Act 1979* in *Arrage v Inner West Council* [2019] NSWLEC 85 at paragraphs [24-28]. Those paragraphs are outlined below:

24. *First, the essential elements to be identified are not of the development consent itself, but of the development that is the subject of that development consent. The comparison required by s 4.55(2) is between two developments: the development as modified and the development as originally approved: see [Scrap Realty Pty Ltd v Botany Bay City Council](#) (2008) 166 LGERA 342; [2008] NSWLEC 333 at [16].*
25. *Second, the essential elements are not to be identified "from the circumstances of the grant of the development consent"; they are to be derived from the originally approved and the modified developments. It is the features or components of the originally approved and modified developments that are to be compared in order to assess whether the modified development is substantially the same as the originally approved development.*

Comment

With regard to paragraphs 24 and 25 above, a comparison table has been prepared outlining the quantitative changes between the original approval and the proposed modified approval. The proposed modification would still result in a six storey residential flat building that occupies generally the same footprint and building envelope as the original development. The building will remain six storeys in height and the modifications will result in a minor decrease in gross floor area.

Only minor changes are proposed to be made to the height and setbacks of the building, which will result in minor changes to the bulk and scale, however, these would not result in a built form that is radically different to that which was originally approved. The changes to the apartment mix, communal open space, parking spaces and waste servicing will not alter the essential elements of the building or substantially alter the overall built form of the development.

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26. *The choice of language in the judicial decisions of “material and essential features” or a “material and essential physical element” of the development (see, for example, [Moto Projects](#) at [58], [59] and [64]) derives from judicial interpretations of the statutory test that the modified development be “substantially the same” development as the originally approved development. In [Vacik Pty Ltd v Penrith City Council](#) [1992] NSWLEC 8, p 2 Stein J interpreted the word “substantially” in the former s 102(1)(a) of the [EPA Act](#) to mean “essentially or materially or having the same essence”. That interpretation of the word “substantially” was accepted in [North Sydney Council v Michael Standley & Associates Pty Ltd](#) (1998) 43 NSWLR 468 at 475 by Mason P (with whom Sheppard AJA agreed at 403) and at 481-482 by Stein JA and in [Moto Projects](#) by Bignold J at [30] and [55].*
27. *This interpretation of the statutory test that the modified development be substantially the same development as the originally approved development, that the modified development be “essentially or materially” the same or “having the same essence” as the originally approved development could support an inquiry to identify the material and essential features of the originally approved and modified developments in order to undertake the comparative exercise required, but it does not demand such an inquiry.*
28. *That is one way, probably in most cases the most instructive way, to identify whether the modified development is substantially the same development as the originally approved development, but it is not the only way to ascertain whether the modified development is substantially (in the sense of essentially or materially) the same development as the originally approved development. For example, comparison could be made of the consequences, such as the environmental impacts, of carrying out the modified development compared to the originally approved development: see [Moto Projects](#) at [62] and [Tipalea Watson Pty Ltd v Ku-ring-gai Council](#) (2003) 129 LGERA 351; [2003] NSWLEC 253 at [17].*

Comment

In relation to the points made in paragraphs 26-28, the proposed internal and external modifications will not significantly change the character of the development to which the original consent was granted. The proposed modifications will not materially alter the form or function of the building and will result in the building retaining the same use, generally the same building footprint, same number of levels of units and access arrangements. While the apartment mix, basement parking and the communal open space area will be changing, the proposed modifications will not materially alter the use as a residential flat building.

The consequences of carrying out the modified development, compared to the originally approved development, will be minimal, particularly in relation to environmental impacts. Whilst there is the potential to have a minor increase in noise that is associated with the temporary bin storage area and location of garbage pick-up area, the modified development

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does reduce some impacts compared to the original approval., including impact from overshadowing and views.

The impacts of the original approval have been considered with regard to the Section 4.55(2) application and the proposed modifications will generally result in the same impacts. Any additional impacts are not considered to adversely impact adjoining properties or the amenity of future occupants.

Having regard for the above, it is considered that the modified development is substantially the same development as the originally approved development.

Consultation (s.4.55(2)(b))

Concurrence was not required from the relevant Minister, public authority or approval body in relation to the originally approved development and as such there was no requirement to consult with the relevant Minister, public authority or approval body regarding the proposed modification.

Notification (s.4.55.(2)(c)(d))

The application was originally notified from 13 November 2020 to 4 December 2020. During the assessment of the application, it was identified that notification of one adjoining property has been missed in the original notification period and as such a notification letter was sent to the property to provide a notification period from 25 May 2021 to 15 June 2021. A request to extend the notification period was granted and notification concluded on 13 July 2021. 25 submissions were received during the notification period which have been considered further in the report.

Section 4.55(3)

Section 4.55(3) requires Council to consider matters referred to in Section 4.15(1) as are relevant to the application for modification of the development consent. The modification has been assessed against the matters for consideration under Section 4.15 of the Act and found to be satisfactory. These are discussed further in the report. Additionally, consideration must be given to the reasons for the granting of the original approval.

Reasons for Decision

When the consent was originally granted there was no statutory requirement to provide reasons for the decision and none have been recorded. As such, there are no reasons given as to the merits of the granting of consent to the originally approved development, only reasons as to why the decision is one that can be made in the proper exercise of the Council's functions. Accordingly, it is not possible to identify any essential element from the circumstances of the grant of consent.

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Even though there were no formal specified reasons for the granting of the original consent, a review of the report for the originally approved application has been undertaken and the conclusion and findings of that assessment have been taken into consideration as part of the assessment of the subject application.

State Environmental Planning Policies (SEPP)

SEPP No. 65 – Design Quality of Residential Apartment Development

The original development was assessed against the provisions of SEPP 65 and was considered by the Design Review Panel on 2 November 2005. The approved development was considered by the Design Review Panel with regard to the context, scale, built form, density, resource energy and water efficiency, landscape, amenity, safety, social dimensions and aesthetics in which it was considered that the originally approved development satisfactory addressed the design principles.

The applicant's architect provided a SEPP 65 Design Verification Statement with regard to the proposed modifications to the approved residential flat building and confirmed the proposal meets the requirements of SEPP 65 and the Apartment Design Guide (ADG).

The modifications have been assessed in accordance with Schedule 1 – Design Quality Principles of SEPP 65 as follows:

Principle	Comment
Context and neighbourhood character	The modifications are generally within the approved building footprint and will maintain the form and scale of development to Ocean Parade and Fairport Avenue as previously approved. The design is commensurate with both the current and future desired character of the area and is appropriately designed with regard to neighbouring developments to minimise overshadowing, privacy and acoustic impacts.
Built form and scale	The modifications are generally consistent with the form, scale and height of the approved development. The modifications create an articulated building that addresses Fairport Avenue as the primary road frontage and is appropriately articulated to the Ocean Parade frontage to positively contribute to the streetscape. The built form is consistent with the desired future character of the locality and suitable for the subject site.

Principle	Comment
	The building appropriately responds to the slope of the site by stepping the building down the slope and the architectural treatment and proposed materials and finishes contribute to building articulation.
Density	The proposed modification will result in a decrease in the FSR, however an increase in the number of apartments is proposed. Suitable amenity has been achieved for each unit including provision of private open space on balconies, solar access and cross-ventilation. It is considered that the density of the development is appropriate for the site.
Sustainability	The modifications maintain the energy and water efficiency measures for the building with the modified plans supported by a BASIX certificate. The modification includes passive design strategies to reduce energy usage and other environment impacts including solar access to balconies and internal living areas, natural cross ventilation and selection of low maintenance, long life materials, having regard for the proximity of the site to the ocean.
Landscape	The landscape design surrounding the built form at ground level has been increased. More substantial tree planting has been provided along the south western boundary and in the south eastern corner of the site. Basement setbacks have been increased along the north eastern and south eastern boundaries to provide additional deep soil zones to the street. Setbacks to the south western side boundary to the basement have been reduced, however some deep soil zones have been retained, particularly around the main communal open space area in the eastern corner, and substantial planting has still been provided within the ground level setbacks. The private open space on the roof is to be converted to communal open space and the upper level setbacks to the rooftop terrace has been increased to allow for more substantial landscaping.

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Principle	Comment
Amenity	Solar access and privacy afforded to each unit and to neighbouring residential development. Each unit is afforded suitable private open space and communal open space is provided at both ground level and on the roof. The residential flat building is easily accessible from the street or via the basement carpark.
Safety	The modifications do not alter the ability of the development to provide safety and security measures within the building.
Housing diversity and social interaction	The modifications propose a mix of 1, 2 and 3 bedrooms suitable for housing demand in the locality. The units have also been designed to accommodate dual key apartments to support the provision of larger apartments. Communal open space has been provided in two locations, at ground level and on the roof, to provide opportunities for social interaction among the residents.
Aesthetics	The proposed modifications include upgrades to the façade of the building to create greater articulation and modernise the façade. The proposed architectural elements, materials and finishes of the building contribute to the articulation and disguise the bulk and scale of the building. The visual appearance of the development positively contributes to the streetscape and suitably responds to the existing and desired future character of the area.

The modifications have also been assessed, where relevant, in accordance with the Design Criteria contained in the Apartment Design Guide, as provided in Attachment 2.

As indicated above, the modifications to the development are acceptable when reviewed against the requirements of SEPP No. 65 – Design Quality of Residential Flat Buildings and the Apartment Design Guide.

Modification to Communal Open Space

Over 100m² of communal open space is provided to the residential flat building which is greater than 25% as required in the current ADG. The communal open space is provided on

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the rooftop (696m²) and at ground level (348m²). The proposed modification includes the removal of the pool in the ground level communal open space area located in the eastern corner of the site and replacement with a paved area with seating and landscaping.

The communal open space is to be primarily located on the rooftop which contains barbeques, tables and seating with landscaping. All residents will have access to the communal open space via the western block lift core and centre block lift core and stairs. The original approval did not contain any communal open space on the rooftop.

While the ground level communal open space has limited functionality, given the size and terraced landscaping, it is considered to be sufficient ground level space in addition to the available communal open space on the rooftop. The modification will increase the overall area and functionality of the communal open space by providing the additional area at the rooftop. It is considered that the removal of the pool is reasonable given the location of the site near other areas for recreation including the beach and oval located within walking distance.

State Environmental Planning Policy No 71 – Coastal Protection and State Environmental Planning Policy (Coastal Management) 2018

The original application was assessed against clause 8 of *State Environmental Planning Policy No 71 – Coastal Protection*. The original assessment had regard for the following matters for consideration under clause 8 of SEPP 71:

- (a) *the aims of this Policy set out in clause 2,*
- (b) *existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*
- (c) *opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*
- (d) *the suitability of development given its type, location and design and its relationship with the surrounding area,*
- (e) *any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*
- (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*
- (g) *measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*
- (h) *measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats*
- (i) *existing wildlife corridors and the impact of development on these corridors,*

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- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*
- (k) measures to reduce the potential for conflict between land-based and water-based coastal activities,*
- (l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*
- (m) likely impacts of development on the water quality of coastal waterbodies,*
- (n) the conservation and preservation of items of heritage, archaeological or historic significance,*
- (o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*
- (p) only in cases in which a development application in relation to proposed development is determined:*
 - (i) the cumulative impacts of the proposed development on the environment, and*
 - (ii) measures to ensure that water and energy usage by the proposed development is efficient.*

The original assessment found the proposed development would have minimal impact on the coastal environment and foreshore and found the development to be suitable for the site having regard for the coastal location and the existing high-density residential buildings in the area. The proposed modification will retain substantially the same built form and footprint and will not result in any additional impacts to the coastal environment and foreshore as assessed under SEPP 71.

Since the assessment of the original development, SEPP 71 has been repealed and the provisions of SEPP 71 have been incorporated within *State Environmental Planning Policy (Coastal Management) 2018*. The site is identified as land to which SEPP (Coastal Management) applies, as it is within the *coastal zone*, which in accordance with Clause 6 is land that includes a coastal environment area and/or a coastal use area. Consideration of the proposed modification application has been given to the provisions of SEPP (Coastal Management) below.

The site is identified under the SEPP (Coastal Management) as being located within a coastal environment area. Any development on land identified as a coastal environment area is required to be in accordance with *Clause 13 – Development on land within the coastal environment area*. Clause 13(1) includes matters of consideration that the consent authority must take into account in order to grant consent:

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*

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- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) coastal environmental values and natural coastal processes,*
- (c) the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) Aboriginal cultural heritage, practices and places,*
- (g) the use of the surf zone.*

The proposed modification will not result in an adverse impact on the environment, coastal environmental values and processes, the water quality of the lake, marine vegetation, public open space or Aboriginal cultural places. The applicant has submitted a stormwater quality management plan which has adequately addressed water quality measures to treat stormwater prior to entering Council's stormwater drainage system.

Clause 13(2) includes matters that the consent authority must be satisfied of in order to grant consent:

- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

In relation to the above, Council, having undertaken a site inspection and having regard for information supplied with the application, is satisfied that the proposed modification will not result in an adverse impact in regard to any of the matters for consideration under Clause 13(1), and that impacts of the development will be appropriately managed. The proposed modification will not have an adverse impact upon the coastal environment and is therefore consistent with the requirements of Clause 13.

The site is also identified under SEPP (Coastal Management) as being located within a coastal use area. Any development on land identified as a coastal use area is required to be in accordance with *Clause 14 – Development on land within the coastal use area*. Clause 14(1)(a)

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includes matters for consideration that the consent authority must take into account in order to grant consent:

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage*

Having considered the above, the proposed modification will not result in any significant additional overshadowing or wind funneling which is discussed further in the report. The proposed modification will not result in an impact to views from public places and is considered acceptable in terms of visual amenity. The site is a disturbed site and will not impact any Aboriginal cultural heritage. The site is not identified as having any cultural or built environmental heritage.

Clause 14(1)(b) includes matters that the consent authority must be satisfied of in order to grant consent:

- (b) *is satisfied that:*
- (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
 - (iv) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

In relation to the above, the proposal is not considered to result in an adverse impact in regard to any of the matters for consideration under Clause 14(1), and that impacts of the development will be appropriately managed. The articulated facades of the building are consistent with the anticipated development outcomes for the area having regard for the coastal and built environment. The modified development is consistent with the requirements of Clause 14.

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State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposed residential flat building constitutes 'BASIX affected development' as defined within the Regulations. A valid BASIX Certificate (as required by Schedule 1 of the *Environmental Planning and Assessment Regulation 2000*) has been submitted with the development application. The application has adequately demonstrated water conservation and energy efficiency measures to be adopted as part of the proposal in order to ensure the development will be energy and water efficient consistent with the NSW State Governments requirements.

State Environmental Planning Policy No.55 – Remediation of Land

Clause 7(1) of State Environmental Planning Policy No. 55 requires that the consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and if contaminated that the land is suitable in its contaminated state (or will be suitable, after remediation) for the development proposed to be carried out.

The site is unlikely to have contamination issues given the history of the site for residential uses. Furthermore, the original assessment found the approved development to be suitable for the proposed residential use. There are no proposed modifications that will render the site unsuitable for the residential development having for SEPP 55.

Wyong Local Environmental Plan (WLEP)

The original development application was lodged in 2005 and approved under the provisions of Wyong LEP 1991. An assessment has been provided with regard to the provisions of Wyong LEP 1991, with a comparative analysis provided in relation to the current Wyong LEP 2013 also being provided.

Permissibility

The subject site was zoned *2(c) Medium Density Residential Zone* under the provisions of Wyong LEP 1991 and is currently zoned *R3 Medium Density Residential* under Wyong LEP 2013. The development is characterised as a *residential flat building* under both Wyong LEP 1991 and Wyong LEP 2013, however the definition of a residential flat building has changed since the original development consent was granted. Under Wyong LEP 1991 a *residential flat building* was defined as follows:

residential flat building means a building containing 3 or more dwellings.

A *residential flat building* is currently defined under Wyong LEP 2013 as follows:

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residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

Note—Residential flat buildings are a type of residential accommodation

The development in its modified form remains consistent with the characterisation as a residential flat building and is permissible with consent.

Zone objectives

The objectives of the 2(c) *Medium Density Residential Zone* under the provisions of Wyong LEP 1991 are as follows:

- (a) *to cater primarily for residential flat buildings generally not exceeding a height of 3 storeys (except as otherwise provided for by clause 42B), and*
- (b) *to provide for other uses which:*
 - (i) *are compatible with the residential environment and afford services to residents at a local level, and*
 - (iii) *are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for residential uses, and*
- (c) *to provide home-based employment where such will not:*
 - (i) *involve exposure to view from any public place of any unsightly matter, or raw material, equipment, machinery, product or stored finished goods, or*
 - (ii) *have a material adverse impact on residents.*

The assessment of the approved development found it to be consistent with the objectives of the zone. The proposed modifications are considered to remain consistent with the objectives as the proposed modifications will remain compatible with the residential environment, are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for residential uses and will not result in any home based employment which will impact on the amenity of the local area.

The height of the building was originally approved in accordance with clause 42B which permitted a building height greater than 3 storeys in The Entrance on land zoned 2(c) *Medium Density Residential*. The building height is discussed further in the report.

For comparative purposes, the zone objectives of the current *R3 – Medium Density Residential* zoning of the site under Wyong LEP 2013 read as follows:

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

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- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maintain and enhance the residential amenity of the surrounding area.*
- *To encourage amalgamation of existing lots to facilitate well designed medium density development and to avoid unnecessary isolation of lots.*

The proposed modification is found to be consistent with the stated zone objectives. In particular, the development maintains the residential amenity of the surrounding area and includes the amalgamation of lots in the original development consent to achieve a medium density development that is largely compliant with the Apartment Design Guide without resulting in the isolation of adjoining lots.

Building Height

The original development was approved under the provisions of Wyong LEP 1991 which permitted a maximum building height of 18 metres. Building height was defined under Wyong LEP 1991 as follows:

building height is the vertical distance from natural ground level at any point within a building to the top-most ceiling of the building directly above that point.

Under the provisions of Wyong LEP 2013 the site is mapped with a maximum permissible building height of 12 metres and building height is defined as follows:

building height (or height of building) means—

- in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

The original application was assessed and approved under Wyong LEP 1991 with a building height of 17.8 metres (to the ceiling) which was compliant with the maximum permitted building height of 18 metres, measured to the ceiling. The building was approved with a height to the highest point of the building of 22.47 metres.

The proposed modified development proposes an increase to the building height to 23.7 metres, which is an increase in the overall building height of 1.23 metres. The increase in the building height is a result of the change in the number of lift cores (from four to three), the increase in height to the lift overrun to allow access to the rooftop communal open space area and for the southern section of the building (closest to Ocean Parade) to align with the floor levels of the remainder of the building section and to satisfy the requirements of **condition 21** of the development consent which requires the finished floor levels to have a minimum 300mm freeboard from the 1% AEP flood levels.

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While the zone objectives of the 2(c) zone included restricting residential flat buildings to generally not exceeding a height of 3 storeys, clause 42B of Wyong LEP 1991 provided development principles for the 2(c) zone within The Entrance, which permitted development on sites greater than 1,800 m² to exceed 3 storeys and 10 metres in height in order to facilitate the construction of larger scale buildings on amalgamated land parcels in a form that is consistent with the natural topography of the land, and where it could be demonstrated to the Council's satisfaction that the potential impacts associated with such development would be within acceptable limits. The subject site was identified on the Building Height Map as having a height limit of 18 metres under Wyong LEP 1991, which the proposal complied with.



Figure 10: South elevation – originally approved building height shown in red

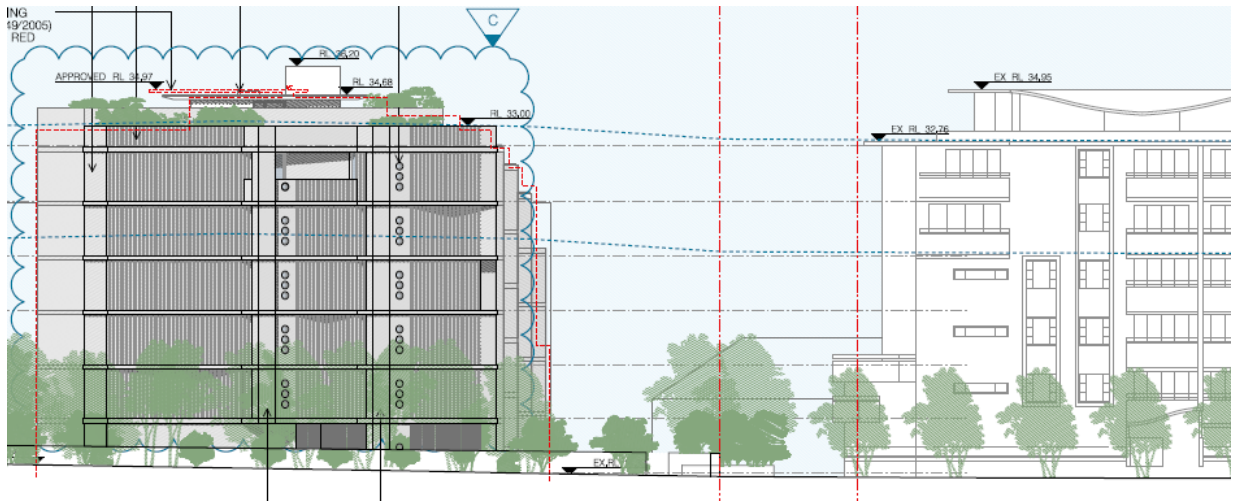


Figure 11: West elevation – originally approved building height shown in red and adjoining RFB 50-54 Ocean Parade (right)

The contravention to a development standard can be approved under a modification and a clause 4.6 written request is not required. The relevant judgments (originating with *North Sydney Council v Michael Standley & Associates Pty Ltd* [1998] NSWSC 163) relevantly state that Section 4.55 is a 'free-standing provision': "a modification application may be approved notwithstanding the development would be in breach of an applicable development standard

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were it the subject of an original development application". Clause 4.6 only regulates whether 'development consent' may be granted, not whether an existing consent may be modified. As such, a clause 4.6 written request for the increase in the building height is not required

Section 4.55 is subject to its own stand-alone tests (such as the "substantially the same" test, and a requirement to consider all relevant Section 4.15 matters) and the merit assessment undertaken for the modification will have regard for these tests.

The applicant has provided the following justification for the non-compliance with the approved building height:

The modification to the building's design retains the fundamental components of the development approved with DA/1849/2005. Its spatial characteristics are not significantly altered as the modified 6-storey building is contained within an almost identical envelope to the one previously approved.

When approval was granted to the original development application (19 June 2006), the maximum permissible building height was 18m and the development was, generally, compliant with the height control in force at the time (Note: Height was measured to the underside of the ceiling of the topmost apartment as per the building height definition in WLEP 1991). The modified building closely mirrors the original approved development in terms of floor levels and internal apartment height and, accordingly, it would comply with the former height control for the site.

Notwithstanding the above discussion, there are now substantially different planning circumstances than existed at the time of the DA/1849/2005 approval. A change in the planning controls of the site occurred when the new WLEP 2013 came into force on 23 December 2013 and both the Height and FSR standards contained in the repealed instrument were reduced significantly. Clause 4.3 Height of Buildings of the WLEP 2013 now applies to the proposal with the subject site nominated a maximum height of 12 m.

As noted earlier, the proposed building is largely consistent with the original development as it is generally contained within the confines of its external envelope, retains and/or increases the approved building setbacks and maintains the original number of storeys. The result is a building which does not produce any additional environmental impacts (i.e. overshadowing, acoustic and visual privacy and view disruptions) to the ones occasioned by the original development.

The proposal's exceedances do not result in any additional privacy impact on surrounding properties beyond the one caused by the original development. If anything, the design of the facades of the building has been modified to better respond to the surrounding context by carefully orienting the openings and using architectural elements to obstruct sightlines where the potential for overlooking has been identified, such as at the north elevation.

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Furthermore, significant planting is proposed around the perimeter of the building and the proposed rooftop terrace to provide an additional measure of visual screening between the subject development and the neighbouring apartment buildings.

In consideration of the merits of the increase of the building height, the objectives of the current clause 4.3 of Wyong LEP 2013 have been considered. The objectives of clause 4.3 are as follows:

- (a) to establish the maximum height limit for buildings to enable the achievement of appropriate development density,*
- (b) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
- (c) to ensure that the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views.*

The proposed increase in building height is to accommodate the lift overrun to provide access to the communal open space area on the roof and to increase the finished floor levels to have a minimum 300mm freeboard from the 1% AEP flood level, as per the requirements of condition 21.

Two shade structures are proposed to be removed (one over the north section of the building and the other in the centre) which will result in a reduced maximum building height in some sections of the building. The building will generally retain the bulk and scale as previously approved.

Overshadowing as a result of the increase in the building height will generally remain the same, with some areas of overshadowing resulting in minor increases due to the increased articulation of the building on the northern façade and south western façade. The introduction of the lift overrun will result in negligible increased impact. The deletion of two of the originally approved roof shade structures has resulted in a slight decrease in overshadowing. The increase in building height will not result in any additional privacy impacts as it is to accommodate the lift overrun and will not create additional areas where overlooking can occur from habitable areas.

The original assessment report found the development would not have any unreasonable impact on views. A detailed assessment of the impact to views has been provided further in the report under section 4.15 matters. Additional impacts to views will be minor as a result of the proposed modification. The building height will be a similar number of storeys as existing surrounding developments (refer figure 12) and similar height to adjoining properties including 30 Marine Parade (north-east of the site) which has a building height of 23.6 metres (7 storeys) and 50-54 Ocean Parade (south-west of the site) which has a building height of 21 metres (6 storeys).

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Furthermore, when considering the RLs of the building height of the proposed modification with the adjoining properties they are generally similar heights as follows:

- Proposed modification - RL 36.20 (to lift overrun), RL 29.5 – RL 33.0 (to top of roof)
- 50-54 Ocean Parade - RL 34.95
- 30 Marine Parade –RL 33.48/RL 28.9

The increase in building height will not result in an unsympathetic development form in the context of the development of directly adjoining and nearby development sites. The increase in the building height will not result in any additional environmental impacts and will not be discernible from the street. As such, the proposed height of the modified development is considered acceptable.



Figure 12: Number of storeys of adjoining buildings

Floor Space Ratio (FSR)

There was no identified maximum permissible FSR on the site under Wyong LEP 1991, however a maximum permissible FSR was identified in Chapter 64 of Wyong DCP 2005 which permitted a maximum FSR of 2:1 (including bonus provisions as the site is over 3,000m² and was able to have a 15% increase to site area for the purpose of FSR calculations).

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The original application was assessed and approved with a gross floor area (GFA) of 7,565m² which was an FSR of 2.3:1. Chapter 64 of Wyong DCP 2005 defined the gross floor area as follows:

gross Floor Area means the sum of the areas of each floor of a dwelling, where the area of each floor is taken to be the area within the outer face of the external enclosing walls (as measured at a height of 1400 mm above each floor level), excluding:

- Awnings, columns, fin walls, or similar devices and any elements, projections or works outside the general line of the outer face of the external wall; and
- Garages or carports needed to meet the requirements of this plan.

For comparison, the site now has a maximum permissible FSR of 0.9:1 under clause 4.4 of the Wyong LEP 2013 and the definition of gross floor area is as follows:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes—

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

The proposed modification involves a reduction in the originally approved gross floor area to 7237m² (measured as per old definition) which equates to an FSR of 2.2:1 which is less than the approved 2.3:1. The GFA has been reduced in the southern corner of the site and south western side of the building in units 01A, 01B, 07 on the ground floor, units 01A, 01B and 02 on floors 1-4 and units 01 and 02 on floor 5. The modified FSR is considered acceptable.

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Acid Sulfate Soils

The site was identified under Wyong LEP 1991 as potentially containing Class 5 Acid Sulfate Soils. The clause required the consideration of the need for an acid sulfate soils management plan.

The original assessment identified that an acid sulfate soils management plan was not required as the proposed works for the basement were unlikely to lower the watertable in any adjoining class 1, 2, 3 or 4 land in accordance with clause 15 of Wyong LEP 1991.

The proposed modification includes the deletion of basement level 3. The natural ground levels of the site range from 11 metres to 15 metres AHD. The watertable may need to be lowered during the construction of the development as modified, however will not result in the watertable being lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land and as such, an acid sulfate soils management plan is not required for the proposed modification.

Flood Prone Land

The land is identified as being affected by flood controls. The ground level is at 11 metres - 15 metres AHD. The flooding of the site is localised overland flooding due to a low point in Ocean Parade. Council's flood mapping for the 1% AEP is identified in figure 13 below.



Figure 13: 1% AEP flood extent on the site

The applicant has submitted a flood study which involves a hydrological and hydraulic model of the pre and post development flows for the development. The applicant is proposing to retain the Council drainage system and divert it around the development including the

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creation of overland flow paths and drainage easement. The development also includes on-site stormwater detention to attenuate stormwater runoff flows downstream.

The development has also been modified to increase the floor level of the ground floor 100mm to ensure that the floor levels offer a minimum 300mm freeboard from the 1% AEP flood level in accordance with **condition 21** of the development consent. In a flooding event the development provides for safe evacuation of the occupants to the south along Fairport Avenue. It is considered that the modified development is compatible with the flood hazard on the site.

Essential Services

The site will have access to all essential services for the development including water, electricity, management of sewage, drainage and suitable vehicular access.

A water service is available in Fairport Avenue and Ocean Parade as shown in figure 14. The applicant is required to replace the existing AC DN150mm water main for the extent of proposed development boundary along Fairport Avenue due to impact from proposed works. There is sufficient capacity to service the proposed development.

Any proposed adjustments to Council's water assets will require a detailed design to be prepared by the applicant to be submitted to Council for approval prior to the issue of the Construction Certificate. The design and construction of the water mains are to be in accordance with the WSA Water Supply Code of Australia WSA – 02 Sydney Water Edition. These requirements will be issued under Section 306 of the *Water Management Act 2000*.



Figure 14: Water servicing arrangements

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An existing DN300mm gravity sewer main is traversing the site (figure 15) and the proposed building structure is proposed directly above this infrastructure. The applicant will be required to relocate the existing gravity sewer main around the proposed building footprint and connect back into Council's sewer network along Fairport Avenue. The design will need to satisfy WSA code Sydney Water Edition and Council's Building in Proximity to Sewer Pipeline policy.

Any proposed adjustments to Council's sewerage assets will require a detailed design to be prepared by the applicant prior to the issue of the Construction Certificate. These requirements will be issued under Section 306 of the *Water Management Act 2000*.



Figure 15: Sewer servicing arrangements

The applicant has submitted a stormwater management plan which is designed in accordance with AS3500.3 – Stormwater drainage and is considered adequate for the scale of the development. The proposed driveway profile will be required to have a 100mm freeboard to the 1% AEP flood level to prevent floodwaters entering the basement carpark.

The driveway profile is required to be compliant with the grade and transition requirements of AS/NZS 2890. Council's existing drainage pit in Fairport Avenue will be required to be upgraded to a heavy duty "V" grate pit to be constructed in the driveway layback to Council's specification. A 3.6 metre overland flowpath is to be constructed along the Ocean Parade and Fairport Avenue within the property boundary.

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Draft Central Coast Local Environmental Plan 2018

The Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP) was exhibited from 2 December 2018 until 28 February 2019 and will replace Wyong Local Environmental Plan 2013 and Gosford Local Environmental Plan 2014. The Draft CCLEP was adopted by Council at its meeting on 14 December 2020. Under the provisions of Draft CCLEP, the site remains R3 Medium Density Residential zoning. There are no additional or amended clauses or provisions warranting further discussion.

Wyong Development Control Plan 2005

The original development application was lodged in 2005 and approved under the provisions of Wyong DCP 2005. An assessment has been provided with regard to the provisions of Wyong DCP 2005.

Chapter 64 Multiple Dwelling Residential Development

The original development was assessed having regard to the provisions of Wyong DCP 2005, Chapter 64. The provisions of Chapter 64 have since been repealed and replaced by Wyong DCP 2013 Chapter 2.4. A summary of compliance with the relevant controls are outlined under the attached table (Attachment 3). However, there are a number of requirements under the DCP that are relevant to the proposal but overridden by similar controls contained within the ADG. These DCP requirements include:

- communal open space (10m² per dwelling with a minimum dimension of five metres);
- private open space (a minimum area of 10m² and a minimum dimension of two metres);
- deep soil provision (12.5% site area), site coverage (soft landscaping 25%);
- solar access;
- building separation; and
- storage (3m² of floor area/1-2 bed dwelling).

The design of the proposed modification is substantially the same to that which was originally approved and generally complies with the controls. There are no major changes to what was required under Chapter 64 under the proposed modification.

Parking and Access

The proposed modification includes changes to the apartment mix and the deletion of the level 3 basement parking. The modified development proposes 56 units with the following apartment mix:

- 10 x one bedroom unit (including 1 x studio unit)

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- 38 x two bedroom units
- 8 x three bedroom units

As part of the proposed modification the parking is proposed to be reduced from 84 parking spaces (74 residents parking spaces plus 10 visitor parking spaces) to a total of 74 parking spaces (64 residents parking spaces plus 10 visitor parking spaces). Wyong DCP 2005 - Chapter 64 Multiple Dwelling Residential required the following parking rates for residential flat buildings:

- 1 space per 1 bedroom unit
 - 1.2 spaces per 2 bedroom unit
 - 1.5 spaces per 3 (or more) bedroom unit
- Plus
- 1 space per 5 units for visitor parking (for over 15 units)

The required parking spaces have been calculated in accordance with the DCP as follows:

	Resident parking spaces required
10 x 1B units at 1 space/unit	10
38 x 2B units at 1.2 spaces/unit	45.6
8 x 3B units at 1.5 spaces/unit	12
TOTAL	67.6 (rounded to 68)

	Visitor parking spaces required
56 units at 1 visitor space/5 units	11.2 (rounded to 12)

The original development provided in excess of the required parking spaces by 5 resident parking spaces and 2 visitor parking spaces. The proposed modifications have reduced the number of larger 3 bedroom apartments from 25 units to 8 units while the number of 2 bedroom and 1 bedroom units have increased.

The proposed modified apartment mix requires the provision of 68 resident parking spaces and 12 visitor parking spaces to be provided. The proposed modification only includes the provision of 64 resident parking spaces and 10 visitor spaces. Furthermore, Council's Traffic Engineer has advised that parking space number 15 on basement level 1 and parking space number 1 on basement level 2 are required to be deleted to provide a turning area as they are at the end of blind aisles (**new condition 24A**). This will reduce the number of parking spaces provided to 62 resident parking spaces, which is a shortfall of 6 resident parking spaces and 2 visitor parking spaces.

The shortfall in the parking has been considered in the context of the objectives of the control, impacts on street parking and whether the number of proposed spaces can adequately cater for the number of dwellings proposed. Council's Traffic Engineer has raised

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no concerns with the shortfall in parking having regard for impact on street parking within the vicinity of the development.

The proposed parking numbers are considered to provide adequate on-site parking within a basement car park. The proposed parking arrangement minimizes the potential for pedestrian and vehicle conflict and vehicles can enter and leave the site in a forward direction. The proposed parking numbers will enable at least one space per unit to be provided and the shortfall in parking is minor (6 resident and 2 visitor spaces). It is considered that the parking proposed under this modification provides parking in an efficient manner that has little impact to neighbouring properties or the street.

Site Waste Management

The proposal has been assessed against the provisions of Wyong DCP 2005 and the Wyong Shire Council Waste Control Guidelines.

The proposed modification provides an adequate waste storage area within the basement, and the bins are taken to a new separate temporary bin store area enclosure on the north eastern side setback on the day of collection. The waste collection vehicle will reverse into the waste collection area on the site for collection of waste from the enclosure. There is enough space to accommodate the waste servicing truck.

The revised waste collection arrangements are considered more suitable and a safer option than kerb-side bulk bin collection. Detailed comments are provided within the waste discussion under Section 4.15 matters discussed below.

Chapter 60 -The Entrance Peninsula

The original development had regard for the provisions of Wyong DCP 2005, Chapter 60, which provided specific controls relating developments in The Entrance. Chapter 60 has since been replaced by Wyong DCP 2013, Chapter 5.3 which includes controls generally relating to the design and residential character of the area.

The proposed modification will remain consistent with the desired character of The Entrance Peninsula as follows:

- The proposed upgrades to the façade will enhance the architectural quality of the development;
- Enhancing the landscape setting by providing substantial planting and protecting scenic qualities of the area;
- Improving the quality of the streetscape by the modified façade and increased deep soil areas and landscaping the street setbacks;
- Minimising and disguising the bulk and scale of the approved development by increasing the articulation to the façade through incorporation of architectural

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- elements and balconies and the provision of substantial landscaping to soften the built form of the development; and
- Providing an effective residential address with clear pedestrian access to the outdoor communal open space provided on the site and the public open space areas within the vicinity of the site.

It is considered that the modified development continues to achieve the objectives of the character of The Entrance with the modified development having an improved streetscape presentation.

Relevant Regulations

There are no specific matters under the Regulation that require further discussion.

Likely Impacts of the Development (built environment, natural environment, economic and social impacts)

Built environment

A thorough assessment of the aspects of the proposed development on the built environment has been undertaken in terms of the planning controls.

Accessibility

The proposed modification to the layout of the basement parking provides accessible residential parking spaces that are practical and in accordance with AS/NZS 2890.6 (2009) – “Off-street parking for people with disabilities”. The modification provides accessible pathways from the street to the building entry, lift core and communal open space areas.

Internal access and parking

As previously discussed in the report, the parking is considered to be suitable for the modified development. Sufficient parking will be available, with at least one parking space provided to each unit. The modification to the basement provides parking in an efficient manner that has little impact to neighbouring properties or the streetscape and that retains deep soil planting around the perimeter of the site which is an appropriate outcome for the development and surrounding area. The access ramp will remain in the same location as originally approved and will provide suitable access to the basement carpark.

Drainage

The site falls gently to the rear. The Applicant has submitted a stormwater quality management plan that indicates that stormwater is directed to Council’s drainage system via an overland flow path around the development and a 23kL stormwater tank. The internal

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stormwater management plans have been designed in accordance with AS3500.3 – Stormwater drainage and is considered adequate for the scale of the development.

Waste disposal

The original approved development included kerbside waste collection of bulk bins. The proposed modification includes a garbage room within the basement and servicing on site at ground level. The proposal provides an adequate waste storage area within the basement, and the bins are taken to a separate enclosure on the north corner of the site on the day of collection. The waste collection vehicle will enter in a forward direction into the site and use the manoeuvring area within the site to reverse into the service bay, allowing for the vehicle to exit in a forward direction in a single manoeuvre (figure 16).

Turning paths have been provided to demonstrate manoeuvring for the waste collection truck on-site are compliant with AS2890.2. Residents will transport their general waste and recyclables to the Waste Storage Room on Basement Level 2 and deposit into the appropriate bulk bin or Mobile Garbage Bin (MGB). The building manager will be responsible for transporting the general waste bulk bins to the bin collection area on the ground level via the car ramp for twice-weekly collection, no earlier than the day before collection day. For the collection of bulk bins, a rear-loading waste collection vehicle will enter the site via Fairport Avenue and park in the ground floor loading bay. Fortnightly kerbside collection of green waste bins is also proposed.

Landscaping along the northern boundary of the waste servicing area is proposed including New Zealand Christmas Trees which grow up to 3 metres in height (figure 17). It is considered that the proposed modifications to the waste servicing arrangements will improve the previously approved arrangements, which currently required kerbside collection of all waste which would result in a significant number of bulk bins and MGB's along the street on waste collection days.

The on-site waste servicing arrangements will reduce the impact on the street during waste collection days and will result in similar acoustic impacts to what would have occurred on the street however, it will be for a shorter duration of time as the waste servicing truck will not continually move between bins. It is considered that the proposed modifications to the waste servicing are suitable for the development.

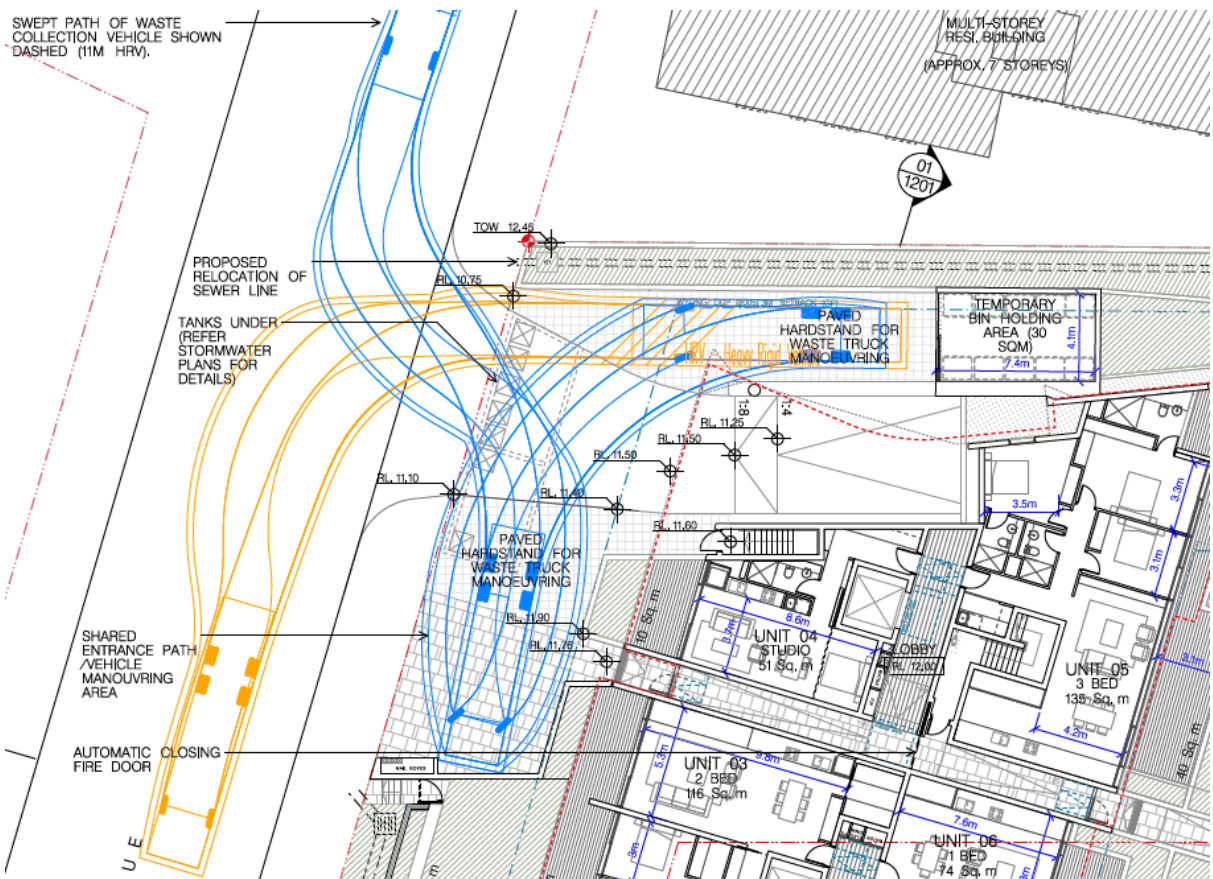


Figure 16: Swept turning path of waste collection vehicle to waste servicing area

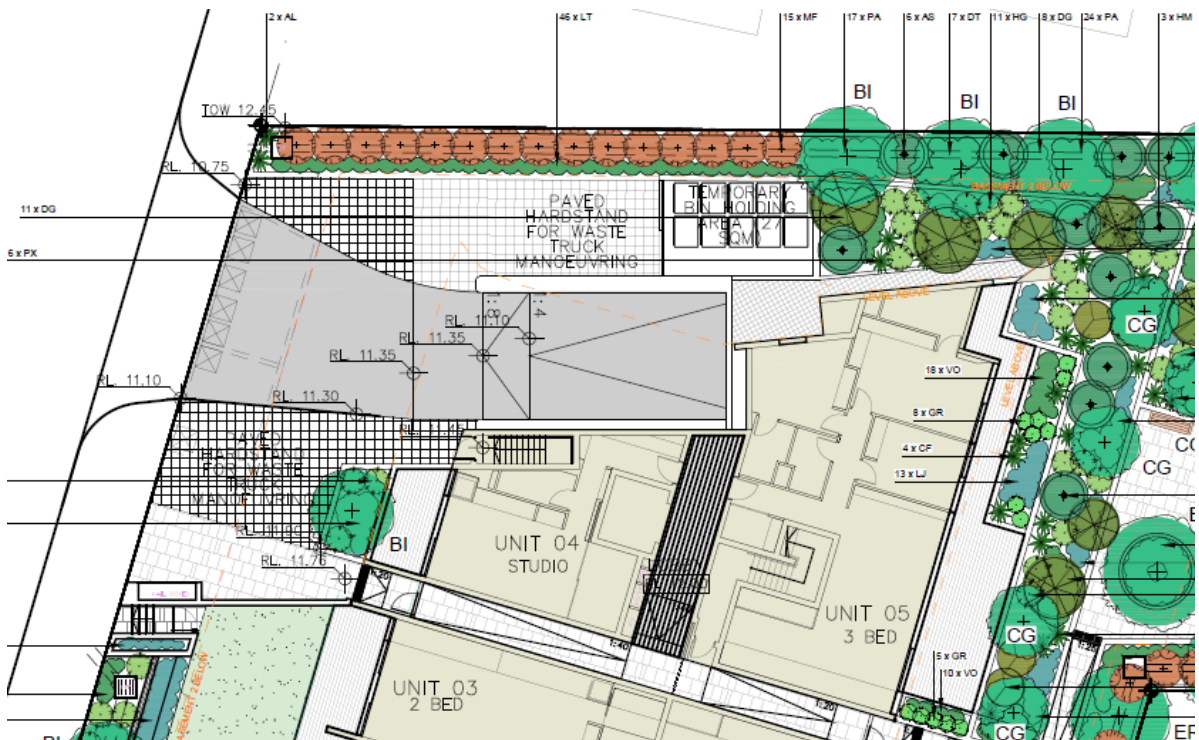


Figure 17: Landscaping around waste servicing area

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Whilst there may be some acoustic impact to adjoining residents at the rear of the property at 30 Marine Parade on collection day, this will be a limited window of impact that occurs twice per week and for short duration. **Conditions 27A and 87A** will be imposed to require that attenuation measures are implemented to the temporary bin holding area to ensure that the placement and use of the waste bins will not unreasonably impact the adjoining neighbours.

Any attenuation measures will be required to be included on the Construction Certificate plans. It is considered that a reasonable acoustic outcome consistent with a medium density residential environment can be achieved having regard for the inclusion of conditions 27A and 87A.

Locality and streetscape

The proposal will not adversely impact on the character and amenity of the locality and streetscape. The scale, form, character and density of the modified development is considered acceptable within the locality given the R3 zoning of the site. The proposed modification involves changes to the façade which includes greater articulation to the built form.

The design and appearance of the modified development is of a high design that is of an architectural appearance which is satisfactory within the future character of the streetscape. The form and scale of the development is consistent with that envisaged for the site under the R3 zoning for medium density development. The proposal provides a design that clearly identifies the residential entry and minimises impacts of car parking by incorporating a basement. The built form is well articulated and composed, includes a suitable materials palette and has considered the relationship to surrounding properties and the opportunities presented by the location of the site.

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Figure 18: 3D perspective of modified development and materials palette

Privacy, overlooking and boundary treatments

The nearby dwellings to the south east of the site are the most sensitive of potentially affected neighbouring properties that are most likely to be impacted by overlooking and privacy impacts from the future occupants of the development. Overlooking potential has been minimised in the design through the orientation of dwellings, internal layouts and balconies to avoid conflict.

Apartments along the north eastern façade have been orientated to the south east or north west to prevent privacy impacts with 30 Marine Parade. The balconies on the south eastern façade have been recessed within the façade to limit overlooking and include solid balustrades. Additionally, physical distance and separation of over 20 metres will address potential visual privacy issues through large setbacks along the south eastern boundary.

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The modification includes new balconies to the south eastern portion of the building (figure 19). The southernmost balconies along the south eastern boundary are generally located forward of the building line of 50-54 Ocean Parade and are not located off living areas in the subject development and as such will have lesser privacy impacts.

The northern most balconies are located off living areas and will likely be used more often, however it is considered that the building separation of over 20 metres is sufficient to mitigate privacy impacts and will generally not overlook into living areas of the adjoining property. The balconies in the centre are not located off living areas and will be used less often and result in lesser privacy impacts. Furthermore, the development also incorporates deep soil planting around the perimeter of the site that allows for landscaping that incorporates trees of an appropriate scale for the development that assist in breaking view lines and mitigating privacy impacts of the lower floor apartments.

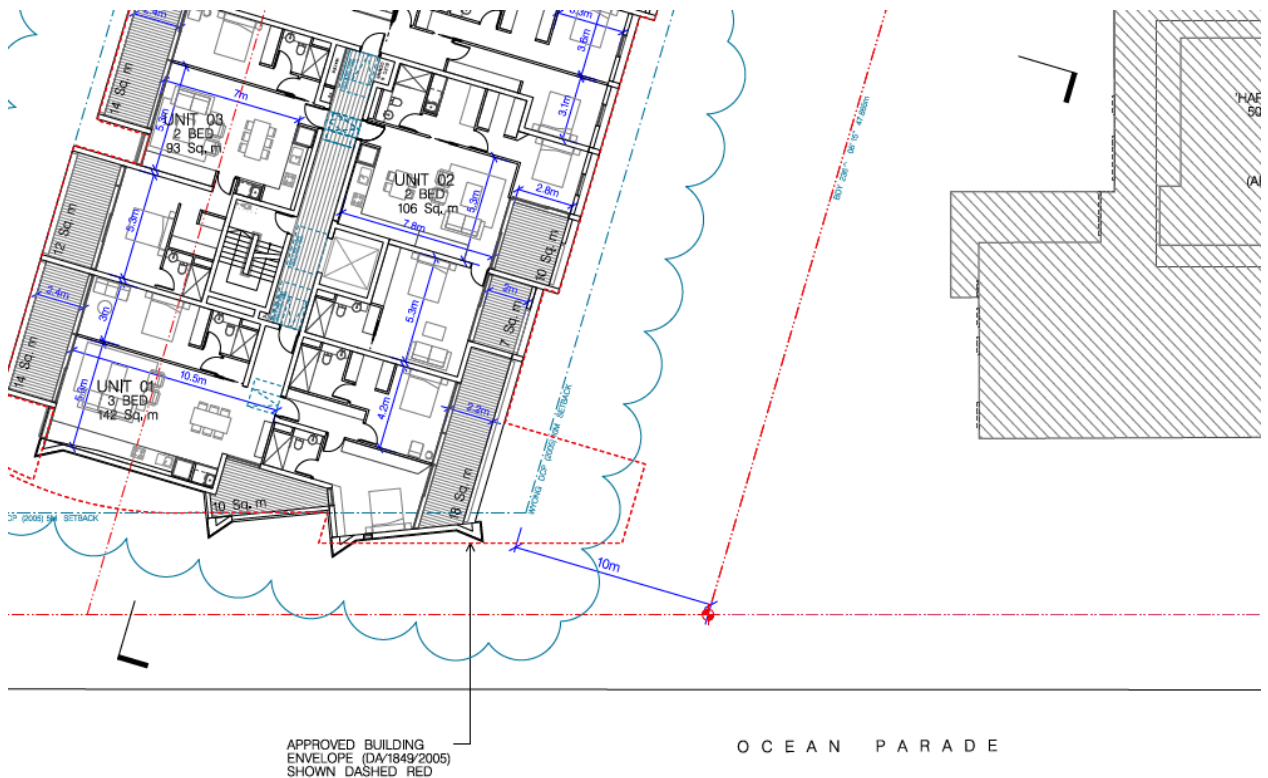


Figure 19: Orientation and building separation of balconies on the south eastern façade

Overshadowing

Shadow diagrams have been prepared for the modified development between 9:00am and 3:00pm, for 21 June (midwinter) in order to demonstrate a worst-case scenario for solar access and shadow impact on the shortest day of the year. Due to the orientation of the site, the shadowing created by the development extends over Ocean Parade and partially over the properties on the opposite side of Ocean Parade to the south west of the site and the south

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

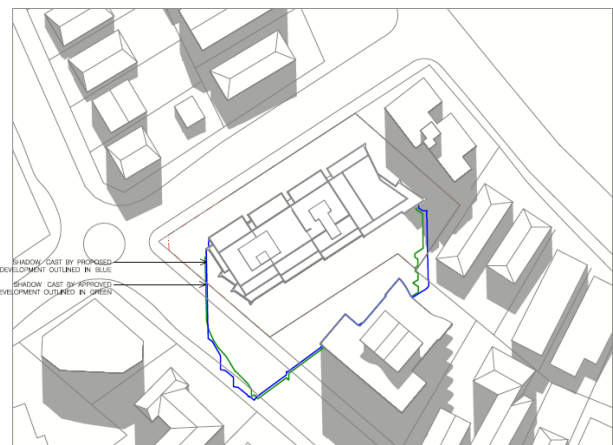
eastern neighbouring properties at 50-54 Ocean Parade. It is noted that the adjoining properties of the site share the same R3 Medium Density Residential zoning as the subject site.

During midwinter in the morning, shadowing from the proposal extends across Ocean Parade and the side and front setbacks of 55 Ocean Parade and 57-59 opposite the subject site. At midday, the shadowing impacts occur to the north western boundary of 50-54 Ocean Parade, including the side wall of the dwellings and side setback. Some of the rear open space of 31 Marine Parade will be overshadowed at midday. During midwinter in the afternoon, shadowing from the proposal extends further across 50-54 Ocean Parade and 31 Marine Parade and causes solar access impacts across most of the 50-54 Ocean Parade between 1pm and 3pm.

Given the proposed modifications to the roof structure/design the overshadowing is slightly different to that which was approved, however the overall impact will generally remain the same as shown in the shadow diagrams in figure 20. It is considered that the proposed modification is reasonable having regard for the overshadowing resultant from the originally approved development.



04 SHADOW DIAGRAM - 21 JUNE 9:00 AM
- NTS



05 SHADOW DIAGRAM - 21 JUNE 12:00 PM
- NTS

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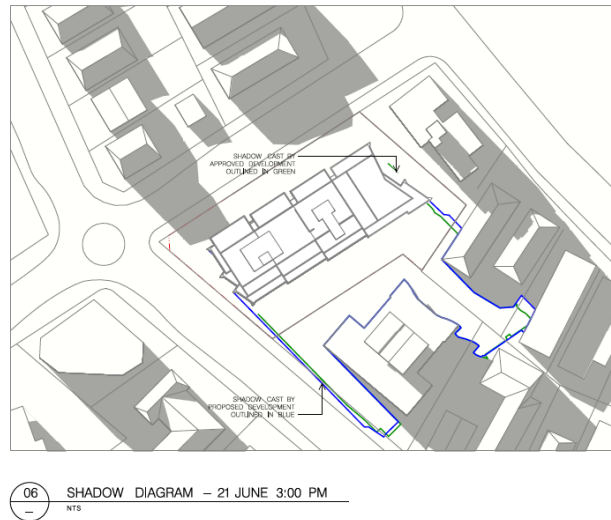


Figure 20: Shadow diagrams 21 June – modification shown in blue; originally approved development shown in green

Wind Funnelling

The modified development generally retains the building separation distances as originally approved. The generous building separation distances will not result in wind funnelling between buildings. Furthermore, the minor increase in the building height will not exacerbate wind speeds in the area

Views

In considering the impact to views as a result of the proposed modification, the planning principles provided in *Tenacity Consulting v Waringah* [2004] have been considered below.

- *Assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg 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, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

Comment:

Water views to the north will be impacted by the development from 50-54 Ocean Parade which have views to The Entrance foreshore and the bridge and are currently uninterrupted. Views from 50-54 Ocean Parade to the north east of The Entrance Beach and Norah Head lighthouse will not be impacted by the building, however landscaping will impact views for the lower storeys of 50-54 Ocean Parade. Some views from 55 Ocean Parade to The Entrance beach will be impacted by the development, however the views are currently partially obscured.

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The bulk, scale and setbacks of the building remain relatively the same under the proposed modification. In terms of the height, the lift overrun may result in minor additional view loss, however, the proposed modification does not significantly increase any view loss to that which was originally considered in the original granting of consent.

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

Comment:

Views are currently obtained from the north western side of 50-54 Ocean Parade over the side boundary of the subject site towards The Entrance foreshore and bridge. They are visible from the upper floor balconies of the units and the rooftop communal open space from both sitting and standing positions.

Views towards Norah Head are also visible from sitting and standing positions above the landscaping along the rear boundary of 50-54 ocean Parade. Views from 55 Ocean Parade are available from all levels of the RFB from balconies and windows on the front elevation down Fairport Avenue and over the subject site on the opposite side of Ocean Parade, they are available from both sitting and standing positions.

The proposed modification will not significantly increase any view loss to that which was approved originally, as the footprint of the originally approved development remains the same except for some additional articulation on the northern façade and south western façade and the addition of a lift overrun on the roof terrace area.

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

Comment:

The impact to views was assessed in the original assessment of the development. Views from 50-54 Ocean Parade towards The Entrance foreshore and bridge are significantly affected as a result of the approved development. All levels of 50-54 Ocean Parade would be affected by

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

the erection of the building. However, it is noted that the development has already been approved Council is unable to re-assess impacts that are approved. Subsequently consideration of the extent of the impact is focused on any additional impact to the views from the proposed modifications.

The proposed modification includes the increase in the building height, most significantly to the southern portion of the building. Views are obtained from 50-54 Ocean Parade predominantly over the northern portion of the site where the building height is lower. The northern portion of the building will have an RL between RL 29.5 and PL 30.5. The RL of the rooftop communal open space of 50-55 Ocean Parade has a floor level of RL 31.5 and as such they will still have reasonable views over the subject development towards The Entrance Foreshore and bridge. Furthermore, it is noted that the northern rooftop shade structure has been proposed to be deleted as part of the modification which will alleviate some view loss from the approved development and over the northern portion of the building and rooftop planting consists of low shrubs up to 0.5m in height.

Views obtained from the lower storeys of 50-55 Ocean Parade will not be available towards The Entrance foreshore and bridge, only views towards Norah Head lighthouse will be retained, however it is noted that these views were impacted by the approved development and are not further impacted by the proposed modification.

With regard to the views from 50-54 Ocean Parade towards Norah Head, it is noted that the landscape plan includes trees up to 10 metres in height and an Illawarra flame tree which grows up to 16 metres in height in the ground level communal open space area located in the eastern corner of the site. The landscaping has the potential to impact some views towards Norah Head from the lower levels of 50-54 Ocean Parade.

The original development was approved with landscaping in the ground level communal open space area with a mature height of up to 10 metres. Having regard for the original approval and to ensure the view impacts of the proposed modification towards Norah Head are not further reduced, a condition of consent is proposed to replace the Illawarra flame tree with another species which grows to a maximum height of 10 metres which is consistent with the landscaping of the original approval (**condition 29A**).

With regard to the views from 55 Ocean Parade the Residential Flat Building would not experience any further impact to views as a result of the modification given the existing four storey building is well below the building height of the development as originally approved. Having regard for the impact to views resulting from the originally approved development, and the modifications to the building height in relation to the heights of adjoining properties, it is considered that any additional impacts on views as a result of the modification will be minor and are considered to be reasonable.

- *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*

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

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

Comment:

As previously discussed, the impacts to the views are primarily resultant from the development as originally approved, specifically the impacts to 55 Ocean Parade and the lower levels of 50-54 Ocean Parade and are not further impacted by the proposed modification. In considering the proposed modification it is considered that the development is substantially the same and the minor increase to the building height will not result in further unreasonable impact to the adjoining properties having regard for the fact that views were obstructed to 50-54 Ocean Parade on all levels from the originally approved development (except the rooftop communal open space area), and the increase in building height will not result in views being restricted from the rooftop communal open space. It should also be noted that the removal of the northern rooftop shade structure will alleviate some view loss to that which was originally approved, and the low shrubs will help maintain views for 50-54 Ocean Parade.

Having regard for the above consideration of the planning principle it is considered that the impacts to views are primarily resultant from the approved development and that any additional impact to views will be minor and limited to the northern view from the rooftop communal open space of 50-54 Ocean Parade where views will still be available to the north. Furthermore, it is noted that views towards Norah Head lighthouse to the north east will be maintained from all levels of 50-54 Ocean Parade currently enjoying the view given the subject site is located to the north west of the adjoining property.

Safety, security and crime prevention

The principles of Crime Prevention Through Environmental Design (CPTED) have been considered under the design of the proposed modification. The design has appropriate regard for the principles of CPTED and the following design measures have been considered:

- The residential units provide passive surveillance of the public domain, open space, the driveway access and the pedestrian entry to the building.
- The development maintains clearly defined separate pedestrian and vehicular entry points from Ocean Parade and Fairport Avenue that will be access controlled.
- The entries to the development will be appropriately lit at night to enhance safety, visibility and legibility.

3.2 **DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)**

- An electronic access control system with fob keys is supplied to occupants; this allows controlled access through the development including the ground floor entry, stairs as well as lifts and other circulation routes.
- The internal areas within the development such as the entrances and lobbies will be well used by residents.

Having regard for the principles of CPTED and safer by design, the proposed development as modified adequately discourages anti-social behaviour and minimises the opportunities for criminal activities.

Overall built environment impacts

The proposed modification will not adversely impact on the character and amenity of the locality and streetscape. The scale, form, character and density of the development are acceptable within the locality.

A thorough assessment of the proposed modification's impact on the built environment has been undertaken having regard for *SEPP 65* and the *ADG* along with the relevant statutory controls and policies at the time of the granting of the original development consent and the built environment impacts are considered to be reasonable within the context of the site.

Natural environment

There will be no significant impact upon the natural environment as a result of the proposed modification.

Flooding

The proposal has a ground floor level at RL 12.0 to satisfy current **condition 21** which requires a minimum 300mm freeboard from the 1% AEP flood levels. The crest of the driveway is required to have a 100mm freeboard to the 1% AEP flood level to prevent floodwaters entering the basement (**condition 24**). This freeboard is also consistent with current design requirements outlined in *Wyang Development Control Plan 2013*, Chapter 3.3 Floodplain Management.

Economic impacts

The modified development is likely to result in positive economic impacts through the provision of a variety of cost-effective housing and employment generation for the duration of the construction of the building.

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

Social impacts

The development will provide high amenity residential dwellings that have been designed to fit within their context, in close proximity to facilities, services and recreation opportunities. The development is considered to make a positive social impact upon the area.

Suitability of the Site for the Development

The site is situated at the edge of The Entrance town centre and this location is well serviced with a high level of amenity. The site is accessible to public transport and facilities and the proposed development provides benefits to the ongoing viability of The Entrance town centre by encouraging people to live within the centre.

The site is located within a medium density residential area. Although the modified development proposes a minor increase in the building height, it is of similar heights to the adjoining residential flat buildings which are 7 storeys (north east) and 6 storeys (south east). The building form is considered consistent with the character of the area and the modification to the architectural design and treatment of the building will present well on all facades.

The design of the modified development is in an appropriate form, layout and scale that is substantially the same as the originally approved development. There are no significant site constraints or hazards that would render the location of the development as unsuitable. The building form as modified will present well within the streetscape and will not adversely impact on the character and amenity of the locality.

Submissions

The application was notified in accordance with Wyong DCP 2013, Chapter 1.2 Notification of Development Proposals. Chapter 1.2 requires notification for residential flat buildings for 21 days. The application was originally notified for 21 days from 13 November 2020 to 4 December 2020. During the assessment of the application it was identified that notification of one adjoining property has been missed in the original notification period and as such a notification letter was sent to the property to provide a notification period from 25 May 2021 to 15 June 2021. A request to extend the notification period was granted and notification concluded on 13 July 2021.

During notification 25 submissions were received. A number of common themes were identified in the submissions relating to the height, bulk and scale, overshadowing, views, privacy, noise, landscaping, apartment mix and the original consent. The general issues raised in relation to the proposal are included in the following table.

3.2

DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

Submission	Comment
Notification not received until 24 May 2021 and less than four weeks to make submissions	The application was notified in accordance with Wyong DCP 2013, Chapter 1.2 Notification of Development Proposals. Chapter 1.2 requires notification for residential flat buildings for 21 days. The application was originally notified for 21 days from 13 November 2020 to 4 December 2020. During the assessment of the application it was identified that notification of one adjoining property had been missed in the original notification period and as such a notification letter was sent to the strata manager of the adjoining property to provide a notification period from 25 May 2021 to 15 June 2021. During the first week of notification period some of the notification plans were unavailable on Council's DA tracker and as such the notification period was extended a further seven days to 22 June 2021. A further request for an extension of time for an additional 3 weeks was granted until 13 July 2021 as a GIPA had been submitted to obtain the approved plans of the original development consent.
Excessive bulk and scale	The bulk and scale of the proposed modified development is generally the same as the bulk and scale of the approved development. The modified development remains consistent with the approved building footprint and the number of storeys. The proposed modification involves additional articulation to the facades and additional landscaping which is considered to mitigate the perceived bulk and scale of the development.
Non-compliance with the current Wyong LEP 2013 planning controls, in particular the height and FSR.	The application is for a section 4.55(2) modification to the original development consent granted which was approved with regard to the provisions of Wyong LEP 1991. As such a merit assessment has been undertaken and considered with regard to Section 4.55 matters such as the development being substantially the same. As discussed in the body of the report the proposed modification to the height is substantially the same to that which was originally approved (6 storeys with rooftop open space) and there is no proposed increase to the FSR.
Consistency/consideration of Coastal Zone Management Act of 2016	The assessment of the proposed modification has included consideration of SEPP (Coastal Management) 2018 which includes consideration of any potential impacts on the Coastal Use Area or Coastal Environment Area.
Insufficient parking and increase in traffic. The development has an increase in the number of units and a decrease in on-site parking spaces, placing greater pressure on kerbside parking in surrounding streets. Due to	The original development provided in excess of the required parking. The proposed modification will reduce the parking while the number of units is proposed to increase. As previously discussed in the report the parking proposed under the modification is considered to be suitable for the proposed development noting that the

3.2

DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

Submission	Comment
the popularity of the area for tourists kerbside parking is already unavailable in Fairport Avenue on weekends year-round and throughout the summer months.	development will provide at least one parking space per unit and it will not result in additional traffic impacts on the local road network.
Noise from increased density, rooftop communal open space and motorcycle parking.	The increased density is not expected to result in any undue acoustic impacts as impacts will generally be restricted to the internal area of the development. Given the approved development contained 5 rooftop private pools it is considered that the deletion of the pools and the provision of communal open space with BBQ facilities and seating will not cause adverse acoustic impacts compared to the use of the pools. The modification includes the provision of two motorcycle parking spaces which are not considered to generate excessive noise.
Privacy	As discussed in the report the building separation distances, landscaping and design of the building, including recessed balconies and balcony orientation, is considered to have suitable regard for privacy and will not result in any adverse privacy impacts having regard for the medium density residential context. The rooftop terrace has been setback from the edge of the building 6.2m to mitigate any potential privacy issues, the setback has also been landscaped to provide further mitigation measures.
Shadow diagrams indicate that due to the height of the building neighboring units that currently receive reasonable sunlight will be in shade for the majority of daylight hours.	The shadow diagrams indicate the minor increase in building height and greater articulation on the northern and south western façade will result in some additional overshadowing to adjoining properties. As previously discussed in the report, the originally approved building generally overshadows the south eastern side of the adjoining property at 50-54 Ocean Parade. The overshadowing impacts are generally the same as that which was originally approved with some minor increases and decreases in overshadowing due to the modified roof structures.
The location of the development so close to the eastern boundary is likely to create a wind tunnel.	The modified development will generally have the same building footprint. The only reduction in setbacks is on the ground floor where private open space courtyards are proposed which will not create wind funneling. The balconies proposed on the south eastern façade are recessed and will not encroach further into the originally approved setback. As discussed in the report it is considered that the building generous building separation will not result in wind funneling. Condition 95 is recommended to be imposed requiring furniture to be secured by strata management during storm events.

3.2

DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

Submission	Comment
Original DA 15 years old and assessed under old laws and regulations	The original development consent was granted in 2006 and was approved under the provisions of Wyong LEP 1991 and Wyong DCP 2005. Since the original approval Wyong LEP 1991 and Wyong DCP 2005 have been repealed and replaced by Wyong LEP 2013 and Wyong DCP 2013. A merits assessment of this modification has been undertaken accordingly.
Loss of views from the height of the building, landscaping on the roof, Illawarra flame tree at ground level in the western corner of the site, new balconies, including western views to the fairground, bridge, Tuggerah Lake and Watagans and beach views across to Norah Head lighthouse.	Consideration of the impact of the proposed modification on views has been assessed previously in the report. Views to Norah Head lighthouse towards the North East will not be impacted by the building from 50-54 Ocean Parade as the building subject to the current modification application is located to the north west of the property. However, it is acknowledged that the mature height of the Illawarra flame tree of 16m will likely impede some views between towards the Norah Head. Condition 29A is recommended to substitute the tree for a species which grows to a maximum mature height of 10m which is in accordance with the height of trees approved in the communal open space area of the original development. Views will not be impacted by the additional balconies on the south eastern façade. Views from the rooftop communal open space of 50-54 Ocean Parade towards the north will be available of the subject development where the building height is lower and low shrubs up to 0.5m in height are proposed.
The Harriot building was constructed after the original development was approved and as such the impacts of the approved building have not been considered.	The approved building cannot be re-assessed under this application. The assessment of the current modification application can only assess the scope of works proposed in the modification and any impacts to adjoining properties that may result from the modification application. However, while it is acknowledged the Harriot was not constructed at the time the original consent was granted in 2006, it should be noted that the consent was granted for The Harriot in 2002 and as such would have been considered in the granting of the original development consent of the subject development.
The proposed modification is not substantially the same as to what was originally approved, specifically with regard to the increase in height, additional units, change in building footprint and as the development has been incrementally changed (modification A).	The proposed modification is considered to be substantially the same as the development that was originally approved as previously discussed in the report. There have been no modifications approved since the original granting of the consent modification application. A previous modification application, referenced under DA/1849/2005/A was withdrawn (not determined) and as such the development has not been incrementally changed through previous modifications.

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

Submission	Comment
A Geotechnical report was completed in 2016. What was it for?	A geotechnical report was completed in 2016 and was submitted to Council with the current modification application. The conditions of the land and soil structure are not expected to have changed since the geotechnical was prepared. The information contained within the geotechnical report will be used to inform the construction requirements prior to the issue of a Construction Certificate.
Soil testing for acid sulfate soils should be required	As previously discussed in the report the site is identified as potentially containing class 5 Acid Sulfate Soils. The watertable may need to be lowered during the construction of the development as modified, however given the elevation of the site (between 11 metres and 15 metres AHD) it will not result in the watertable being lowered below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land and as such an acid sulfate soils management plan is not required.
Waste collection on-site – noise and safety, 4-5 pickups a week	The proposed waste management has been considered in the report and is considered to provide an improved outcome to kerbside collection as originally approved. Waste collection will only be twice weekly which is considered to limit any acoustic impacts. The waste servicing vehicle will enter the site in a forward direction over the shared pedestrian/waste truck area and will reverse into the dedicated waste servicing area on-site servicing which will limit pedestrian/vehicle conflict. Conditions have been recommended to ensure that the waste collection will not cause any unreasonable acoustic impact to adjoining properties and appropriate acoustic mitigation measures will be implemented prior to the issue on an Occupation Certificate.
Outside approved building footprint – balconies additional bulk, non-complaint/reduced setbacks.	The proposed modification is generally within the approved building footprint. There are some minor projections outside of the building footprint for articulation to the building façade and private open space courtyards to the ground floor units on the eastern side of the building. The upper level balconies will remain within the approved footprint. The reduced setbacks have been previously considered in the report and it is considered that the modifications outside of the approved footprint will provide additional articulation and will not result in amenity impacts from the reduced setback.
The waste management plan notes excavation fill to be used on site. Is there a change in land levels to what is	The waste management plan states 'all excavated material generated on this site may be re-used in the landscaping or used on other sites as fill material, provided no contamination is present'. It is only stated that the

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

Submission	Comment
currently there that would cause fence and planting heights to be raised?	excavated material may be used on this site for landscaping and may be used on <i>other</i> sites for fill.
Validity of operational consent/consent has lapsed. The SEE states that 3 month passed between the lapsing of the original consent and the letter from Council being issued saying that physical commencement has occurred. The SEE does not claim the letter confirmed it occurred prior to the lapse date, as would have been required.	On 23 September 2009 Council issued a letter advising physical commencement has been achieved in relation to DA/1849/2005. As part of the physical commencement of the development 3 dwellings located on lots 16 and 17 in DP 18810 and lot A in DP 364571 were demolished and the lots were consolidated to partially satisfy condition 54 of the consent.
Communal open space is proposed at ground level in the eastern corner of the site which will be overshadowed from either Tasman Tower or its own building for most of the day, year-round. It would not be attractive and draw undesirable behaviour right on the boundary.	The original approved plans included the provision of the primary communal open space located within the eastern corner of the site, where a communal pool was proposed. The proposed modification maintains communal open space within the eastern corner of the site as it was originally located and as such the location of the communal open space within the eastern corner of the site is considered to be outside the scope of this modification application. It is considered that the proposed modification which includes the removal of the communal pool within the eastern corner of the site will lessen amenity impacts to adjoining properties specifically with regard to noise and there is no evidence to suggest that the overshadowing of the ground level communal open space would result in undesirable behaviour.
The Entrance Town Centre Master Plan (2011, Key Principles) stresses connectivity and embracing the values of the town centre. This development fails to fulfill these values.	The Entrance Town Centre Master plan key principles identify connectivity <i>within</i> and <i>to</i> The Entrance through walking and public transport. A condition of consent requires the construction of a pedestrian pathway along the frontage of the site which will connect into the existing pedestrian network providing improved pedestrian connectivity to the foreshore and town centre. The development will not have an impact on the provision of public transport in the area for people travelling to The Entrance. Other key principles also encourage renewal consistent with the urban framework and future direction for The Entrance and respect of the natural assets and beauty of the locality. It is considered that the modified development will support the renewal of the site and will further modernise the originally approved development without compromising the natural assets and beauty of the locality. It is considered that the modified development will not impede any of the design principles in The Entrance Town Centre Masterplan.

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

Submission	Comment
Property value reduced on adjoining properties	Land values are not a matter for consideration under s. 4.15 of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act) and there is no evidence to suggest that the proposed development will have an impact on adjoining property values.
Details of the builder not provided.	The builder is not required to be provided to Council as part of the Development Application.
The building is no longer terraced/stepped down and will now be 6 storeys in height.	The original development was six storeys in height plus an additional three basement levels and rooftop terraces. Under the current modification application, no additional floors are proposed, the building will remain six storeys in height plus two basement levels and a rooftop terrace and will be stepped down the site.
Concerns will not meet construction standards	Condition 32 requires the development to be designed and constructed in accordance with Building Code of Australia. A Construction Certificate and Occupation Certificate is also required to confirm the development is built to the relevant construction standards.
No information has been provided on Amendment A	A Section 96(1A) application was lodged under DA/1849/2005/A on 11 March 2009 to modify the timing of payment of development contributions. The application was withdrawn on 29 May 2009.
The original development was only for 36 units, however, the SEE refers to 45.	The original development consent was granted for a 'Residential Flat Building comprising 45 units and Demolition of Existing Structures'. The proposed modification will result in a total of 56 units capable of independent living.
Extension of existing façade about 3m towards Tasman tower. Balconies as approved on the eastern side (i.e. lower levels) will be extended about 2m horizontally, while the upper levels will extend about 4-5m horizontally from the approved façade.	There is no extension of balconies towards Tasman tower proposed under the modification only articulation up to approximately 1m is proposed. The setback will generally remain the same apart from the additional articulation.
Deep soil planting compliance, basement underneath unsuitable for large trees above.	The development provides in excess of the required deep soil planting in accordance with the ADG. The trees located above the basement are considered suitable, while it is acknowledged the reduced soil depth will result in the trees growing to a smaller mature height.
Draft CCLEP and CCDCP not considered	The Draft CCLEP has been considered in the assessment of the proposed modification, as part of the merit assessment, and it is considered that the development will remain consistent with the CCLEP. There is no requirement to consider the Draft CCDCP.
Vibration testing before commencement. Due to the proposal to excavation at or near the boundary	A condition of consent (condition 7) was imposed during the original assessment of the proposal requiring the applicant to submit a dilapidation report for the adjoining

Submission	Comment
<p>and near buildings on adjoining properties concern is raised for the potential impacts to the structural integrity/structural damage of adjoining buildings particularly with regard to the basement carpark. A dilapidation report should be prepared by the body corporate of the adjoining buildings (or by negotiation with them) at the developer's cost. The cost would include a post-construction report comparing the two. In addition, if any concerns arise during construction, the body corporate must be protected by being enabled to contact Council for a stop work order and/or for an engineering opinion.</p>	<p>properties to Council prior to the issue of a Construction Certificate. Condition 7 reads as follows:</p> <p style="padding-left: 40px;"><i>7 The applicant must supply Council with a dilapidation report for the adjoining properties, which documents and photographs the condition of buildings and improvements. The report must be submitted to Council prior to issue of the Construction Certificate and will be made available by Council in any private dispute between the neighbours regarding damage arising from site and construction works.</i></p> <p>Condition 56 was also subsequently included in the consent requiring any damage not shown in the dilapidation report to be rectified prior to the issue of an Occupation Certificate. Condition 56 reads as follows:</p> <p style="padding-left: 40px;"><i>56 Any damage not shown in the Dilapidation Report submitted to Council before site works had commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to release of the Occupation Certificate.</i></p> <p>In addition to the dilapidation report conditions, condition 30 was imposed prior to the commencement of works to ensure the preservation and protection of buildings on adjoining allotments during excavation. Condition 30 reads as follows:</p> <p style="padding-left: 40px;"><i>30 Any excavation below the level of footings of buildings on adjoining allotments requires the preservation and protection of the buildings from damage, and if necessary, underpinning and support of the building in a manner certified by a Practising Structural Engineer. The owner of the adjoining property must be given written notice of the intention to excavate and provided with details of the proposed work at least seven (7) days prior to excavation.</i></p>
<p>There is an incomplete stormwater drainage system along the western end of the southern boundary. How will stormwater (and/or watering from landscape maintenance) reach the street system?</p>	<p>As previously discussed in the report the stormwater is proposed to be directed around the development via overland flow paths and into Council's drainage system. The stormwater management plan has been reviewed by Council's development engineer and the proposed stormwater management is considered suitable.</p>

3.2

DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

Submission	Comment
<p>The SEE assumes infrastructure (with or without upgrades) will cope with the additional units in the locality, however the statement is untested. Have satisfactory clearance letter been received from all infrastructure providers?</p>	<p>The application was referred to Council's Water and Sewer Section, Traffic Engineer and Contributions Officer. Water and sewer identified there is sufficient capacity for the development and works will be required to replace the existing water main and sewer line due to the impact from the proposed works which would be subject to a section 306 letter of requirements. Council's traffic engineer has identified that the proposed modification will have no impact on street parking in locality and Council's Contributions officer has calculated the applicable contributions based on the apartment mix proposed which will be used in accordance with Council's Contributions Plans to upgrade community infrastructure and facilities. Condition 44 which was imposed on the original consent requires other public authorities including Australia Post, AGL, Energy Australia and telecommunications carriers to be consulted prior to the commencement of works for any separate requirements they may have.</p>
<p>Mature size of the trees within the ground level setbacks – add unnecessary visual bulk and public safety from branches overhanging footpath, views, drainage (leaf litter), choice and positing of trees particularly in courtyard.</p>	<p>The trees are considered to improve the streetscape and soften the built form of the development. The substantial landscaping has been proposed within the deep soil zones to provide improved amenity to the development and street. The landscaping will not result in excessive overshadowing and will not impact on sightlines. Ongoing Condition 94 of the consent requires the landscaping to maintained to maturity with any trees that die to be replaced.</p>
<p>Dual key units misleading, unclear location of units</p>	<p>There are dual key units located on all levels of the residential flat building, for the purposes of assessment, Council has considered dual key units as two separate units. The number of dual key units on each level has been detailed on page 17 of the SEE.</p>
<p>Unable to see internal floor plans</p>	<p>In accordance with Clause 56 of the EP&A Regulations Council is only required to notify plans of the building that indicates its height and external configuration, as erected, in relation to the site on which it is to be erected. Internal floorplans are not provided on Council's website due to privacy and copyright. Plans are available for viewing at Council admin buildings only.</p>
<p>What conditions of consent will protect residents of adjoining properties from dust, any asbestos, fumes or other air-borne pollution during construction?</p>	<p>Condition 35 of the consent required the disposal of any asbestos materials to be in accordance with the requirements of Workcover NSW and AS 2601 - 2001 - The Demolition of Structures. Any other pollution from the construction of the development is covered by the Protection of the Environment Operations Act 1997.</p>

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

Submission	Comment
Removal of demolition of building waste would be more efficient from near Fairport Avenue frontage. Neighbours do not want waste at their own boundaries. Further, unloading and storage of incoming building materials should be near the road frontages.	Prior to the issue of Construction Certificate condition 12 requires the provision of a plan of management to be certified for any works for the development that impact on any public roads and public land for the construction phase of the development. It is noted that any waste generated from the construction, deliveries and storage of materials are temporary during the time of construction.
The retaining walls in the eastern part of the site appear to reach at least 2m, with an associated drainage system within 1m of each wall (east, south). How will these significantly sized structures be maintained from within the site? The basement roof will be close below and beside them.	Retaining walls along the boundaries will generally remain the same as what is existing, some additional retaining is required in the eastern corner of the site around the communal open space up to approximately 0.3m. Drainage along the north eastern and south western boundary is proposed as overland flow around the building and into Council's stormwater system, there will be no underground stormwater drainage along the boundaries which will be impeded by retaining walls or the basement carpark.

Submissions from Public Authorities

There were no referrals or submissions from any public authorities associated with the modified development.

Internal Consultation

The application has been referred to and reviewed by the following experts in council and is generally supported subject to conditions of consent.

Urban Design	Supported without conditions.
Engineering	Supported subject to modified conditions.
Engineering – Traffic and Transport	Supported subject to modified conditions including 24A .
Water and Sewer	Supported subject to original conditions including 4, 6 and 88 .
Waste Services	Modified conditions including 82 .
Contributions	Supported subject to modified condition 5 .

The Public Interest

The application was advertised for 21 days, in accordance with Wyong DCP 2013, Chapter 1.2 Notification of Development Proposals. During this period 25 submissions were received.

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

The majority of the objections related to a number of impacts resulting from the originally approved building. The proposed modification will improve the street presentation of the façade and landscaping to the streetscape. The development is substantially the same to that which was originally approved, and the modifications are not considered to result in adverse impacts to adjoining properties or exacerbate impacts resultant from the approved development.

Having regard for the planning controls applicable to the site and the merits of the proposed modification it is considered that the proposed modifications are reasonable and will provide an improved outcome for the development and surrounding locality and will not result in additional amenity impacts and it is therefore considered to be in the public interest.

Ecologically Sustainable Principles:

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the development application. This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope, combat, withstand these potential impacts.

Other Matters for Consideration

Development Contribution Plan

The application falls under The Entrance District Section 7.11 Contributions Plan and the Shire Wide Section 7.11 Plan, however the Shire wide contributions do not apply as the Shire Wide Section 7.11 Plan was not in effect at the date of the original consent. The following contributions are applicable under The Entrance District Section 7.11 Contributions Plan:

- Open Space Land & Works
- Community Facilities Land & Works
- Roads

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

As the modification includes changes to the apartment mix the contributions have been updated base on the following apartment mix:

- 10 x 1 bedroom/studio units
- 38 x 2 bedroom units
- 8 x 3 bedroom units

Credits for 8 x 2 bedroom units and 3 x 3 bedroom units have been applied in accordance with the original consent for the serviced lots.

The total Section 7.11 contributions are \$526,945.14. The contributions are indexed by CPI quarterly and are required to be paid prior to the release of the Construction Certificate (**condition 5**).

Water and Sewer Contributions

Water and sewer contributions are applicable to the development and a Section 307 Certificate issued under the *Water Management Act 2000* is required. Prior to the issue of a Section 307 Certificate, payment to Council of developer contributions is required. **Condition 6** was imposed on the original development consent requiring the payment of water and sewer contributions.

Conclusion


After consideration of the development against Sections 4.55(2) and 4.15 of the *Environmental Planning and Assessment Act 1979* and the relevant statutory and policy provisions, the proposed modification to development consent 1849/2005 is considered reasonable and warranted in this instance.

The proposed modification will result in substantially the same development for which consent was originally granted and before the consent as originally granted was modified. Accordingly, the proposed Section 4.55(2) is recommended for approval.










Recommendation:

That development consent 1849/2005 be modified in accordance with Attachment 1.

Attachments

1	Recommended Modified Conditions of Consent		D14813014
	2 Development Plans	Provided Under Separate Cover	D14813336

3.2 DA/1849/2005/B - 2-6 Fairport Avenue & 46-48 Ocean Parade, The Entrance - Residential Flat Building and Demolition of Existing Structures (Amended Application) (contd)

3 	Landscape Plans		D14813449
			
4 	Original Approved Plans	Provided Under Separate Cover	D14815857
5 	ADG Compliance Table		D14813466
			
6 	Multiple Dwelling Residential Development Wyong DCP Comparison Table Comparison (DCP 2005 and DCP 2013)		D14813473
			
7 	Public Development Plans	Provided Under Separate Cover	D14826321
8 	Public Original Approved Plans	Provided Under Separate Cover	D14826518

Attachment 1 – Recommended Modified conditions of consent

1. Modify description of land as follows:

Original description of land:

~~Lots 16 and 17 DP 18810, Lot A DP 364571, Lot O SP 18493
Lot 200 DP 1140826, Lot B DP 364571 & Lot C DP 364571
Nos 2-4 Fairport Avenue & 44 46-48 Ocean Parade THE ENTRANCE~~

2. Modify description of proposal as follows:

Original description of proposal:

Residential Flat Building comprising ~~45~~ 56 units and Demolition of Existing Structures

3. Modify conditions 1, 5, 14, 15, 16, 17, 18, 19 and 20 as follows:

Original condition 1:

- 1 ~~The development taking place in accordance with the approved development plans reference number DA0501C, DA1101B as amended by DA1101C, DA1102B as amended by DA1102C, DA1201C as amended by DA1201D, DA1202C, DA1301C, DA1302C, DA1303C, DA1304C, DA1305D, DA1401D, DA1451C, DA1501C, DA1502C, DA1601B, DA1602C and DA1603A, DA1604A and DA1605B, except as modified by any conditions of this consent, and any amendments in red.~~

Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "Development Consent" unless modified by any following condition.

Architectural Plans by: RJS & CE Price

Drawing	Description	Issue	Date
S4.55 - 1100	Site Plan	C	7/04/2021
S4.55 - 1101	Basement 2 Floor Plan	C	7/04/2021
S4.55 - 1102	Basement 1 Floor Plan	B	23/02/2021
S4.55 - 1103	Ground Floor Plan	C	7/04/2021
S4.55 - 1104	Level 1-4 Floor Plans	C	7/04/2021
S4.55 - 1105	Level 5 Floor Plan	C	7/04/2021
S4.55 - 1106	Roof Plan	C	7/04/2021
S4.55 - 1201	Section	C	7/04/2021
S4.55 - 1301	Elevation - North	C	7/04/2021
S4.55 - 1302	Elevation - East	C	7/04/2021

S4.55 - 1303	Elevation - South	C	7/04/2021
S4.55 - 1304	Elevation - West	C	7/04/2021

- 5 ~~The payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act and Council's Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.~~

Pursuant to Section 7.11 of the *Environmental Planning and Assessment Act 1979* pay to Council a total contribution amount of **\$526,945.14** that may require adjustment at the time of payment, in accordance with The Entrance District Development Contributions Plan with the applicable amounts as follows:

THE ENTRANCE/LONG JETTY ROADS	\$ 278,626.63
THE ENTRANCE/LONG JETTY OPEN SPACE LAND	\$ 12,420.02
THE ENTRANCE/LONG JETTY OPEN SPACE WORKS	\$ 87,383.85
THE ENTRANCE COMMUNITY FACILITIES LAND	\$ 58,445.24
THE ENTRANCE COMMUNITY FACILITIES WORKS	\$ 90,069.40
Total	\$ 526,945.14

The contributions amount must be indexed each quarter in accordance with the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician as outlined in the contributions plan.

Contact Council on 1300 463 954 for an up-to-date contribution payment amount.

Any Construction Certificate must not be issued until the developer has provided the Certifier with a copy of a receipt issued by Council that verifies that the contributions have been paid. A copy of this receipt must accompany the documents submitted by the certifying authority to Council under Clause 104/Clause 160(2) of the *Environmental Planning and Assessment Regulation 2000*.

A copy of the Contribution Plan may be inspected at the offices of Central Coast Council, 2 Hely Street Wyong or 49 Mann Street Gosford or on Council's website: [Development Contributions](#)

'Section 7.11 contributions may be satisfied by the value of works as part of a "Works in Kind" agreement with Council. Works in kind to be carried out shall be agreed to by Council in writing prior to the payment of the contributions and issue of a construction certificate (related to the works in kind). All such agreements shall be in accordance with Council's policies.'

- 14 The provision of a footpath and gutter crossing in accordance with Council's ~~Development Control Plan 2005 Chapter No 67 – Engineering Requirements for Development~~ current Civil Works Design Specification. The design plans must be approved by Council prior to the issue of a Construction Certificate.
- 15 The provision at no cost to Council of concrete footpaving for the full street frontage of the development in Ocean Parade and Fairport Avenue ~~and the connection to pram ramps at the roundabout intersection~~. The footpath design is to be ~~4.2~~ 1.5 metres wide and is to include a minimum 100mm concrete path with SL72 reinforcement and is to be constructed on 75mm compacted roadbase and on compacted subgrade. All other details are to be in accordance with Council's ~~Development Control Plan 2005 Chapter No 67 – Engineering Requirements for Development~~ Civil Works Design Specification. The design plans must be approved by Council under the *Roads Act 1993* prior to issue of the Construction Certificate.
- 16 Design Plans to be submitted to Council for approval under the Roads Act need to include the relocation of the existing raised pedestrian crossing in Fairport Avenue at the front of the development, and in the vicinity of the proposed access to the development. All works associated with the relocation of this crossing including all design and construction related costs including restoration of road pavements and kerb and gutter, and extensions of footpaths to suit the relocated crossing will be at the full cost to the developer, and to Council's satisfaction. The design plans must be approved by Council and the Local Traffic Committee prior to the issue of a Construction Certificate, and prepared in accordance with Council's ~~Development Control Plan 2005 Chapter No 67 – Engineering Requirements for Development~~ Civil Works Design Specification.
- 17 The submission to and approval by Council of stormwater drainage details with water quality control facilities in accordance with Council's ~~Development Control Plan 2005 Chapter No 67 – Engineering Requirements for Development~~ Civil Works Design Specification prior to issue of the Construction Certificate.
- 18 Stormwater drainage works discharging from the site into a public system or public land require approval from Council under Section 68 of the Local Government Act. The extent of work must be determined by Council prior to issue of a Construction Certificate. All works are to be designed and constructed in accordance with Council's ~~Development Control Plan 2005 Chapter No 67 – Engineering Requirements for Development~~ Civil Works Design Specification. Design plans must be approved by Council prior to issue of the Construction Certificate.
- 19 Stormwater generated from roofed areas is to be collected and stored for re-use within the development site for ~~landscaping, pools and car washing for~~ irrigation of landscaped areas and other non-potable purposes as required by BASIX. Details indicating the balance between the projected water usage and

the capacity for collection are to be submitted to and approved by Council. A minimum storage of ~~25,000L~~ 23,000L will be required.

- 20 The applicant will be responsible for maintaining the flow conveyance of the existing 450mm Council stormwater pipeline within the development site via maintaining the existing pipeline or replacing it with an alternate pipeline. All works associated in satisfying this condition including all design and construction related costs including restoration of land, road pavements and kerb and gutter will be at the full cost to the developer, and to Council's satisfaction. The design plans must be approved by Council prior to the issue of a Construction Certificate, and prepared in accordance with Council's ~~Development Control Plan 2005 Chapter No 67 – Engineering Requirements for Development~~ current Civil Works Design Specification.

4. Add new condition 24A as follows:

- 24A Turning areas are to be provided for all blind aisles on both basement levels 1 and 2. Carparking spaces identified as basement 1, number 15 and basement 2, number 1 are to be amended to provide turning areas for vehicles to manoeuvre and circulate in a forward direction.

5. Modify conditions 25 and 26 as follows:

- 25 All water and sewer services necessary to service the development must be provided in accordance with Council's requirements. All services are to be designed and constructed in accordance with Council's ~~Development Control Plan 2005 Chapter 67 – Engineering Requirements for Development~~ water and sewer specification and Council's Policy: Building Over and Adjacent to Sewer Mains. The design plans for the required services must be approved by Council prior to the issue of the Construction Certificate.
- 26 The developer will be fully responsible for the funding, design and relocation of the existing sewer line between MH A14/1 and MH A14/2. The design and construction of the sewer relocation are to be in accordance with Council's ~~Engineering Requirements for Development – Sewerage~~ Sewer Specifications. Design plans are to be submitted to Council for approval prior to the approval of the Construction Certificate.

6. Add new condition 27A and 29A as follows:

- 27A A suitably qualified acoustic consultant shall be engaged to provide recommendations on how to appropriately attenuate the temporary bin holding area so that any noise impact associated with the temporary storage of waste bins is adequately mitigated. The Construction Certificate plans shall detail the recommended attenuation measures and the holding area constructed accordingly.

29A The landscape plan is to be amended to replace the Illawarra flame tree with an alternative species which grows to a mature height of up to 10 metres.

7. Modify conditions 51 and 60 as follows:

51 To encourage the use of alternate transport modes, secure bicycle parking/storage must be provided to accommodate ~~15~~ 19 bicycles. The facility must be located in close proximity to the building entrances and be highly visible and well illuminated to minimise the likelihood of theft and vandalism. The installation and dimensions of the facility shall be in accordance with AS 2890.3-1993 – Parking Facilities – bicycle parking facilities.

60 The provision of landscaping in accordance with the plans prepared by Narelle Sonter Botanica dated 2/10/2020 and the amended landscape plan required under condition 29A, including the engagement of an approved landscape consultant and contractor to undertake the design and construction of the landscaping.

Written certification from a qualified landscape designer certifying that landscaping has been implemented in accordance with the landscape plan is to be provided to the Principal Certifier prior to issue of the Occupation Certificate.

8. Delete conditions 76, 77, 78 and 79 as follows:

Swimming Pools

76 Deleted

77 Deleted

78 Deleted

79 Deleted

9. Modify conditions 81, 83 and 86 as follows:

81 The provision of a minimum number of ~~70~~ 72 carparking spaces (with minimum dimensions of 5.5 metres x 2.5 metres) generally in accordance with the layout shown on the approved plans, amended in red and in accordance with Council's Development Control Plan 2005 Chapter No 61 - Carparking. The carparking spaces and any off-street loading and unloading area must be constructed, sealed, marked, drained and maintained in accordance with Council's ~~Development Control Plan 2005 Chapter No 67 – Engineering Requirements for Development~~ Civil Works Design Specification. All work must be completed prior to occupation/use of the development.

- 83 The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation at no cost to Council, in accordance with Council's ~~Development Control Plan 2005 Chapter No 67 - Engineering Requirements for Development Civil Works Design and Construction Specification~~. All works must be approved by Council.
- 86 For safety, amenity and maintenance reasons, the waste storage area must be constructed to the following standards:
- Floors must be constructed of concrete, graded and drained to an approved drainage outlet connected to the sewer and finished to a smooth even trowelled surface;
 - Walls must be constructed with solid impervious material and shall be cement rendered internally to a smooth even steel trowelled surface;
 - All intersections between the walls and floors shall be coved with coving having a minimum radius of 25mm;
 - All entry points into the room must be bunded to prevent the escape of liquid waste. Bunding shall be for 110% of the likely liquid storage waste and constructed in such a manner that does not obstruct the removal of waste receptacles from the room or create a safety risk to users;
 - Adequate ventilation shall be provided;
 - Adequate lighting shall be provided;
 - The ceiling must have a minimum height of 2.1m from floor level and be finished with a smooth faced non-absorbent material capable of being easily cleaned;
 - Waste storage areas shall prevent the access of vermin;
 - Waste receptacles used shall be compatible with Wyong Council's waste collection service;
 - The door to the storage area shall be weatherproof and shall be openable from the inside at all times;
 - Hot and cold water hose cocks shall be located inside or within close proximity to the waste storage areas to facilitate cleaning.
 - **A maximum 3% grade in the temporary bin holding area and waste truck servicing at the front of the temporary bin holding area.**

10. Add new condition 87A and 93A as follows:

- 87A **Prior to the release of any Occupation Certificate, a certificate of compliance, prepared by a suitably qualified acoustic consultant, must be submitted to Council certifying the attenuation measures recommended for the temporary bin holding area have been implemented.**
- 93A **The waste bins are to be moved to the temporary bin holding area no earlier than the day before waste collection and are to be moved back to the basement waste storage room no later than the day of waste collection.**

11. Modify conditions 94 as follows:

Original condition 94:







- 94 The approved landscape design prepared by **Narelle Sonter Botanica and the updated landscape plan required under condition 29A**, including the private front courtyards, is to be maintained to maturity with watering and mulch. Any trees that die are to be replaced.

12. Add new condition 95 as follows:

- 95 Furniture on the rooftop communal open space is to be safely secured and/or stored during high wind events to prevent the furniture from being blown off the building.



LEGEND

-  EX TREES TO BE REMOVED
-  PROPOSED TREES
-  PROPOSED SHRUBS & GROUNDCOVERS
-  BUFFALO 'PALMETTO' LAWN WITH METAL EDGE
-  LARGE FORMAT STEPPING STONES IN GROUND COVER OR PEBBLES
-  BENCH SEAT

PLANT SCHEDULE

Key	Botanical Name	Common Name	Mature Ht	Pot Size	Nos
Trees					
BA	<i>Brachyctenon acerifolius</i>	Illawarra Flame Tree	16m	75L	1
BI	<i>Banksia integrifolia</i>	Coastal Banksia	10m	300mm	12
CG	<i>Ceratopetalum gummiferum</i>	NSW Christmas Bush	8m	300mm	14
EH	<i>Eucalyptus haemastoma</i>	Scrubby Gum	45L	5	
ER	<i>Elaeocarpus reticulatus</i>	Blueberry Ash	10m	45L	12
LL	<i>Leptospermum laevigatum</i>	Coastal Tea-Tree	6m	300mm	5
Shrubs					
AS	<i>Acacia sophorae</i>	Coastal Wattle	2m	300mm	6
BE	<i>Banksia ericifolia</i>	Heath Leaved Banksia	2-5m	300mm	13
CA	<i>Cyathea australis</i>	Rough Tree Fern	4m	1m Turf	4
CP	<i>Callistemon pinifolius</i>	Green Bottlebrush	1m	200mm	19
HD	<i>Hymenosporum 'Gold Nugget'</i>	Dwarf Native Frangipani	0.7m	200mm	33
HM	<i>Hydrangea macrophylla</i>	Hydrangea	1.5m	200mm	13
MF	<i>Metrosideros 'Fiji Fire'</i>	NZ Christmas Tree	3m	300mm	15
PK	<i>Philodendron 'kanadu'</i>	Xanadu Plant	0.9m	200mm	38
RE	<i>Rapisia excelsa</i>	Rapisia Palm	3m	200mm	6
SR	<i>Syzygium 'Resilience'</i>	Resilience Lilly Pilly	5m	200mm	42
Groundcovers and Grasses					
AA	<i>Asplenium australasicum</i>	Birds Nest Fern	0.7m	200mm	24
AL	<i>Austrostylis littoralis</i>	Coastal Fescue	0.5m	150mm	138
CF	<i>Cyrtosperma filicatum</i>	Holly Fern	150mm	150mm	33
DG	<i>Dietes grandiflora</i>	Wild Iris	1m	150mm	253
DR	<i>Dichondra repens</i>	Kidney Weed	0.1m	150mm	82
DT	<i>Dianella 'Tasree'</i>	Tasree Flax Lily	0.6m	150mm	268
GR	<i>Gardenia 'Radicans'</i>	Cape Gardenia	0.5m	150mm	54
HS	<i>Hibbertia scandens</i>	Snake Vine	0.3m	150mm	114
LJ	<i>Liriope 'Just Right'</i>	Just Right Lily Turf	0.7m	150mm	105
LT	<i>Lomandra 'Tanika'</i>	Tanika Mat Rush	0.9m	150mm	133
PA	<i>Pelargonium australe</i>	Coastal Geranium	0.5m	150mm	195
VO	<i>Viola odorata</i>	Sweet Violet	0.3m	150mm	71



EH Eucalyptus haemastoma



BI Banksia integrifolia



ER Elaeocarpus reticulatus



SR Syzygium 'Resilience'



HM Hydrangea macrophylla



HG Hymenosporum 'Gold Nugget'



LT Lomandra 'Tanika'



VO Viola odorata

Amendments:
 B Section 4.55 02.10.20
 A Issue for Review 16.12.19
 N° Amendments: Date:

NARELLE SONTNER
BOTANICA
 LANDSCAPE AND HORTICULTURAL SPECIALISTS

PO Box 6111 Avalon NSW 2107
 Tel: (02) 9910 4016 Mobile: 0419 501 144

TITLE:
 GROUND FLOOR LANDSCAPE PLAN

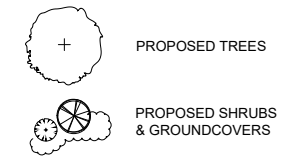
2-4 FAIRPORT AVENUE
 THE ENTRANCE

SCALE: 1:200 @ A1 DATE: OCT 2019

JOB N°: 191010 DWG. N°: LP.01/B
 SHEET 1 of 2



LEGEND



Amendments:
 B Section 4.55 02.10.20
 A Issue for Review 16.12.19
 N° Amendments: Date:

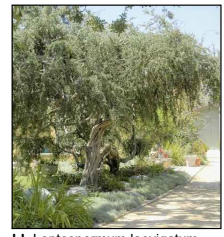
NARELLE SONTÉ
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 LANDSCAPE AND HORTICULTURAL SPECIALISTS
 PO Box 611 Avalon NSW 2107
 Tel: (02) 9910 4016 Mobile: 0419 501 144

TITLE:
 ROOF LANDSCAPE PLAN
 2-4 FAIRPORT AVENUE
 THE ENTRANCE

SCALE: 1:200 @ A1 DATE: OCT 2019
 JOB N°: 191010 DWG. N°: LP.01/B SHEET 2 of 2

PLANT SCHEDULE

Key	Botanical Name	Common Name	Mature Ht	Pot Size	Nos
Trees					
LL	<i>Leptospermum laevigatum</i>	Coastal Tea-Tree	6m	300mm	12
Shrubs					
PT	<i>Phormium tenax 'Purpureum'</i>	Purple NZ Flax	0.8m	300mm	28
WA	<i>Westringia 'Aussie Box'</i>	A.B. Coast Rosemary	0.9m	200mm	12
WF	<i>Westringia fruticosa 'Mundi'</i>	Dwarf Coast Rosemary	0.5m	200mm	62
Groundcovers and Grasses					
AL	<i>Austrostylis littoralis</i>	Coastal Fescue	0.5m	150mm	310
CC	<i>Casuarina 'Cousin It'</i>	Cousin It	0.3m	150mm	139
DR	<i>Dianella 'Little Rev'</i>	Little Rev Flax Lily	0.4m	150mm	470
IN	<i>Isolepis nodosa</i>	Knobbly Clubmoss	1m	150mm	102
LW	<i>Lomandra wingara</i>	Wingara Grass	0.5m	150mm	417



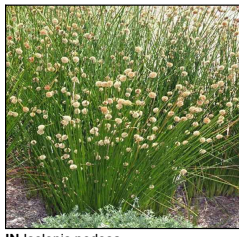
LL *Leptospermum laevigatum*



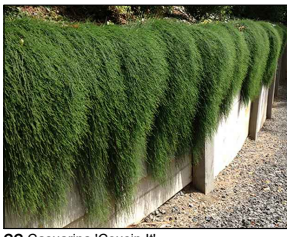
PT *Phormium tenax 'Purpureum'*



WF *Westringia fruticosa 'Mundi'*



IN *Isolepis nodosa*



CC *Casuarina 'Cousin It'*



DT *Dianella 'Tasred'*

Guideline	Y/N	Comment
3A Site analysis		
<p><i>Objective 3A-1</i> Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context</p>	Yes	The proposed building is compatible with character of the surrounding locality and appropriately contributes to visual context. The proposed amendments to the building are consisted to improve/modernise the building to more appropriately respond to its context.
3B Orientation		
<p><i>Objective 3B-1</i> Building types and layouts respond to the streetscape and site while optimising solar access within the development</p>	Yes	The proposal responds to the streetscape and faces north towards Fairport Avenue. Dwellings located on the southern side of the building are generally orientated to the east and west to maximise solar access.
<p><i>Objective 3B-2</i> Overshadowing of neighbouring properties is minimised during mid-winter</p>	Yes	The proposal has acceptable outcomes having regard for neighbouring properties and the shadows cast by the originally approved building. Overshadowing as a result of the increase in the building height will generally remain the same.
3C Public domain interface		
<p><i>Objective 3C-1</i> Transition between private and public domain is achieved without compromising safety and security</p>	Yes	Ground level courtyard apartments have direct street access to the apartments facing Fairport Avenue and a built up above street level. Fences are generally permeable, and the masonry element of the proposed fencing has been reduced to further support passive surveillance. Access points to the building will be well lit. The proposed modification will not compromise safety and security.
<p><i>Objective 3C-2</i> Amenity of the public domain is retained and enhanced</p>	Yes	Landscaping is proposed along all boundaries which will soften the edge of the raised terraces to the street. Ramping is minimised along the street frontage through appropriately located street entries having regard for the slope of the site. Access to the basement carpark is located at the lowest point of the site and is suitably landscaped to minimise visual impact to the public domain.

Guideline	Y/N	Comment														
3D Communal and public open space																
<p><i>Objective 3D-1</i> An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.</p> <p>Design criteria</p> <ol style="list-style-type: none"> Communal open space has a minimum area equal to 25% of the site (see figure 3D.3) Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter) 	Yes	814.5m ² is required. The proposal provides 348m ² at ground level and 696m ² on the rooftop. The ground level communal open space receives adequate solar access and the rooftop terrace receives sun to the entire area from 9am-3pm during midwinter.														
<p><i>Objective 3D-2</i> Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</p>	Yes	The proposal includes seating, shade structures, barbeques and table and tables for outdoor dining. Given the proximity of the site to the beach and The Entrance foreshore the proposed facilities are considered to be suitable.														
<p><i>Objective 3D-3</i> Communal open space is designed to maximise safety</p>	Yes	The proposal includes sufficient passive surveillance to the ground level communal open space. Access to the rooftop communal open space is controlled via lifts to ensure access to the rooftop by residents only.														
<p><i>Objective 3D-4</i> Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood</p>	N/A	N/A														
3E Deep soil zones																
<p><i>Objective 3E-1</i> Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality</p> <p>Design criteria Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th> <th>Minimum dimensions</th> <th>Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>less than 650m²</td> <td>Nil</td> <td>7%</td> </tr> <tr> <td>650m² - 1,500m²</td> <td>3m</td> <td>Minimum 7% with recommended 10%</td> </tr> <tr> <td>greater than 1,500m²</td> <td>6m</td> <td rowspan="2">Minimum 7% with recommended 15%</td> </tr> <tr> <td>greater than 1,500m² with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	less than 650m ²	Nil	7%	650m ² - 1,500m ²	3m	Minimum 7% with recommended 10%	greater than 1,500m ²	6m	Minimum 7% with recommended 15%	greater than 1,500m ² with significant existing tree cover	6m	Non-compliant, justified	The development originally approved 11.5% of the site as deep soil zones, however only 1.8% of the approved deep soil zones complied with the minimum dimensions of 6m. The proposed modification increases the area of deep soil zones provided with strict compliance with the minimum dimensions to 4.8% and provides a total of 18.7% of the site area where deep soil is available. While the proposed modification does not strictly comply with the design criteria the increase in the deep soil zones to that which was originally approved is considered to be suitable.
Site area	Minimum dimensions	Deep soil zone (% of site area)														
less than 650m ²	Nil	7%														
650m ² - 1,500m ²	3m	Minimum 7% with recommended 10%														
greater than 1,500m ²	6m	Minimum 7% with recommended 15%														
greater than 1,500m ² with significant existing tree cover	6m															
3F Visual privacy																

Guideline	Y/N	Comment																
<p>Objective 3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy</p> <p>Design criteria Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Building height</th> <th style="text-align: center;">Habitable rooms and balconies</th> <th style="text-align: center;">Non-habitable rooms</th> <th style="text-align: center;">Proposal</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">up to 12m (4 storeys)</td> <td style="text-align: center;">6m</td> <td style="text-align: center;">3m</td> <td style="text-align: center;">6m</td> </tr> <tr> <td style="text-align: center;">up to 25m (5-8 storeys)</td> <td style="text-align: center;">9m</td> <td style="text-align: center;">4.5m</td> <td style="text-align: center;">9m</td> </tr> <tr> <td style="text-align: center;">over 25m (9+ storeys)</td> <td style="text-align: center;">12m</td> <td style="text-align: center;">6m</td> <td style="text-align: center;">-</td> </tr> </tbody> </table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2) Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Proposal	up to 12m (4 storeys)	6m	3m	6m	up to 25m (5-8 storeys)	9m	4.5m	9m	over 25m (9+ storeys)	12m	6m	-	Yes	Building separation in excess of minimum required separation. Internal and external visual privacy is considered suitable.
Building height	Habitable rooms and balconies	Non-habitable rooms	Proposal															
up to 12m (4 storeys)	6m	3m	6m															
up to 25m (5-8 storeys)	9m	4.5m	9m															
over 25m (9+ storeys)	12m	6m	-															
<p>Objective 3F-2 Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space</p>	Yes	The development meets the required separation distances. Balconies are designed to minimise overlooking to adjoining properties by orientating balconies toward the street, limiting balconies on the southern side of the building and offsetting the balconies on the eastern side of the building with the windows of the adjoining property.																
3G Pedestrian access and entries																		
<p>Objective 3G-1 Building entries and pedestrian access connects to and addresses the public domain</p>	Yes	The building entry addresses the public domain from Fairport Avenue. Pedestrian access is also provided from Ocean Parade.																
<p>Objective 3G-2 Access, entries and pathways are accessible and easy to identify</p>	Yes	Entries are easy to identify and are accessible by pathways from Fairport Avenue.																
<p>Objective 3G-3 Large sites provide pedestrian links for access to streets and connection to destinations</p>	N/A	N/A																
3H Vehicle access																		

Guideline	Y/N	Comment
<p><i>Objective 3H-1</i> Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</p>	Yes	Access to the basement carport is located at the lowest point of the site in the north eastern corner. It is noted that the waste truck manoeuvring area is located in front of the eastern pedestrian entry and the pedestrian entry to the basement, however the area is to be used for the manoeuvring of the waste truck to enter the site only, will not require reversing into the manoeuvring area in front of the pedestrian access and incorporates traffic calming devices including change in paving material. Use of the manoeuvring area will be limited to 4 times per week for waste collection. Conflicts between vehicles and pedestrians is minimised.
3J Bicycle and car parking		
<p><i>Objective 3J-1</i> Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas</p> <p>Design criteria 1</p> <p>For development in the following locations:</p> <ul style="list-style-type: none"> • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or • on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less The car parking needs for a development must be provided off street</p>	N/A	Not located within metropolitan Sydney or nominated regional area.
<p><i>Objective 3J-2</i> Parking and facilities are provided for other modes of transport</p>	Yes	16 Bicycle spaces and 2 motorcycle spaces are provided.
<p><i>Objective 3J-3</i> Car park design and access is safe and secure</p>	Yes	Car parking is contained within a basement.
<p><i>Objective 3J-4</i> Visual and environmental impacts of underground car parking are minimised</p>	Yes	The modification involves the removal of one level of basement carparking reducing the amount of excavation required. No part of the basement carpark is will be visible from Fairport Avenue or Ocean Parade.
<p><i>Objective 3J-5</i> Visual and environmental impacts of on-grade car parking are minimised</p>	Yes	No on grade car parking is proposed.
<p><i>Objective 3J-6</i> Visual and environmental impacts of above ground enclosed car parking are minimised</p>	N/A	N/A

Guideline	Y/N	Comment
4A Solar and daylight access		
<p><i>Objective 4A-1</i> To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space</p> <p>Design criteria</p> <ol style="list-style-type: none"> 1 Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas 2 In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter 3 A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter 	Yes	<p>During midwinter, 70% of the apartments would receive at least three hours of effective daily sunlight to living rooms and private open spaces.</p> <p>During midwinter 12.5% of apartments will receive no direct sunlight.</p>
<p><i>Objective 4A-2</i> Daylight access is maximised where sunlight is limited</p>	Yes	Glazing is maximised to living area to increase access to sunlight.
<p><i>Objective 4A-3</i> Design incorporates shading and glare control, particularly for warmer months</p>	Yes	Façade has been articulated to create areas of shading including vertical fins and recessed balconies.
4B Natural ventilation		
<p><i>Objective 4B-1</i> All habitable rooms are naturally ventilated</p>	Yes	All habitable rooms have opening windows.
<p><i>Objective 4B-2</i> The layout and design of single aspect apartments maximises natural ventilation</p>	Yes	Layout of single aspect apartments maximise natural ventilation.
<p><i>Objective 4B-3</i> The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents</p> <p>Design criteria</p> <ol style="list-style-type: none"> 1 At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed 2 Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line 	Yes	<p>64.3% of apartments are dual aspect apartments that are naturally cross-ventilated. However, only 28.6% do not exceed 18m overall apartment depth. Having regard for the original approval which approved naturally cross-ventilated dual aspect apartments which were 21m in depth and the proposed modification does not propose to change the depth of those dual aspect apartments the proposed modification is considered to be reasonable with regard to cr-oss-ventilation.</p>
4C Ceiling heights		

Guideline	Y/N	Comment												
<p>Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access</p> <p>Design criteria Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1"> <thead> <tr> <th colspan="2">Minimum ceiling height for apartment and mixed use buildings</th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For 2 storey apartments</td> <td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td>If located in mixed used areas</td> <td>3.3m for ground and first floor to promote future flexibility of use</td> </tr> </tbody> </table>	Minimum ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	Yes	The applicant has provided 2.9m floor to floor heights from the ground level to level 4 and 3m floor to floor height on level 5. This can achieve the required 2.7m ceiling heights, subject to correct engineering of the floor slabs.
Minimum ceiling height for apartment and mixed use buildings														
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area													
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope													
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use													
<p>Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms</p>	Yes	Ceiling height is adequate for the residential units.												
<p>Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building</p>	N/A	Not located within a centre where flexibility of building uses is required.												
4D Apartment size and layout														
<p>Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity</p> <p>Design criteria</p> <ol style="list-style-type: none"> Apartments are required to have the following minimum internal areas: <table border="1"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m² + 5m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m² + 5m²</td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each</p> Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms 	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ² + 5m ²	3 bedroom	90m ² + 5m ²	Yes	The internal floor areas meet the minimum requirements of the ADG. The layout of the apartments are suitable to provide a functional space. The daylight amenity is acceptable and will provide the minimum glass area in accordance with the ADG.		
Apartment type	Minimum internal area													
Studio	35m ²													
1 bedroom	50m ²													
2 bedroom	70m ² + 5m ²													
3 bedroom	90m ² + 5m ²													

Guideline	Y/N	Comment															
<p>Objective 4D-2 Environmental performance of the apartment is maximised</p> <p>Design criteria</p> <ol style="list-style-type: none"> Habitable room depths are limited to a maximum of 2.5 x the ceiling height In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window 	Yes	<p>Environmental performance is adequate.</p> <p>Apartments are open plan and predominantly comply with an apartment depth of up to 8m. 16 apartments with a north western aspect do not comply with the apartment depth which have apartment depths ranging from 8.4 to 9.1m. One apartment on the north western side has a depth of 9.8m. Original approval contained apartments with longer depths. Having regard for original approval apartment depth and environmental performance is considered adequate.</p>															
<p>Objective 4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs</p> <p>Design criteria</p> <ol style="list-style-type: none"> Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space) Bedrooms have a minimum dimension of 3m (excluding wardrobe space) Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> 3.6m for studio and 1 bedroom apartments 4m for 2 and 3 bedroom apartments The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts 	Yes	<p>Varied layouts are proposed throughout the development including a variation to apartment mix.</p> <p>Rooms are adequately sized throughout the development.</p>															
<p>4E Private open space and balconies</p>																	
<p>Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity</p> <p>Design criteria</p> <ol style="list-style-type: none"> All apartments are required to have primary balconies as follows: <table border="1" data-bbox="296 1512 943 1702"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> <td>-</td> </tr> <tr> <td>1 bedroom apartments</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom apartments</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum Balcony depth to be counted as contributing to the balcony area is 1m</p> For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m 	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	Yes	<p>Private open space and balcony areas comply. Dimensions of private open space and balconies meet the minimum dimensions.</p>
Dwelling type	Minimum area	Minimum depth															
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															

Guideline	Y/N	Comment															
<p><i>Objective 4E-2</i> Primary private open space and balconies are appropriately located to enhance liveability for residents</p>	Yes	Balconies are predominately located on the north western façade overlooking Fairport Avenue. Balconies located on the south eastern façade are located towards the southern corner of the building to provide an outlook towards Ocean Parade. Building separation with the adjoining property of over 20m is considered adequate to minimise any privacy impacts.															
<p><i>Objective 4E-3</i> Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building</p>	Yes	Private open space and balcony design integrated well into the overall architectural form.															
<p><i>Objective 4E-4</i> Private open space and balcony design maximises safety</p>	Yes	Balconies are located on upper levels of the building providing natural security and passive surveillance.															
4F Common circulation and spaces																	
<p><i>Objective 4F-1</i> Common circulation spaces achieve good amenity and properly service the number of apartments</p> <p>Design criteria</p> <ol style="list-style-type: none"> 1. The maximum number of apartments off a circulation core on a single level is eight 2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40 	Yes	Maximum of 5 units serviced by a core on any level of the building.															
<p><i>Objective 4F-2</i> Common circulation spaces promote safety and provide for social interaction between residents</p>	Yes	Common circulation space suitably designed to provide informal surveillance to promote safety and provide social interaction between residents.															
4G Storage																	
<p><i>Objective 4G-1</i> Adequate, well designed storage is provided in each apartment</p> <p>Design criteria In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #e0e0e0;">Dwelling type</th> <th style="background-color: #e0e0e0;">Storage size volume m³</th> <th style="background-color: #e0e0e0;">Proposal m³</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td style="text-align: center;">4 m³</td> <td style="text-align: center;">-</td> </tr> <tr> <td>1 bedroom apartments</td> <td style="text-align: center;">6 m³</td> <td style="text-align: center;">6 m³</td> </tr> <tr> <td>2 bedroom apartments</td> <td style="text-align: center;">8 m³</td> <td style="text-align: center;">8 m³</td> </tr> <tr> <td>3+ bedroom apartments</td> <td style="text-align: center;">10 m³</td> <td style="text-align: center;">10 m³</td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment</p>	Dwelling type	Storage size volume m ³	Proposal m ³	Studio apartments	4 m ³	-	1 bedroom apartments	6 m ³	6 m ³	2 bedroom apartments	8 m ³	8 m ³	3+ bedroom apartments	10 m ³	10 m ³	Yes	Storage is provided in wardrobes and laundries. Additional storage is located in the basement.
Dwelling type	Storage size volume m ³	Proposal m ³															
Studio apartments	4 m ³	-															
1 bedroom apartments	6 m ³	6 m ³															
2 bedroom apartments	8 m ³	8 m ³															
3+ bedroom apartments	10 m ³	10 m ³															
<p><i>Objective 4G-2</i> Additional storage is conveniently located, accessible and nominated for individual apartments</p>	Yes	Additional storage areas are located in the basement.															
4H Acoustic privacy																	
<p><i>Objective 4H-1</i> Noise transfer is minimised through the siting of buildings and building layout</p>	Yes	Siting and building design suitable to minimise noise.															

Guideline	Y/N	Comment
<p><i>Objective 4H-2</i> Noise impacts are mitigated within apartments through layout and acoustic treatments</p>	Yes	<p>Apartments balconies and openings located away from sources of noise. Balconies on the corners of the building are enclosed on one side which will further limit noise impacts. Condition of consent to be imposed to ensure appropriate acoustic treatments to waste collection area to minimise noise.</p>
4J Noise and pollution		
<p><i>Objective 4J-1</i> In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings</p>	N/A	The site is not located in a noisy or hostile environment.
<p><i>Objective 4J-2</i> Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission</p>	N/A	The site is not located in a noisy or hostile environment.
4K Apartment mix		
<p><i>Objective 4K-1</i> A range of apartment types and sizes is provided to cater for different household types now and into the future</p>	Yes	Apartments range from 1 bed to 3 bed and include options for dual key apartments.
<p><i>Objective 4K-2</i> The apartment mix is distributed to suitable locations within the building</p>	Yes	Various apartment sizes are located on each level of the building.
4L Ground floor apartments		
<p><i>Objective 4L-1</i> Street frontage activity is maximised where ground floor apartments are located</p>	Yes	Street frontage activity maximised for ground floor apartments. Front entries have been provided for each unit and the private open space to increase frontage activity.
<p><i>Objective 4L-2</i> Design of ground floor apartments delivers amenity and safety for residents</p>	Yes	Ground floor apartments suitably designed with private open space with fencing and gate within front setback to provide security to residents and passive surveillance.
4M Facades		
<p><i>Objective 4M-1</i> Building facades provide visual interest along the street while respecting the character of the local area</p>	Yes	Building façade suitably articulated to provide visual interest and reduce bulk. The building design is considered compatible with the character of the area and surrounding residential flat buildings.
<p><i>Objective 4M-2</i> Building functions are expressed by the façade</p>	Yes	The building façade and the relationship of building entries to the street are suitable.
4 N Roof design		
<p><i>Objective 4N-1</i> Roof treatments are integrated into the building design and positively respond to the street</p>	Yes	The roof treatment is acceptable.
<p><i>Objective 4N-2</i> Opportunities to use roof space for residential accommodation and open space are maximised</p>	Yes	Rooftop communal open space has been provided with shading, barbeque and seating.

Guideline	Y/N	Comment
<i>Objective 4N-3</i> Roof design incorporates sustainability features	Yes	Design includes eaves and overhangs over windows to provide shade.
4O Landscape design		
<i>Objective 4O-1</i> Landscape design is viable and sustainable	Yes	Landscaping has incorporated large areas of substantial planting in deep soil areas and to the ground level communal open space and rooftop.
<i>Objective 4O-2</i> Landscape design contributes to the streetscape and amenity	Yes	Landscaping to the streetscape consists of substantial deep soil planting including a mixture of trees, shrubs and groundcovers.
4P Planting on structures		
<i>Objective 4P-1</i> Appropriate soil profiles are provided	Yes	Appropriate.
<i>Objective 4P-2</i> Plant growth is optimised with appropriate selection and maintenance	Yes	Coastal tea tree considered appropriate for rooftop planting. Narelle Botanica has confirmed the Coastal tea tree which is the largest planting on the rooftop is suitable and will grow up to 3m in the 850mm soil depth to be provided. All other rooftop planting is shrubs between 0.3m and 1m in height.
<i>Objective 4P-3</i> Planting on structures contributes to the quality and amenity of communal and public open spaces	Yes	-
4Q Universal design		
<i>Objective 4Q-1</i> Universal design features are included in apartment design to promote flexible housing for all community members (20% silver level).	Yes	20% of units (12 in total) meet the silver level standards
<i>Objective 4Q-2</i> A variety of apartments with adaptable designs are provided	Yes	10% of units (6 in total) adaptable apartments provided
<i>Objective 4Q-3</i> Apartment layouts are flexible and accommodate a range of lifestyle needs	Yes	Flexible layouts are available including dual key apartments
4R Adaptive reuse		
<i>Objective 4R-1</i> New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	N/A	-
<i>Objective 4R-2</i> Adapted buildings provide residential amenity while not precluding future adaptive reuse	N/A	-
4S Mixed use		
<i>Objective 4S-1</i> Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	N/A	-
<i>Objective 4S-2</i> Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	N/A	-
4T Awnings and signage		
<i>Objective 4T-1</i> Awnings are well located and complement and integrate with the building design	N/A	Awnings are not proposed.

Guideline	Y/N	Comment
<i>Objective 4T-2</i> Signage responds to the context and desired streetscape character	N/A	Signage is not proposed.
4U Energy efficiency		
<i>Objective 4U-1</i> Development incorporates passive environmental design	Yes	Adequate solar access is provided to the apartments. Solid balcony balustrading has been incorporated to provide sufficient space for clothes drying. The proposal meets BASIX requirements.
<i>Objective 4U-2</i> Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	Yes	Design includes screened façade with deep recesses to reduce excessive heat during the summer and provide privacy balanced with sufficient daylight access to adjacent living spaces. 69.6% of apartments receive at least 3hours solar access during midwinter.
<i>Objective 4U-3</i> Adequate natural ventilation minimises the need for mechanical ventilation	Yes	64.3% apartments receive cross-ventilation.
4V Water management and conservation		
<i>Objective 4V-1</i> Potable water use is minimised	Yes	A valid BASIX certificate has been provided.
<i>Objective 4V-2</i> Urban stormwater is treated on site before being discharged to receiving waters	Yes	Stormwater suitably treated before being discharged.
<i>Objective 4V-3</i> Flood management systems are integrated into site design	Yes	Flood mitigation has been incorporated via floor levels and driveway crest height.
4W Waste management		
<i>Objective 4W-1</i> Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Yes	The waste storage area including bulky waste located in the basement. A temporary waste holding area is located at ground level next to the vehicle access ramp and is suitable setback and screened from the street.
<i>Objective 4W-2</i> Domestic waste is minimised by providing safe and convenient source separation and recycling	Yes	Residents will be supplied with a collection area in each unit to dispose of general waste and collect recyclable material suitable for one day of storage. This collection area is typically located in the kitchen, under the bench or similar area.
4X Building maintenance		
<i>Objective 4X-1</i> Building design detail provides protection from weathering	Yes	Design incorporates recesses within the façade as well as blade walls to assist with weather protection. Council's urban designer has not raised any objection to the materials proposed having regard for weathering.

Guideline	Y/N	Comment
<i>Objective 4X-2</i> Systems and access enable ease of maintenance	Yes	Windows are predominately available to be cleaned from balconies. Centralised services and storage is provided in the basement.
<i>Objective 4X-3</i> Material selection reduces ongoing maintenance costs	Yes	Building design includes selection of low maintenance, long life materials.

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
SERVICES					
Services	Any impact on drainage, water or sewer?	Details of services available and impacts on existing services to be provided.	Impact on sewer main and drainage line has been addressed. Conditions to apply.	Details of services provided and impacts to existing assessed. Relevant conditions of consent imposed on original consent.	Complies
	Kerb and guttering existing?	Kerb and guttering to be provided along the street frontage unless unreasonable.	Kerb and guttering existing.	Kerb and guttering existing.	Complies
CONTEXT					
Site and Local Context Analysis	Submit site and contextual analysis	Submit site and contextual analysis	Information submitted.	Information submitted.	Complies
SCALE					
Residential Development by Zone	Compatible with objectives of the zone	N/A	Proposed residential flat building is consistent with objectives of 2(c) zone and Clause 42B of LEP	Proposed residential flat building is consistent with objectives of 2(c) zone under WLEP 1991 and R3 zone under WLEP 2013.	Complies
Building Height	18m to ceiling as nominated on Building Height Map (LEP) on land in excess of 1800sqm	12m to highest point under Wyong WLEP 2013	17.8m to ceiling 22.47m to top of rooftop terrace shade structure	23.7m to top of southern lift over-run	The increase in the building height is 1.23m to the highest point of the RFB. The increase in height will not result in adverse impacts to adjoining properties with regard to overshadowing, views and privacy. The RFB will remain 6 storeys and is consistent with the height of surrounding RFBs. Further discussion is provided within the report.
Site Coverage	Minimum 25% site area as soft landscaping = 816m²	Minimum 25% site area as soft landscaping = 816m²	>850m ²	Approx. 1175m ²	Complies

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
BUILT FORM					
Construction and Appearance	Respond sensitively to context in terms of scale, functionality and sustainability.	Need to respond to their context in terms of scale, functionality and sustainability.	The scale of development is consistent with the zoning and surrounding buildings. The design addresses both street frontages and responds to the coastal location in terms of views, solar access and physical access to the street and local beaches and reserves.	The scale of development is consistent with the zoning and surrounding buildings. The proposed modification includes modifications to the appearance of the façade design and materials. The proposed modification will retain the approved scale, function and sustainability of the originally approved development.	Complies
Building Design	Facades to be articulated in length and height.	Buildings facades to be articulated in length and height, monotonous and unbroken lengths of wall >10m in length and >3m in height not permitted.	All elevations incorporate balconies with sliding screens or changes in materials.	All elevations incorporates balconies, glazing and architectural elements to provide suitable articulation.	Complies
	Garages not to dominate street elevations.	Garages shall not dominate the street elevations	Basement parking proposed.	Basement parking proposed. Entrance to basement does not dominate the street.	Complies
	Suitable architectural features to provide visual relief and to minimise bulk and scale.	N/A	Operable screens on balconies and stepping of the building are used to minimise bulk and scale.	Balconies, architectural elements and stepping of the building down the slope of the site has been used to minimise the bulk and scale of the building. Substantial landscaping has also been provided to soften the built form.	Complies

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
Roof Design	Relate roof design to desired built form and the size and scale of the building.	Roof design to be related to the built form and size and scale of the building.	Roof terraces, pools and shade structures incorporated into roof design. The shade structures are not obtrusive and will not add to the bulk of the building.	Roof terrace for communal open space and shade structures have been incorporated into the roof design. The shade structures are not obtrusive and will not add bulk to the building. Lift overrun required for access to the rooftop communal open space and suitable integrated with the shade structures on the roof to minimise visual bulk.	Complies
	Minimise intrusiveness of service elements.	Minimise intrusiveness of service elements.	Shade structures to screen lift overrun and services.	Pergola shade structures above lifts help screen services	Complies
	Roof terraces to be setback from building edge.	Roof top gardens, terraces, decks and enclosures shall be suitably set back from the building edge to maintain the privacy of adjoining sites.	Roof terraces not set back from building edge.	Roof terraces setbacks from building edge with rooftop landscaping in setbacks.	Complies
Cut and Fill	Minimise cut and fill by stepping building.	Minimise cut and fill.	Building stepped down natural slope.	Building stepped down natural slope as previously approved. Removal of 1 level of basement car parking will result in less excavation.	Complies
SETBACKS					
<i>Front (Fairport Ave)</i>	7.5m	7.5m	7.5m to 9m	7.5m to 9m	Yes

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
<i>Side (Ocean Pde)</i>					
Ground level	6m	6m	3.6m	2.9m	The side setbacks have been reduced to provide additional articulation to the façade. Only a small portion of articulation is located within the originally approved minimum side setback (3.6m). The remainder of the setback is generally within the originally approved building footprint and has a setback of 3.6m – 8.2m.
Level 1	6m	6m	3.6m	2.9m	
Level 2	6m	6m	3.6m	2.9m	
Level 3	6m	6m	3.6m	2.9m	
Level 4	9m	9m	3.6m	2.9m	
Level 5	9m	9m	3.6m	2.9m	
<i>Side (north east)</i>					
Ground level	6m	6m	6m	5.6m	The side setbacks have been reduced to provide additional articulation to the façade. Only a small portion of articulation is located within the originally approved minimum side setback (5.5m). The remainder of the setback is generally within the originally approved building footprint and has a setback of 5.5m – 9.6m.
Level 1	6m	6m	5.5m	5.2m	
Level 2	6m	6m	5.5m	5.2m	
Level 3	6m	6m	5.5m	5.2m	
Level 4	9m	9m	5.5m	5.2m	
Level 5	9m	9m	5.5m	5.2m	
<i>Rear (south east)</i>					
Ground level	6m	6m	5m (south eastern corner) setback generally 10m-12m	7m to POS courtyards, 10m-12m to units	Complies
Level 1	6m	6m	10m-12m	10m-12m	
Level 2	6m	6m	10m-12m	10m-12m	
Level 3	6m	6m	10m-12m	10m-12m	
Level 4	9m	9m	10m-12m	10m-12m	
Level 5	9m	9m	10m-12m	10m-12m	
CAR PARKING					

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
Resident Parking	4 x 1B @ 1/unit = 4 16 x 2B @ 1.2/unit = 19.2 25 x 3B @ 1.5/unit = 37.5 TOTAL = 60.7 (rounded 68 spaces)	10 x 1B @ 1/unit = 10 38 x 2B @ 1.2/unit = 45.6 8 x 3B @ 1.5/unit = 12 TOTAL = 67.6 (rounded 68 spaces)	74	62	Parking discussed further in body of report.
Visitor Parking	1 space per 5 units = 9 spaces	1 space per 5 units = 12 spaces	10	10	Parking discussed further in body of report.
Bicycle Facilities	1 per 3 dwellings = 15	1 per 3 units = 19	No bicycle parking facilities proposed. Condition of consent imposed requiring the provision of 15 bicycle spaces.	16 bicycle spaces provided	No, condition 51 to be amended requiring the provision of 19 bicycle spaces.
VEHICULAR AND PEDESTRAIN ACCESS DESIGN					
Basement Parking	Facilitate natural ventilation.	Facilitate natural ventilation.	Mechanical ventilation required.	Mechanical ventilation required.	No change proposed
	N/A	Provide safe and secure access for building users	Secure basement parking provided	Secure basement parking provided	Complies
	N/A	Driveways designed to minimise adverse visual impacts on the streetscape, and complemented by the landscaping	Driveway located at lowest part of the site so as to not dominate the street and suitably landscaped.	Driveway located at lowest part of the site so as to not dominate the street and suitably landscaped.	Complies
	N/A	Basement car parking suitably set back from site boundaries so as not to interfere with the provision of deep soil planting zones at ground level.	Basement carpark setback from all boundaries.	Basement carparking setback from street, north eastern side boundary and part of the south eastern side boundary to provide sufficient areas of deep soil planting.	Suitable setbacks to the basement parking have been proposed to provide deep soil planting. The setbacks to the north western and south western boundaries have been increased to provided additional consolidated deep soil zones to the street frontages.

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
	N/A	Basement access driveways designed in accordance with AS/NZS 2890.1	Basement access driveways designed in accordance with AS/NZS 2890.1	Basement access driveways designed in accordance with AS/NZS 2890.1	Complies
Pedestrian Access Design	Clear pedestrian access to development	Clear pedestrian access to development	Pedestrian access from Fairport Avenue and Ocean Parade to each lobby.	Clear pedestrian access from Fairport Avenue to each lobby.	Complies
	Consider public through-site access ways in larger developments.	N/A	No public access but a secondary access is proposed to provide a direct link from Fairport Ave to the beach and foreshore.	No public access proposed.	No change proposed
	Provide high quality accessible routes to public and semi-public areas of the building and the site including major entries, lobbies, communal open space, site facilities, parking areas, public streets and internal roads.	Provide high quality accessible routes to public and semi-public areas of the building and the site including major entries, lobbies, communal open space, site facilities, parking areas, public streets and internal roads.	Accessible routes provided to the parking and waste storage area in basement via four lift cores. Communal open space accessible by ramps and pedestrian paths. Entry paths directly link lobbies with public footpath.	Accessible routes provided to the parking and waste storage area in basement via three lift cores. Communal open space accessible by ramps and pedestrian paths. Access to rooftop communal open space available via a lift. Entry paths directly link lobbies with public footpath.	Complies
	Promote equity by: <ul style="list-style-type: none"> i. ensuring the main building entrance is accessible for all from the street and from car parking areas. ii. Integrating ramps into the overall building and landscape design. 	Promote equity by: <ul style="list-style-type: none"> iii. ensuring the main building entrance is accessible for all from the street and from car parking areas. iv. Integrating ramps into the overall building and landscape design. 	All building entrances accessible by ramps and lifts. Communal open space accessible via ramps.	All building entrances accessible by ramps and lifts. Ground level communal open space accessible via ramps, roof top communal open via lift from southern lobby.	Complies

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
	Separate and clearly distinguish between pedestrian access ways and vehicle access ways.	Separate and clearly distinguish between pedestrian access ways and vehicle access ways.	Pedestrian and vehicle accessways clearly delineated.	Pedestrian and vehicle accessways clearly delineated. Shared pedestrian path to northern lobby and waste truck vehicle manoeuvring area delineated with contrasting pavement.	Complies
DENSITY					
Floor Space Ratios	Under DCP 60, 2(c) has same FSR as 2(d): 1.5:1	0.9:1 WLEP 2013	Old WLEP 1991 definition: GFA = 7,565m ² FSR = 2.3:1 Current WLEP 2013 definition: GFA = 6,661m ² FSR = 2.04:1 Assessment report noted the FSR complied with the previous DCP 64 which was in force at the time of lodgement of the original application and as such was supported.	Old WLEP 1991 definition: GFA = 7,237m ² FSR = 2.2:1 Current WLEP 2013 definition: GFA = 6,463m ² FSR = 1.98:1	Modification reduces GFA of development by 198m ² (as per WLEP 2013 definition) and as such is less than the originally approved gross floor area.
Development Bonuses	Must be >1500m ² , basement parking and amalgamation (not causing isolation). FSR with bonus: 2:1	No bonus provisions applicable to the site	FSR = 2.3:1 Assessment report noted the FSR complied with the previous DCP 64 which was in force at the time of lodgement of the original application and as such was supported.	N/A	N/A

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
SUSTAINABILITY					
Waste Management	WMP submitted.	WMP submitted	WMP submitted.	WMP submitted	Complies
	Location of bins to be accessible and not visually intrusive.	Location of bins to be accessible and not visually intrusive.	It is proposed to store bulk bins within the basement. However, there is concern that collection from Fairport Avenue will not be achievable due to the slope of the site. An alternative option would be to store the bins at ground level on ocean Parade.	Bins proposed to be stored in the basement. Collection area for bins at ground level to be suitably screened by landscaping and bin enclosure.	Complies
	Garbage chute to be provided.	Garbage chute required for RFBs > 3 storeys. Recycling room for each floor and bins centrally located within basement of building.	No garbage chutes proposed.	No garbage chutes proposed.	Original DA was lodged prior to the requirement and the design of the building having four lift cores did not facilitate the use of a garbage chute. Modification does not propose any garbage chutes and the three lift cores now proposed are not suitable to facilitate garbage chutes.
Method of collection.	<ul style="list-style-type: none"> i. bulk bins collected from basement storage area by garbage truck; or ii. bulk bins transported from basement storage area to the kerb for collection; iii. bulk bins stored in a screened enclosure in front setback. 	<ul style="list-style-type: none"> i. bulk bins collected from basement storage area by garbage truck; or ii. bulk bins transported from basement storage area to the kerb for collection; iii. bulk bins stored in a screened enclosure in front setback. 	Bins to be transported from the basement to the street for collection. Although as stated above, an enclosure may need to be provided on Ocean Parade to enable the bins to be safely collected. - Yes. Condition of consent	Bins will be moved to a collection area located at ground level on the site near the vehicle access to the basement along the eastern side boundary for on-site collection by waste truck.	Proposed modifications to waste servicing arrangements considered to result in an improved waste collection method as an excessive number of bins will not be placed on the street for kerbside collection. Proposed waste collection considered suitable for the development.

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
Stormwater Management	SWMP to be submitted	SWMP to be submitted	Acceptable stormwater plan has been submitted.	Acceptable stormwater plan has been submitted.	Complies
	On-site detention	SWMP incorporating one of the following: i. provision of on-site stormwater detention; or ii. site design to minimise impervious areas and maximise on-site infiltration; or iii. a combination of both.	On site detention and water re-use is proposed.	Proposed to retain the Council drainage system and divert it around the development including the creation of overland flow paths and drainage easement. The development also includes on-site stormwater detention to attenuate stormwater runoff flows downstream.	Stormwater management considered to be suitable for the development and site.
	Groundwater study.	N/A	Submitted with original DA.	Groundwater studied required as condition of consent (Condition 22).	Original condition of consent provided.
LANDSCAPE					
Landscape Design	Landscape plan provided in accordance with Council's Landscaping Policy L1	A Landscape plan prepared by an approved consultant to be submitted with the development application.	Substantial landscaping incorporating shade trees to the communal open space and setbacks, suitable landscaping to the scale of the building, accessible pedestrian paths and suitable deep soil zones provided.	Substantial landscaping incorporating to the ground level and rooftop communal open space and setbacks, suitable landscaping to the scale of the building to minimise visual bulk, accessible pedestrian paths through the site and suitable deep soil zones provided.	Complies.
	50% of required soft landscaped area to be deep soil = 408m ² .	50% of required soft landscaped area to be deep soil	Approx 720m ² of deep soil zones provided.	Approx 608m ² deep soil zones provided	Complies
	2 semi advanced trees per 15 m frontage = 4 trees.	2 semi advanced trees per 15 m frontage	Not shown on landscape plan.	No changes. Condition of original consent	Condition 61 of original development consent requires 2 street trees per 15m frontage.

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
	N/A	Planting on structures designed to optimise conditions for plant growth and provide sufficient soil depth and	Rooftop planting with trees up to 2m in height approved. Screen and feature planting also approved at ground level over basement areas.	Narelle Sonter Botanica has confirmed suitable soils depths up to 850mm will be provided for the rooftop planting which will support the proposed tea trees to grow to approx. 3m in height. Suitable planting has also been proposed above basement carpark.	Complies
AMENITY					
Private Open Space	Grade not to exceed 1:14	N/A	Grade does not exceed 6% (approx 1:17)	No changes to grade of ground level POS	No changes proposed
	10sqm with minimum dimension 2m, directly accessible from general living areas.	10sqm with minimum dimension 2m, directly accessible from general living areas.	All units have a balcony with minimum area of 10m ² .	Min 10sqm with min dimensions	Complies
Communal Open Space	Provide facilities e.g. BBQ, seating, pool.	Provide facilities e.g. BBQ, seating, pool.	Outdoor pool and seating provided. Internal communal space is also proposed.	BBQ, shade structures	Complies
	Communal open space not to be within front setback.	Communal open space not to be within front setback.	Provided at the back of the building.	Provided at back and rooftop	Complies
	Roof top areas to be in addition to required ground level open space.	Roof top areas to be in addition to required ground level open space.	Roof terraces provide private open space in addition to private open space requirements.	In addition to ground level COS. No impact to amenity of adjoining properties.	Complies

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
	Up to two locations min rate of 10sqm/dwelling min width 5m. 45 units x 10 sqm = 450 sqm	Up to two locations min rate of 10sqm/dwelling min width 5m. 56 units x 10 sqm = 560 sqm	Over 572m ² provided at ground level no rooftop communal open space was provided. Communal open was not all compliant with the minimum width of 5m where communal open space was provided along the south eastern boundary with a minimum width of 3.19m.	Over 1004m ² provided at ground level and rooftop communal open space. 696m ² communal open space is proposed on the rooftop which meets the minimum dimensions. 348m ² communal open space is proposed at ground level, however it does not all meet the minimum 5m dimensions, minimum width proposed 4.2m.	Additional communal open space is proposed as part of the modification which will provide functional communal open space. It is noted that not all the ground level communal open space complies with the minimum required 5m width however, the ADG only requires a minimum dimension of 3m. Approximately 140m ² of communal open space that meets the minimum DCP dimensions has been provided at ground level in the eastern corner of the site.
Solar Access	75% of each required POS to have unobstructed sunlight for minimum 3 hours between 9.00 am and 3.00pm June 21.	The number of units within the development with a southerly aspect (SW-SE) is to be a maximum of 10% of the dwellings proposed.	All units have a north facing balcony to receive adequate solar access.	17 units are proposed with a southerly aspect (SW-SE) which is 30%.	Although 30% of units have a southerly aspect, they will receive solar access at 9am on 21 March. 12.5% of units will receive no direct sunlight in midwinter. During midwinter, 70% of apartments would receive at least three hours of sunlight to living rooms and POS in accordance with the ADG. The proposed southerly units are considered acceptable having regard for the requirements of the ADG.

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
	POS on adjoining properties to receive at least 3 hours POS	POS on adjoining properties to receive at least 3 hours POS	Solar access to POS achieved on most adjoining properties. POS of 5 units on the north western elevation at 50-54 Ocean Parade will not receive 3 hours solar access, however, will achieve approx. 2 hours.	Shadows cast are generally the same as previously approved. Solar access to POS achieved on most adjoining properties. Solar access to the 5 units at 50-54 Ocean Parade will not be further impacted due to the proposed modification.	Overshadowing discussed further in the body of the report.
	Shadow diagrams to be submitted for over 2 storeys.	Shadow diagrams to be submitted for over 2 storeys.	Shadow diagrams show no unreasonable impact on adjoining properties. The development does not impact on any surrounding properties between 9 am and 12 noon, with only minor overshadowing in the afternoons on 21 March. On 21 June overshadowing occurs from 12 noon over the private open space of 50-54 Ocean Parade and will also overshadow the rear setback of 31 Marine Parade and the north western side setback, rear setback and front setback of 50-54 Ocean Parade.	Shadows cast are generally the same as previously approved. Slightly increased and decreased in some sections of the building due to the change in the roof form and some articulation to the facades.	Overshadowing discussed further in the body of the report.

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
Privacy	Building layout (windows, balconies, screening and landscaping) to minimise direct overlooking of internal living areas & private open space.	Direct overlooking of internal living areas and private open space to surrounding dwellings shall be minimised.	Appropriate setbacks and/or screening are provided to windows and balconies.	Appropriate setbacks and/or screening are provided to windows and balconies. Balconies offset with adjoining properties. Overlooking minimised to adjoining dwellings	Complies
Building Separation	5-8 storeys: 18m between habitable rooms	5-8 storeys: 18m between habitable rooms	Separation with north eastern property= 11m Separation with eastern property= 13m Separation with south eastern property= 18m	Separation with north eastern property = 11m Separation with eastern property = 13m Separation with south eastern property = 18m	Only changes to approved building envelope on the ground floor to provide ground level private open space at the rear (south eastern elevation) of the building. Building separation between habitable rooms remains the same on the ground level. No changes to building separation of upper floors proposed. Building separation is compliant with the ADG which only requires 9m building separation between habitable rooms and balconies.
Acoustic Privacy	Site layout should separate active recreation areas, parking areas, vehicle access ways etc from bedrooms.	Site layout should separate sources of noise from bedroom areas of dwellings.	Internally, the site is appropriately designed although a number of objections have been received in relation to the location of the proposed swimming pool.	Site layout suitably separates sources of noise.	Complies
Views	Minimise loss of views.	Developments should be designed to minimise view loss from adjoining and adjacent properties.	Complies with height and no unreasonable roof structures that would restrict views.	Height slightly increased to accommodate lift overrun (+0.73m), however will not have any further impact on views.	Complies

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
	Public views and vistas retained.		No public views impacted.	N/A	N/A
SAFETY AND SECURITY					
Crime Prevention	Crime Risk Assessment (CPTED)	CPTED principles should be taken into account.	Safety and security measures are considered satisfactory.	Safety and security measures are generally the same as previously approved and are considered satisfactory.	Complies
SOCIAL DIMENSIONS					
Housing Choice	Mix of 1, 2 and 3 bedroom units	A variety of dwelling types, particularly in large RFD and on ground floor, to be provided.	A mix of 1, 2 and 3 bedroom units with studies are proposed.	Mix of studio, 1, 2 and 3 bedroom units Studio: 1 1B: 9 2B: 38 3B: 8	Apartment mix is considered suitable. Dual key apartments (i.e on same strata title) accommodates 3 bedroom and 4 bedroom dual key apartments which will provide additional housing choice.
	10% of units to be suitable for adaptation for disabled/elderly persons.	10% of units in RFBs is to be suitable for adaptation for occupancy by disabled/aged persons.	Barrier free access is provided to all units and the communal open space. Compliance with AS4299: Adaptable Housing for 10% of units can be conditioned.	Over 10% adaptable units	Complies
Facilities and Amenities	Each dwelling to have individual laundry.	An internal laundry shall be provided within each dwelling.	Provided within each unit.	Provided within each unit.	Complies
	Drying areas in accordance with BCA.	Drying areas in accordance with BCA.	Internal drying is proposed.	No change to originally approved, clothes dryer provided to each unit in accordance with BCA.	No changes proposed.
	Provision is to be made for a car washing facility for each development.	Provision is to be made for a car washing facility for each development. (May be provided in visitor parking space)	Provided within the basement.	Provided within basement visitor parking space	Complies

	DCP 2005, Chapter 64	DCP 2013, Chapter 2.4	Approved	Proposed	Comment
	Provide and design mailboxes to be convenient for residents and which do not clutter the appearance of the development from the street	Provide and design mailboxes to be convenient for residents and which do not clutter the appearance of the development from the street	Provided at street frontages. Will comply with Australia Post.	Provided at front entries to development, set in wall facing internal footpaths. Does not clutter the appearance of the development from the street.	Complies
	Storage: 1-2 beds - 3m ² 3+ beds - 6m ²	Storage: 1-2 beds - 3m ² 3+ beds - 6m ²	Built in storage provided within each unit and within the basement.	Built in storage provided within each unit and within the basement.	Complies
AESTHETICS					
Fencing	Details to be provided. Max 1.2 m along front boundary.	Decorative fencing may be provided along the front boundary with a maximum height of 1.2m.	1.2 m stone wall proposed for Fairport Avenue.	A revised fence design with reduced masonry elements and a more permeable interface to promote landscape visibility has been proposed.	Complies
Streetscape	Development is to enhance streetscape character.	N/A	Development will create an improved and continuous streetscape along Fairport Avenue.	Design changes more modern design improve streetscape	Complies

Item No: 4.1
Title: DA/62008/2021 - 81 Terrigal Esplanade, Terrigal -
Alterations and additions to Terrigal Surf Club
Department: Environment and Planning

Central Coast
Local Planning Panel

23 September 2021 Local Planning Panel Meeting

Reference: 011.2021.00062008.001 - D14779589
Author: Robert Eyre, Principal Development Planner South
Manager: Ailsa Prendergast, Section Manager, Development Assessment South
Approver: Andrew Roach, Unit Manager, Development Assessment

Summary

An application has been received for alterations and additions to the Terrigal Surf Life Saving Club building. The application has been examined having regard to the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, with the issues requiring attention and consideration being addressed in the report.

The application is required to be referred to the Local Planning Panel as the building is owned by Council.

Applicant	White+Dickson Architects
Owner	Central Coast Council/Crown Land
Application No	62008/2021
Description of Land	Lots 1 and 3 DP 1060783, No 81 Terrigal Esplanade, Terrigal
Proposed Development	Alterations and additions to surf club building
Site Area	Lot 1- 4.989ha. Lot 3-942.4m ²
Zoning	RE1 Public Recreation
Existing Use	Terrigal Surf Club
Employment Generation	No
Estimated Value	\$1,236,433.00

Recommendation

- 1 That the Local Planning Panel grant consent to DA62008/2021 for alterations and additions to Terrigal Surf Club building on Lots 1 and 3 DP 1060783, No 81 Terrigal Esplanade, Terrigal subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.***
- 2 That Council advise those who made written submissions of the Panel's decision.***
- 3 That Council advise relevant external authorities of the Panel's decision.***

4.1 DA/62008/2021 - 81 Terrigal Esplanade, Terrigal - Alterations and additions to Terrigal Surf Club (contd)

Key Issues

- Public Submissions and issues raised therein
- Bulk and Scale
- Impact on heritage/significant trees
- View impact/loss
- Economic impact

Precis:

Proposed Development	Alterations and additions to surf club building
Permissibility and Zoning	RE1 Public Recreation. Permissible with consent as a community facility.
Relevant Legislation	<ul style="list-style-type: none"> • <i>Environmental Planning and Assessment Act 1979</i> - Section 4.15 and 4.55(2). • <i>Local Government Act 1993</i> - Section 89 • State Environmental Planning Policy (Coastal Management) 2018 • State Environmental Planning Policy 55- Remediation of Land. • State Environmental planning Policy 19-Urban Bushland. • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 • Gosford Local Environmental Plan 2014 • Gosford Development Control Plan 2013 • Draft Central Coast Local Environmental Plan 2018 • Draft State Environmental Planning Policy (Infrastructure) 2007 • Draft State Environmental Planning Policy (Environment) 2017 • Draft State Environmental Planning Policy (Short Term Rental Accommodation) 2019 • Draft State Environmental Planning Policy (Exempt and Complying Development) 2008 • Draft State Environmental Planning Policy (Design and Place) • Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 • Draft State Environmental Planning Policy (State and Regional Development) • Central Coast Climate Change Policy

4.1 DA/62008/2021 - 81 Terrigal Esplanade, Terrigal - Alterations and additions to Terrigal Surf Club (contd)

Current Use	Surf club, café, car park, beach and landscaping.
Integrated Development	No
Submissions	Five (5)

The Site

The site is located on the north-east side of Terrigal Esplanade, between Campbell Crescent and Kurrawyba Avenue. The site forms part of Terrigal Beach foreshore and is located between a public car park to the north and a war memorial to the south.

A row of significant trees exists along the eastern side of Terrigal Esplanade, generally along the back of the foreshore area. These are identified as a heritage item No 275 under Gosford *Local Environmental Plan (GLEP) 2014*.

The site is relatively level with concrete paths around the building. The existing building is part one and part two storey and contains storage of life saving equipment, first aid room, life-guard room, café, gymnasium and public amenities on the ground floor. The first floor contains a patrol tower, training room, kitchen, amenities, storage and function room.

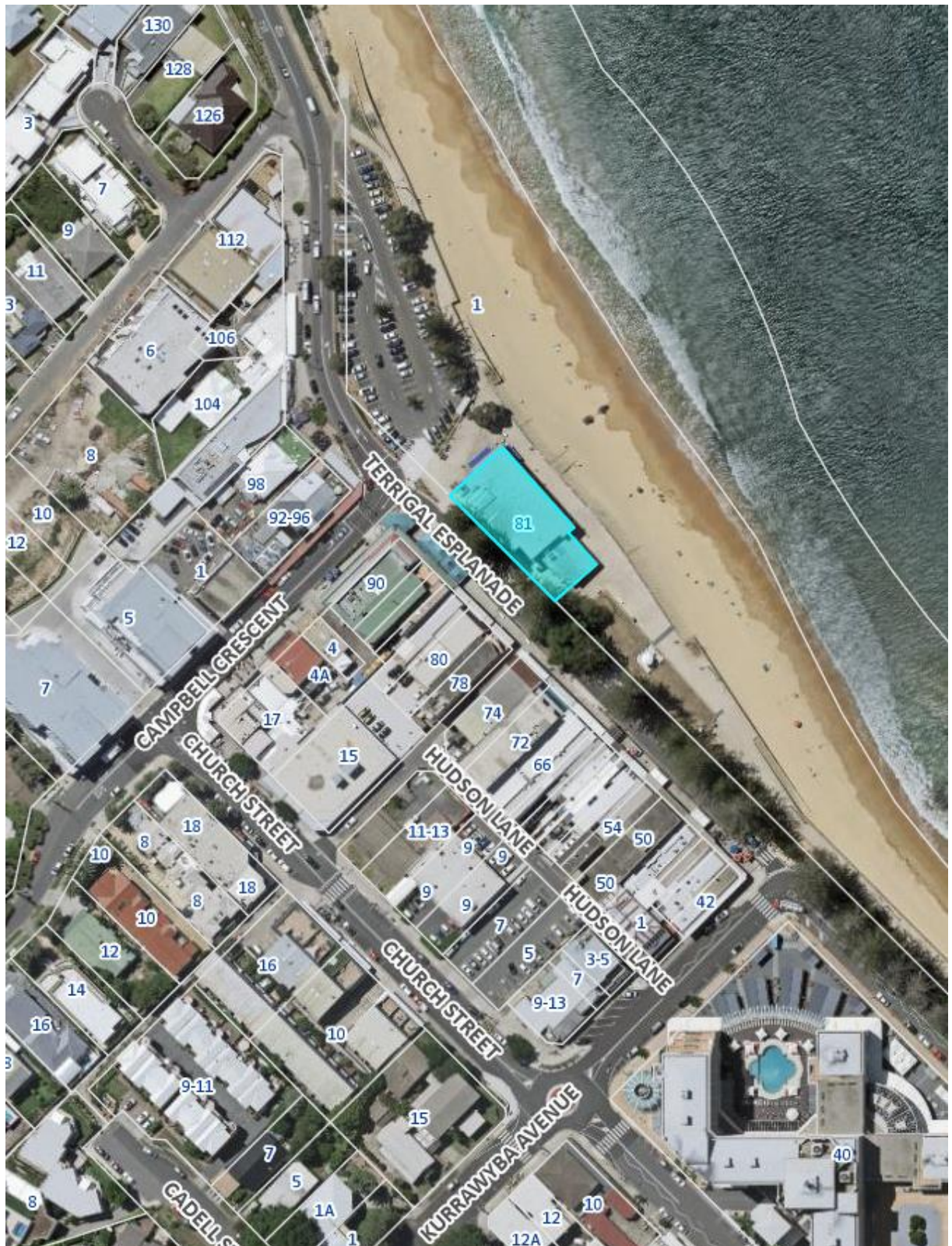


Figure 1 - Locality Plan



Figure 2 - Surf club view from north-east

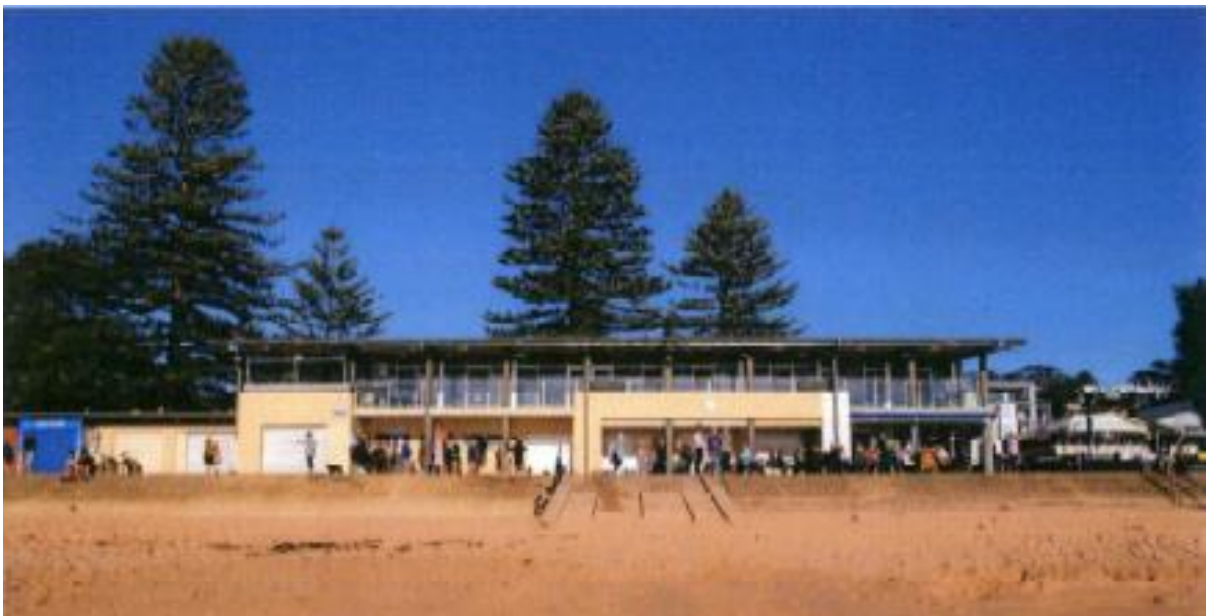


Figure 3 - Existing surf club viewed from Terrigal Beach

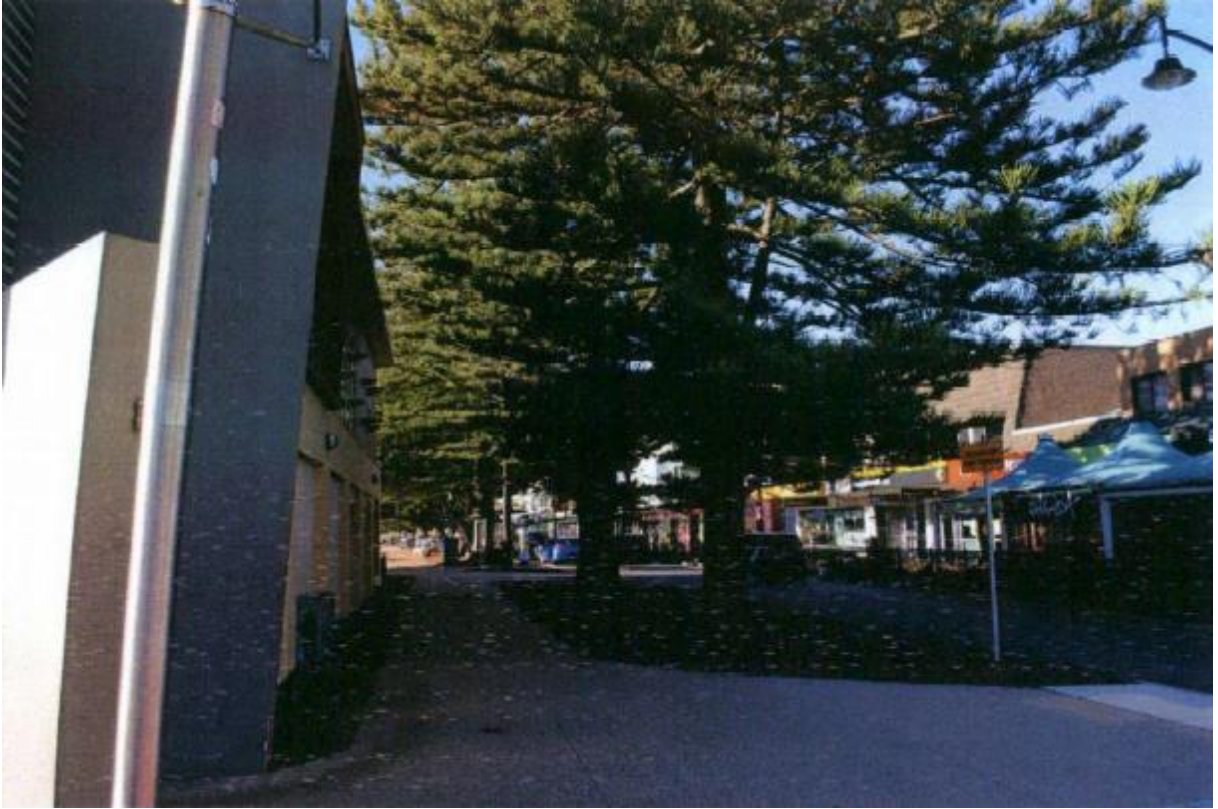


Figure 4 - Existing trees beside surf club

Surrounding Development

Surrounding development consists of Terrigal Beach foreshore facilities including a public car park to the north, and walkways, seating, grassed areas and a war memorial to the south.

On the south-western side of Terrigal Esplanade is the Terrigal business area with mainly shops/restaurants on the ground floor and shop top housing above. A number of restaurants also have footpath dining licenses with partly enclosed footpath dining areas.

The Proposed Development

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

Ground Floor

- Provision of an enclosed café seating area of 71.29m².
- Remove members gym and relocate to first floor.
- Provide a plant room and extend women's change room by 38.28m².

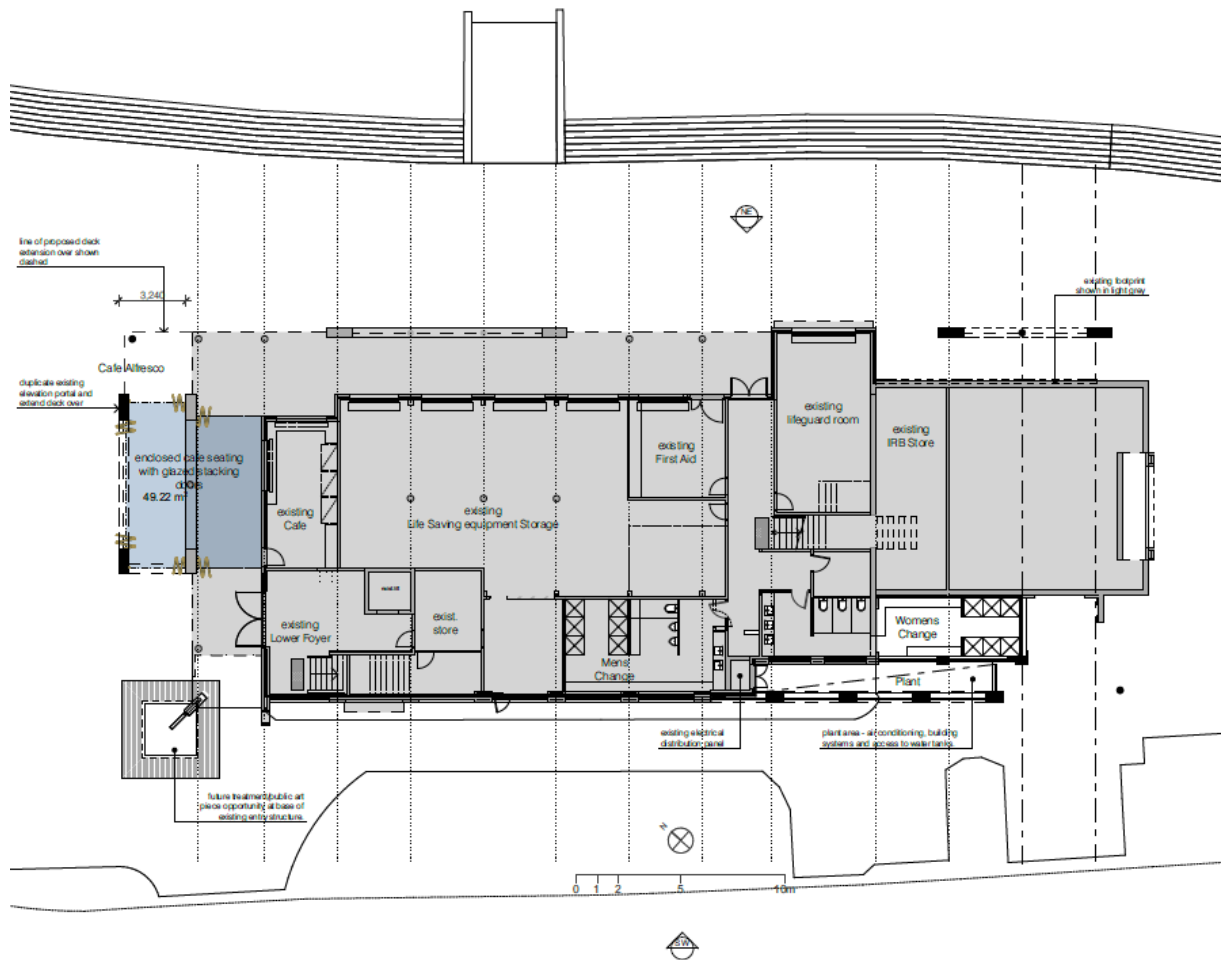


Figure 5 - Proposed Ground Floor

First Floor

- Extend the first floor to the south-east over the existing ground level public toilets to provide a new training room, gym, storage, new deck on north-eastern side and toilet facilities. The extension has an area of 215.86m² and deck 27.2m².
- Extend deck on north-western side over the ground level café and seating area. The area of the deck is 73.66m².
- Extend the existing training room to the north-east to the edge of the existing deck.

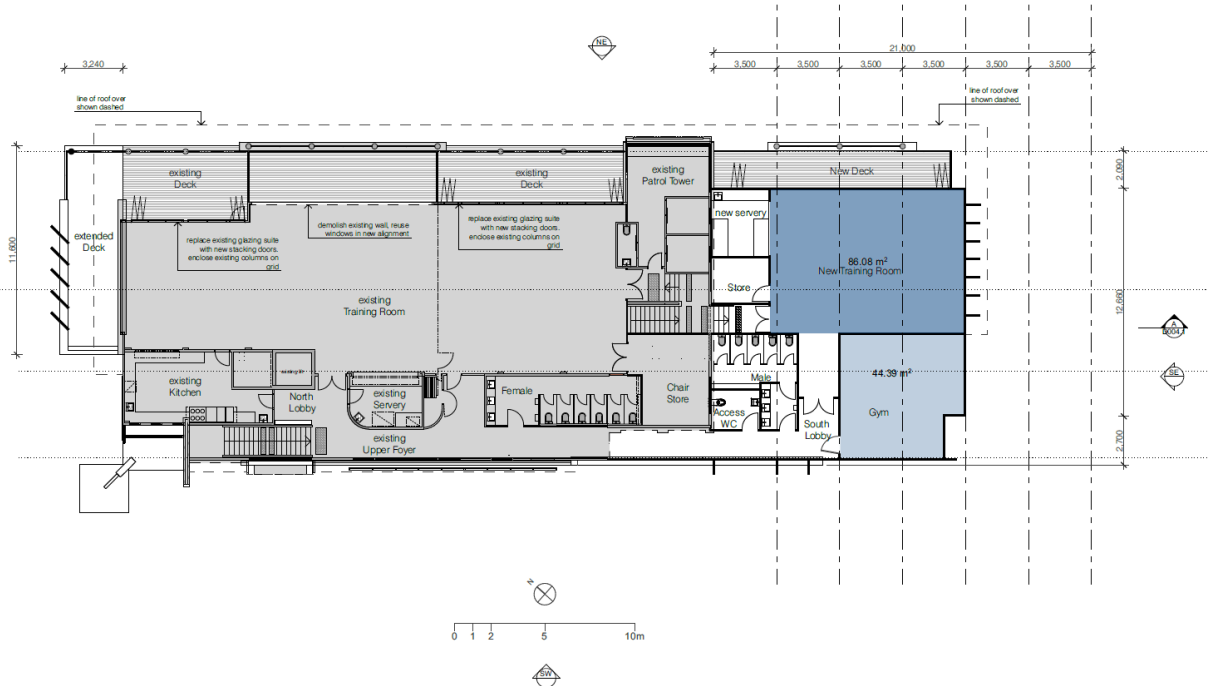


Figure 6 - Proposed First Floor

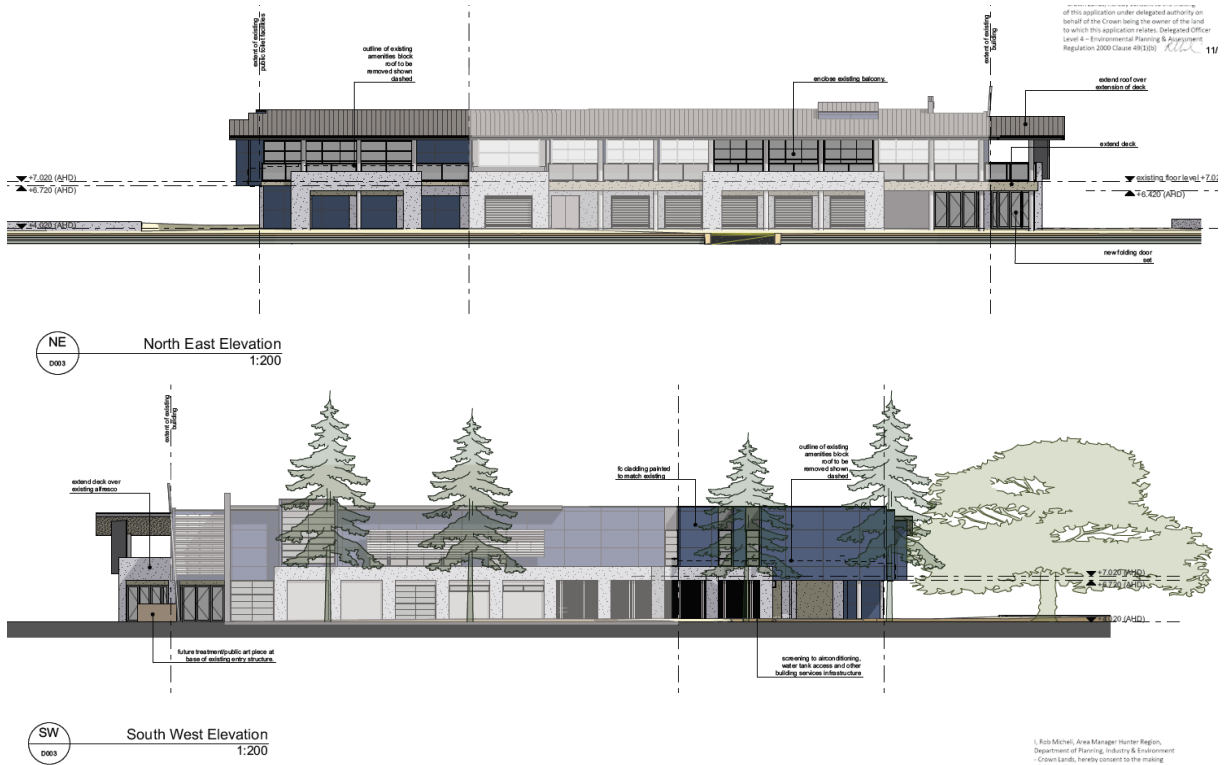


Figure 7 - Key Elevations

History

The existing club was built in approximately 2001.

DA56452/2019 (granted consent on 7 June 2019) for replacement of plastic shutters with metal roller shutters for the building.

Assessment

Having regard for the matters for consideration detailed in Section 4.15 of *the Environmental Planning and Assessment Act 1979* and other statutory requirements, Council's policies and Section 10.7 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

Draft Environmental Planning Instruments

The site is subject to the following draft planning instruments:

- *Draft Central Coast Local Environmental Plan 2018*
- *Draft State Environmental Planning Policy (Exempt and Complying Development) 2008*
- *Draft State Environmental Planning Policy (Environment) 2017*
- *Draft State Environmental Planning Policy (Design and Place)*
- *Draft State Environmental Planning Policy (State and Regional Development)*
- *Draft State Environmental Planning Policy (Infrastructure) 2007*

The draft *Central Coast Local Environmental Plan* retains the RE1 zoning of the land. The proposal is consistent with the draft plans.

State Environmental Planning Policy (Coastal Management) 2018

The provisions of the *State Environmental Planning Policy (Coastal Management) 2018* require Council consider the aims and objectives of the SEPP when determining an application within the Coastal Management Area. The Coastal Management Area is an area defined on maps issued by the NSW Department of Planning, Industry and Environment and the subject property falls within this zone.

The relevant matters have been considered in the assessment of this application. The application is considered consistent with the stated aims and objectives.

State Environmental Planning Policy 55 - Remediation of Land

The past and current use is unlikely to have resulted in contamination of the site and the site is considered suitable for the proposed use.

State Environmental Planning Policy 19 - Urban Bushland

This SEPP applies to land zoned or reserved for public reserve to ensure development does not impact bushland. In this case there is no bushland which will be impacted, and the heritage trees are to be retained.

Gosford Local Environmental Plan 2014 - Permissibility

The subject site is zoned *RE1 Public Recreation* under GLEP 2014.

The proposed development is defined as a community facility and café which are permissible in the zone with consent of Council.

community facility means a building or place —

- a) owned or controlled by a public authority or non-profit community organisation, and
- b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

community land has the same meaning as in the [Local Government Act 1993](#).

restaurant or café means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

The Surf Life Saving Club (SLSC) is a non-profit community organisation.



Figure 8 - Zone Map

Gosford Local Environmental Plan 2014 - Zone Objectives.

The subject site is zoned *RE1 Public Recreation* under GLEP 2014.

The objectives of the RE1 zone are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To identify areas suitable for development for recreation, leisure and cultural purposes.
- To ensure that development is compatible with the desired future character of the zone.

It is considered the proposal complies with the objectives of the RE1 zone. The proposal is to be used for community purposes and support of recreational, leisure and safety purposes. The additions and alterations are compatible with the existing building and desired future character of the area.

Gosford Local Environmental Plan 2014 - Clause 5.10 Heritage Conservation

Council is required to assess the impact of the proposal on any heritage items in the vicinity of the development. The war memorial on the Terrigal Beach Foreshore is identified as a local heritage item 165 under the GLEP 2014.

4.1 DA/62008/2021 - 81 Terrigal Esplanade, Terrigal - Alterations and additions to Terrigal Surf Club (contd)

The proposal involves alterations and additions to an existing building. The development does not create any significant additional impact on the war memorial than the existing building.

The existing trees beside the surf club are identified as significant trees and a heritage item.

Two of the nearby trees are Norfolk Island pine trees and one tree is a Port Jackson fig tree.

These trees are between 12m and 32m in height with canopies between 9m and 16m, are in good health and of high landscape value.

The proposal is supported by an Arboricultural Impact Report which identifies pruning and tree protection measures to be implemented. The report identifies that the works will have a low to moderate level of encroachment on the Tree Protection Zone (TPZ) of the trees which will not have any impact on the long- term health or landscape/heritage value of the trees.

Gosford Local Environmental Plan 2014 - Clause 7.1 Acid sulfate soils

This land has been identified as being affected by the Acid Sulfate Soils Map Class 3 and the matters contained in Clause 7.1 of GLEP 2014 have been considered. The proposed alteration/additions will not require major ground disturbance.

Gosford Development Control Plan 2013

DCP Chapter 2.1 Character

The site is located within "Terrigal 8: Mainstreet Centre" in terms of character.

The desired character as set out in the DCP is as follows:

'This should remain a mixed-use centre that provides a range of services and accommodation for local residents as well as visitors, where the scenic potential of a prominent backdrop to Gosford City's ocean beaches is enhanced by new developments that encourage high levels of street activity and also achieve improved standards of amenity plus urban-and-civic design quality.

Protect and enhance existing levels of "main-street" activity with building forms that maintain both the pedestrian-friendly scale of existing one and two storey shop-front developments, and also the current level of midday sunlight along all footpaths and laneway frontages. Promote high levels of on-street activity by maximising the number of retailers or businesses and the continuity of shop-windows along all street and laneway frontages. Avoid indoor arcades that would draw people away from the street. Incorporate awnings, colonnades or balconies in all buildings to provide sheltered pedestrian settings that encourage pavement dining. Contribute to high levels of visible activity along all streets by surrounding

upper storeys with balconies that accommodate restaurant dining or residents' outdoor recreation.

Ensure that new developments (including alterations to existing buildings) do not dominate the informal scenic qualities of foreshore settings or disrupt the main-street development pattern in this established coastal shopping village. The height and form of buildings should maintain panoramic ocean and coastal views that are enjoyed from surrounding hillside dwellings, as well as providing a transition from residential areas to the middle storeys of the existing resort hotel. Along all public streets, shop-front facades should have a zero setback and a maximum height of two storeys, with taller storeys set back behind terraces to maintain a pedestrian-friendly scale as well as midday sunlight along all footpaths and laneways. Ensure that the height and siting of new buildings also preserve levels of privacy, sunlight and visual amenity that are enjoyed by existing dwellings and their private open spaces.

Reflect the form of development that is typical of traditional coastal centres where a wide variety of retailers are accommodated by separate buildings upon narrow-fronted allotments. Along any street or waterfront, avoid the appearance of a continuous wall of development or uniform building heights. Vary the shape and height of all visible facades. Top-most storeys should be setback behind wide roof terraces, and roofs plus parapet heights should step from one building to the next. Street corners should be emphasised by taller forms. Neighbouring buildings should be separated by landscaped courtyards and alleyways that provide view corridors, access to apartment lobbies, and daylight plus an outlook for above-ground dwellings.

Disguise the scale and bulk of new buildings. All visible facades should employ extensive windows that are shaded by lightly-framed balconies, verandahs or exterior sunshades, plus painted finishes and some board or sheet cladding rather than expanses of plain masonry. Roofs should be gently-pitched to minimise the height of ridges, flanked by wide eaves that shade terraces and also disguise the scale of exterior walls. Side and rear facades should match the design quality of the street frontage.

Conceal off-street parking behind street-front shops or apartments, and provide unobtrusive vehicle entrances from laneways or secondary streets to minimise disruption of shopfronts and their associated pedestrian activity. Contribute to co-ordinated street improvements that include dedicated pedestrian crossings, footpath paving, landscaping and lighting to provide safe and secure settings for informal social interaction. Building colour schemes and commercial signs should be co-ordinated and limited in size and number to promote the identity of this coastal centre, rather than emphasising corporate sponsorship.

Around the Skillion, provide master planned landscape improvements that enhance

4.1 DA/62008/2021 - 81 Terrigal Esplanade, Terrigal - Alterations and additions to Terrigal Surf Club (contd)

the scenic potential, accessibility and recreation value. Maintain existing boatsheds that are distinguishing features of this foreshore, but allow alterations or additions to accommodate community or publicly-accessible facilities. New works should complement the modest scale, form and traditional marine architecture displayed by these existing buildings, incorporating in particular a light-weight appearance and gently-pitched roofs flanked by verandahs or balconies.'

The desired character is focused on the commercial and residential development located on the opposite side of Terrigal Esplanade rather than the RE1 zoned land and Terrigal Beach which is covered by the Terrigal Foreshore Improvement/Landscape Plan.

Nonetheless, the proposal is an extension to the existing surf club of the same height and maintaining the backdrop with the trees and commercial development behind.

The proposal is considered consistent with the desired character.

DCP Chapter 2.2 Scenic Quality

The proposed alterations and additions do not generally detract from the coastal scenic quality, particularly when viewed from the beach against the backdrop of existing and likely future development of the Terrigal business centre and the surrounding residential development. The proposed alterations and additions do not significantly increase the building footprint, bulk and scale of the building.

DCP Chapter 4.3 Terrigal Town Centre

This chapter applies to all development that requires consent within the Terrigal Village Centre. While the chapter includes the subject site, the planning controls under this chapter do not relate to commercial and residential development and do not specifically relate to development on the RE1 zoned land or Terrigal Beach.

Nonetheless it is considered the proposal complies with the general controls- desired character and scenic quality under Clause 4.3.4 for the following reasons:

- The proposal recognises the importance of the relationship between the use of the beach, pedestrian activities and the businesses on the opposite side of Terrigal Esplanade.
- The building is of moderate scale being 2 storeys and does not dominate the scenic quality of the foreshore setting. When viewed from Terrigal Beach the building is dominated by the commercial and residential development in the background. When viewed from Terrigal Esplanade, the building does not dominate the beach view or streetscape as it is about 10% of the beach frontage between Painters Lane and Ash Street and is partly screened by the existing heritage trees.
- The additional shadow impact is only over part of Terrigal Esplanade in the morning and part of the park area on the southern side which is not

unreasonable. The proposal does not impact the war memorials to the south by overshadowing.

- The proposal is consistent with the Terrigal Foreshore Improvements and Landscape Masterplan.
- The proposal has been designed to complement the existing surf club and interface with Terrigal Beach. The extension is largely over the existing building footprint.
- The proposal maintains the predominant existing uses for the surf club.
- The site is not identified as being within a particular precinct under the DCP.

DCP Chapter 6.7 Water Cycle Management

The proposed alterations and extension do not increase stormwater run-off as the development is over existing imperious areas. Stormwater will be connected to the existing building drainage system.

DCP Chapter 7.1 Car Parking

Clause 7.1.2.1 of the DCP states

General Principles

In determining the car parking requirements for a development proposal, the following principles shall be followed:

1. *The minimum standards as set out in this chapter;*
2. *The likely demand for on-site parking to be generated by the development;*
3. *The availability of public transport in the vicinity to service the likely demands to be generated by the development;*
4. *Traffic volumes on the surrounding street network, including, where relevant, likely future traffic volumes;*
5. *The probable mode of transport of the users of the development;*
6. *The likely peak usage times of the development.*
7. *The provision of alternative private transport arrangements (eg courtesy buses to licensed premises at no charge to users).*

The proposal results in an increase in floor area with additional storage area, amenities and decks. The extensions are proposed to cater for the existing club members.

The adjoining car parking area has allocated spaces for the patrol surf club members and any increase in parking allocated to the club would reduce the public parking spaces. The adjoining public car parking area has restricted parking for the public.

The existing club serves the public beach area which on public parking areas.

It is considered the proposal does not generate the need for additional parking allocation for the surf club.

DCP Chapter 6.2 Coastal Frontage

Terrigal Beach is not identified as a coastal risk area or subject to a coastal building line. Council's Coastal Engineer advises:

The proposed alterations/additions to Terrigal SLSC would not increase coastal hazard and at an acceptable level of risk from coastal hazards. Coastal report is NOT required in my opinion.

DCP Chapter 7.2 Waste management

A waste management plan has been provided and is acceptable.

Likely Impacts of the Development:

View Loss Assessment

A number of submissions on behalf of or from owners of developments on the opposite side (between Nos 72-90 Terrigal Esplanade) of Terrigal Esplanade raised the issue of view loss due to the additional height on the ends of the existing building, particularly from the first floor level of their developments.

In *Tenacity Consulting Pty Ltd v Warringah Council* [2004] NSWLEC 140, the planning principles of view sharing are:

1. Assessment of views to be affected.
2. Consider from what part of the property the views are obtained.
3. Assess the extent of the impact.
4. Assess the reasonableness of the proposal that is causing the impact.



Photograph 1 - View of existing southern end of club from opposite side of Terrigal Esplanade



Photograph 2 - View from Terrigal Esplanade looking south



Photograph 3 - View from opposite side of Terrigal Esplanade looking north-east



Photograph 4 - Looking south from the opposite side of Terrigal Esplanade

Shadow Impacts

The following shadow diagrams show that the proposed development have only a minor increase in shadow impacts over Terrigal Esplanade and the foreshore on the southern side of the building. The minor increase in shadow impact is not unreasonable and sunlight is retained to the beach and foreshore area throughout most of the day, particularly in the morning to mid- afternoon period.

The war memorial to the south of the surf club is not impacted by shadow from the existing or proposed building.

It should be noted that the trees along the eastern side of Terrigal Esplanade create greater shadow impacts than the proposed development.

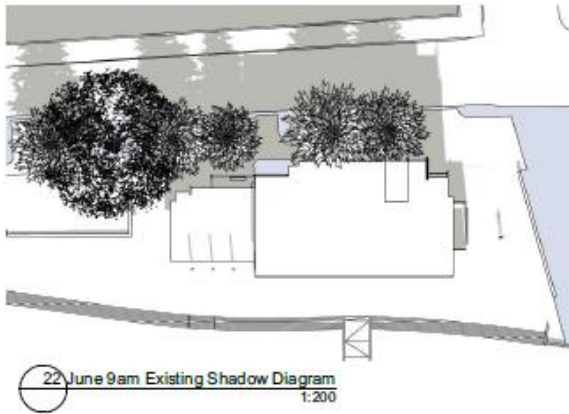




Figure 9 - Shadow diagrams June

Public Submissions

The application was notified from 2 July 2021 to 23 July 2021. Five (5) public submissions were received in relation to the application. Those issues associated with the key issues have been addressed in the above report. The remaining issues pertaining to various concerns were addressed in the assessment of the application pursuant to the heads of consideration contained within Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

A summary of the public submissions, with appropriate comments, is detailed below:

1. The proposal is an overdevelopment. It is a large and imposing building compared to other surf clubs. It further encloses Terrigal Esplanade streetscape.

Comment: The surf club is essentially a 2 storey building which is the only building on the beach side of Terrigal Esplanade. It is only over part of the street frontage and does not result in the enclosure of the streetscape.

2. No shadow diagrams have been submitted and the proposal will cause significant shadow impact. There should be minimal overshadowing of public areas.

Comment: Shadow diagrams have been submitted and the proposal does not result in any significant additional shadow impact on the beach or public area. As shown by the shadow diagrams, the increase in shadow impact due to the building is minor. The existing trees create greater shadow impacts along Terrigal Esplanade.

3. The proposal will result in unreasonable view loss and loss of amenity from buildings on the other side of Terrigal Esplanade. There are currently views from level 1 over the club and out to the beach and ocean.

Comment: The proposed 2 storey extension is only over part of the site and existing building. The development will result in a 2 storey building which is not unreasonable in this location.

4.1 DA/62008/2021 - 81 Terrigal Esplanade, Terrigal - Alterations and additions to Terrigal Surf Club (contd)

Buildings on the other side of Terrigal Esplanade are generally 2 to 3 storeys in height with potential to go to about 5 storeys with a RL 18.5m height limit on those sites. While this may be subject to a number of planning requirements such as lot consolidation, it is unreasonable to expect development of the surf club to be restricted to single storey and uninterrupted views to be retained from level 1 opposite the surf club. Views around the ends of the surf club will be retained, albeit interrupted by the existing trees which form part of the viewing quality in this location.

The submission only considers the view over the surf club extension and has not considered the views that are available/remain to the north and south of the club and the impact of the trees.

4. The proposal does not comply with the Terrigal mainstreet centre character statement to maintain a pedestrian friendly scale as well as midday sunlight along all footpaths and laneways.

Comment: The scale of the proposal is reasonable and is considered to comply with the mainstreet character. The additional shadow impact is minor and not unreasonable.

5. The proposal requires 2 Norfolk Island pine trees and 1 Port Jackson fig tree to be pruned. The trees are heritage listed and should not be adjusted to suit the proposed development.

Comment: The trimming or pruning of the trees does not destroy their heritage value and is supported by Council's Tree assessment Officer and Heritage Planner.

6. The proposal will create an eyesore and discourage tourism.

Comment: The building alterations and additions have been designed to be compatible with the existing building. There is no evidence this will discourage tourism. The presence of a surf club and life saving facilities at the beach will encourage tourism and improve public safety.

7. The proposal does not comply with the requirements of DCP 2013.

Comment: The proposal is consistent with the requirements of the DCP 2013 and the *Terrigal Foreshore Improvements and Masterplan*. The DCP components that are relevant have been dealt with previously in this report.

8. The design is bulky and inconsistent with good architectural practice.

Comment: The design has been done by a registered architect and is supported by Council's Architect. The building is effectively 2 storey which is not unreasonable and not bulky. Development in the Terrigal CBD has a height limit of RL 18.5m or about 5 storeys subject to planning controls.

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9. The proposal is inconsistent with current processes on coastal development, climate change, greenhouse emissions and sea level rise.

Comment: The additions and alterations are mainly over the existing building within the lease area. The proposal is supported by Council's Coastal Engineer.

10. The proposal will cause shadow impact on the war memorial.

Comment: The shadow diagrams do not support this claim. The war memorial is not overshadowed by the proposal.

11. The proposal will lead to privatisation of Terrigal Beach.

Comment: Surf life saving clubs should be located on or close to the beach as far as possible in order to fulfil their function in supporting the activities of the club. The land remains Crown land and the building is owned by the Council. It is a public facility and asset which encourages tourism and the public to the beach and adjoining shops. It is an essential public safety facility.

12. The proposal is designed to increase the function room under the guise of training rooms.

Comment: Such facilities should be multi-functional and be able to be used for club activities and raising funds which reduce the burden on the public.

13. The proposal will result in increased traffic and parking demand and problems.

Comment: The increase would not be significant.

14. The proposal has no merit.

Comment: The proposal is a minor extension to the existing club facilities and does have merit. It is in the public interest and safety to have a surf life saving club that is viable and active.

15. The proposal does not appear to be wholly located within the crown lease area.

Comment: The proposed additions extend onto the adjoining lot 1 which is Crown land and part of the Terrigal Foreshore area. Council's recreational and property section have no objections to the proposal. The Crown Lands Office has granted consent to the lodgement of the application. A condition of consent will require the amendment of the current lease or a new lease prior to the issue of a Construction Certificate. **(Refer condition 2.4).**

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16. *An economic assessment of the impact on existing businesses should have been submitted.*

Comment: This is not considered warranted. The impact on existing businesses is considered to be minimal, if any impact at all. The presence of a surf club is likely to attract people to the area which will be of a benefit to shops and businesses in the area.

Submissions from Public Authorities

Crown Lands

Consent to lodgement of the application was provided by Office of Crown Lands for the lodgement of the application. The land is Crown land, the building is a Council asset.

Internal Consultation

The following internal consultations have been undertaken:

Coastal Engineer	Supported without conditions.
Tree Assessment Officer	Supported subject to conditions. Refer conditions 2.3, 3.5, 3.6, 4.8-4.12.
Waste Services	Supported subject to conditions. Refer conditions 4.7, 6.1-6.5.
Water and Sewer	Supported subject to conditions. Refer condition 2.2.
Heritage Planner/Architect	Supported without conditions. See Comments below
Recreation	Supported without conditions
Property	Supported without conditions

Heritage Planner/Architect

The application proposes a second storey addition to the south eastern end of the existing surf club containing a gym and training room. Also proposed are a small addition to the existing café on the north west and new toilets and plant room on the south west.

The application is not included with Chapter 4.3 of the DCP (Terrigal Town Centre) but directly adjoins it on the opposite of Terrigal Esplanade and it is considered that the application should be consistent with the objectives of the DCP.

The application is within the vicinity of an item of environmental heritage listed in Schedule 5 of the GLEP 2014 being Item 275 Significant Trees; the Norfolk Island Pines adjacent to the surf club.

Architectural Comments

The existing surf club is appropriately sited on the beachfront. The application proposes an additional floor level above the existing storage area. The proposed work complies with height controls and is within the existing building footprint.

It is acknowledged that the proposed additions increase the height and scale of the building on the southern end and could result in possible view loss for the lower floors of two sites to the west on Terrigal Esplanade (78 and 80). These sites however will retain approximately 90° views to the water at the side of the surf club. This is considered consistent with the Land & Environment view sharing principles stated by Senior Commissioner Roseth in *Tenacity Consulting v Waringah* [2004] NSWLEC 140

The affected sites have also not been developed to their potential. Most are currently 1 to 2 storeys but with a height control of 4 to 5 stories. Future levels above a 2nd storey would retain views over the surf club.

Heritage Comments

The application is within the vicinity of an item of environmental heritage listed being Item 275 Significant Trees; the Norfolk Island Pines adjacent to the surf club. It proposes to retain the three listed trees but includes trimming of some branches.

The application has been referred to Council's Tree Assessment Officer who has assessed the application and provided conditions of consent regarding protection of the trees.

Conclusion

There is no objection to the application on architectural or heritage grounds.

Other Matters for Consideration

Terrigal Beach Foreshore Improvement Plan/Plan of Management

The plan for the Terrigal Foreshore generally supports upgrading and extension to the surf club and amenities. (Clause 50(2))

Development at Zone Interface

In *Seaside Property Developments Pty Ltd v Wyong Shire Council* [2004] NSWLEC 117 the planning principle was established that any development in one zone needs to take into account the form of existing development and/or development likely to occur in the adjoining different zone.

The land on the western side of the site is zoned SP2 Road and on the western side of Terrigal Esplanade is zoned B2 Local Centre.

Development on the B2 zone has a height control of RL 18.5m or about 5 storeys and is separated from the surf club by the road. The separation between the zones by Terrigal Esplanade does not raise any significant planning issues and provides an appropriate transition between the opposite sides of Terrigal Esplanade.

Section 7.12 Contributions

The development not subject to contributions under Section 7.12 of the *Environmental Planning & Assessment Act 1979* as the works are being undertaken on a community facility which is exempt from such contributions.

Ecologically Sustainable Principles

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of the assessment of the application.

This assessment has included consideration of such matters as potential rise in sea level, potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope, combat, withstand these potential impacts. The proposed development is considered satisfactory in relation to climate change

Likely Impacts of the Development

Section 4.15 (1)(b) of the *EP&A Act* requires consideration of the likely impacts of the development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality. The likely impacts of the development are addressed below:

a) Built Environment

The subject site is zoned RE1 Public Recreation under GLEP 2014 and forms part of Terrigal Beach. To the west is are shops and residential developments which rely on the tourist attraction of the beach and The Haven recreational facilities.

The proposed development is not considered to have adverse amenity impacts to adjoining development from overshadowing, privacy, and noise generating activities.

A thorough assessment of the impacts of the proposed development on the built environment has been undertaken in terms of the GLEP 2014 and GDCP 2013. The potential impacts on bulk and scale and views are considered reasonable.

b) Natural Environment

The proposed development will not have adverse impacts on scenic quality or the streetscape of the beach or Terrigal Esplanade. The increase in height, bulk and scale is considered to be reasonable in light of the current building and planning controls.

The alterations and additions to the surf club will not result in a development inconsistent with that for a building in this location within Terrigal. There is no significant tree removal and the proposed development does not impact the natural environment. The lopping of the heritage trees does not reduce their heritage value.

There will be no significant impact upon the natural environment as a result of the proposal.

c) Economic Impacts

The proposed development will have beneficial economic impacts. The proposal is considered to meet the aims of the *Central Coast Structure Plan 2036* and facilitates economic development that will lead to more local employment, tourism and residential opportunities on the Central Coast and reduce the percentage of employed persons who travel outside the region each day for work. The continued presence and viability of a surf club on such an iconic beach is essential for the town and public safety.

d) Social Impacts

The proposed development will have beneficial social impacts as it will provide employment in construction and the provision of facilities to continue community safety and tourist attraction to the town and beach.

Suitability of the Site for the Development

The site is considered to be suitable for the proposed development as follows:

- The site is zoned RE1 Public Recreation under GLEP 2014. Community facilities are permissible under the RE1 zone and the scale of the proposed development is consistent with the objectives of the zone.
- There are no environmental hazards which would prevent development of the site.
- Utility services are available to the site.
- The site is located on and near public transport facilities as well as public recreation/community facilities.

The Public Interest

The approval of the application is considered to be in the public interest as follows:

- The proposal is consistent with the relevant objectives of the applicable environmental planning framework, including the GLEP 2014 and GDCP 2013.
- The proposal does not result in unreasonable environmental impacts and will not unreasonably impact the amenity of neighbouring properties by increased bulk and scale and view loss.

Conclusion

This application has been assessed against the heads of consideration of Section 4.15 and 4.55(2) of the *Environmental Planning & Assessment Act 1979* and all relevant instruments and policies. The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development. Subject to the imposition of appropriate conditions, the proposed development is not expected to have an adverse social or economic impact. It is considered that the proposed development will complement the locality and meet the desired future character of the area.

Accordingly, the application is recommended for **approval** pursuant to Section 4.16 of the *Environmental Planning and Assessment Act*.

Recommendation

- 1 That the Local Planning Panel grant consent to DA62008/2021 for alterations and additions to Terrigal Surf Club building on Lots 1 and 3 DP 1060783, No 81 Terrigal Esplanade, Terrigal subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
- 2 That Council advise those who made written submissions of the Panel's decision.

4.1 DA/62008/2021 - 81 Terrigal Esplanade, Terrigal - Alterations and additions to Terrigal Surf Club (contd)





3 That Council advise relevant external authorities of the Panel's decision.

Reasons for the decision

The reasons for the decision as recommended under the assessment of this application are as follows:

- 1 The proposal is satisfactory having regard for the relevant environmental planning instruments, plans and policies.
- 2 The proposal has been considered against the provisions of *Gosford Local Environmental Plan 2014* and *Gosford Development Control Plan 2013* and has been found to be satisfactory.
- 3 There are no significant issues or impacts identified with the proposal under s.4.15 of the *Environmental Planning and Assessment Act 1979*.

Attachments

1 	Draft Conditions of Consent - DA/62008/2021		D14790828
2 	Architectural Plans - DA/62008/2021		D14669512
3 	Arboricultural Impact Report - DA/62008/2021	Provided Under Separate Cover	D14669516
4 	Statement of Environmental Effects - DA/62008/2021	Provided Under Separate Cover	D14669508

1. PARAMETERS OF THIS CONSENT

1.1. Approved Plans and Supporting Documents

Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "Development Consent" unless modified by any following condition.

Architectural Plans by: White+ Dickson Architects

Drawing	Description	Sheets	Issue	Date
SA001	Site Analysis Plan	1	-	30/01/2020
DA002	Site Plan	1	-	30/01/2020
DA003	Ground Level Floor Plan	1	F	06/04/2021
DA004	First Level Floor Plan	1	F	06/04/2021
DA005	Roof Plan	1	-	30/01/2020
DA006	Sections	1	-	30/01/2020
DA007	Elevations	1	-	30/01/2020
DA008	Elevations	1	-	30/01/2020
DA010	Perspectives	1	-	30/01/2020

Supporting Documentation

Document	Title	Date
Michael Leavey Consulting	Waste Management Plan	18/11/2020
Michael Leavey Consulting	Statement of Environmental Effects	November 2020
Landscape Matrix Pty Ltd	Arboricultural Impact Report	17/09/2020

1.2. Carry out all building works in accordance with the Building Code of Australia.

2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

2.1. All conditions under this section must be met prior to the issue of any Construction Certificate.

2.2. Submit an application to Council under Section 305 of the *Water Management Act 2000* to obtain a Section 307 Certificate of Compliance. The *Application for a 307 Certificate under Section 305 Water Management Act 2000* form can be found on Council's website www.centralcoast.nsw.gov.au. Early application is recommended.

A Section 307 Certificate must be obtained prior to the issue of any Construction Certificate.

- 2.3. Tree protection measures as outlined in the Arboricultural Impact Assessment Report by Guy Paroissien of Landscape Matrix Pty Ltd on the 17th September 2020 must be adopted as part of the Tree Protection Plan before construction.
- 2.4. The amendment of the current lease or issue of a new lease to contain the building wholly within the lease area as required by the Department of Planning, Industry and Environment-Crown Lands.

3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1. All conditions under this section must be met prior to the commencement of any works.
- 3.2. No activity is to be carried out on-site until the Construction Certificate has been issued, other than;
 - a) Site investigation for the preparation of the construction, and / or
 - b) Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
 - c) Demolition approved by this consent.
- 3.3. Appoint a Principal Certifying Authority for the building work:
 - a) The Principal Certifying Authority (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.
 - b) Submit to Council a *Notice of Commencement of Building Works* or *Notice of Commencement of Subdivision Works* form giving at least two (2) days' notice of the intention to commence building or subdivision work. The forms can be found on Council's website www.centralcoast.nsw.gov.au
- 3.4. Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:
 - a) The name, address and telephone number of the principal certifying authority for the work; and
 - b) The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
 - c) That unauthorised entry to the work site is prohibited.
 - d) Remove the sign when the work has been completed.
- 3.5. Submit both a Plumbing and Drainage Inspection Application, with the relevant fee, and a Plumbing and Drainage Notice of Work in accordance with the *Plumbing and Drainage Act*

2011 (to be provided by licensed plumber). These documents can be found on Council's website at: www.centralcoast.nsw.gov.au.

Contact Council prior to submitting these forms to confirm the relevant fees.

- 3.5. Ensure that all parties / trades working on the site are fully aware of their responsibilities with respect to tree protection conditions.
- 3.6. Tree protection measures as specified in the Arboricultural Impact Assessment Report by Guy Paroissien of Landscape Matrix Pty Ltd on the 17th September 2020 must be adopted as part of the Tree Protection Plan before construction for trees 1,2 & 3.

4. DURING WORKS

- 4.1. All conditions under this section must be met during works.
- 4.2. Carry out construction or demolition works during the construction phase of the development only between the hours as follows:
 - 7:00am and 5:00pm Monday to Saturday

No construction or demolition works associated with the development are permitted to be carried out at any time on a Sunday or a public holiday.
- 4.3. During the construction phase of the development, if any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:
 - a) All excavation or disturbance of the area must stop immediately in that area, and
 - b) The Office of Environment & Heritage must be advised of the discovery in accordance with section 89A of the *National Parks and Wildlife Act 1974*.

Note: If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.
- 4.4. Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- 4.5. Keep a copy of the stamped approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifying Authority or an officer of Council.
- 4.6. Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the *Plumbing and Drainage Act 2011*.

- 4.7. Re-use, recycle or dispose of all building materials during the demolition and construction phase of the development in accordance with the Waste Management Plan signed by Michael Leavey Consulting dated 18 November 2020.
- 4.8. Trees 1,2 & 3 are to be retained as to the Arboricultural Impact Assessment Report by Guy Paroissien of Landscape Matrix Pty Ltd on the 17th September 2020.
- 4.9. During works where there is potential to disturb roots greater than 25mm in diameter or use of mechanical excavation equipment cannot be avoided, such works should be completed under the supervision of the Project Arborist as outlined in the Arboricultural Impact Assessment Report by Guy Paroissien of Landscape Matrix Pty Ltd on the 17th September 2020.
- 4.10. Pruning of trees 1, 2 & 3 to accommodate the works must be undertaken in accordance with Australian Standard AS 4373-2007: *Pruning of amenity trees by a qualified Arborist* and are to be completed as to the Arboricultural Impact Assessment Report by Guy Paroissien of Landscape Matrix Pty Ltd on the 17th September 2020.
- 4.11. Activities generally excluded from the Tree Protection Zone, but not limited to:

No storage of vehicles or machinery, waste, fill or materials or unauthorised access is to occur within the fenced tree protection areas. Tree and vegetation protection fencing is to be maintained for the duration of clearing and construction works.
- 4.12. Tree protection fencing is to be maintained until all earthworks and construction are completed.

5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 5.1. All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 5.2. Submit a Certificate of Compliance for all plumbing and drainage work and a Sewer Service Diagram showing sanitary drainage work (to be provided by licensed plumber) in accordance with the *Plumbing and Drainage Act 2011*.

6. ONGOING OPERATION

- 6.1. Store all waste generated on the premises in a manner so that it does not pollute the environment.
- 6.2. No obstructions to the wheel out of the waste bins are permitted including grills, speed humps, barrier kerbs, etc.
- 6.3. Comply with all commitments as detailed in the Waste Management Plan signed by Michael Leavey Consulting dated 18 November 2020.

- 6.4. Do not place or store waste material, waste product or waste packaging outside the approved waste storage enclosure.
- 6.5. No replacement mobile waste bin / event mobile waste bin or other mobile waste storage bins currently stored in full public view in front of the existing timber screen at the southwestern corner of the existing building to remain stored in public view at any time. Any/all mobile waste bins must be stored out of public view within the proposed screened area indicated for air conditioning, water tank access and other building services infrastructure or other suitable location out of public view at all times.

7. PENALTIES

Failure to comply with this development consent and any condition of this consent may be a criminal offence. Failure to comply with other environmental laws may also be a criminal offence.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

Warnings as to Potential Maximum Penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

ADVISORY NOTES

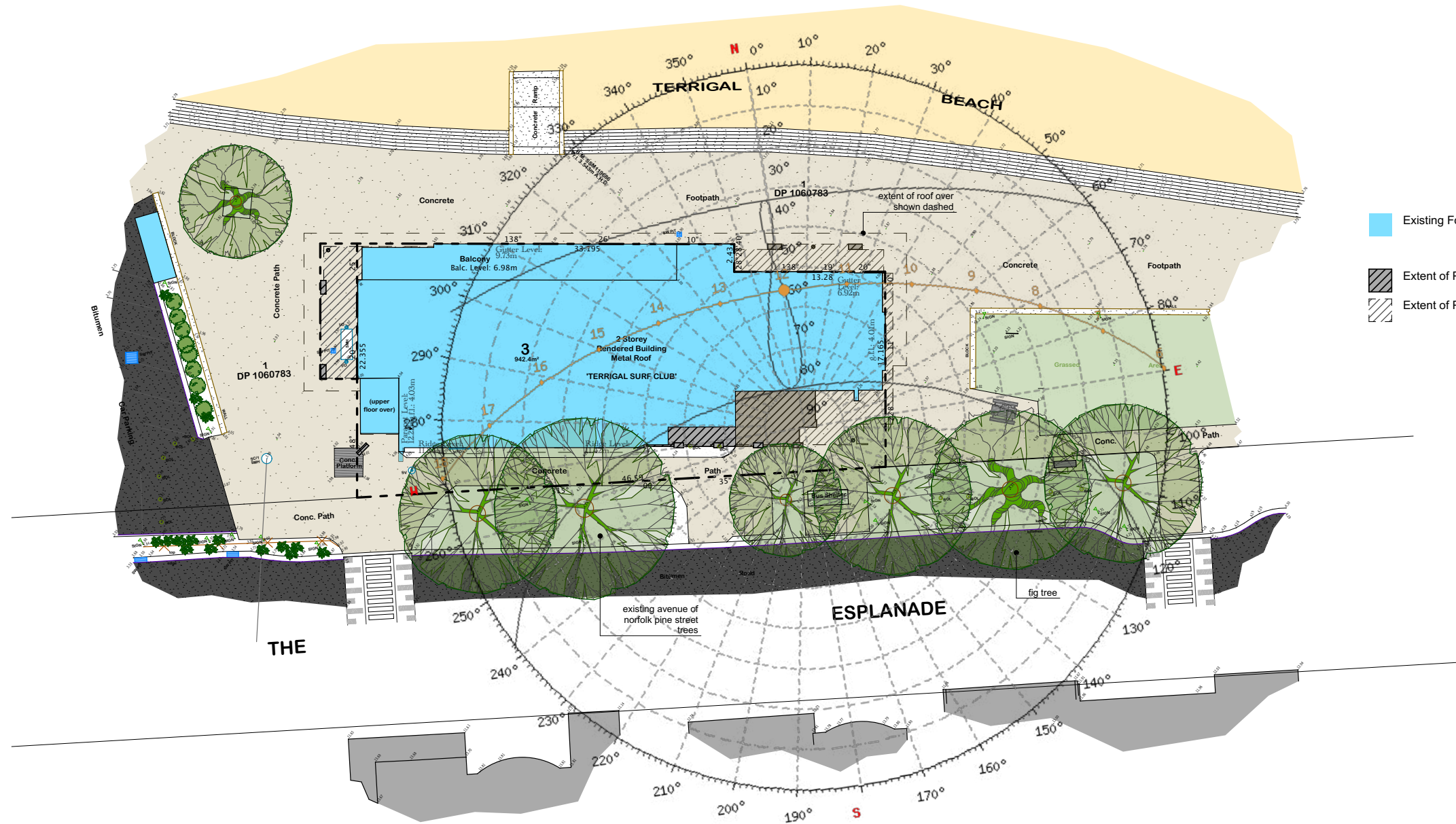
- Discharge of sediment from a site may be determined to be a pollution event under provisions of the *Protection of the Environment Operations Act 1997*. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities may have separate requirements in the following aspects:
 - a) Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments
 - b) Jemena Asset Management for any change or alteration to the gas line infrastructure
 - c) Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
 - d) Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
 - e) Central Coast Council in respect to the location of water, sewerage and drainage services.

- Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
- Dial Before You Dig
Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.
- Telecommunications Act 1997 (Commonwealth)
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995 (Cth)* and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.
- Install and maintain backflow prevention device(s) in accordance with Council's *WS4.0 Backflow Prevention Containment Policy*. This policy can be found on Council's website at: www.centralcoast.nsw.gov.au

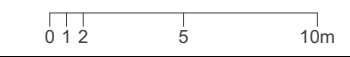
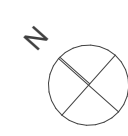
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Rev.	Description	Date
DA	Development Application Issue	30.01.20

I, Rob Michell, Area Manager Hunter Region, Department of Planning, Industry & Environment - Crown Lands, hereby consent to the making of this application under delegated authority on behalf of the Crown being the owner of the land to which this application relates. Delegated Officer Level 4 - Environmental Planning & Assessment Regulation 2000 Clause 49(1)(b) *RM* 11/5/2021



- Existing Footprint
- Extent of Proposed Lower Level Additions
- Extent of Proposed Upper Level Footprint



White + Dickson
Architects.

PO Box 4371 East Gosford NSW 2250
Tel: +61 2 4324 3632
Nominated Architect: Andrew Dickson RAlA (Arch Registration No.7657)

TSLSC Stage 2

Addition of New Public Amenities + Club Room

The Promenade, Terrigal, NSW 2260

Lot 3, DP 1060783

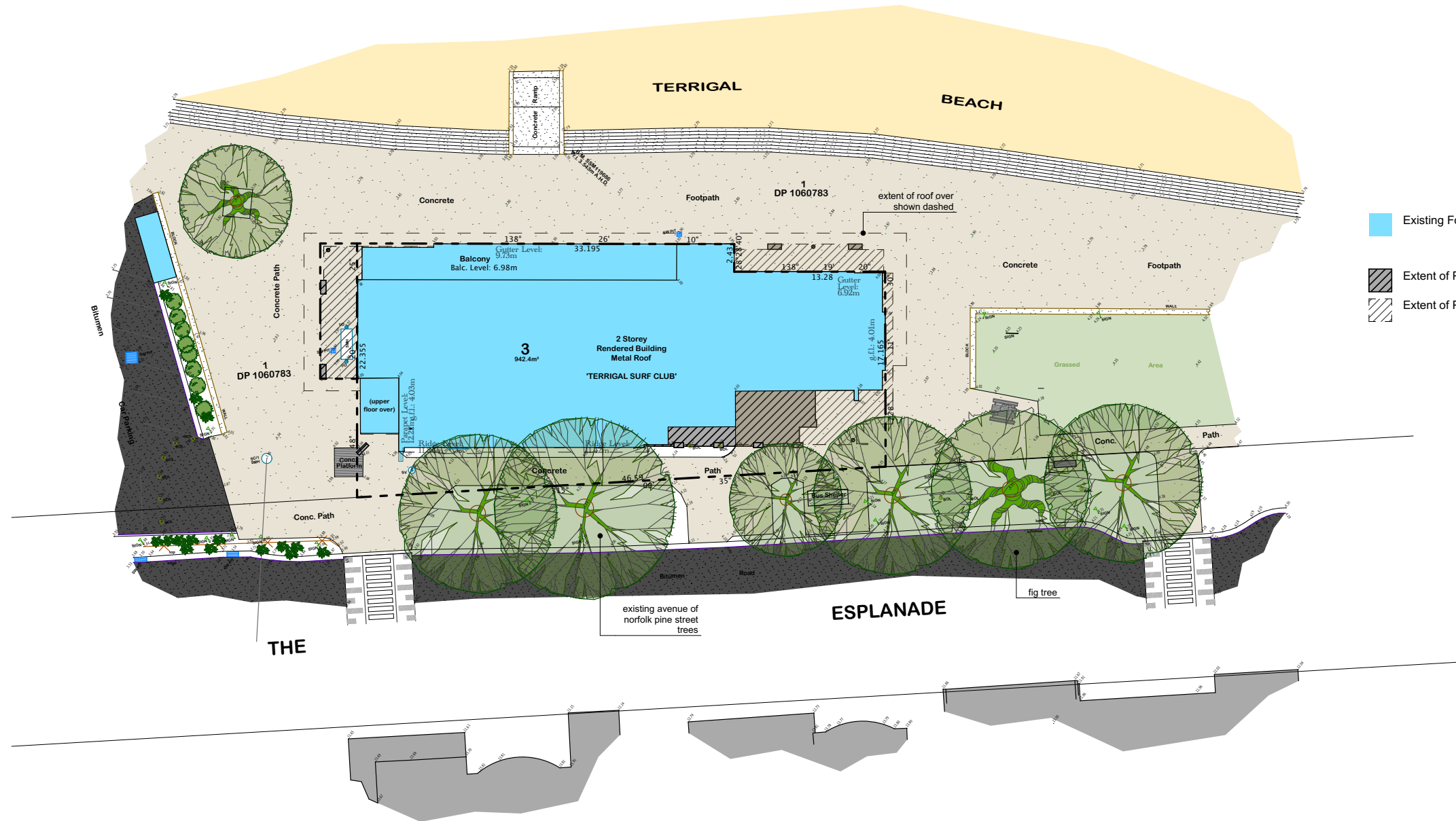
Site Analysis Plan

Scale @ A3 1:400	Date: 30.01.20	Issue: DA
	Project: 1218	SA001

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- Existing Footprint
- Extent of Proposed Lower Level Additions
- Extent of Proposed Upper Level Footprint



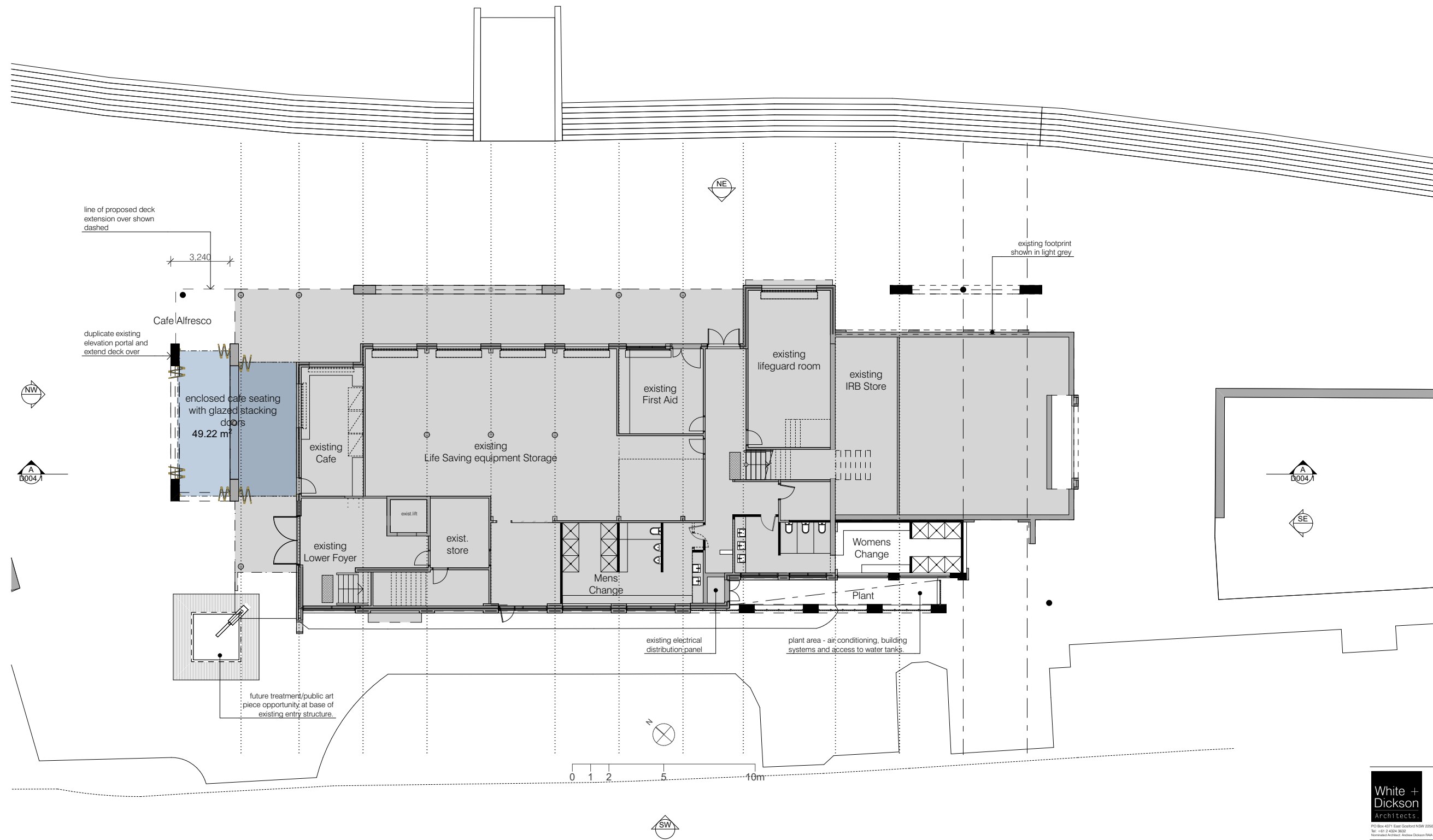
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Nominated Architect: Andrew Dickson RAlA (Arch Registration No.7657)

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Addition of New Public Amenities + Club Room
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Site Plan		
Scale @ A3 1:400	Date: 30.01.20	Issue: DA
	Project: 1218	D002

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Rev	Description	Date
A	Issue for Council Approval	21.07.2019
B	Issue for Client Review	21.06.2019
D	Issue for Client Review	16.06.2020
E	Issue for Client Review	24.06.2020
F	Development Application Issue	06.04.2021



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 Pty Ltd 4271 East Coast Road NSW 2260
 Tel: +61 2 4264 3632
 National Architect: Andrew Dickson (Arch Registration No 7897)

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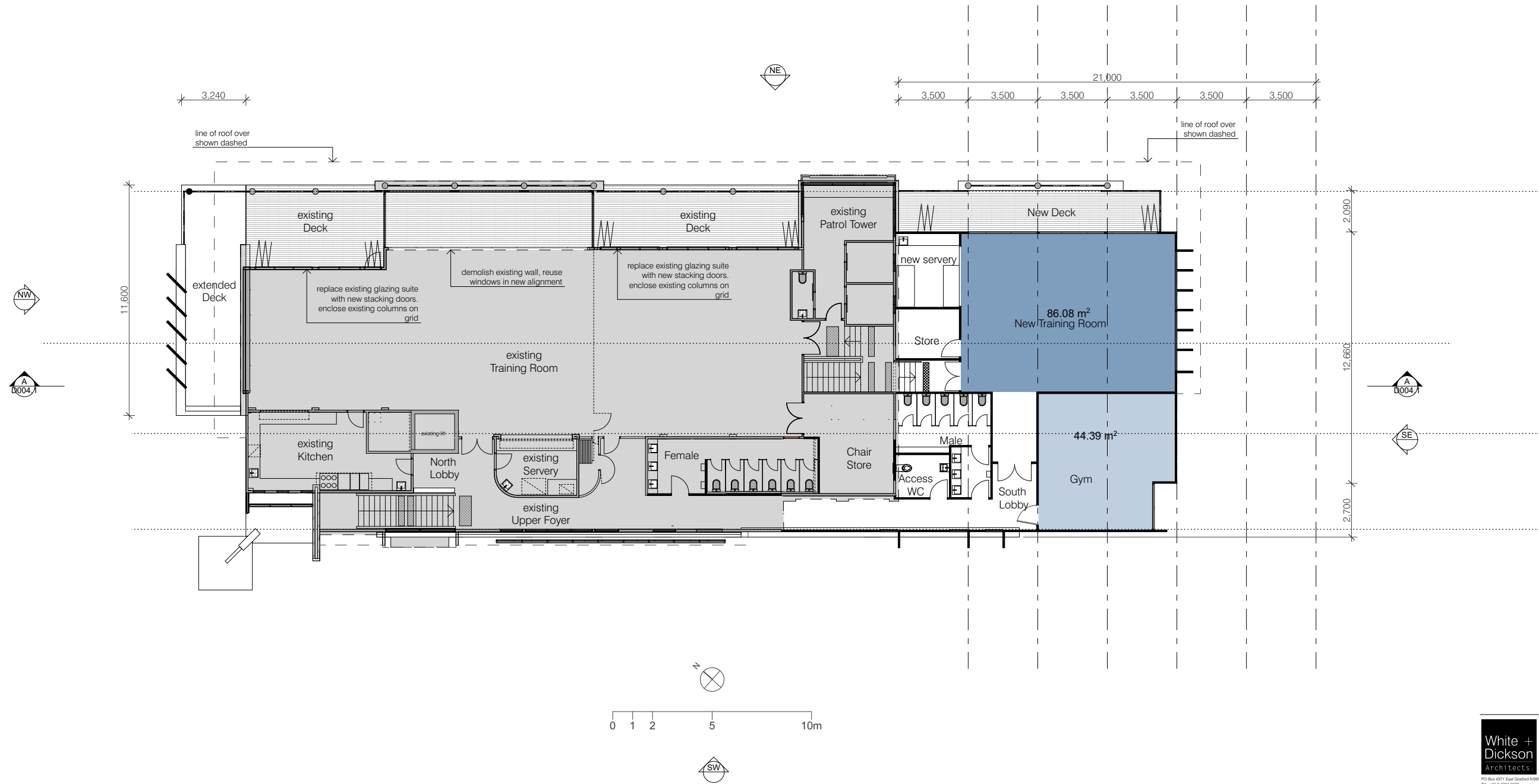
Ground Level Floor Plan
 Scale @ A3 1:100 Date: 06.04.2021 Issue: F
 Project: 1218 D003

I, Rob Mitchell, Area Manager Hunter Region, Department of Planning, Industry & Environment
 I, Glenn Landis, hereby consent to the making of this application under delegated authority on behalf of the Council being the owner of the land to which this application relates. Delegated Officer Level 4 - Environmental Planning & Assessment Regulation 2000 Clause 49(3)(b) 11/5/2021

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Rev	Description	Date
A	Issue for Council Approval	21.07.2019
B	Issue for Client Review	21.06.2019
D	Issue for Client Review	16.06.2020
E	Issue for Client Review	24.06.2020
F	Development Application Issue	06.04.2021

I, Rob Mitchell, Area Manager Hunter Region, Department of Planning, Industry & Environment - Crown Lands, hereby consent to the making of this application under delegated authority on behalf of the Crown being the owner of the land to which this application relates. Delegated Officer: Level 4 - Environmental Planning & Design/Registration 2000/Class 4813188 *RM* 11/5/2021



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 National Architect: Andrew Dickson (NSW Arch Registration No 7897)

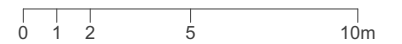
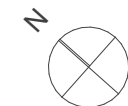
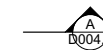
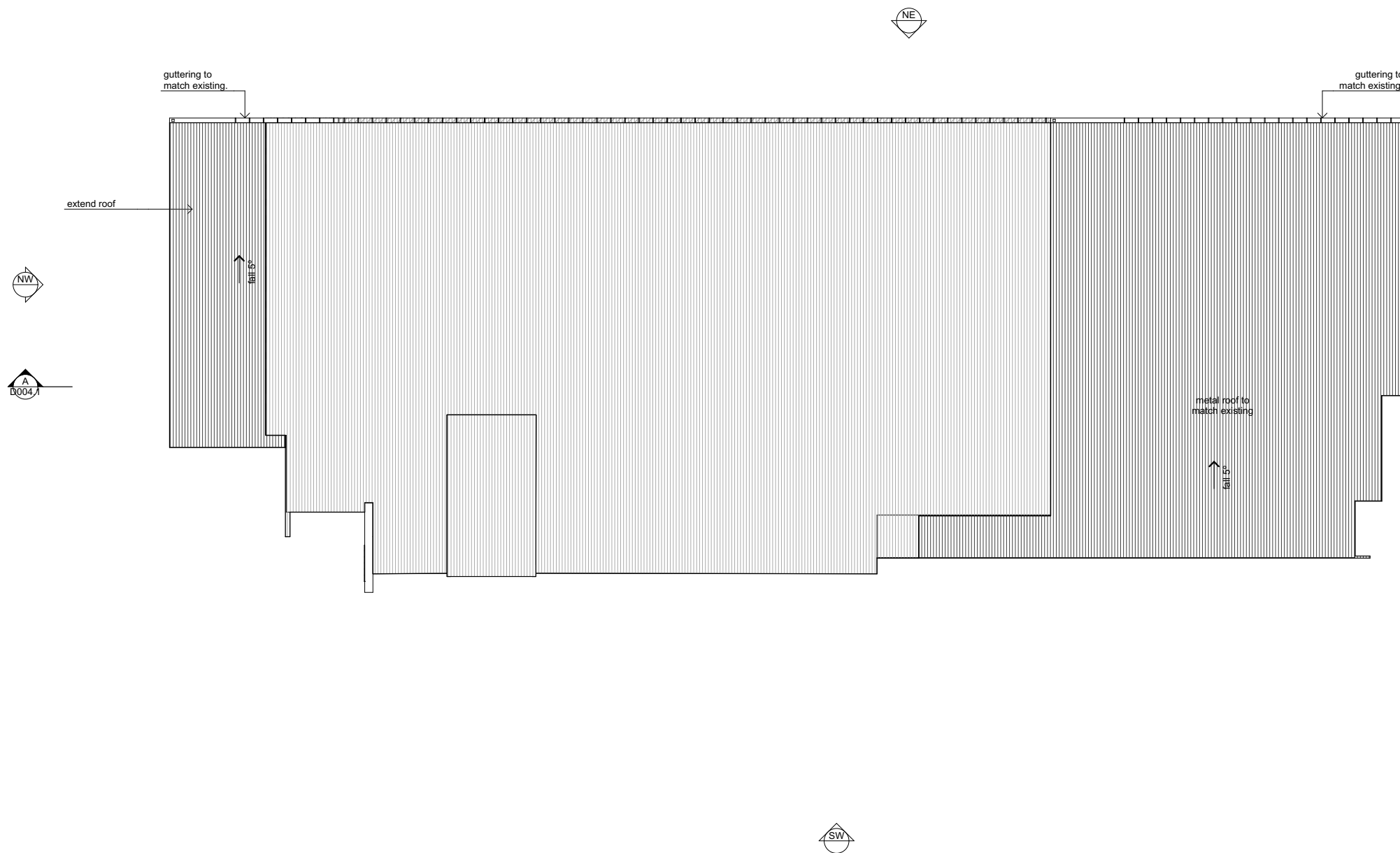
TSLSC Stage 2
 Addition of New Public Amenities + Club Room
 The Promenade, Terrigal, NSW 2260

First Level Floor Plan
 Scale @ A3: 1:100 | Date: 06.04.2021 | Issue: F
 Project: 1218 | D004

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Rev.	Description	Date
DA	Development Application Issue	30.01.20

I, Rob Michell, Area Manager Hunter Region, Department of Planning, Industry & Environment - Crown Lands, hereby consent to the making of this application under delegated authority on behalf of the Crown being the owner of the land to which this application relates. Delegated Officer Level 4 - Environmental Planning & Assessment Regulation 2000 Clause 49(1)(b) *Rob Michell* 11/5/2021



**White +
Dickson**
Architects.

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Nominated Architect: Andrew Dickson RAIA (Arch Registration No.7657)

TSLSC Stage 2

Addition of New Public Amenities + Club Room

The Promenade, Terrigal, NSW 2260

Lot 3, DP 1060783

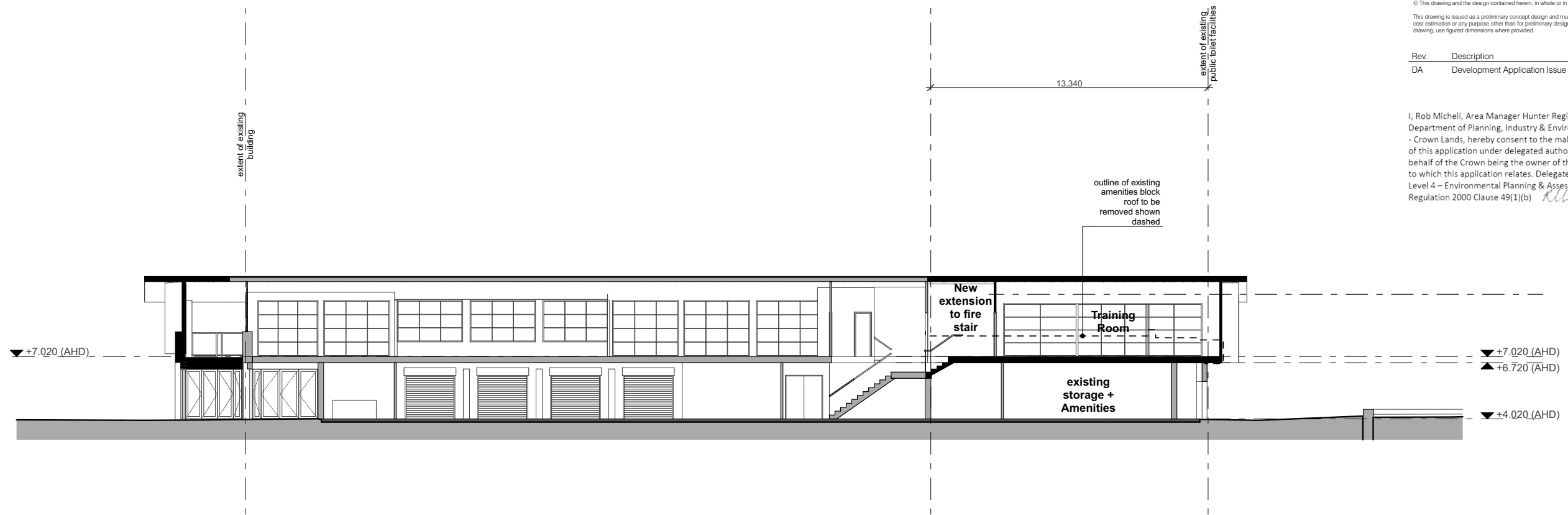
Roof Plan

Scale @ A3 1:200	Date: 30.01.20	Issue: DA
	Project: 1218	D005

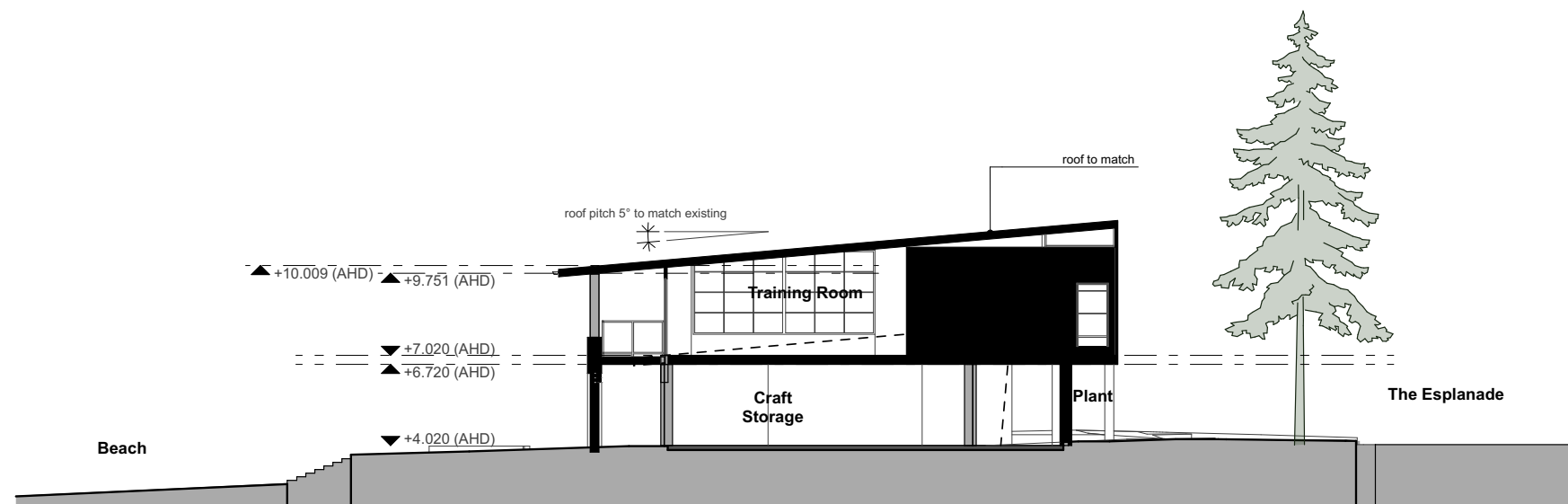
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Rev.	Description	Date
DA	Development Application Issue	30.01.20

I, Rob Micheli, Area Manager Hunter Region, Department of Planning, Industry & Environment - Crown Lands, hereby consent to the making of this application under delegated authority on behalf of the Crown being the owner of the land to which this application relates. Delegated Officer Level 4 - Environmental Planning & Assessment Regulation 2000 Clause 49(1)(b) *RM* 11/5/2021



A
D003
Section AA
1:200



B
D003
Section BB
1:200

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Nominated Architect: Andrew Dickson RAAIA (Arch Registration No.7657)

TSLSC Stage 2

Addition of New Public Amenities + Club Room

The Promenade, Terrigal, NSW 2260

Lot 3, DP 1060783

Sections		
Scale @ A3 1:200	Date: 30.01.20	Issue: DA
	Project: 1218	D006

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Rev.	Description	Date
DA	Development Application Issue	30.01.20

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NE
D003
North East Elevation
1:200



SE
D003
South East Elevation
1:200

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Architects.

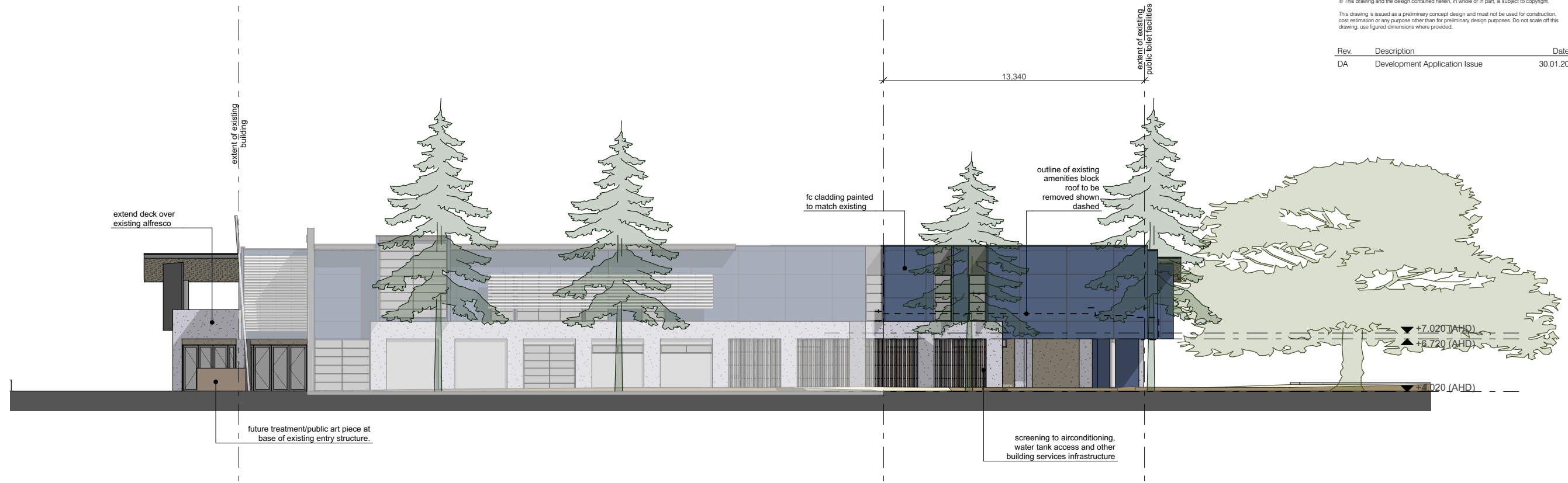
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Addition of New Public Amenities + Club Room
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Lot 3, DP 1060783

Elevations		
Scale @ A3 1:200	Date: 30.01.20	Issue: DA
	Project: 1218	D007

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Rev.	Description	Date
DA	Development Application Issue	30.01.20



SW
D003
South West Elevation
1:200

I, Rob Micheli, Area Manager Hunter Region, Department of Planning, Industry & Environment - Crown Lands, hereby consent to the making of this application under delegated authority on behalf of the Crown being the owner of the land to which this application relates. Delegated Officer Level 4 - Environmental Planning & Assessment Regulation 2000 Clause 49(1)(b) *RM* 11/5/2021

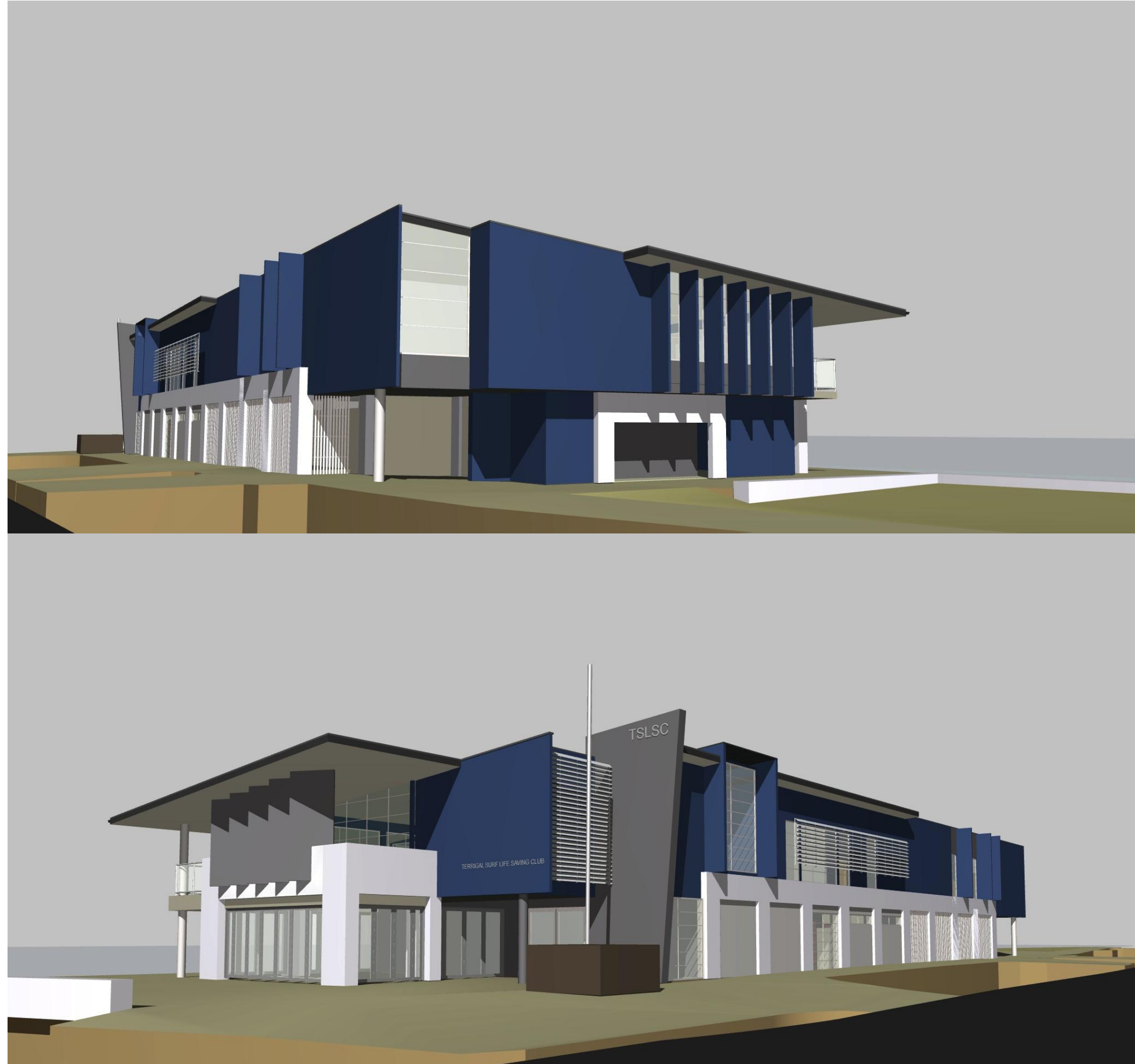


NW
D003
North West Elevation
1:200

White + Dickson
Architects.
PO Box 4371 East Gosford NSW 2250
Tel: +61 2 4324 3632
Nominated Architect: Andrew Dickson RAlA (Arch Registration No.7657)

TSLS Stage 2
Addition of New Public Amenities + Club Room
The Promenade, Terrigal, NSW 2260
Lot 3, DP 1060783

Elevations		
Scale @ A3 1:200	Date: 30.01.20	Issue: DA
	Project: 1218	D008



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Rev.	Description	Date
DA	Development Application Issue	30.01.20

I, Rob Michell, Area Manager Hunter Region,
 Department of Planning, Industry & Environment
 - Crown Lands, hereby consent to the making
 of this application under delegated authority on
 behalf of the Crown being the owner of the land
 to which this application relates. Delegated Officer
 Level 4 – Environmental Planning & Assessment
 Regulation 2000 Clause 49(1)(b) *RM* 11/5/2021

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TSLSC Stage 2

Addition of New Public Amenities + Club Room

The Promenade, Terrigal, NSW 2260

Lot 3, DP 1060783

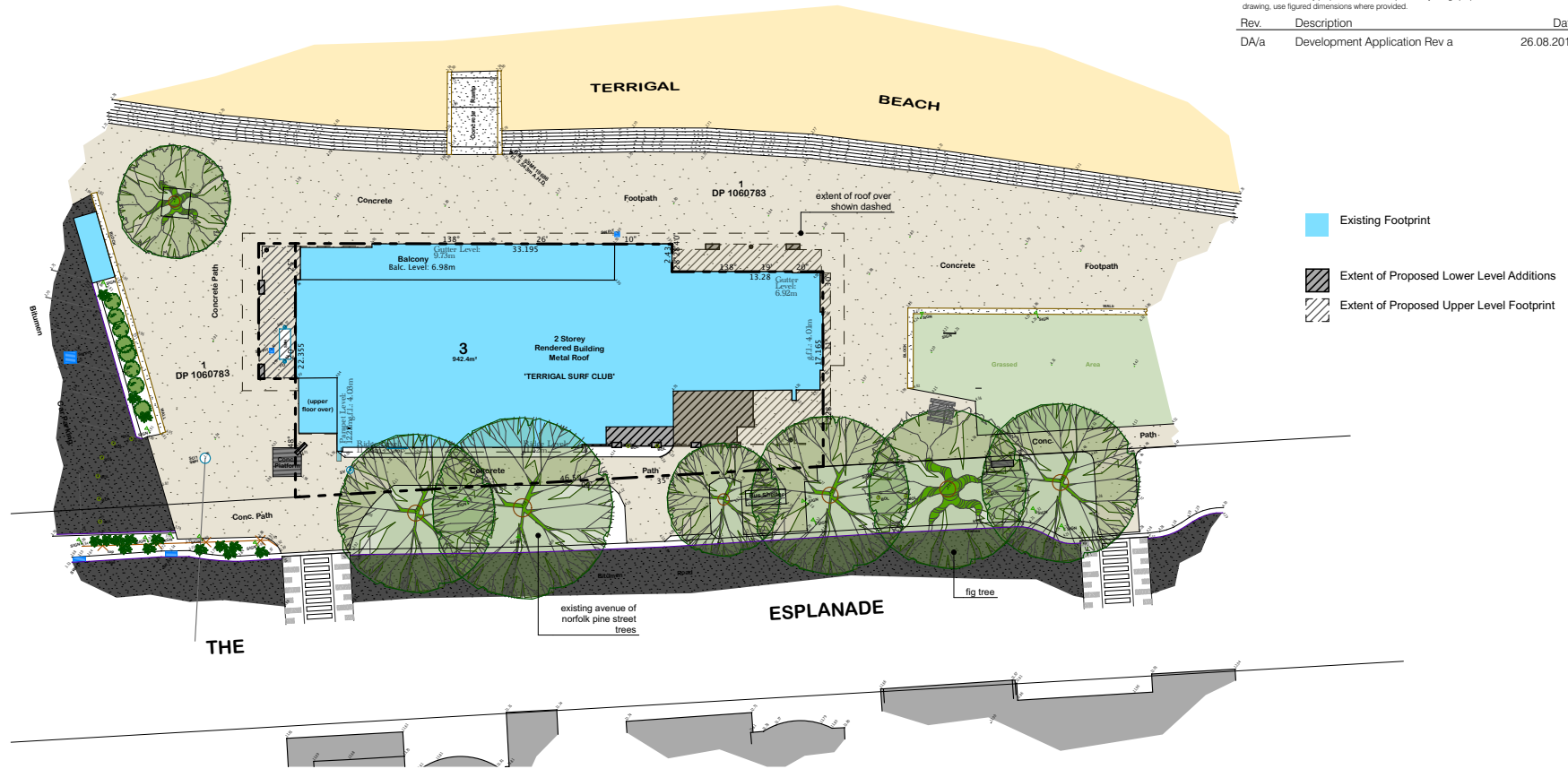
Perspectives

Scale @ A3 1:250	Date: 30.01.20	Issue: DA
	Project: 1218	D010

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Rev.	Description	Date
DA/a	Development Application Rev a	26.08.2013



I, Rob Micheli, Area Manager Hunter Region, Department of Planning, Industry & Environment - Crown Lands, hereby consent to the making of this application under delegated authority on behalf of the Crown being the owner of the land to which this application relates. Delegated Officer Level 4 - Environmental Planning & Assessment Regulation 2000 Clause 49(1)(b)

Rob Micheli
11/5/2021

TSLSC Stage 2

Addition of New Public Amenities + Club Room

The Promenade, Terrigal, NSW 2260

Lot 3, DP 1060783

TSLSC Notification Plans 01

Scale @ A4 1:500	Date: August 2013	Issue: DA/a	Project: 1218	D022
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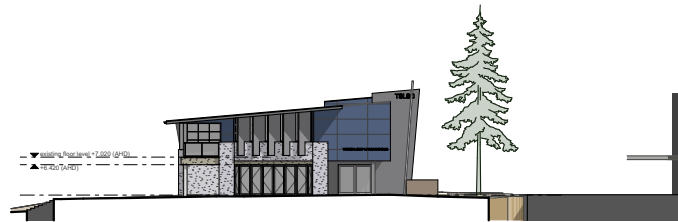
**White +
Dickson**
Architects.

PO Box 4371
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T: +61 2 4324 3632
Nom: Architect: Andrew Dickson
RAIA (Arch Registration No.7657)

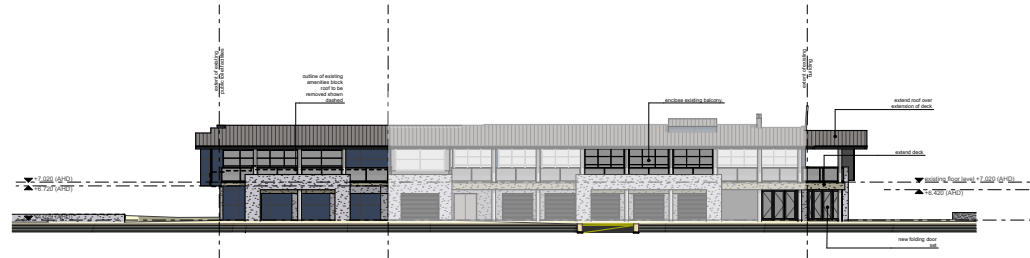
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Rev.	Description	Date
DA/a	Development Application Rev a	26.08.2013



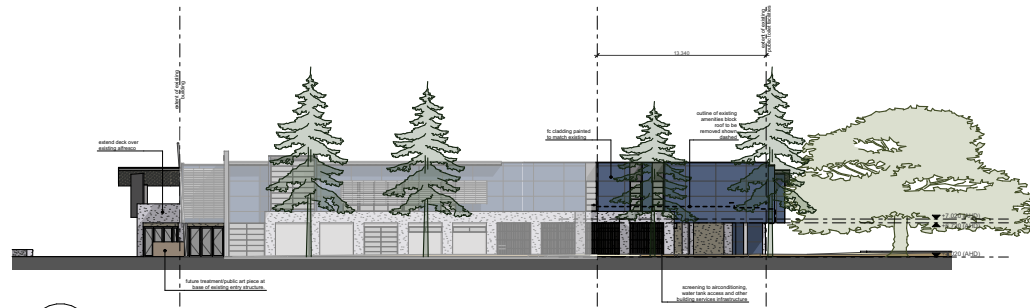
NW
North West Elevation
1:500



NE
North East Elevation
1:500



SE
South East Elevation
1:500



SW
South West Elevation
1:500

I, Rob Micheli, Area Manager Hunter Region, Department of Planning, Industry & Environment - Crown Lands, hereby consent to the making of this application under delegated authority on behalf of the Crown being the owner of the land to which this application relates. Delegated Officer Level 4 – Environmental Planning & Assessment Regulation 2000 Clause 49(1)(b)

R Micheli
11/5/2021

TSLSC Stage 2

Addition of New Public Amenities + Club Room

The Promenade, Terrigal, NSW 2260

Lot 3, DP 1060783

TSLSC Notification Plans 02

Scale @ A4 1:500 | Date: August 2013 | Issue: DA/a | Project: 1218 | D023

White + Dickson
Architects.

PO Box 4371
East Gosford NSW 2250
T: +61 2 4324 3632
Nom. Architect: Andrew Dickson
RAIA (Arch Registration No.7657)

Item No: 4.2
Title: DA/61093/2021 - 3 Sublime Point Avenue, Tascott
- Dwelling Alterations and Additions
Department: Environment and Planning

Central Coast
Local Planning Panel

23 September 2021 Local Planning Panel Meeting

Reference: 011.2021.00061093.001 - D14790840
Author: James Sammut, Building Surveyor
Manager: Wayne Herd, Section Manager, Building Assessment and Certification
Approver: Andrew Roach, Unit Manager, Development Assessment

Summary

An application has been received for alterations and additions to the existing two-storey dwelling house and a new swimming pool on steep sloping site. The application has been examined having regard to the matters for consideration detailed in section 4.15 of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

This development application is required to be reported to Local Planning Panel due to one of the owners being employed by Central Coast Council as designated person involved in the assessment of Development Applications, exercising functions under the *Environmental Planning and Assessment Act 1979*.

There are no variations to development standards (either height or Floor Space Ratio)
There were no submissions received.

The application is recommended for approval with conditions.

Applicant	C R Wright
Owner	DJ Duncan & R J Cardy
Application No	61093/2021
Description of Land	Lot 38 DP 235670 -3 Sublime Point Avenue, Tascott
Proposed Development	Dwelling Alterations and Additions
Site Area	822m ²
Zoning	R2 Low Density Residential
Existing Use	Dwelling house
Employment Generation	N/A
Estimated Value	\$347,000.00

Recommendation

- 1 That the Local Planning Panel grant development consent to DA/61093/2021 – 3 Sublime Point Road, Tascott for dwelling alterations and additions subject to appropriate conditions as detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act and other relevant issues.***

Precis:

Proposed Development	Alterations and additions to the existing dwelling house and new swimming pool.
Permissibility and Zoning	<p>The subject site is zoned <i>R2 - Low Density Residential</i> under the provisions of <i>Gosford Local Environmental Plan 2014 (Gosford LEP 2014)</i>.</p> <p>The proposed development is defined as a 'dwelling house' which is defined under the <i>Gosford LEP 2014</i> as;</p> <p><i>'dwelling house'</i> means – a building containing only one dwelling.</p> <p>And <i>'swimming pool'</i> means - swimming pool means an excavation, structure or vessel: (a)that is capable of being filled with water to a depth of 300 millimetres or more, and (b)that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity,</p> <p>The pool will be ancillary to the dwelling.</p> <p>The use is permissible with consent of the relevant Authority within the zone.</p>
Relevant Legislation	<p>The following planning policies and control documents are relevant to the development and were considered as part of the assessment.</p> <ul style="list-style-type: none"> • <i>Environment Planning and Assessment Act 1979 - section 4.15 (EP&A Act)</i> • <i>Gosford Local Environmental Plan 2014 (GLEP 2014)</i> • <i>Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP 2018)</i> • <i>Gosford Development Control Plan 2013 Chapter 3.1 "Dwelling Houses, Secondary Dwellings and Ancillary Development" (Gosford DCP 2013)</i>
Current Use	Dwelling house
Integrated Development	No
Submissions	The development application was notified (in accordance with the provisions of the <i>Gosford Development Control Plan 2013</i>) from 31 March 2021 until 26 April 2021.

4.2 DA/61093/2021 - 3 Sublime Point Avenue, Tascott - Dwelling Alterations and Additions (contd)

	No submissions were received.
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Variations to Plans and Policies

Gosford Development Control Plan 2013 Chapter 3.1 – Setbacks for Dwelling Houses, Secondary Dwellings and Ancillary Structures

Clause	3.1.3.1b (Gosford Development Control Plan 2013)
Planning Control	Setbacks - For any part of the building with a height greater than 4.5m – 6 metre setback required.
Departure basis	The proposal seeks a northern most part the dwelling to be setback of 4.5m. This represents a variation of 1.5m or 25%.

The Site

The site is a single lot legally identified as Lot 38 DP 235670 (No. 3 Sublime Point Road Tascott). The site is located on the northern side of Sublime Point Road in between Glenrock Parade to the east and Sandstone Crescent in the west. The site takes the shape of a trapezium with the southern boundary fronting Sublime Point Road for a length of 18.29m. The rear northern boundary runs parallel to the southern boundary and has a length of 30.48m. These two boundaries are joined by the side eastern and western boundary lines that taper out from the shorter front southern boundary to intersect with the north boundary and have lengths of 33.89m and 34.92m and forms the allotment with an area 822m². The site falls away from the road to the rear and has a steep cross fall from the western side boundary down to the east.

The site contains an existing two storey residential dwelling with attached decks, water tanks and small ancillary (garden sheds). There are several large trees on the site which are to be retained. (Figure 1).

The subject site is zoned *R2 - Low Density Residential* under the provisions of *Gosford Local Environmental Plan 2014 (Gosford LEP 2014)* (Figure 2).

The site is identified as "bushfire prone land" on Council's bushfire maps. A Bushfire Assessment Report prepared by Clarke Dowdle & Associates Reference: GO:10330A dated November 2020 was submitted with the application recommending the proposal comply with BAL-low



Figure 1: Aerial photograph of subject site with the site etched in blue.

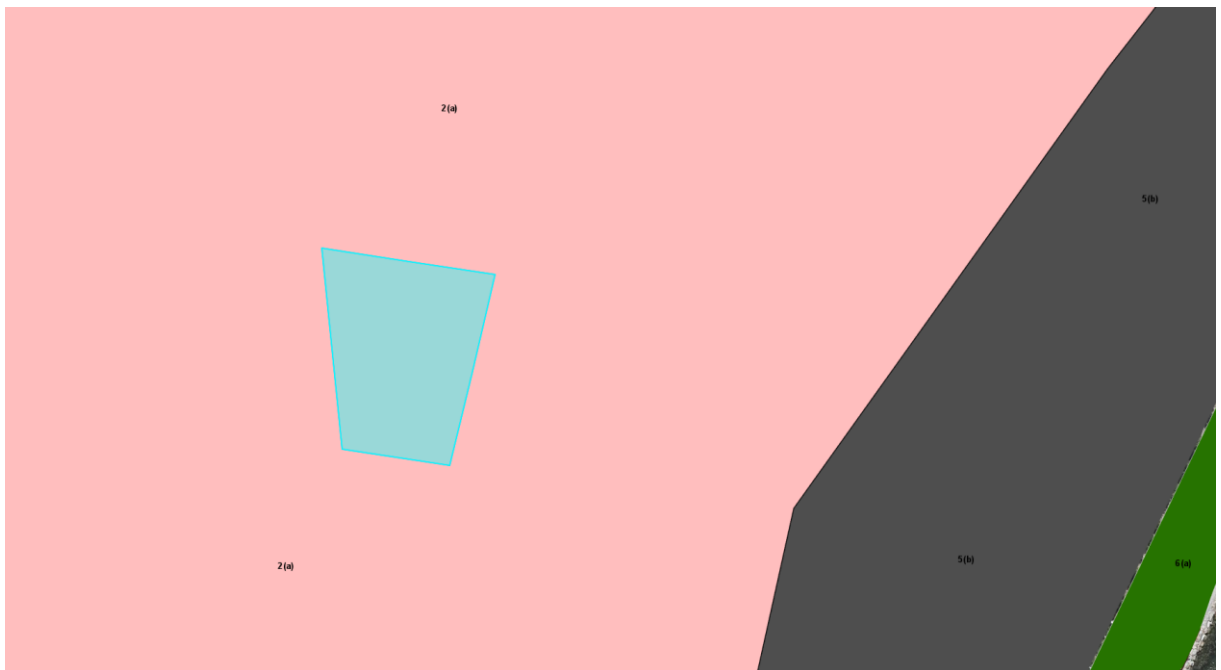


Figure 2: Aerial photograph of subject site with zoning overlay included.

Surrounding Development

The subject site is surrounded on all sides by existing R2 – low density zoned residential allotments, generally containing a mixture of older style two storey dwellings and associated ancillary development.



Figure 3: Photo of existing dwelling from street

The Proposed Development

The application submitted to Council comprises alterations and additions to the existing two storey dwelling and a new swimming pool.

Works will include, alterations to both levels of the existing which will require demolition of both internal and external components of the existing structure. The main component will comprise an extension of the dwelling to the north, the swimming pool and landscaping. The dwelling will be fully re-clad with selected materials.



Figure 4: Perspective drawing of proposed dwelling

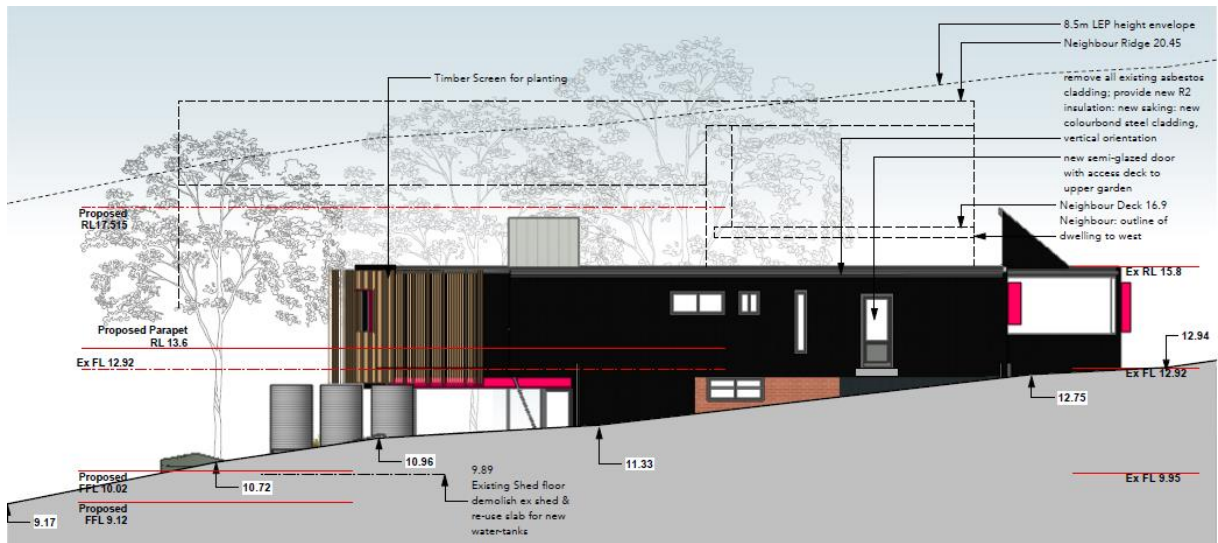


Figure 7: Detailing the proposed western (side) elevation

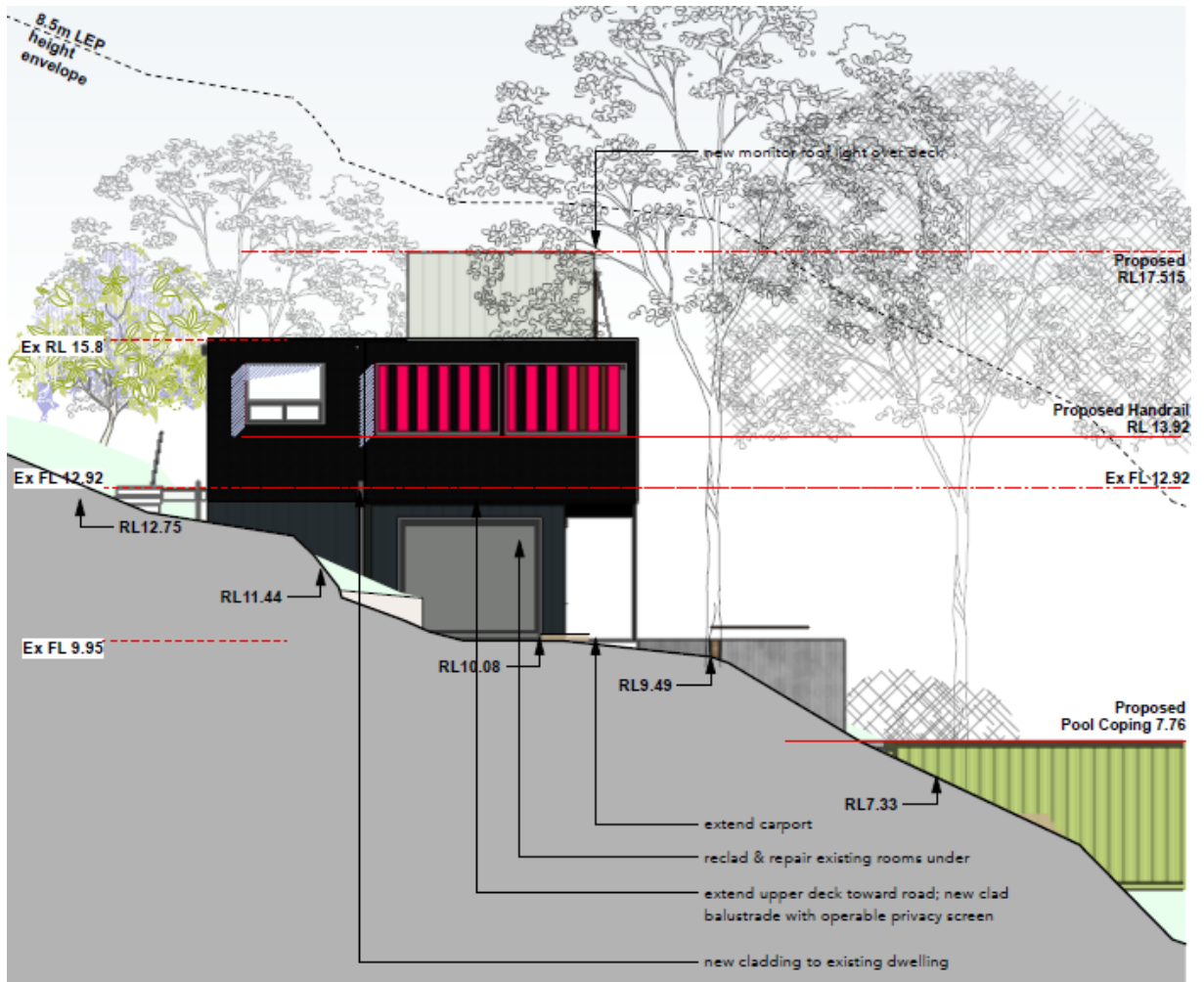


Figure 8: Detailing the proposed southern front (street) elevation



Figure 9:: Detailing the proposed northern rear elevation

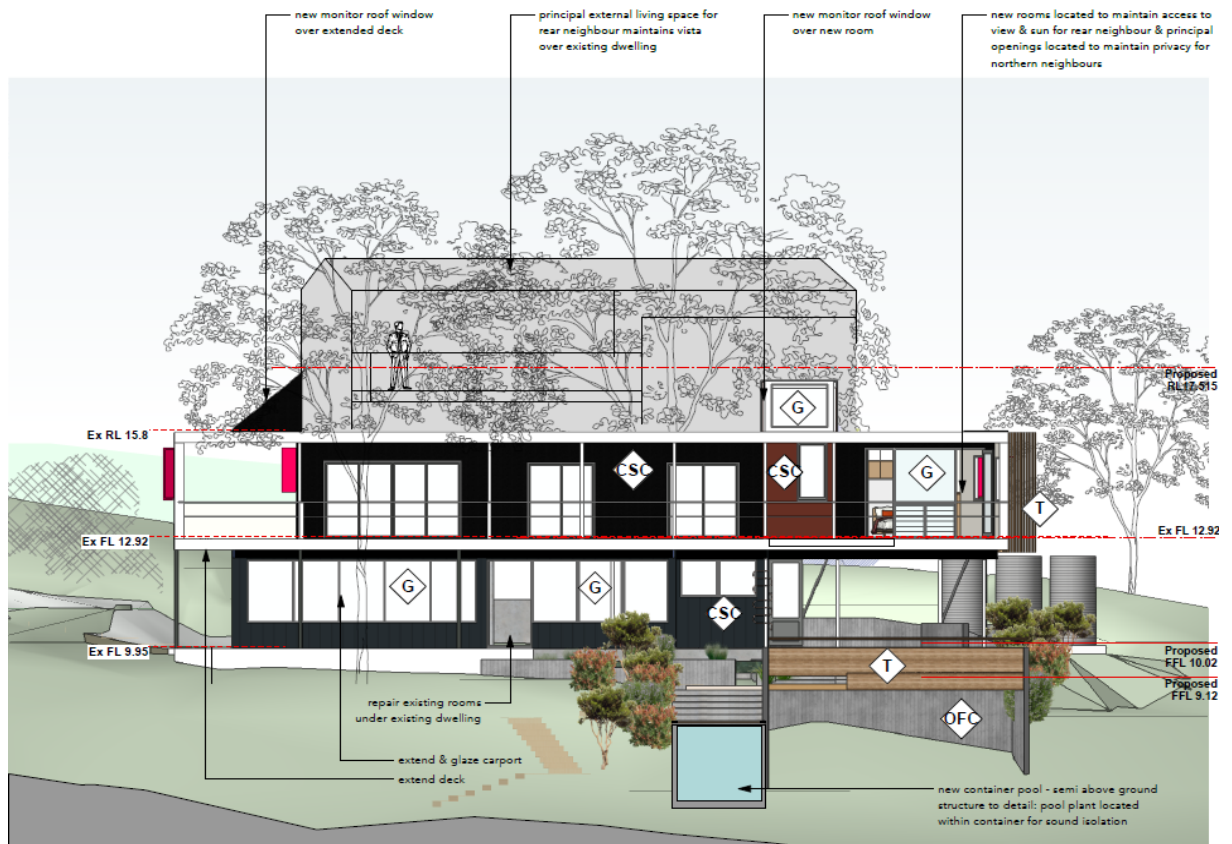


Figure 10: Detailing the proposed side eastern elevation

History

There are no historic applications on council records that are of relevance to the current development. However, the existing dwelling appears to be of the late seventies or early sixties architecture and construction.

Assessment:

Having regard for the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979 and other statutory requirements, Council's policies and Section 10.7 Certificate details, the assessment has identified the following key issues, which are elaborated upon for the Local Planning Panel. Any tables relating to plans or policies are provided within the report.

State Environmental Planning Policy (Building sustainability Index) BASIX 2004

A compliant BASIX certificate achieving the State Governments Energy Efficiency targets has been provided in support of the application.

State Environmental Planning Policy No 71 – Coastal Protection

State Environmental Planning Policy No 71 (Coastal Protection) (SEPP 71) was repealed on 3 April 2018 when the *State Environmental Planning Policy (Coastal Management) 2018* (SEPP Coastal Management) came into effect. The savings and transitional provisions contained within the SEPP Coastal Management state the SEPP 71 provisions continue to apply if a development application is lodged and not finally determined prior to the commencement of the SEPP Coastal Management.

The provisions of SEPP 71 require Council (or the LPP) to consider the Aims and Objectives of the SEPP No 71 together with the matters for consideration listed in Clause 8 of the SEPP 71 when determining an application within the Coastal Zone. The Coastal Zone is an area defined on maps issued by the NSW Department of Planning & Environment and the subject property falls within this zone.

The relevant matters have been considered in the assessment of this application. The application is considered consistent with the stated aims and objectives.

State Environmental Planning Policy (Coastal Management) 2018

Whilst the savings and transitional provisions of SEPP Coastal Management apply, the proposed development has also been considered against the provisions of SEPP Coastal Management and considered satisfactory.

4.2 DA/61093/2021 - 3 Sublime Point Avenue, Tascott - Dwelling Alterations and Additions (contd)

Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP 2018)

Following a review of the Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP 2018) which was exhibited until 27 February 2018, the subject site retains its low density R2 residential zoning, with dwelling houses remaining permissible with consent.

Gosford Local Environmental Plan 2014 - Permissibility

The subject site is zoned *R2 - Low Density Residential* under the provisions of *Gosford Local Environmental Plan 2014 (Gosford LEP 2014)*.

The development (dwelling and ancillary swimming pool) is permissible in the zone with consent

Gosford Local Environmental Plan 2014 - Objectives of zone

The objectives of the *Zone R2 - Low Density Residential* zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that development is compatible with the desired future character of the zone.
- To encourage best practice in the design of low-density residential development.
- To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.
- To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for low-density housing.

In this instance, it is considered that the proposal is consistent with the stated objectives of the zone. The proposal provides housing which meets the needs of the community, is consistent with other development in the locality and the desired future character of the area. The proposal does not have an undue impact on ecology or biodiversity values and does not detract from non-residential uses. The proposal is consistent with the principles of Ecologically Sustainable Development as specified within the *Local Government Act 1993*.

Gosford Local Environmental Plan 2014 - 4.3 Height of buildings

<i>Development Standard</i>	<i>Required</i>	<i>Proposed</i>	<i>Compliance with Controls</i>	<i>Variation %</i>	<i>Compliance with Objectives</i>
4.3 – Height of buildings	8.5 metres	8.5m	Yes	n/a	Yes

4.2 DA/61093/2021 - 3 Sublime Point Avenue, Tascott - Dwelling Alterations and Additions (contd)

Clause 4.3(2) applies to the height of buildings on any land. The proposed building is not to exceed the maximum height shown for the land on the Height of Buildings Map in order to achieve the following objectives:

- to establish the maximum height limit for buildings to enable the achievement of appropriate development density,
- to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,
- to ensure that the height of buildings protects the amenity of neighboring properties in terms of visual bulk, access to sunlight, privacy and views.

The subject allotment has a maximum building height requirement of 8.5m with the proposed development having a building height of 8.5m - therefore being compliant.

Gosford Local Environmental Plan 2014 - Floor Space Ratio

<i>Development Standard</i>	<i>Required</i>	<i>Proposed</i>	<i>Compliance with Controls</i>	<i>Variation %</i>	<i>Compliance with Objectives</i>
4.4 – Floor Space Ratio	0.5:1	0.18:1	Yes	n/a	Yes

Clause 4.4(2) applies to the maximum floor space ratio for a building on any land. The proposed building is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map in order to achieve the following objectives:

- to ensure that the density, bulk and scale of development is appropriate for a site,
- to ensure that the density, bulk and scale of development integrates with the streetscape and character of the area in which the development is located,
- to facilitate development in certain areas that contributes to economic growth.

The subject allotment is mapped as having a maximum floor space ratio of 0.5:1 with the proposed development proposing a lesser floor space ratio of 0.18:1 therefore being compliant.

Gosford Development Control Plan 2013 (GDGP 2013)

DCP Chapter 2.1 – Character

The site is located within the Tascott 2: Open Parkland Hillside precinct of Tascott. The desired character of this precinct suggests, amongst other things, buildings to minimize the scale and bulk of buildings by stepping floor-levels to follow natural slopes and by using irregular floorplans to create well-articulated forms. The proposed dwelling design has both these features and is considered to be consistent with the desired character of the precinct.

DCP Chapter 3.1 – Dwelling Houses, Secondary Dwellings and Ancillary Development

The following table represents an analysis of the development against the provisions of DCP Chapter 3.1:

Chapter 3.1	Requirement	Proposed	Compliance
Clause 3.1.2.1 Building Height	Three storeys on steeply sloping sites 8.5metre building height	The dwelling has 2 storeys 8.5m metres	Yes
Clause 3.1.2.2 Site Coverage	Maximum 50% site coverage.	Less than 50% site coverage is proposed (18%)	Yes
Clause 3.1.2.3 Floor Space Ratio	0.5:1 floor space ratio	0.18:1 floor space ratio proposed	Yes
Clause 3.1.3.1a – Front Setback	The permissible front setback is 3.36m. This is the average of the two adjoining properties (excluding the garage structures built close to the front boundary). Garage setback to be setback 1.0 metre behind front boundary setback	7.255m setback to front of deck. Garage is setback 1.5m from front deck alignment	Yes
Clause 3.1.3.1b – Rear Setback	6m Rear setback to a private allotment with a wall height greater than 4.5m	4.7 metres to most disadvantage point of rear northern wall	No – see comments below
Clause 3.1.3.1c – Side Setback	For any part of the building with a height of up to 4.5m—0.9m	0.9m.	Yes
Clause 3.1.4.1	To encourage view sharing between properties	Meets the requirements for view sharing under the NSW Land and Environment Court Planning Principles	Yes

Chapter 3.1	Requirement	Proposed	Compliance
Clause 3.1.4.2 Visual Privacy	To minimise direct overlooking between main living areas and areas of principle private open space within the site and adjoining sites	Given the steep topography of the site, the proposal is considered to meet the requirements of this clause.	Yes
Clause 3.1.5 – Car Parking and Access	1 car spaces	1 car spaces	Yes
	4 metres driveway width	3 metres existing	Yes
Clause 3.1.6 Earthworks, Structural Support and Drainage	Cut – 1m when within 1m from the boundary	Cuts greater than 1m. However, excavation involves refacing of existing excavations to replace existing retaining walls therefore no additional impacts to adjoining properties.	Yes

DCP Chapter 3.1.3.1 – Rear Setback

The proposal has a rear setback to the rear of the dwelling with a height of 4.5m. Therefore, the setback to this part of the building is required to be 6m in this location. The variation occurs at the most northern corner of the dwelling and is a combination of the dwellings design and topography that creates the variation. The design of the northern wall of the dwelling is angled and has a setback of 4.5m to the rear boundary at its most disadvantaged point which coincides with a maximum building height in this location of 8.1m. The setback to the rear boundary increases as the northern wall tapers to the south away from the rear boundary. The increasing setback coincides with a reducing building height due to the upwards slope of the embankment and concludes with a building height of 5.91m and setback of 8.09m at the north western corner of the dwelling. This design result in a small area of non- compliance with the requirements of the DCP.

The impacts of the variation are assessed as minimal as the proposal ensures that the setbacks are compatible with adjacent development and complements the character of the residential environment of its locality. The variation will not impact on the streetscape, public reserves, or coastal foreshore as it will not be visually apparent from these locations. The variation ensures the views, privacy and solar access of adjacent properties is maintained to a standard corresponding to density of the urban setting of the location. Views of the Brisbane Waters foreshore and surrounding areas will not be impacted by the variation. The design has responded to the scenic and environmental qualities of the hillside location and has meet the design challenges of the site with appropriate architectural strategy, including articulation of façade, open design and vertical building features that create points of visual interest. The

proposed variation has been assessed as satisfying the objectives of the DCP and is supported.

DCP Chapter 6.3 Erosion Sedimentation Control

Appropriate siltation control to be conditioned within the issued development consent.

DCP Chapter 6.4 Geotechnical Requirements for Development Applications

The property is mapped as being in a medium landslip risk or hazard Category 2 area as specified within table M1 of the DCP. Having regard of the site conditions and extent of development, it has not been required for the development application to be supported by a report on the geotechnical conditions of the site.

DCP Chapter 7.2 Waste Management

A Waste Management Plan has been submitted in support of the proposed development.

The likely impacts of the development

Built Environment

Given the position of the proposed dwelling and garage on the allotment and separation distance to other dwellings, the proposal is considered to be suitable with regard to the context and setting of the subject site and is considered to be in keeping with the character of the area.

A thorough assessment of the proposed development's impact on the built environment has been undertaken in terms of the GLEP 2014 and GDCP 2013 compliance. It is considered on balance that the potential impacts are considered reasonable.

Natural Environment

The proposal involves some site excavation given the site's sloping topography. Whilst there is some impact upon the natural environment, this is considered to be reasonable as the main bulk of excavation occurs centrally on the site and is relatively concealed by the proposed dwelling. Accordingly, the proposal is considered satisfactory in relation to impacts on the natural environment.

The suitability of the site for the development

A review of Council's records identifies the following constraints:

4.2 DA/61093/2021 - 3 Sublime Point Avenue, Tascott - Dwelling Alterations and Additions (contd)

- *Acid Sulfate Soils* – The subject site has been identified as containing potential Class 5 acid sulfate soils. It is considered that the provisions of an acid sulfate soils management plan is not required.
- *Bushfire* – The subject site is mapped as being bushfire affected. In this regard, the development proposal has been accompanied by a Bushfire Assessment Report prepared by Clarke Dowdle & Associates Reference: GO:10330A dated November 2020 was submitted with the application recommending the proposal comply with BAL-low

There are no other constraints that would render the site unsuitable for development.



Figure 11: Extract from Councils bushfire mapping with the site boundaries highlighted in blue

Public Submission

The development application was notified in accordance with the EP& A Act, Regulations and Council Development Control Plan. The Development Application did not receive any objections to the proposed development.

Internal Consultation

Water and Sewer	Supported subject to conditions.
Trees	Supported subject to conditions.

Ecologically Sustainable Principles:

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

The Public Interest

The proposed development is seen to be in the public interest by providing assurance that the subject land is able to be developed in proportion to its site characteristics.

Other Matters for Consideration:

Trees

Plans do nominate removal of one (1) tree near the NE corner of property. However, inspection of the site found that the tree no longer exists. The proposal intends to retain existing Eucalypt trees (15m) close to new works. Generally the new works are over the footprint of existing structures to be replaced, therefore the impact on existing trees is not expected to be much greater than the existing encroachments into their root zones. Providing reasonable care is taken during construction, the trees could remain viable with the works

Development Contribution Plan

The proposed development is not a development type that is subject to *Section 7.11 of the Environmental Planning and Assessment Act 1979* development contributions. Therefore, no contributions are applicable.

Water and Sewer Contributions





The proposed development is not subject to Water & Sewer Contributions.

Conclusion:

The development application has been assessed in accordance with Section 4.15 of the EP&A Act 1979, and all relevant instruments and polices. The proposed development is considered suitable for the site despite the listed variations. The proposal is therefore recommended for approval pursuant to Section 4.16 of the EP&A Act 1979.

**4.2 DA/61093/2021 - 3 Sublime Point Avenue, Tascott - Dwelling
Alterations and Additions (contd)**

Attachments

- | | | |
|--|---|-----------|
| 1   | Draft Conditions of Consent - DA/61093/2021 | D14788861 |
| 2   | Development Plans (excluding Floor Plans) - DA/61093/2021 | D14520353 |

1. PARAMETERS OF THIS CONSENT

1.1 Approved Plans and Supporting Documents

Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "*Development Consent*" unless modified by any following condition.

Architectural Plans by: Palaestra/Studio

Drawing	Description	Sheets	Issue	Date
001	Cover Page	1 of 13	B	4/5/21
002	Site Plan Analysis	2 of 13	B	4/5/21
010	Plan- Site Survey	3 of 13	B	4/5/21
100	Plan- Demolition	4 of 13	B	4/5/21
105	Site Drainage & Organisation	5 of 13	B	4/5/21
110	Plan- Ground Level	6 of 13	D	4/5/21
115	Plan- Frist Level	7 of 13	C	4/5/21
120	Plan Solar Diagram	8 of 13	B	4/5/21
900	Proposed images	9 of 13	B	4/5/21
300	Section AA	10 of 13	B	4/5/21
400	Elevations	11 of 13	B	4/5/21
405	Elevations	12 of 13	B	4/5/21
410	Existing Elevations	13 of 13	B	4/5/21

Supporting Documentation:

Nil

- 1.2 Carry out all building works in accordance with the National Construction Code Series, Building Code of Australia, Volume 1 and 2 as appropriate.
- 1.3 Comply with all commitments listed in the BASIX Certificate for the development as required under clause 97A of the Environmental Planning and Assessment Regulation 2000.

2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1 All conditions under this section must be met prior to the issue of any Construction Certificate.
- 2.2 No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
- Site investigation for the preparation of the construction, and / or
 - Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
 - Demolition

Attach2.3

Submit an application to Council under section 305 of the *Water Management Act 2000* for a section 307 certificate of compliance. The *Application form* can be found on Council's website www.centralcoast.nsw.gov.au. Early application is recommended. **121**

The section 305 application will result in a section 306 letter of requirements which must be obtained prior to the issue of any Construction Certificate. The requirements letter will outline which requirements must be met prior to each development milestone eg. prior to construction certificate, subdivision works certificate, occupation certificate and/or subdivision certificate.

3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1** All conditions under this section must be met prior to the commencement of any works.
- 3.2** Appoint a Principal Certifier for the building work:
- a. The Principal Certifier (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.
 - b. Submit to Council a Notice of Commencement of Building Work form giving at least two (2) days' notice of the intention to commence building work. The forms can be found on Council's website: www.centralcoast.nsw.gov.au
- 3.3** Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:
- a. The name, address and telephone number of the Principal Certifier for the work; and
 - b. The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
 - c. That unauthorised entry to the work site is prohibited
 - d. Remove the sign when the work has been completed.
- 3.4** Submit both a Plumbing and Drainage Inspection Application, with the relevant fee, and a Plumbing and Drainage Notice of Work in accordance with the Plumbing and Drainage Act 2011 (to be provided by licensed plumber). These documents can be found on Council's website at: www.centralcoast.nsw.gov.au

Contact Council prior to submitting these forms to confirm the relevant fees.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage). This condition does not apply to swimming pool plumbing that does not physically connect / break into the sewer system.

- 3.5** Undertake any demolition involving asbestos in accordance with the *Work Health and Safety Act 2011*.

The person having the benefit of this consent must ensure that the removal of:

- a. more than 10m² of non-friable asbestos or asbestos containing material is carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist, and
- b. friable asbestos of any quantity is removed by a licensed removalist with a friable (Class A) asbestos removal licence

The licensed asbestos removalist must give notice to the regulator before work commences in accordance with Clause 466 of the *Work Health and Safety Regulation 2011*.

4. DURING WORKS

4.1 All conditions under this section must be met during works.

4.2 Carry out construction or demolition works during the construction phase of the development only between the hours as follows:

- 7.00am and 5.00pm Monday to Saturday

No construction or demolition works associated with the development are permitted to be carried out at any time on a Sunday or a public holiday.

4.3 During the construction phase of the development, if any Aboriginal object (including evidence of habitation or remains), is discovered during the course of the work:

- a. All excavation or disturbance of the area must stop immediately in that area, and
- b. The Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the National Parks and Wildlife Act 1974.

Note: If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the National Parks and Wildlife Act 1974.

4.4 Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

4.5 Keep a copy of the stamped approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifier or an officer of Council.

4.6 Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the Plumbing and Drainage Act 2011.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).

4.7 Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.

4.8 Erect or install prior to the swimming pool being filled with water all the required swimming pool safety barriers and gates in accordance with the approved plans and specifications and the provisions of the *Swimming Pools Act 1992*, *Swimming Pools Regulations 2018* and Australian Standard AS 1926.1-2012 including the display of an approved sign regarding pool safety and resuscitation techniques that contains all of the following information:

- "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL"
- "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES"
- "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900mm CLEAR OF THE POOL FENCE AT ALL TIMES" and
- A simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults)

4.9 Demolish all buildings and / or building components in a safe and systematic manner in accordance with Australian Standard AS 2601-2001: *The demolition of structures*. Waste materials must be disposed of at a waste management facility.

Attach^{4.10}

All care is to be taken to avoid damage to tree roots.
 Roots that cannot be avoided are to be cut (not ripped) with a sharp tool such as pruners or handsaw.
 Seek Arboricultural advice before severing roots greater than 75mm diameter.

121**5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE**

- 5.1** All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 5.2** Submit a Certificate of Compliance for all plumbing and drainage work and a Sewer Service Diagram showing sanitary drainage work (to be provided by licensed plumber) in accordance with the Plumbing and Drainage Act 2011.
- This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).
- 5.3** Install a stormwater retention system consisting of either rainwater tanks and/or stormwater tanks (as defined in DCP 2013 Chapter 6.7 Water Cycle Management with a minimum total capacity of 2000 litres, capturing water from the roof area of the dwelling. The water collected must be suitably treated and connected to an external tap, all toilet cisterns and cold washing machine tap(s). Overflow from the rainwater tanks and/or stormwater tanks are to be directed by piped drainage line to street kerb outlet / allotment drainage line (where available) / infiltration trench. Note: Infiltration trenches are to be designed by a practising engineer experienced in hydraulics. The design details are to cater for a 1 in 20 year AEP storm event and are to allow for a minimum setback of three (3) metres from any sewer main and lot boundaries.

6. ONGOING OPERATION

- 6.1** Insulate and / or isolate the motor, filter, pump and all sound producing equipment or fitting associated with or forming part of the pool filtering system so as not to create an offensive noise to the occupants of the adjoining premises as defined in the *Protection of the Environment Operations Act 1997*.

7. PENALTIES

- 7.1** Failure to comply with this development consent and any condition of this consent may be a criminal offence. Failure to comply with other environmental laws may also be a criminal offence.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

Warnings as to Potential Maximum Penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and / or custodial sentences for serious offences.

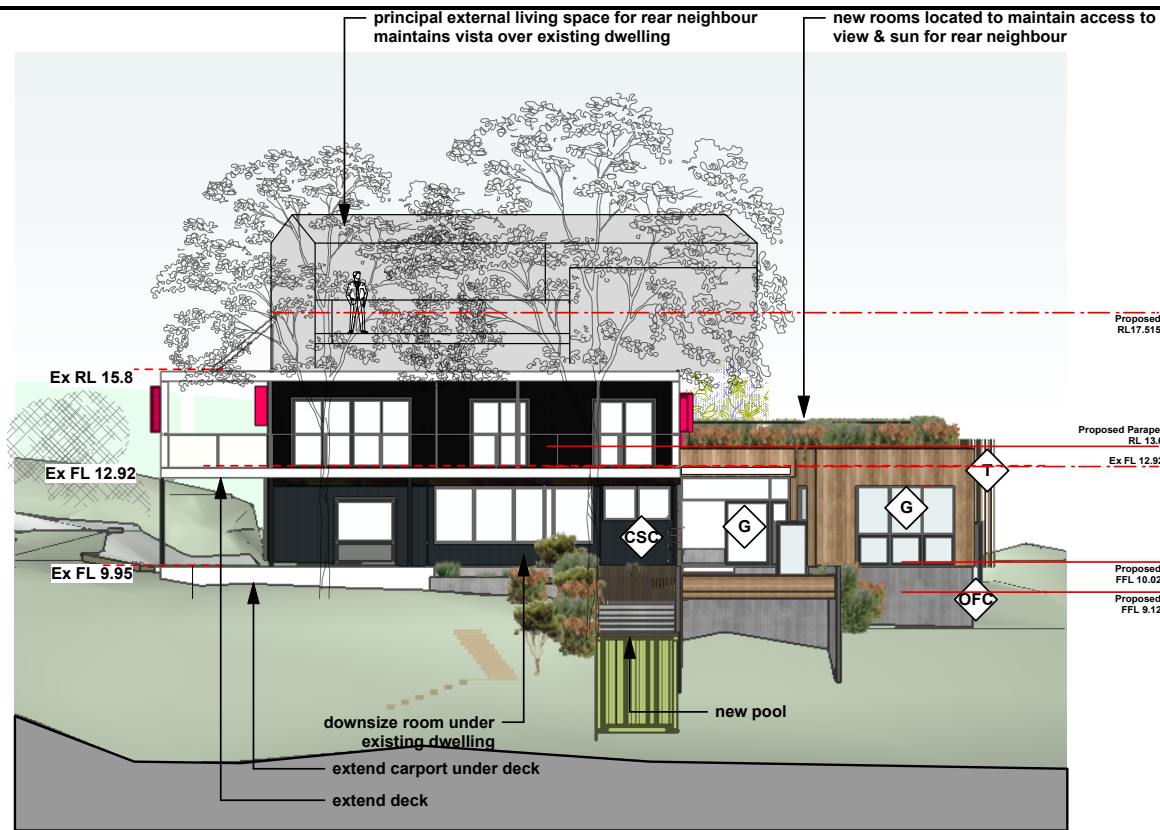
ADVISORY NOTES

- Discharge of sediment from a site may be determined to be a pollution event under provisions of the *Protection of the Environment Operations Act 1997*. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities may have separate requirements in the following aspects:

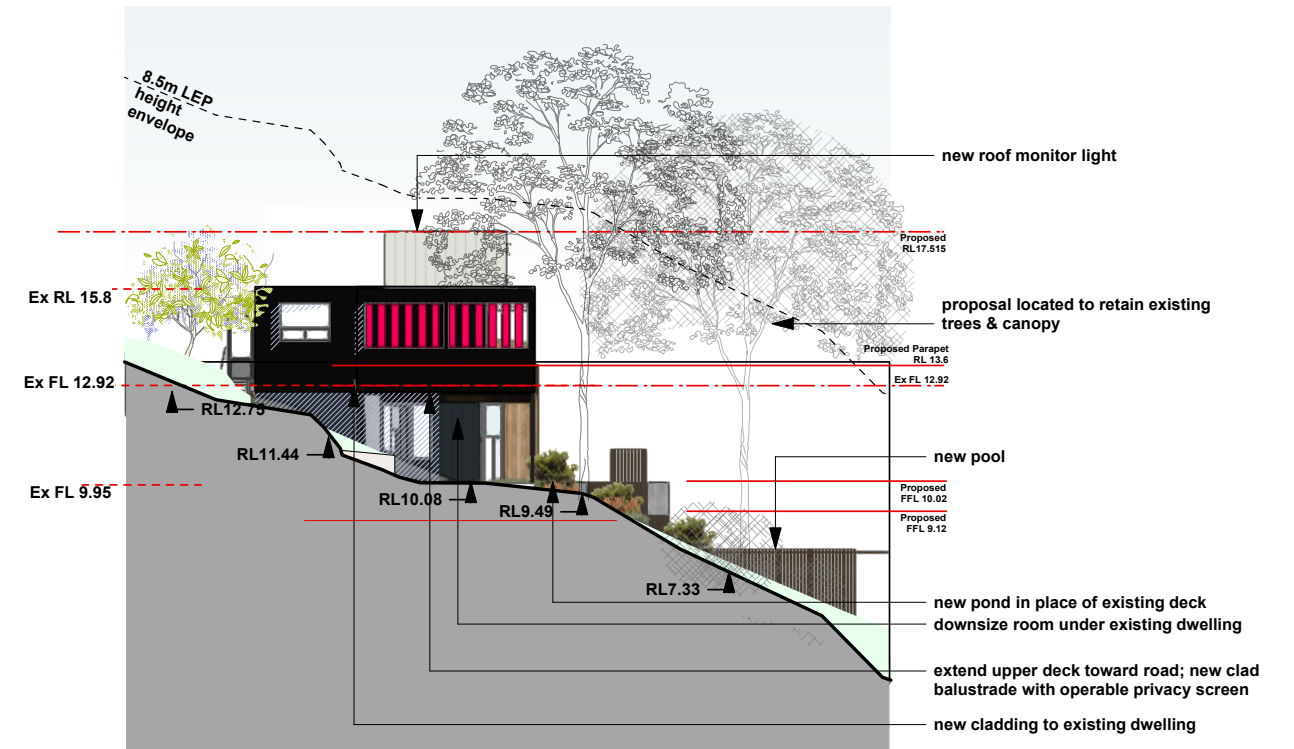
Attach121

- a. Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments
 - b. Jemena Asset Management for any change or alteration to the gas line infrastructure
 - c. Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
 - d. Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
 - e. Central Coast Council in respect to the location of water, sewerage and drainage services
- Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
 - Dial Before You Dig
Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.
 - Telecommunications Act 1997 (Commonwealth)
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.
 - Install and maintain backflow prevention device(s) in accordance with Council's WS4.0 Backflow Prevention Containment Policy. This policy can be found on Council's website: www.centralcoast.nsw.gov.au

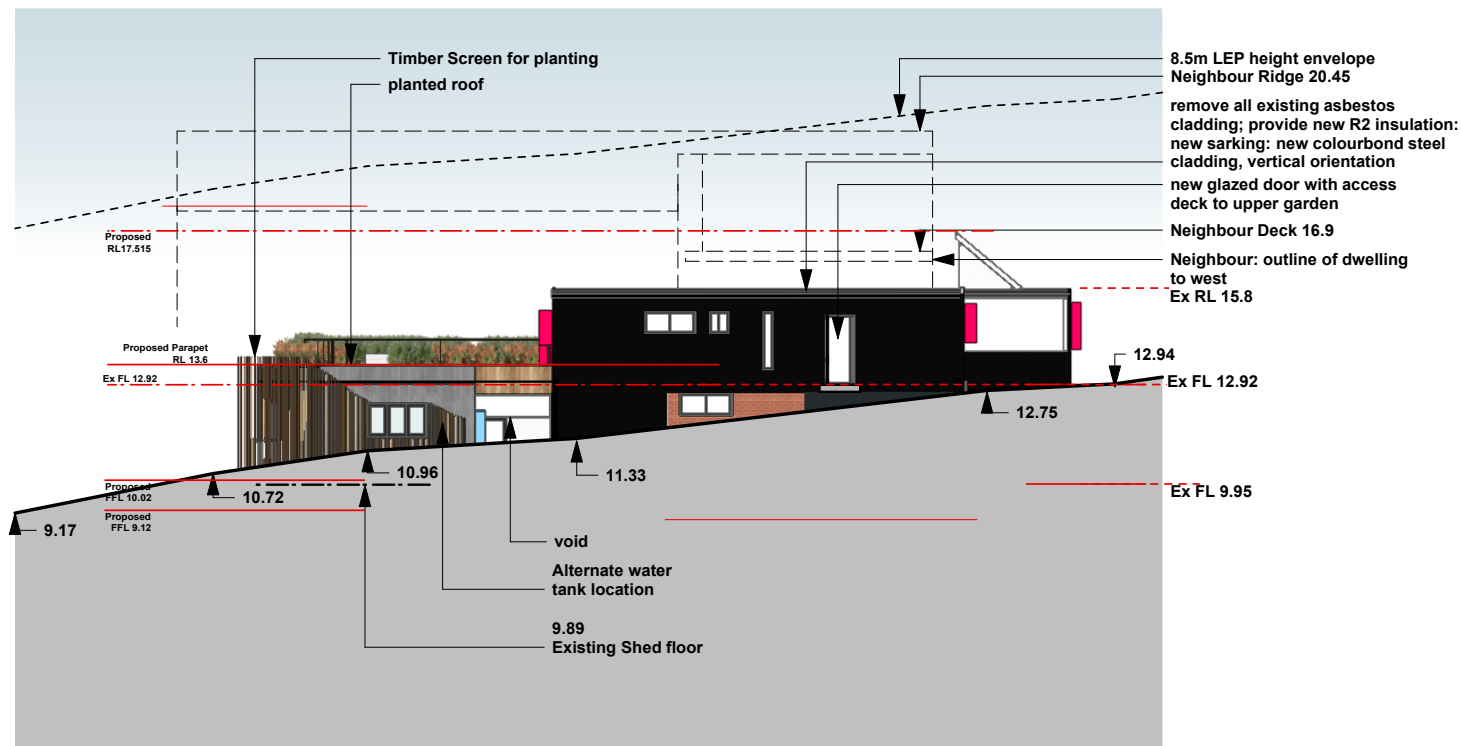
This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).



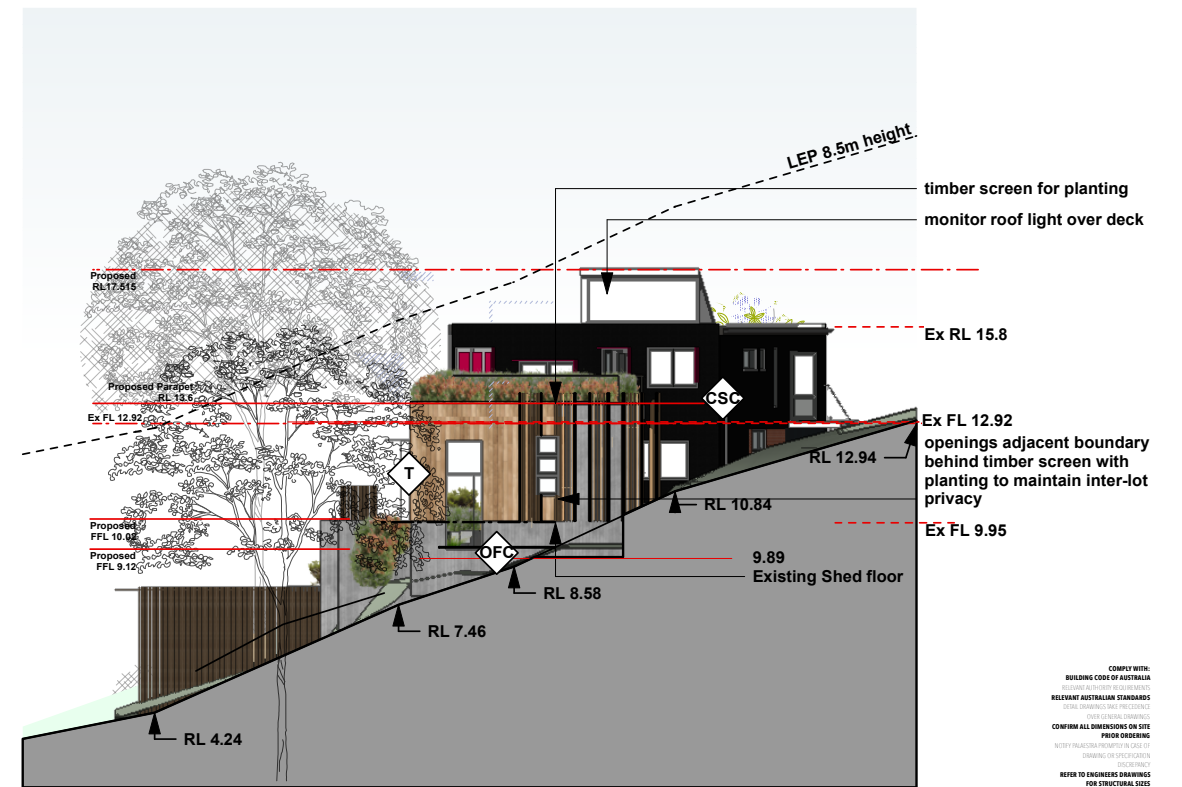
1 East Elevation
Scale: 1:200



2 South Elevation
Scale: 1:200



3 West Elevation
Scale: 1:200



4 North Elevation
Scale: 1:200

COMPLY WITH:
BUILDING CODE OF AUSTRALIA
RELEVANT AUSTRALIAN STANDARDS
SERIES DRAWINGS AND PRECEDENTS
LOCAL COUNCIL ORDINANCES
CONTAIN ALL DIMENSIONS ON SITE
PREFER DIMENSIONS
REFER TO ENGINEER'S DRAWINGS
FOR STRUCTURAL CODES
DO NOT SCALE DRAWINGS, MEASURE
DRAWINGS OR QUEST

palaestra/studio		m) 0449 877 716		e) admin@palaestra.com.au	
NO. #	DATE	ISSUE	NO. #	DATE	REVISION
5	3/2/21	DA Set	A	3/2/21	DA Set
4	11/9/20	CDC Set			

DA - 3/2/21

Alterations
3 Sublime Point Av Lt 38 Dp 235670
Duncan - Cardy

DWG	Notation Elevations	DWG #	DA
SCALE @ A3	1:75		N02
PROJECT #	145	DATE	3/2/21
DWN CW	CHKD DD	REVISION	A
145 Tascott DA & Elev			

Item No: 4.3
Title: DA/60618/2021 - 26 Panorama Terrace, Green Point - Alterations & Additions - Dwelling House
Department: Environment and Planning

Central Coast
Local Planning Panel

23 September 2021 Local Planning Panel Meeting

Reference: 011.2021.00060618.001 - D14682035
Author: Clayton Votano, Building Surveyor
Manager: Wayne Herd, Section Manager, Building Assessment and Certification
Approver: Andrew Roach, Unit Manager, Development Assessment

Summary

An application has been received for Alterations & Additions to an existing Dwelling House. The application has been examined having regard to the matters for consideration detailed in section 4.15 of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

The development application is required to be reported to the Local Planning Panel (LPP) as a result in a variation to the maximum Height of Buildings in excess of 10%. The maximum height in this locality is 8.5 metres with the development having a proposed height of 10.2m, (a 20% variation). A delegated officer of Council may not assume the concurrence of the Secretary when considering exceptions to development standards under cl.4.6 of GLEP 2014 if the development contravenes a development standard by greater than 10%. As such the application is required to be reported to the LPP for determination.

No submissions have been received. The application is recommended for approval.

Applicant	Mr Glenn McLeod
Owner	Mr Leo Sprague
Application No	DA/60618/2021
Description of Land	LOT: 22 DP: 243415
Proposed Development	Alterations & Additions
Site Area	685m ²
Zoning	Zone R2 Low Density Residential
Existing Use	Dwelling House
Employment Generation	No
Estimated Value	\$181,600.00

Recommendation

- 1 ***That the Local Planning Panel assume the concurrence of the Secretary of the Department of Planning to permit the non-compliance with the development standard under Clause 4.6 of the Gosford Local Environmental Plan 2014, in accordance with the provisions of Clause 64 of the Environmental Planning and Assessment Regulation 2000.***

- 2 ***That the Local Planning Panel grant consent to DA/60618/2021 - 26 Panorama Terrace, Green Point - Alterations & Additions - Dwelling House, subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.***

Key Issues

- Building Height
- Desired Character
- Garage within front setback

Precis:

Proposed Development	Alterations and additions to existing dwelling inclusive of rear addition and garage
Permissibility and Zoning	The proposed development is defined as Dwelling House (alterations and additions) which is permissible in the zone with consent of Council. <i>dwelling house</i> means a building containing only one dwelling.
Relevant Legislation	<i>The following planning policies and control documents are relevant to the development and were considered as part of the assessment.</i> <ul style="list-style-type: none"> • <i>Environment Planning and Assessment Act 1979 -section 4.15 (EP&A Act)</i> • <i>Gosford Local Environmental Plan 2014 (GLEP 2014)</i> • <i>Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP 2018)</i> • <i>Gosford Development Control Plan 2013 Chapter 3.1 "Dwelling Houses, Secondary Dwellings and Ancillary Development" (Gosford DCP 2013)</i>
Current Use	Dwelling House
Integrated Development	No
Submissions	Nil

4.3 DA/60618/2021 - 26 Panorama Terrace, Green Point - Alterations & Additions - Dwelling House (contd)

Variations to Policies

Gosford Local Environmental Plan 2014

Clause	4.3 Height of Buildings (Gosford LEP 2014)
Standard	Height of Buildings 8.5m
Departure basis	The proposal seeks a building height of 10.2m being an additional 1.7m at the highest point. This represents a maximum variation of 20%.

Chapter 3.1. Dwelling Houses, Secondary Dwellings and Ancillary Structures of Gosford Development Control Plan 2013

Clause	3.1.2.1 Building Height
Standard	Building Height 8.5m
Departure basis	The proposal seeks a building height of 10.2m being an additional 1.7m at the highest point. This represents a maximum variation of 20%.

Clause	3.1.2.1c Side setback
Standard	900mm North Double Garage
Departure basis	The proposal seeks a side setback of 548mm to the North boundary from the double garage being an additional 352mm at the closest point. This represents a maximum variation of 39%.

Clause	3.1.2.1c Side setback
Standard	300mm South retaining wall
Departure basis	The proposal seeks a side setback of approximately 300mm to the South boundary from the proposed retaining wall being an additional 600mm at the closest point. This represents a maximum variation of 67%.

Clause	3.1.3.1a Front setback
Standard	8.5m (average of dwellings either side is 7.5m + 1m for garage)
Departure basis	The proposal seeks a front setback variation of 2.062m being an additional 6.438mm towards the road frontage. This represents a variation of 76%.

The Site

The subject site is legally identified as Lot: 22 DP: 243415, No. 26 Panorama Tce, Green Point, has a site area of approximately 685m². The site is located on the Western side of Panorama Tce which also resides above the cul-de-sac of Amaroo Close and has a frontage of 2.062m (garage) to Panorama Tce, a rear boundary of approximately 9m to the property adjoining Amaroo Close and side boundaries of approximately 548mm & 1.205mm. The site runs approximately on an East to West axis, is rectangular and irregular in shape and will rise to the rear of the site where the building height increases to a maximum 10.2m from the ground level at that point. Refer to **Figures 1, 2 & 3**.

The site is currently occupied by an existing two (2) storey building with a tiled roof and an open carport to the North. There is currently availability for 2 x car spaces. The site contains some vegetation. Refer to **Figure 1**.

The site is identified as "bushfire prone land" on Council's bushfire maps.

The site is zoned R2 Low Density Residential under the provisions of Gosford Local Environmental Plan 2014 (GLEP 2014).



Figure 1 - Site frontage



Figure 2 - Dwellings East of Panorama Tce maintaining views



Figure 3 - View from Amaroo Close



Figure 4 - Architectural view from West elevation



Figure 5 - View towards the East from rear yard

Surrounding Development

The site is located on Panorama Tce facing Brisbane Water from the rear. Refer to **Figure 5**. Surrounding developments comprise of a mixture of single and two storeys dwellings. The East dwellings reside higher that overlook this proposal and the dwellings around Amaroo Close reside lower. The dwellings directly adjacent are both single storey from Panorama Tce. Refer to **Figures 6 & 7**.

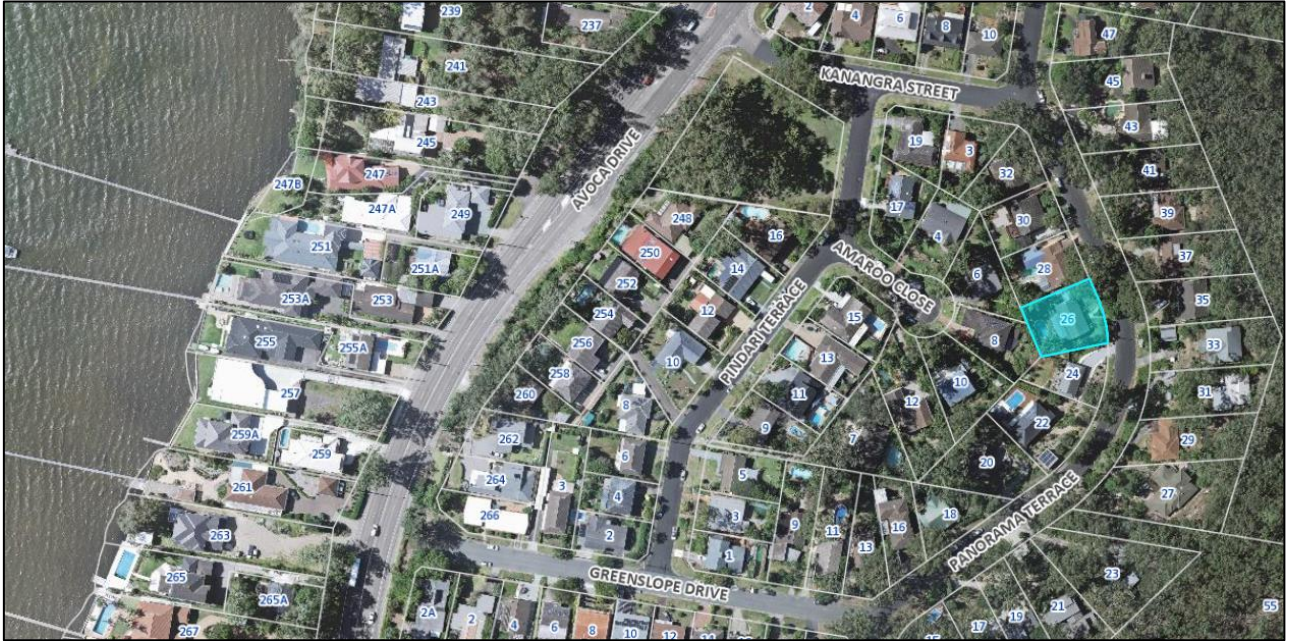


Figure 6 - Views to Brisbane Water



Figure 7 - Adjoining dwelling West



Figure 8 - Adjoining dwelling East

The Proposed Development

An application has been received for the proposed alterations & additions to the existing dwelling that will now propose and enclosed double garage, 4 x bedrooms (no change), skillion roofs and a large extension to the rear. The overall maximum height at the highest point will be 10.2m at the rear. Refer to **Figure 9**.

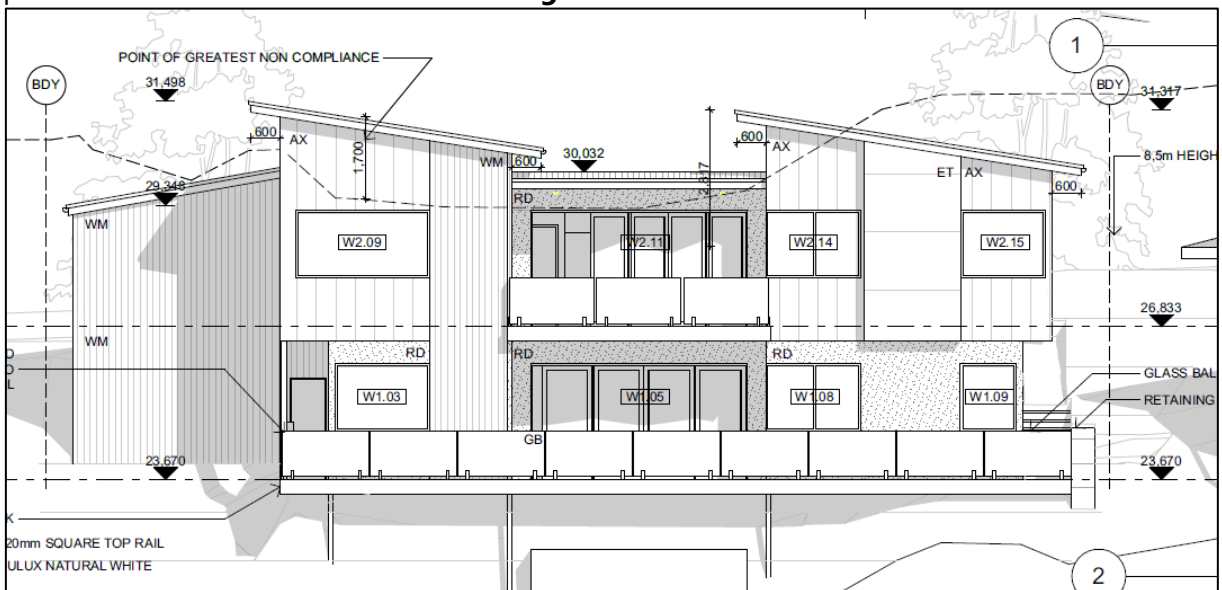


Figure 9 - Maximum building height at rear

Overall, the proposal comprises:

- 1 Two storeys
- 2 Double garage
- 3 4 x Bedrooms

4.3 DA/60618/2021 - 26 Panorama Terrace, Green Point - Alterations & Additions - Dwelling House (contd)

- 4 Retaining wall to the South
- 5 Large rear extension to both storeys

A request for information was originally requested on the 31 March 2021 which requested demonstration of compliance with the objectives relating to Car Parking, Desired character, a 30% Building height variance, the R2 Residential zone and compliance with the requirements for Landslip and drainage.

Additional information was received from the applicant from the NSW Planning Portal on the 03 May 2021. Review of this additional information determined that the proposed car parking did not address the number of bedrooms proposed. A number of 4 x bedrooms was proposed with only one car space when the existing dwelling had 2 x car spaces. The new proposal was to reduce the car spaces to 1 x car space with another hardstand on the reserve. A request was made to the applicant to address the issue of car spaces on the 04 May 2021.

The covering letter provided by the applicant on the 03 May 2021 stated that the stormwater would discharge to Amaroo Close and through another property. As an existing easement could not be located for this proposed discharge, an email was sent to the applicant requesting a Stormwater Management Plan that would demonstrate a legal discharge to Amaroo Close or an alternative such as to the kerb of Panorama Tce. A geotechnical report was not provided with the additional information on the 03 May 2021. This was again requested by email on the 04 May 2021. The amended plans that accompanied the additional information on the 03 May 2021 remained at the same proposed building height with a proposed variance of 30%. The email sent on the 04 May 2021 also stating that the proposed building height is under review.

An email was sent to the applicant on the 17 May 2021 stating that the building height will need to be brought down to a more justifiable exceedance as the raked ceiling heights to the upper floor do not appear to be necessary and it would appear that the same affect could be achieved with a lower ceiling height and a lower roof pitch. It was also stated that it appears there was a possibility to reverse roof pitches to follow existing natural land forms.

A response was received from the applicant on the 08 June 2021 which addressed the following;

- Car parking now increased back to 2 x car spaces.
- Additional tank retention was proposed with an agreement from the lower neighbor. to discharge overflow into stormwater system though the neighbours property.
- The geotechnical report was being finalised.
- The building height was being reduced.

On the 10 June 2021, the applicant provided documentation that reflected the above.

4.3 DA/60618/2021 - 26 Panorama Terrace, Green Point - Alterations & Additions - Dwelling House (contd)

On the 16 June 2021, additional information was sent to the applicant requesting the following;

- Written confirmation was required from both property owners for the creation of an easement for the stormwater discharge and if both parties agree, a deferred commencement would be possible.
- The geotechnical engineer was to provide their current Professional Indemnity insurance to accompany the Geotechnical report. If cover was less than \$10,000,000, a variation was to be submitted against Chapter 6.4 of the GDCP 2013.
- The desired character was still to be addressed in regards to minimising the bulk and scale of the building by following natural slopes and irregular floor plans.
- Demonstrate compliance with the R2 Low Density Residential objective to ensure the development is compatible with the desired future character of the zone.

On the 17 June 2021, a response was received from the applicant providing documentation and amended plans to address the outstanding matters as above. The amended plans reduced the building height variance to 20%.

On the 18 June 2021, a peer review of the submitted Geotechnical report was requested as the PI insurance provided covered only \$3,000,000. Therefore a peer review was requested to additionally justify the variation to the GDCP 2013.

On the 22 June 2021, the applicant was advised to provide a Stormwater Management Plan and not a Water Cycle Management Plan.

On the 16 July 2021, the applicant provided requested documentation and requested that we determine the application on the information provided. A peer review of the geotechnical report by 5QS was provided by Construction Sciences Ref: 10791E-481-A :VDS dated 06 July 2021.

On the 22 July 2021 the applicant was advised that the peer review of the original geotechnical report by 5QS required additional information.

Updated plans were provided on the 23 July 2021.

On the 10 August, the final geotechnical report by 5QS dated the 02 August 2021 was provided for review.

On the 11 August 2021, the applicant was advised that the latest geotechnical report required the upgrade of a retaining wall to avoid soil creep during construction.

Amended plans were provided by the applicant on the 19 August 2021 that detailed that the existing timber retaining wall will be removed and the earth will be battered towards the dwelling.

4.3 DA/60618/2021 - 26 Panorama Terrace, Green Point - Alterations & Additions - Dwelling House (contd)

An email was provided from 5QS on the 19 August 2021 confirming that the approach is consistent with the comments on slope risk management given in their report Ref 212041 dated 2 August 2021.

It is decided that the development proposal is not required to be re notified and will be forwarded to the CCLPP for determination.

History

Council's records show the following applications have been lodged on this site:

DA22247/2003 (011.2003.00022247.001)

Development Application - Swimming Pool Above Ground

Lodged: 24/10/2003 (Approved under Delegation : 25/11/2003)

Address: 26 Panorama Terrace GREEN POINT NSW 2251

Principal Certifying Authority: Central Coast Council

Applicant: J D Slater

DA32395/2007 (011.2007.00032395.001)

Development Application - Carport

Lodged: 08/03/2007 (Approved under Delegation : 11/04/2007)

Address: 26 Panorama Terrace GREEN POINT NSW 2251

Applicant: Mr Carports Central Coast

Assessment:

Having regard for the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979 and other statutory requirements, Council's policies and Section 10.7 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

Applicable Planning Controls

The following planning policies and control documents are relevant to the development and were considered as part of the assessment.

- Environmental Planning and Assessment Act 1979 - Section 4.15
- Local Government Act 1993 - Section 89
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Gosford Local Environmental Plan 2014
- Gosford Development Control Plan 2013

Draft Environmental Planning Instruments

The *Draft Central Coast Local Environmental Plan 2018* applies to the subject land.

The application has been assessed under the provisions of the Draft Central Coast Local Environment Plan 2018 currently on exhibition in respect to zoning, development standards and special provisions. The assessment concluded the proposal is consistent with the Draft Plan.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application is supported by a BASIX certificate which confirms the proposal will meet the NSW government's requirements for sustainability, if built in accordance with the commitments in the certificate.

The proposal is considered to be consistent with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

Gosford Local Environmental Plan 2014 - Zoning and Permissibility

The subject land is zoned Zone R2 Low Density Residential under the provisions of the *Gosford Local Environmental Plan 2014*.

The proposed development is defined as Dwelling House (alterations and additions) which is permissible in the zone with consent of Council.

dwelling house means a building containing only one dwelling.

Gosford Local Environmental Plan 2014 - Objectives of zone

The subject land is zoned Zone R2 Low Density Residential under the provisions of the *Gosford Local Environmental Plan 2014*. The objectives of the zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that development is compatible with the desired future character of the zone.
- To encourage best practice in the design of low-density residential development.
- To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.
- To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for low-density housing.

4.3 DA/60618/2021 - 26 Panorama Terrace, Green Point - Alterations & Additions - Dwelling House (contd)

It is considered that the development proposal meets the objectives of the zone, including the desired future character. In this instance, it is considered that the proposal is consistent with the stated objectives of the zone and consistent with the principles of Ecologically Sustainable Development as specified within the Local Government Act 1993.

Gosford Local Environmental Plan 2014 – Clause 4.3 Height of Buildings

Clause 4.3(2) applies to the height of buildings on any land. The proposed building is not to exceed the maximum height shown for the land on the Height of Buildings Map in order to achieve the following objectives:

- to establish the maximum height limit for buildings to enable the achievement of appropriate development density,
- to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,
- to ensure that the height of buildings protects the amenity of neighboring properties in terms of visual bulk, access to sunlight, privacy and views.

The subject allotment is mapped as having a maximum building height of 8.5m with the proposed development having a proposed building height of 10.2m. This is 1.7m higher at the highest point.

Gosford Local Environmental Plan 2014 – Clause 4.4 Floor Space Ratio

Clause 4.4(2) applies to the maximum floor space ratio for a building on any land. The proposed building is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map in order to achieve the following objectives:

- to ensure that the density, bulk and scale of development is appropriate for a site,
- to ensure that the density, bulk and scale of development integrates with the streetscape and character of the area in which the development is located,
- to facilitate development in certain areas that contributes to economic growth.

The subject allotment is mapped as having a maximum floor space ratio of 0.5:1 with the proposed development proposing a lesser floor space ratio of 0.34:1, therefore being compliant.

Gosford Local Environmental Plan 2014 – Clause 4.6 Exceptions to development standards

Clause 4.6 of Gosford LEP 2014 requires consideration of the following:

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

4.3 **DA/60618/2021 - 26 Panorama Terrace, Green Point - Alterations & Additions - Dwelling House (contd)**

- that there are sufficient environmental planning grounds to justify contravening the development standard?

Compliance is unreasonable and unnecessary in this case for the following reasons:

- The siting of the existing dwelling means the non-compliant roof line is not out of context with the streetscape. The proposal remains a single story dwelling from Panorama Terrace.
- The non-compliance is concealed behind the remaining existing single story building form addressing Panorama Terrace.
- The non-compliance does not affect the neighbouring dwellings as it is centered towards the middle of the site.
- The proposed noncompliance adds a layer of architectural interest from Panorama Terrace and brings the proposal in to line with the Desired future Character of the area.
- The scale and mass of the proposal is also in harmony with the massing of the neighbouring dwellings and the more recent architectural homes in the area.
- Given the proposal focuses on reuse of the existing dwelling, the non-compliance allows for the reasonable economic use of the site and its existing structure.
- Tying into the existing floor levels is a sensible design outcome.

The applicant's written request has adequately justified that compliance with the development standard is unreasonable and unnecessary in this instance and there are sufficient environmental planning grounds to justify contravening the development standard.

The dwelling bulk and scale to the public domain will not alter significantly and therefore will not negatively affect the public context.

The development will not have unreasonable impacts on the neighbouring residents or character of the area and remains consistent with the objectives of the standard and objectives of the R2 Zone.

Planning Circular PS 18-003 issued 21 February 2018 states that concurrence of the Secretary may be assumed when considering exceptions to development standards under clause 4.6. The Local Planning Panel is therefore empowered to approve the application.

The request for a variation under Clause 4.6 is considered to be well founded and is recommended for support.

Gosford Development Control Plan 2013

DCP Chapter 2.1 – Character

Chapter 2.1 - Character applies to the development application. The chapter sets out the 'existing' and 'desired' character for each precinct and requires that character be considered in the assessment of any development application.

The subject site is located within the Green Point Woodlands Hillside character precinct.

Woodland Hillside – Existing Character

Two hillside locations that have been partly cleared for low density residential development but retain a canopy of forest remnants, either surrounded by residential neighbourhoods or situated next to a substantial forested hillside reserve, providing scenically-distinctive backdrops to Brisbane Water plus surrounding residential areas, centres and main roads.

Access streets are narrow-to-medium width kerbed pavements, flanked by turfed verges that support scattered woodland remnants or planted shady trees.

The pattern of allotments varies from regular to semi-regular, with medium-to-large houses of one or two storeys, constructed of brick-and-tile on gentler slopes or framed structures on steeper slopes. Dwellings are partly screened from neighbours and the street due to irregular siting and the dense canopy of forest remnants plus trees and shrubs planted along property boundaries.

Gardens vary from a near-natural understorey to shrubs and trees planted along terraced beds facing the street. Large decks are common, providing outdoor living space attached to houses. Carparking is provided generally by basement garages or by open carports that are set close to the street.

Woodland Hillside - Desired Character

These should remain very leafy low-density residential hillside, conserving natural and scenic qualities of the bushland backdrops that are fundamental features of Gosford City's identity, where landscape settings that adjoin bushland reserves are not dominated by new development.

Conserve natural and scenic characters of wooded hillside properties plus unformed road verges by retaining natural slopes and the continuity of tree-canopy that is provided by existing bushland remnants. Complement the established tree canopy by new plantings that are predominantly indigenous, and do not plant any identified noxious or environmental weeds. Facing all boundaries, emphasize a leafy garden character by avoiding tall retaining

walls, fences that are not see-through, elevated structures such as terraces or pools, and steep driveways that would visibly compromise the existing bushy hillside character.

In areas that are defined as bushfire prone, hazard must not be increased by inappropriate new plantings or structures. Minimise the extent of cleared asset protection zones by fire-resistant siting, design and construction for all new structures plus effective management of gardens. The ideal compromise between desired scenic quality and hazard-reduction would limit clearing to thinning of the canopy to establish breaks between existing trees. Screen or shield all verandahs, windows, roofs and suspended floors to prevent the entry of sparks and flying embers.

Avoid disturbing natural slopes and trees by appropriate siting of structures plus low-impact construction such as suspended floors and decks rather than extensive cut-and-fill. On the steeper sites, locate parking next to the street in structures that are designed to blend with their natural setting. Avoid the appearance of a continuous wall of development along any street or hillside by locating buildings within setbacks that are similar to their surrounding properties, and by providing at least one wide side setback or stepping the shape of front and rear facades.

Minimise the scale and bulk of buildings by strongly-articulated forms that sit beneath the canopy, with floor-levels that step to follow natural slopes and irregular floorplans, such as linked pavilions that are separated by courtyards and capped by individual roofs. Front or rear facades that are taller than neighbouring dwellings should be screened by balconies, verandahs, stepped forms or extra setbacks. Roofs should be gently-pitched to minimise the height of ridges, and flanked by wide eaves to disguise the scale of exterior walls.

Minimise the scale of prominent facades by using extensive windows and verandahs plus a variety of materials and finishes rather than expanses of plain masonry. Where dwellings would be visible from their road frontage, display a traditional "street address" with verandahs or decks, and living rooms or front doors that are visible from that roadway. Avoid wide garages that would visually-dominate any front façade. Locate and screen all balconies or decks to maintain the existing levels of privacy and amenity that are enjoyed by neighbouring dwellings.

Conclusion on the desired character

The proposal in majority utilises the existing footprint to the front and generally retains the existing side setbacks. The footprint of the walls addressing Panorama Terrace have not changed from the existing dwelling on the site. Additional landscaping and some colour variation has been incorporated into the design to provide further articulation.

The single-story external wall that currently faces Panorama Terrace will remain with a new roof proposed and therefore the changes to the dwelling do not represent a major change in the bulk and scale to the streetscape as, predominately the building scale has generally not changed. Refer to **Figures 10 & 11**.



Figure 10 - Existing front facade



Figure 11 - Proposed front facade

The side setbacks effectively remain. The set back to the North is close to the boundary by the nature of the existing dwelling and the existing carport area being retained being close to the boundary. The setback on the South side, however is a wide setback and is on average around 3 meters wide.

4.3 DA/60618/2021 - 26 Panorama Terrace, Green Point - Alterations & Additions - Dwelling House (contd)

The proposal seeks to extend the footprint of both the upper and lower levels to create a greater amenity to the existing dwelling. The floor level of these proposed additions has been matched to the existing levels to remove the need for stairs.

The addition has been designed to leave the existing bulk and scale of the front of the dwelling as per its existing footprint. This has been enhanced with the addition of a new skillion roof form which provides a more contemporary design.

At the rear, the 2-storey building form is evident, but it is also kept to a minimum by tying into the existing floor levels to reduce its footprint.

The roof forms are stepped and articulated both across the rear façade and through the dwelling from front to back with a lower roof proposed over the rear deck to break up the architectural forms and the scale of the proposal. Therefore, the desired character has been achieved. Refer to **Figure 12**.

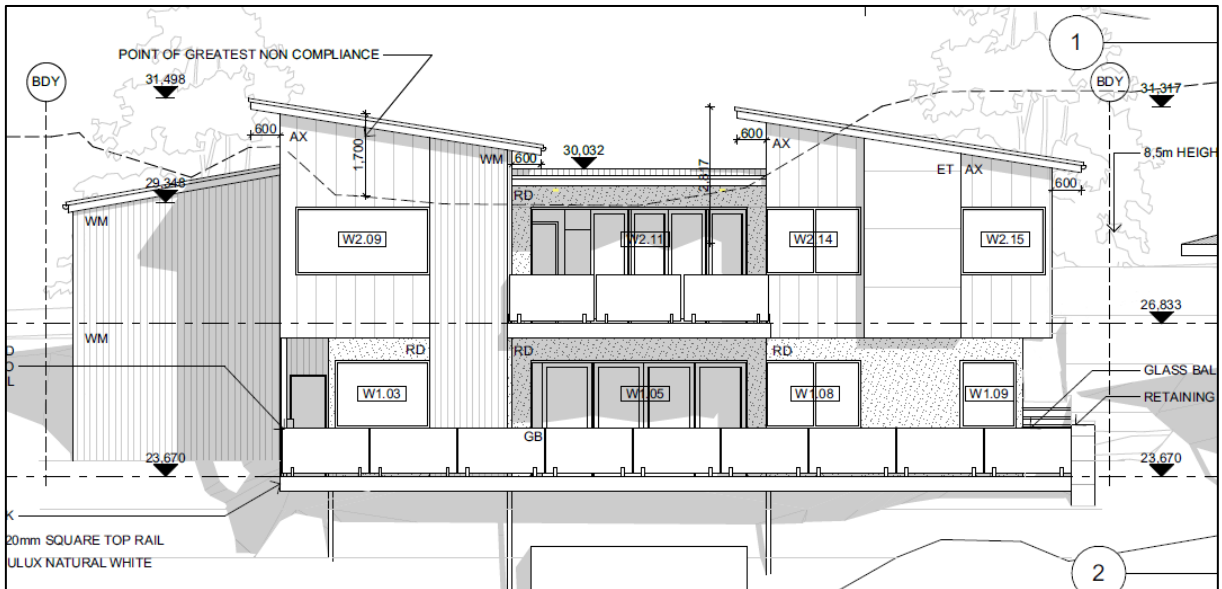


Figure 12 - Rear facade

Gosford Development Control Plan 2013 – Compliance Table

The following table provides a summary of the proposed development compliance against the provisions of the *Gosford Development Control Plan 2013*:

4.3

DA/60618/2021 - 26 Panorama Terrace, Green Point - Alterations & Additions - Dwelling House (contd)

Development Standard	Description	Required	Proposed	Compliance with Control	Compliance with Objective
2.1	Character	The proposal is consistent with the character statement for the area		No - see comments above	Yes - see comments above
2.2	Scenic quality	The visual and scenic impact has been assessed and the development is considered to be consistent with the objectives of scenic quality. The proposed development does not unreasonably contribute to the loss of characteristics of the natural or built environment, nor does it unreasonably dominate the local area.		Yes	Yes
3.1.2.1	Building Height	8.5m	10.2m	No - see comments above	Yes - see comments above
	Number of storeys	2	2	Yes	Yes
3.1.2.2	Site Coverage	0.5:1	0.28:1	Yes	Yes
3.1.2.3	Floor space ratio	0.5:1	0.34:1	Yes	Yes
3.1.3.1a	Front setbacks	The average distance of the setbacks of the nearest 2 dwelling houses 7.5m	8.3m	Yes	Yes

4.3

DA/60618/2021 - 26 Panorama Terrace, Green Point - Alterations & Additions - Dwelling House (contd)

Development Standard	Description	Required	Proposed	Compliance with Control	Compliance with Objective
		Front setback for garage and carport required 8.5m	2.062m	No - see comments below	Yes - see comments below
3.1.3.1b	Rear setbacks	Rear setback to private allotment required 3m	10.148m	Yes	Yes
3.1.3.1c	Side setbacks	Side setback for lots greater than 12.5m wide required 900mm	548mm + 300mm (retaining wall)	No - see comments below	Yes - see comments below
3.1.4.1	Views	The proposal is consistent with the objectives of Consideration of Views. The primary views and outlook from the existing neighbouring dwellings will not be substantially affected.		Yes	Yes
3.1.4.2	Visual privacy	Minimal impact on privacy considering the location, size and setbacks of the proposed habitable spaces and windows from allotment boundaries.		Yes	Yes
3.1.4.3	Private Open Space Areas	Lots greater than 10m wide: 24m ² of open space	25m ² (deck)	Yes	Yes

4.3

DA/60618/2021 - 26 Panorama Terrace, Green Point - Alterations & Additions - Dwelling House (contd)

Development Standard	Description	Required	Proposed	Compliance with Control	Compliance with Objective
3.1.5	Car Parking and Access	2	2	Yes	Yes
3.1.6.2	Retaining walls and structural support	0.6m	1.7m	Yes - see comments below	Yes - see comments below
3.1.6.3	Drainage	Does the drainage comply with the objectives and controls		Yes - see comments below	Yes - see comments below
6.3	Erosion & sediment control	Appropriate siltation control to be conditioned.		Yes	Yes
6.4	Geotechnical requirements	The site is classified as being a HIGH Landslip site and therefore requires the submission of a Geotechnical Report, in accordance with the provisions of Chapter 6.4 of Gosford Development Control Plan 2013.		No - see comments below	Yes - see comments below
6.7	Water cycle management	The water retention target calculation requires a minimum 3,280L to be retained onsite.		No - see comments below	Yes - see comments below
7.1	Car parking	2	2	Yes	Yes
7.2	Waste Management	Waste Management Plan submitted. A condition has been included in the development consent.		Yes	Yes

DCP Chapter 3.1.2.1 Building Height

The construction of a dwelling house, secondary dwelling or ancillary structure is restricted to a maximum building height. This height is measured from the existing ground level, which is the ground level of a site at any point, before any earthworks (excavation or fill) has taken place.

Objectives

- To ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality
- To ensure that the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views
- To ensure that building height is compatible with the scenic qualities of hillside and ridgetop locations and respects the sites natural topography

Requirements

Maximum building height is as shown on the "Height of Buildings Map" contained in Gosford Local Environmental Plan 2014. In this case, the building height limit is 8.5m for dwellings.

The proposal is situated on a site with a large 'cliff edge' within the site topography to the centre of the site. The side boundaries present a compliant height control, while the centre of the site experiences a significant drop in the natural ground level. The reuse of the existing dwelling also contributes to this height non-compliance as the existing dwelling is being retained. The additions to the rear have created a non-compliance due to the excessive fall at the rear of the site topography.

The proposed roof line has been designed to integrate with the streetscape and provide strong North daylight into the dwelling. The skillion roof addition provides natural light and character to the proposal but will also create a breach of height when combined with the fall in the site topography in the center of the site. This variation to the height control is numerically significant but not significant to the dwellings context as the height increase to the existing single story form addressing Panorama terrace is only 620mm. Therefore, the variation of 20% is supported.

DCP Chapter 3.1.3.1a Front setback

The front garage setback is compatible with adjacent developments and complements the character and streetscape. The proposal ensures that the visual focus of the development is the dwelling and not the garage. The views, privacy and solar access of adjacent properties has been protected and maintained. View corridors to desirable outlooks such as Brisbane Water have also been maintained. Deep soil areas sufficient to conserve existing trees or accommodate new landscaping have been provided. Appropriate articulation of facades and

4.3 DA/60618/2021 - 26 Panorama Terrace, Green Point - Alterations & Additions - Dwelling House (contd)

horizontal elements have reduced the appearance of bulk and has provided a visual interest to the building and subsequent streetscape where it faces the street frontage.

The variation to the front setback is also consistent with the existing character;

Gardens vary from a near-natural understorey to shrubs and trees planted along terraced beds facing the street. Large decks are common, providing outdoor living space attached to houses. Carparking is provided generally by basement garages or by open carports that are set close to the street.

Therefore, the variation of 76% is supported.

DCP Chapter 3.1.3.1c Side setback

The North side setback for the double garage provides a slight encroachment on the required setback. The retaining wall to the South also provides an encroachment to the setback of 300mm. The setbacks are not unlike adjacent developments. The views, privacy and solar access of adjacent properties has been protected and maintained. View corridors to coastal foreshores and other desirable outlooks have also been maintained. Deep soil areas sufficient to conserve existing trees or accommodate new landscaping have been provided. Therefore, the variation of 39% for the garage and 67% for the retaining wall are supported.

DCP Chapter 3.1.6.2 Retaining Walls and Structural Support

The maximum 1.6m high retaining walls will be conditioned to be designed by a structural engineer.

DCP Chapter 3.1.6.3 Drainage

All stormwater drainage collecting as a result of the erection of, or alterations or additions to, a dwelling, outbuilding or ancillary development will be conveyed by a gravity fed system to a public drainage system as per the Stormwater Management Plan provided by the applicant.

DCP Chapter 6.4 Geotechnical Requirements For Development Applications

The site is classified as being a HIGH Landslip site and therefore requires the submission of a Geotechnical Report, in accordance with the provisions of Chapter 6.4 of Gosford Development Control Plan 2013.

Geotechnical reports are to be prepared by a Geotechnical Engineer, in this context a "Geotechnical Engineer" means any geotechnical engineer and/or engineering geologist who is listed on the National Professional Engineer's Register, Level 3 (NPER3), or a current Member of the Australian Geomechanics Society, with a minimum of five years practice as a geotechnical engineer, or engineering geologist, advising on building works in regions of the Sydney Basin underlain by the Hawkesbury Sandstone and Narabeen Group (in particular the

4.3 DA/60618/2021 - 26 Panorama Terrace, Green Point - Alterations & Additions - Dwelling House (contd)

Terrigal Formation & Patonga Claystone) geological strata, or who is able to demonstrate considerable relevant experience with similar geology.

The Geotechnical Engineer must be covered by appropriate professional indemnity insurance with a cover of at least \$10,000,000 and provide Council with proof of the currency of such insurance policy(s) as and when required by Council.

A Geotechnical report by 5QS Consulting Group Ref: 212041 dated 09 June 2021 was provided by the applicant and a PI insurance cover of \$3,000,000 was also provided. It was decided that a peer review of the report was required due to the low coverage.

A peer review by Construction Sciences Ref: 10791E-481-A :VDS dated 06 July 2021 was provided by the applicant.

The peer review generally agrees with the original report, however there were a few added recommendations by the peer review.

A revised Geotechnical report by 5QS Consulting Group Ref: 212041 dated 02 August 2021 was provided by the applicant which addressed the recommendations in the Construction Sciences report.

This required the upgrade/ removal of the failing timber retaining wall near the Western boundary of the site. This timber retaining wall was later proposed to be removed with the earth battered, with the approach accepted by 5QS by email dated the 19 August 2021.

DCP Chapter 6.7 Water Cycle Management

The water retention target calculation requires a minimum 3,280L to be retained onsite. The BASIX Certificate has not committed to a rain water tank size. Therefore, the minimum rain water tank size is to be provided to meet the requirements of the GDCP 2013 Chapter 6.7 water retention target which is 3,280L.

Likely Impacts of the Development:

Built Environment

The subject site is zoned R2 Low Density Residential under GLEP 2014 and is surrounded by a mix of 1 and 2 storey residential dwellings with the adjacent dwellings being single storey.

The proposals-built form is considered acceptable in the context of the site. The proposed works are consistent with the desired character of the zone, and if approved the building would offer both an improved quality of design and architectural buildings forms with urban design quality and amenity within the Green Point district. The design is also reflective of the existing character, and is also consistent with the emerging and desired character of the locality. The upgrade achieves a contemporary design and clever use of materials.

It is noted that the proposal will slightly increase in density, however will not detract highly from the original scale and bulk present in the immediate vicinity and neighbourhood. Nor is it considered to have adverse amenity impacts to adjoining development from overshadowing, privacy, noise generating activities and views.

The potential impacts are considered reasonable.

Access and Transport

Access is provided by a driveway and a double garage. There will be little room to park in the hardstand space, however the proposal complies with 2 x car spaces proposed within the confines of the allotment.

Context and Setting

The subject site lies within a traditional low density residential area, generally comprising allotments containing single and two storey dwellings and associated ancillary development. The existing streetscape within Panorama Tce, in proximity to the site, displays development that maintains a consistent height pattern to the primary road boundary, therefore being consistent.

Natural Environment

The proposal is satisfactory in relation to impacts on the natural environment as identified throughout this report. It is noted that the building envelope does exceed the HOB controls, however there is no exiting vegetation and/or tree removal proposed to accommodate the proposed built form. Any existing view corridors such as Brisbane Water will not be affected.

As such it is considered that there will be no significant impact upon the natural environment as a result of the proposal.

Suitability of the Site for the Development:

The site is considered to be suitable for the proposed development as follows:

- The site is zoned R2 Low Density Residential under GLEP 2014. The proposal is a permissible use under the R2 Low Density Residential zone and the scale of the proposed development is consistent with the objectives of the zone;
- There are no environmental hazards which would prevent development of the site;
- Utility services are available to the site; and
- The site is located on and near public transport facilities as well as public services, recreation and community facilities.

Whether the proposal fits in the locality.

Considering the built & Natural environments, the context and setting and the suitability of the site for development, the proposal fits within the locality of Green Point.

Public Submissions

The development has been notified in accordance with the provisions of Gosford Development Control Plan 2013. There were no submissions received in relation to this proposal.

Submissions from Authorities

The application was not required to be referred to any public authorities.

Internal Consultation

There were no matters that required internal (within Council) consultation.

The Public Interest

The public interest is best served by the orderly and economic use of land for which it is zoned. The proposed alterations & additions is permissible with consent and generally complies with the provisions of the relevant Council policies and controls. As such, the approval of the application is considered to be in the public interest as follows:

- The dwelling bulk and scale to the public domain will not alter significantly and therefore will not negatively affect the public context, and
- The proposal is consistent with the relevant objectives of the applicable environmental planning framework, including the GLEP 2014 and GDCP 2013, and
- The proposal does not result in any unreasonable environmental impacts and will not unreasonably impact the amenity of neighbouring properties.

Ecologically Sustainable Principles:

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of the assessment of the application.

This assessment has included consideration of such matters as potential bushfires as well as how the proposed development may cope, combat, withstand these potential impacts.

The proposed development is considered satisfactory in relation to climate change.

Other Matters for Consideration:





There are no other matters for consideration.

Conclusion:

This application has been assessed against the heads of consideration of Section 4.15 of the Environmental Planning & Assessment Act 1979 and all relevant instruments and policies. The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development. Subject to the imposition of appropriate conditions, the proposed development is not expected to have an adverse social or economic impact. It is considered that the proposed development will complement the locality and meet the desired future character of the area.

Accordingly, the application is recommended for approval pursuant to Section 4.16 of the Environmental Planning and Assessment Act.

Attachments

 1	Draft Conditions of Consent - DA60618/2021		D14803822
 2	Notification Plans - DA60618/2021		D14543886
 3	Geotechnical report - 5QS Consulting Group - DA60618/2021	Provided Under Separate Cover	D14799910
 4	Geotechnical Report - Peer Review by Construction Sciences (CS) - DA60618/2021		D14846037
 5	Application to vary a Development Standard in accordance with Clause 4.6 - Height of Buildings (GLEP 2014) - DA60618/2021		D14846039

1. PARAMETERS OF THIS CONSENT

1.1 Approved Plans and Supporting Documents

Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "*Development Consent*" unless modified by any following condition.

Architectural Plans by: Osmond McLeod

Drawing	Description	Sheets	Issue	Date
DA.01	Cover page	1/16	D	19/08/2021
DA.02	Basix Commitments	2/16	P1	19/08/2021
DA.03	Existing ground floor	3/16	D	19/08/2021
DA.04	Existing lower ground floor	4/16	D	19/08/2021
DA.05	Site plan & Sediment Control Plan	5/16	D	19/08/2021
DA.06	Ground floor plan	6/16	D	19/08/2021
DA.07	Ground floor	7/16	D	19/08/2021
DA.08	Lower ground floor	8/16	D	19/08/2021
DA.09	Elevations	9/16	D	19/08/2021
DA.10	Elevations	10/16	D	19/08/2021
DA.11	Sections	11/16	D	19/08/2021
DA.12	Height compliance	12/16	D	19/08/2021
DA.13	Window Schedule	13/16	D	19/08/2021
DA.14	Window schedule	14/16	D	19/08/2021
DA.15	Window schedule	15/16	D	19/08/2021
DA.21	Retaining wall detail	16/16	D	19/08/2021

Supporting Documentation:

Title	Prepared by	Date
Bushfire Assessment Report	Clarke Dowdle & Associates	February 2021
Geotechnical Report	5QS Consulting Group	02/08/2021
Geotechnical Report	Construction Sciences	06/07/2021
Stormwater Management Plan	Daly.Smith	-

- 1.2 Carry out all building works in accordance with the National Construction Code Series, Building Code of Australia, Volume 1 and 2 as appropriate.
- 1.3 Comply with all commitments listed in the BASIX Certificate for the development as required under clause 97A of the Environmental Planning and Assessment Regulation 2000.

2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1 All conditions under this section must be met prior to the issue of any Construction Certificate.

Attach2.2

No activity is to be carried out on-site until the Construction Certificate has been issued, other than:

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- a. Site investigation for the preparation of the construction, and / or
- b. Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
- c. Demolition

2.3 Submit to the Registered Certifier a report prepared by a suitably qualified Registered Structural Engineer providing certification that the existing structure is capable of accepting all anticipated live and dead loads imposed by the proposed addition. The report is to include any recommendations on the structural upgrade of the existing structure.

2.4 Submit to the Registered Certifier structural plans prepared by a suitably qualified Registered Structural Engineer for the retaining structures in excess of 0.6 metres in height.

2.5 Retain the land where any excavation is required below the adjoining land level and preserve and protect from damage any improvements or buildings upon that land including public roads and utilities.

If necessary, the improvements or buildings must be designed by a suitably qualified Registered Structural Engineer. Any design proposals prepared to comply with this condition are to include geotechnical investigations, any excavation that impacts on public infrastructure, and are to be submitted for the approval of the Registered Certifier.

2.6 Assessment of the development against the provisions of Planning for Bush Fire Protection (2019) (NSW) has determined a Bush Fire Attack level (BAL) of 12.5.
Submit to the Registered Certifier for approval construction details showing that the development complies with this Bush Fire Attack Level (BAL) as prescribed by Australian Standard AS 3959-2018: Construction of buildings in bush fire prone areas and (where applicable) the additional measures contained within section 7.5.2 – 'NSW State variations to AS3959' of Planning for Bush Fire Protection (2019) (NSW).

3. PRIOR TO COMMENCEMENT OF ANY WORKS

3.1 All conditions under this section must be met prior to the commencement of any works.

3.2 Appoint a Principal Certifier for the building work:

- a. The Principal Certifier (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.
- b. Submit to Council a Notice of Commencement of Building Work form giving at least two (2) days' notice of the intention to commence building work. The forms can be found on Council's website:
www.centralcoast.nsw.gov.au

3.3 Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:

- a. The name, address and telephone number of the Principal Certifier for the work; and
- b. The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
- c. That unauthorised entry to the work site is prohibited
- d. Remove the sign when the work has been completed.

Attach^{3.4}

Submit both a Plumbing and Drainage Inspection Application, with the relevant fee, and a Plumbing and Drainage Notice of Work in accordance with the Plumbing and Drainage Act 2011 (to be provided by licensed plumber). These documents can be found on Council's website at: www.centralcoast.nsw.gov.au

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Contact Council prior to submitting these forms to confirm the relevant fees.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage). This condition does not apply to swimming pool plumbing that does not physically connect / break into the sewer system.

- 3.5** Provide and maintain a garbage receptacle at the work site until the works are completed. The garbage receptacle must have a tight fitting lid and be suitable for food scraps and papers.
- 3.6** Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:
- a. erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
 - b. diverting uncontaminated run-off around cleared or disturbed areas, and
 - c. preventing the tracking of sediment by vehicles onto roads, and
 - d. stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot
- 3.7** Disconnect, seal and make safe all existing site services prior to the commencement of any demolition on the site. Sewer and water services must be disconnected by a licensed plumber and drainer with a Start Work Docket submitted to Council's Plumbing and Drainage Inspector as the Water and Sewer Authority.
- 3.8** Provide certification to the Principal Certifier that the structural engineer's details have been prepared in accordance with the recommendations of the geotechnical report(s) listed as supporting documentation in this development consent.
- 3.9** Erect a temporary hoarding or temporary construction site fence between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works, if the works:
- a. could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
 - b. could cause damage to adjoining lands by falling objects, or
 - c. involve the enclosure of a public place or part of a public place

Note 1: A structure on public land or on or over a public road requires the prior approval of the relevant authority under the [Local Government Act 1993](#) or the [Roads Act 1993](#), respectively.

Note 2: The [Work Health and Safety Act 2011](#) and [Work Health and Safety Regulation 2011](#) contain provisions relating to scaffolds, hoardings and other temporary structures.

- 3.10** Provide or make available toilet facilities at the work site before works begin and maintain the facilities until the works are completed at a ratio of one toilet plus one additional toilet for every twenty (20) persons employed at the site.

Each toilet must:

- a. be a standard flushing toilet connected to a public sewer, or
- b. have an on-site effluent disposal system approved under the [Local Government Act 1993](#), or
- c. be a temporary chemical closet approved under the [Local Government Act 1993](#)

Attach^{3.11}

Undertake any demolition involving asbestos in accordance with the *Work Health and Safety Act 2011*.

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The person having the benefit of this consent must ensure that the removal of:

- a. more than 10m² of non-friable asbestos or asbestos containing material is carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist, and
- b. friable asbestos of any quantity is removed by a licensed removalist with a friable (Class A) asbestos removal licence

The licensed asbestos removalist must give notice to the regulator before work commences in accordance with Clause 466 of the *Work Health and Safety Regulation 2011*.

4. DURING WORKS

4.1 All conditions under this section must be met during works.

4.2 Carry out construction or demolition works during the construction phase of the development only between the hours as follows:

- 7.00am and 5.00pm Monday to Saturday

No construction or demolition works associated with the development are permitted to be carried out at any time on a Sunday or a public holiday.

4.3 During the construction phase of the development, if any Aboriginal object (including evidence of habitation or remains), is discovered during the course of the work:

- a. All excavation or disturbance of the area must stop immediately in that area, and
- b. The Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the National Parks and Wildlife Act 1974.

Note: If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the National Parks and Wildlife Act 1974.

4.4 Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

4.5 Keep a copy of the stamped approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifier or an officer of Council.

4.6 Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the Plumbing and Drainage Act 2011.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).

4.7 Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.

4.8 Re-use, recycle or dispose of all building materials in accordance with the Waste Management Plan submitted with the subject application.

Attach4.9 Demolish all buildings and / or building components in a safe and systematic manner in accordance with Australian Standard AS 2601-2001: *The demolition of structures*. Waste materials must be disposed of at a waste management facility. **121**

- 4.10 Implement all recommendations of the geotechnical report(s) listed as supporting documentation in this development consent. Furthermore, the geotechnical engineer must provide written certification to the Principal Certifier that all works have been carried out in accordance with the recommendations contained within the geotechnical report(s).

5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 5.1 All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 5.2 Submit a Certificate of Compliance for all plumbing and drainage work and a Sewer Service Diagram showing sanitary drainage work (to be provided by licensed plumber) in accordance with the Plumbing and Drainage Act 2011.
- This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).
- 5.3 Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifier. The Occupation Certificate application is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2000*.
- 5.4 Install a rainwater tank with a minimum capacity of 3,280 litres. The required rainwater tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code Australian Standard AS 3500 and must be provided with first flow diversion devices fixed to all inflows. All overflow must be connected via piped drainage line to street kerb outlet / allotment drainage line / infiltration trench.
- Note:** Infiltration trenches are to be designed by a practising engineer experienced in hydraulics. The design details are to cater for a 1 in 20 year AEP storm event and are to allow for a minimum setback of three (3) metres from any sewer main and lot boundaries.
- 5.5 Complete the building in accordance with the provisions of *Planning for Bush Fire Protection 2019 (NSW)* and the requirements of Australian Standard AS 3959-2018 - *Construction of Buildings in Bush Fire Prone Areas* and additional measures contained within section 7.5.2 – ‘NSW State variations to AS3959’ of *Planning for Bush Fire Protection (2019) (NSW)* for a Bush Fire Attack Level of BAL 12.5.

6. ONGOING OPERATION

- 6.1 Do not adapt or use the non-habitable garage or outbuilding for residential, commercial or industrial purposes.
- 6.2 Do not let, adapt or use the dwelling for separate occupation in two or more parts.

7. PENALTIES

Attach7.1

Failure to comply with this development consent and any condition of this consent may be a criminal offence. **121**
 Failure to comply with other environmental laws may also be a criminal offence.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

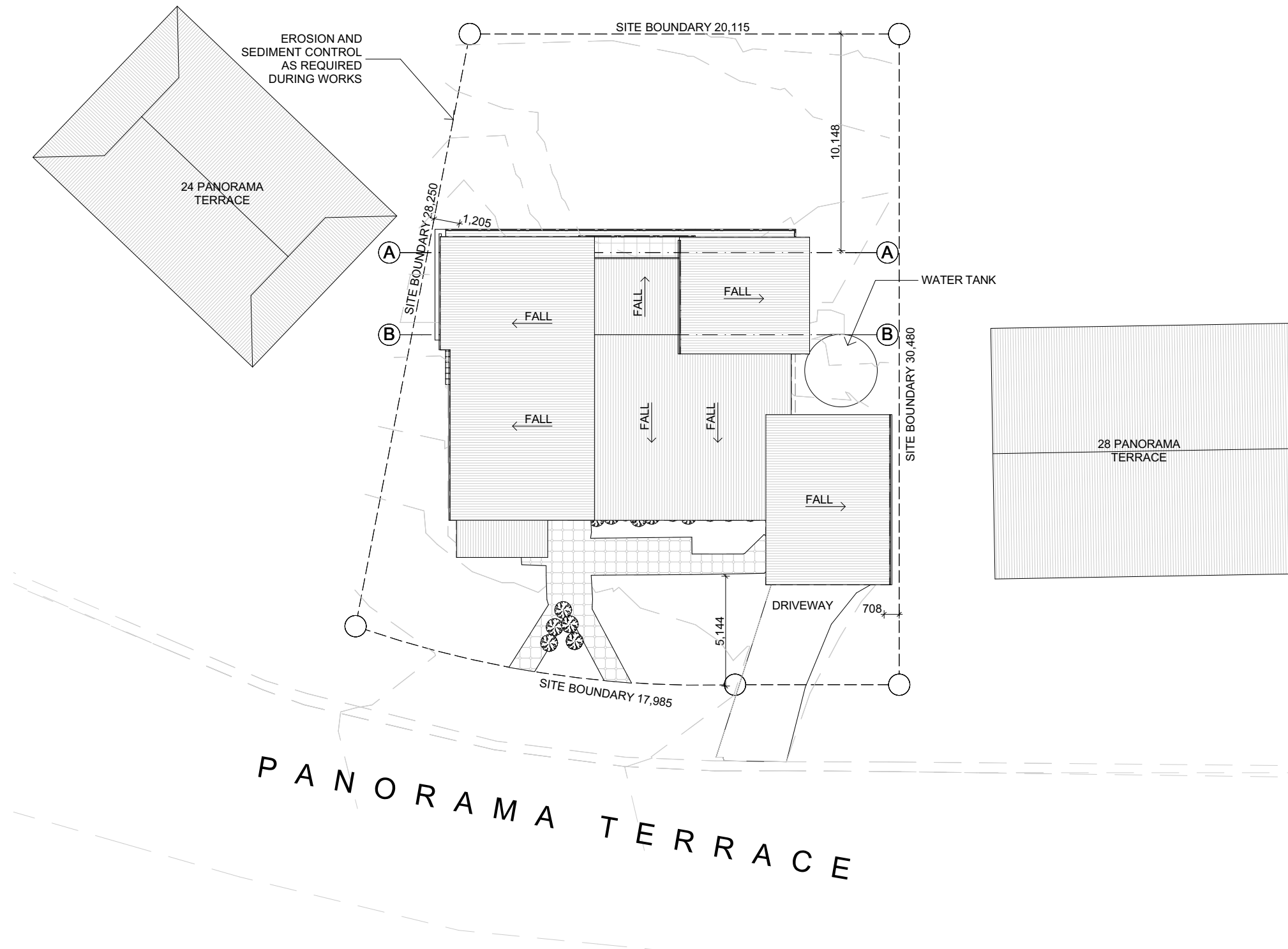
Warnings as to Potential Maximum Penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and / or custodial sentences for serious offences.

ADVISORY NOTES

- Discharge of sediment from a site may be determined to be a pollution event under provisions of the *Protection of the Environment Operations Act 1997*. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities may have separate requirements in the following aspects:
 - a. Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments
 - b. Jemena Asset Management for any change or alteration to the gas line infrastructure
 - c. Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
 - d. Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
 - e. Central Coast Council in respect to the location of water, sewerage and drainage services
- Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
- Dial Before You Dig
 Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.
- Telecommunications Act 1997 (Commonwealth)
 Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.
- Install and maintain backflow prevention device(s) in accordance with Council's WS4.0 Backflow Prevention Containment Policy. This policy can be found on Council's website: www.centralcoast.nsw.gov.au

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).



REVISION TRACKING

Rev.	Description	Date
P1	Draft Tender Issue	08/03/17

ARCHITECT:

Osmond McLeod
ARCHITECTS
ABN: 76 275 366 373 Ph: 0404 073 360

BUILDER

VIRTUAL MODEL

A virtual model of the proposed dwelling is available upon request. The model is compatible with pc, Android and apple devices. The virtual model is provided as a guide only and does not supersede and information provided in these plans and supporting documentation.

NOTE: The builder shall check and verify all dimensions and verify all errors and omissions to the Architect. Do not scale the drawings. Drawings shall not be used for construction purposes until issued by the Architect for construction.

CLIENT:

#Client Full Name

PROJECT NAME:

26 Panorama Terrace

Drawing Title:

Site Plan & Sediment Control Plan

Drawing No.:

DA.05

Scale: as noted @ A1 Date: 12/1/2020

Project No: Revision No:

17006

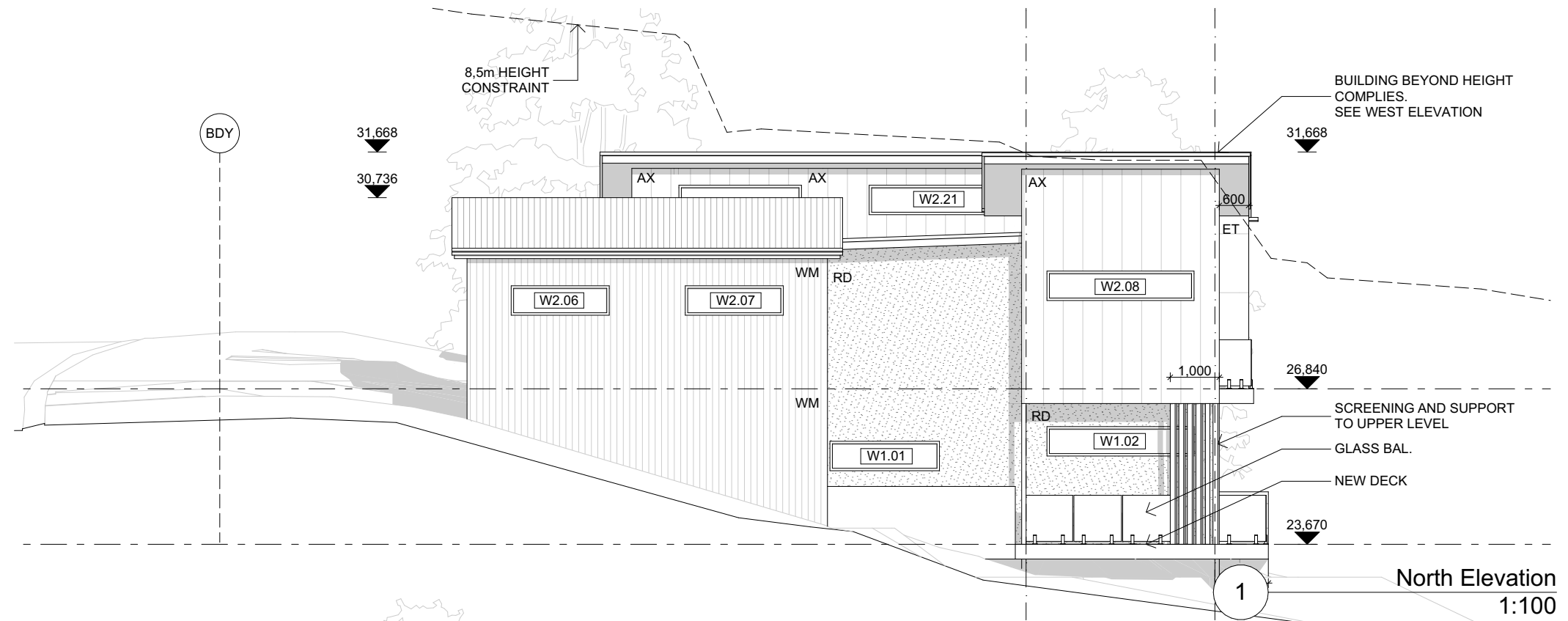
P1

Plot Date: 12/1/2020

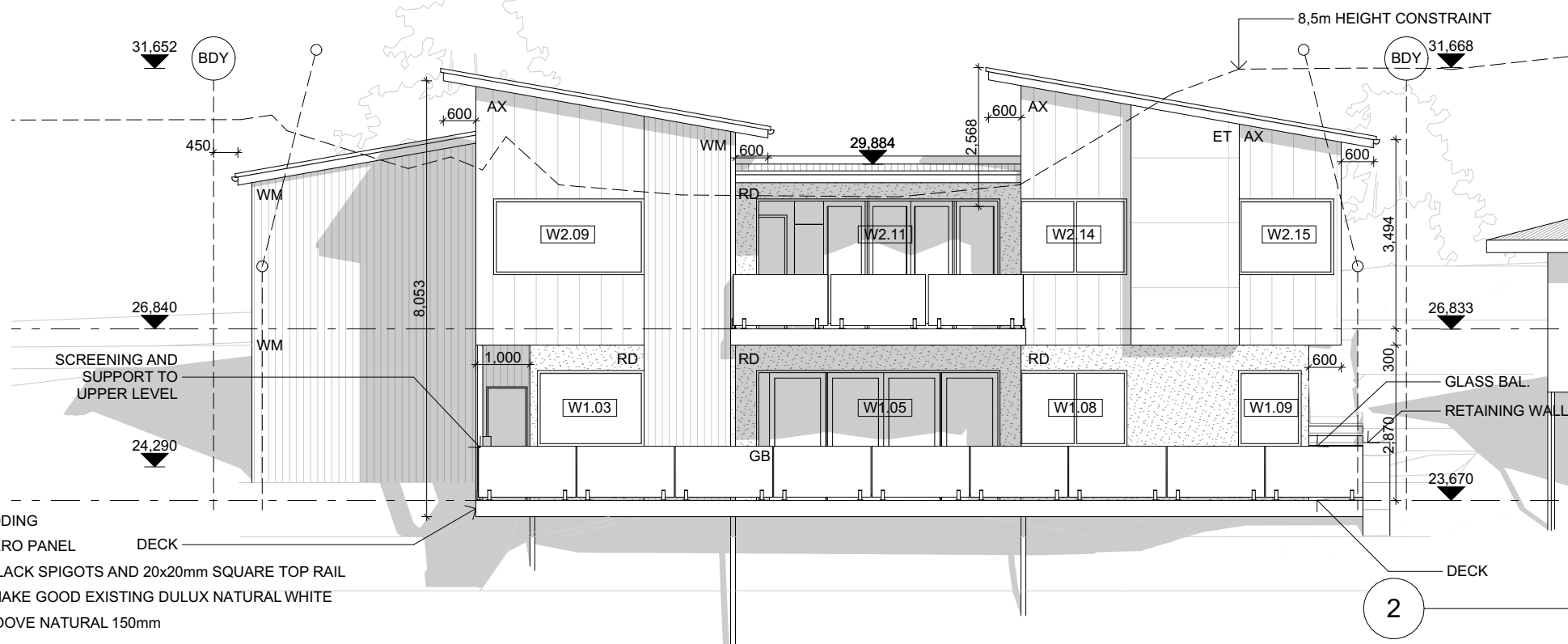
IF YOU'RE UNSURE, PLEASE ASK.

1

Site Plan
1:200



North Elevation
1:100



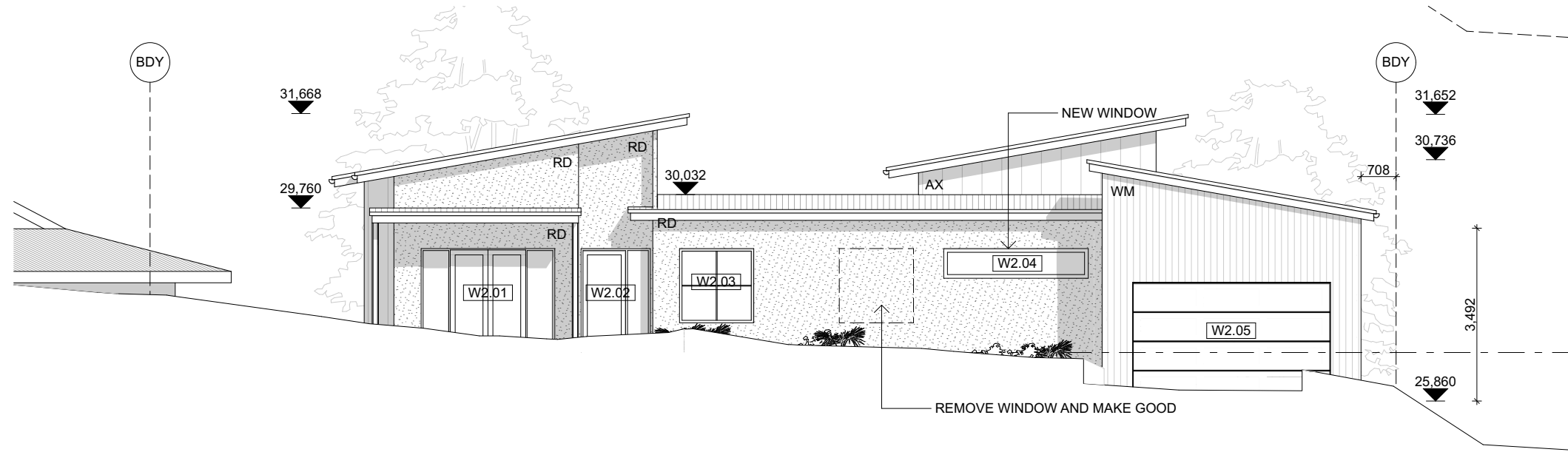
West Elevation
1:100

- AX : JAMES HARDIE AXON CLADDING
- ET : JAMES HARDIE EXOTEC VERO PANEL
- GB : GLASS BALUSTRADE ON BLACK SPIGOTS AND 20x20mm SQUARE TOP RAIL
- RD : RENDERED BRICK OR FC MAKE GOOD EXISTING DULUX NATURAL WHITE
- WM : WOODSMAN WEATHERGROOVE NATURAL 150mm

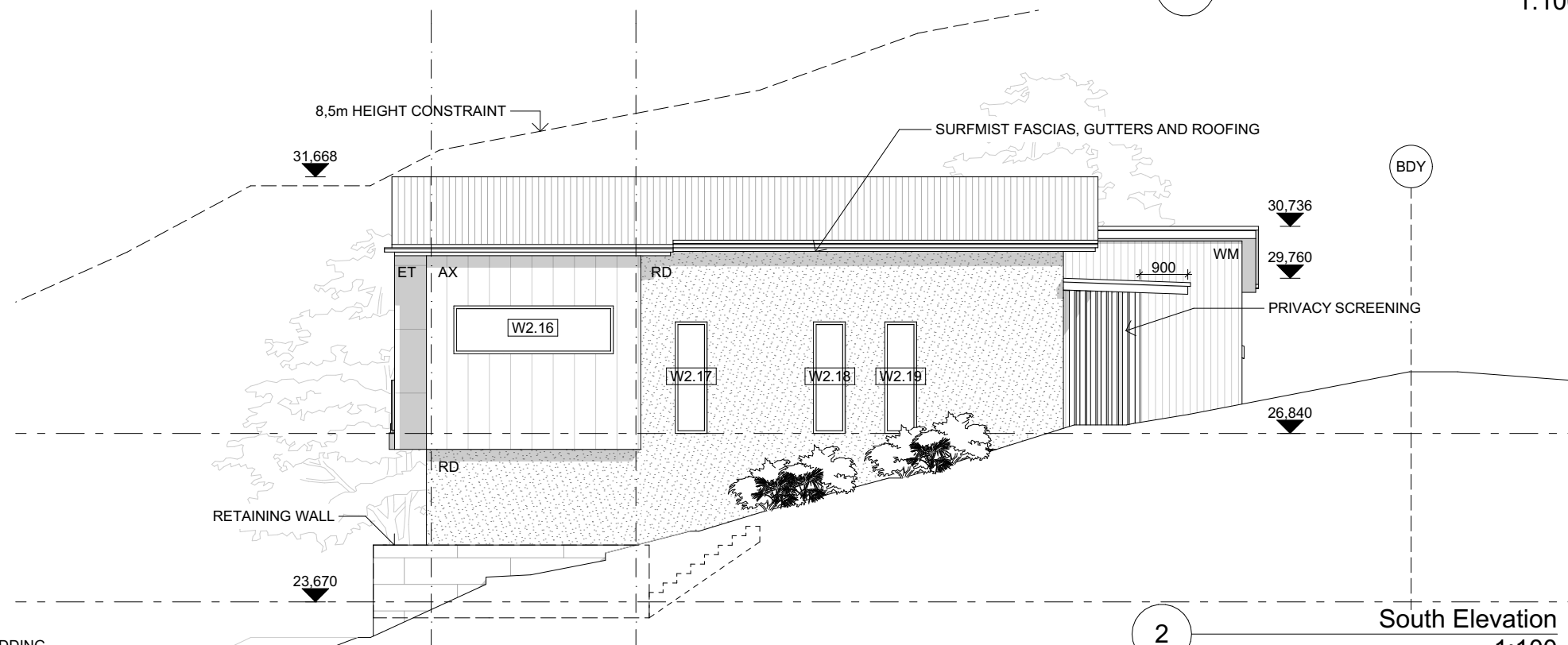
NOT FOR CONSTRUCTION
FOR APPROVAL ONLY

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ARCHITECTS
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DA.08 Elevations Sheet 1:100 @A3
26 Panorama Terrace 12/1/2020
26 Panorama, Terrace Revision A
26 Panorama 03.pln



1 East Elevation
1:100



2 South Elevation
1:100

- AX : JAMES HARDIE AXON CLADDING
- ET : JAMES HARDIE EXOTEC VERO PANEL
- GB : GLASS BALUSTRADE ON BLACK SPIGOTS AND 20x20mm SQUARE TOP RAIL
- RD : RENDERED BRICK OR FC MAKE GOOD EXISTING DULUX NATURAL WHITE
- WM : WOODSMAN WEATHERGROOVE NATURAL 150mm

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FOR APPROVAL ONLY

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DA.09 Elevations Sheet 1:100 @A3
26 Panorama Terrace 12/1/2020
26 Panorama, Terrace Revision A
26 Panorama 03.pln



Construction Sciences Pty Ltd

ABN 74 128 806 735

Ph 1300 165 769

Unit 2/4 Kellogg Road Rooty Hill NSW 2766

Our Ref 10791E-481-A :VDS
Contact Leo Sprague

6 July 2021

Leo Sprague
26 Panorama Terrace, Green Pont NSW 2251
Email: leo@aurifyconstructions.com.au

Dear Leo

Proposed Residential Additions, 26 Panorama Terrace, Green Pont NSW.
Geotechnical Review

1. Introduction

Construction Sciences (CS) was commissioned to provide a review of a geotechnical assessment report prepared by 5QS Consulting Group on 26 Panorama Terrace Green Pont for the proposed additions and improvements (Report Reference 5QS212041 dated 9 June 2021).

It is understood that The Central Coast Council requested the report to be peer reviewed.

The author of this current report carried out a site inspection on 2nd July 2021 to appraise the site conditions to understand the contents of the report and recommendations.

The review was carried out based on CS email proposal dated 29th June 2021.

The agreed scope of the review is reproduced below.

- Site walk over assessment by a Principal Engineer.
- Review the supplied geotechnical report based on Central Coast Council geotechnical policy.
- Provide a report commenting on the assessment and recommendations including adequacy of the investigation, validity of the risk assessment, adequacy of the recommendations and any deficiencies
- Providing new recommendations or revision of recommendations are not within the scope of review.

This review report presents the findings of the geotechnical peer review and provides comments / recommendations in regard to any further work required to address risks associated with slope instability. The reviewers have adopted the Landslide Risk Management (LRM) guidelines prepared by the Australian Geomechanics Society (AGS) committee on landslide risk management and published in the Australian



Geomechanics, Volume 42 No 1, March 2007, as a basis for the review and recommendations together with appropriate limits for acceptable risk.

2. Documents Reviewed

The following documents were supplied for the review:

- 5QS Consulting Group: Limited Geotechnical Investigation at Lot 22 DP 243415, 26 Panorama Terrace Green Point June 2021
- Osmond McLeod Architects, DA Drawings for 26 Panorama Terrace Green Point June 2021

3. Site Description

The site is located on a west facing mid slope of a prominent hill in the area. The site is located on the down hill side of Panorama Terrace.

The site slopes at about 15° at the front section and the rear section has been regraded with cutting and supported with 1m to 1.5m high retaining walls at several locations.

Based on the Council Geotechnical Policy the site is assessed as medium hazard area and a Class 2 geotechnical report is required to be submitted with the development application.

4. 5QS Geotechnical Report.

The following items have been included in the geotechnical report for the site by 5QS along with a comment on each item.

Item	Description	Comment
1.0 Introduction	Provide the scope of the report	Adequate
2.0 Site description	Provides a description including photographs	Adequate
3.0 Back ground information	Geological setting and soil landscape are described	Adequate
4.0 Field investigation	Two shallow hand auger boreholes and Dynamic Cone Penetration test have been carried out.	Given access limitations the investigation is assessed to be adequate for a Class 2 Geotechnical report as per Council Geotechnical Policy
5.0 Data interpretation	Geotechnical model based on field investigation has been presented	Adequate



6.0 Assessment of slope instability risk	Risk categories have been identified along with frequency of instability, consequence and risk to property Assessment of risk to life has been quantified	Refer to Section 5.1 of this report Risk to life assessment is acceptable
7.0 Site Classification	Site is classified as Class P and design of ground supported slabs to be as per Class H1 in AS2870	Refer Section 5.2 of this report
8.0 Geotechnical guidelines for site development	Rebuilding of retaining wall at the western boundary has been recommended. General comments have been provided for earthworks, retaining walls and	Refer Section 5.3 of this report Generally adequate, however deficient on site specific aspects.

5. Review Comments

5.1 Slope Instability

5.1.1 Risk of Creep of surface soils.

This is assessed as 'Possible' and the consequence 'insignificant'. Detailed observations of the existing building revealed a number of cracks on both sides as well as at the front, indicating possible creep. While such instability does not yield to a catastrophic failure, there is an economic cost to repair such damages. The report does not highlight recommendations for reducing the creep movement for the proposed new additions and also to minimise any continuing creep movement of existing dwelling.

5.1.2 Failure of the retaining wall at the western boundary.

Likelihood of this failure has been assessed as "possible" and consequence "negligible". It is true that the consequence for the site is negligible, however any such failures would affect the land below. The report does not deal with method of reducing the risk for adjoining properties.

5.1.3 Failure of Retaining walls

The highest risk in construction of retaining walls is during excavation for the walls. There is a passing remark to say excavations should be battered to 1.5H:1V for permanent excavations. No recommendations for temporary excavations, particularly where space is limited to provide a safe batter.



5.2 Footings

Recommendations for design of footings in a Class P site provided in the report may be ambiguous as both high level footings and bored pier footings in stiff clay and rock are included in the report. Recommendations for reducing the risk of creep should be incorporated in the recommendations.

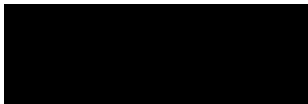
5.3 Retaining walls.

Recommendations for safe demolition of existing retaining walls and excavation for new retaining walls should be included in the report. Retaining walls may form a component of site stabilisation.

6. Closure

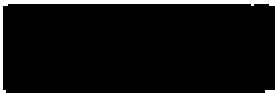
This report should be read in conjunction with the attached important information on geotechnical reports. Please contact the undersigned on 0411720045 or email vipul.desilva@constructionsciences.net if you require any clarifications.

Prepared by



Vipul de Silva, CPEng, NER, FIE
Principal Geotechnical Engineer
For Construction Sciences

Reviewed by



Richard King
Technical manager

Enclosed:

Important Information on this geotechnical report

Important Information about this Geotechnical Report

Scope of Work

The purpose of this report and any associated documentation is expressly stated in the document. This document does not form a complete assessment of the site, and no implicit determinations about Construction Sciences scope can be taken if not specifically referenced. Whilst this report is intended to reduce geotechnical risk, no level of detail or scope of work can entirely eliminate risk.

The nature of geotechnical data typically precludes auxiliary environmental assessment without undertaking specific methods in the investigation. Therefore, unless it is explicitly stated in the scope of work, this report does not provide any contamination or environmental assessment of the site or adjacent sites, nor can it be inferred or implied from any component of the document.

The scope of work, geotechnical information, and assessments made by Construction Sciences may be summarised in the report; however, all aspects of the document, including associated data and limitations should be reviewed in its entirety.

Standard of care

Construction Sciences have undertaken investigations, performed consulting services, and prepared this report based on the Client's specific requirements, data that was available or was collected, and previous experience.

Construction Sciences findings and assessment represent its reasonable judgment, diligence, skill, with sound professional standards, within the time and budget constraints of its commission. No warranty, expressed or implied, is made as to the professional advice included in this report.

Data sources

In preparing this document, or providing any consulting services during the commission, Construction Sciences may have relied on information from third parties including, but not limited to; sub-consultants, published data, and the Client including its employees or representatives. This data may not be verified and Construction Sciences assumes no responsibility for the adequacy, incompleteness, inaccuracies, or reliability of this information.

Construction Sciences does not assume any responsibility for assessments made partly, or entirely based on information provided by third parties.

Variability in conditions and limitations of data

Subsurface conditions are complex and can be highly variable; they cannot be accurately defined by discrete investigations. Geotechnical data is based on investigation locations which are explicitly representative of the specific sample or test points. Interpretation of conditions between such points cannot be assumed to represent actual subsurface information and there are unknowns or variations in ground conditions between test locations that cannot be inferred or predicted.

The precision and reliability of interpretive assessment between discrete points is dependent on the uniformity of the subsurface strata, as well as the frequency, detail, and method of sampling or testing.

Subsurface conditions are formed by various natural and anthropogenic processes and therefore are subject to change over time. This is particularly relevant with changes to the site ownership or usage, site boundary or layout, and design or planning modifications. Aspects of the site may also not be able to be determined due to physical or project related constraints and any information provided by Construction Sciences cannot apply following modification to the site, regulations, standards, or the development itself.

It is important to appreciate that no level of detail in investigation, or diligence in assessment, can eliminate uncertainty related to subsurface conditions and thus, geotechnical risk. Construction Sciences cannot and does not provide unqualified warranties nor does it assume any liability for site conditions not observed or accessible during the investigations.

Verification of opinions and recommendations

Geotechnical information, by nature, represents an opinion and is based extensively on judgment of both data and interpretive assessments or observation. This report and its associated documentation are provided explicitly based on Construction Sciences opinion of the site at the time of inspection, and cannot be extended beyond this.

Any recommendations or design are provided as preliminary until verified on site during project implementation or construction. Inspection and verification on site shall be conducted by a suitably qualified geotechnical consultant or engineer, and where subsurface conditions or interpretations differ from those provided in this document or otherwise anticipated, Construction Sciences must be notified and be provided with an opportunity to review the recommendations.

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**APPLICATION TO VARY A DEVELOPMENT STANDARD IN ACCORDANCE
WITH CLAUSE 4.6 OF THE GOSFORD LOCAL ENVIRONMENTAL PLAN
2014**

BUILDING HEIGHT

**26 PANORAMA TERRACE
GREEN POINT**

**LOT: 22
DP: 243415**

PREPARED BY:
Osmond McLeod Architects

FOR:
Leo Sprague
Oct 2020
Revision B

ABN: 76 275 366 373
REG. NO: 8520

17 Kateena Ave
Tascott, 2250

Ph. 0404 073 360
mail@osmondmcleod.com.au

**APPLICATION TO VARY A DEVELOPMENT STANDARD IN ACCORDANCE
WITH CLAUSE 4.6 OF THE GOSFORD LOCAL ENVIRONMENTAL PLAN
2014**

1. PLANNING INSTRUMENT THAT APPLIES TO THE SUBJECT SITE

The Gosford City Council LEP 2014

2. ZONING

R2 Low Density Residential

3. OBJECTIVES OF THE ZONE

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that development is compatible with the desired future character of the zone.
- To encourage best practice in the design of low-density residential development.
- To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.
- To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for low-density housing.

4. DEVELOPMENT STANDARD WHICH THE OBJECTION RELATES

Clause 4.3 Height of Buildings

It is proposed to vary the height control of the site by 2.570 metres

5. PUBLIC INTEREST

The proposal is strongly aligned with the public interest in the Green Point Area.

The proposal is an alterations and Additions project with the existing dated façade remaining to the dwelling with additional architectural elements layered over this old façade.

The dwelling bulk and scale to the public domain will not alter significantly and therefore will not negatively affect the public context.

If a new dwelling were to be proposed, the built form addressing Panorama Terrace could be proposed at 2 storeys. This would have a far greater impact on the public interest given the prominent nature of the corner site.

As proposed the existing structure of the single storey dwelling to the street remains with a additional architectural elements layered over the top to improve this modest character.

The outcome of a new build could be in stark contrast to this with a 2 storey form and a far less considered architectural outcome given the tight constraints of the site.

6. OBJECTIVES OF THE DCP (3.1.2.1)

The objectives of the DCP for residential development are as follows:

- To ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality
- To ensure that the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views
- To ensure that building height is compatible with the scenic qualities of hillside and ridgetop locations and respects the sites natural topography

7. NUMERIC DEVELOPMENT STANDARD

- Height of 8.5 metres

8. PROPOSED NUMERIC VALUE IN THE DEVELOPMENT APPLICATION

Height of 10.200 metres. A variation of 1.7 metres for less than 5% of the roof area

9. PERCENTAGE VARIATION

- 20%

10. REASON FOR THE VARIATION

The proposed variation has arisen due to a strong dip in the site topography to the centre of the site. The side boundaries present a compliant height control, while the centre of the site experiences a significant drop in natural ground level. The reuse of the existing dwelling also contributes to this height non-compliance as the existing dwelling is being retained. Any addition to the existing dwelling can only occur to the rear where the site falls away. The additions to the footprint are minor, but due to the fall off in the site topography they have resulted in a non-compliance

The proposed roof line has been designed to integrate with the streetscape and provide strong North daylight into the dwelling. The skillion roof addition provides natural light and character to the proposal but also causes a breach of height when combined with the drop in site topography in the center of the site. This variation to the height control is numerically significant but not significant to the dwellings context as the height increase to the existing single story form addressing Panorama terrace is only 620mm

11. REASON WHY STRICT COMPLIANCE IS UNREASONABLE OR UNNECESSARY IN THIS CASE

Compliance is unreasonable and unnecessary in this case for the following reasons:

- The siting of the existing dwelling means the non-compliant roof line is not out of context with the streetscape. The proposal remains a single story dwelling from Panorama Terrace
- The non-compliance is concealed behind the remaining existing single story building form addressing Panorama Terrace.
- The non-compliance does not affect the neighbouring dwellings as it is centered towards the middle of the site.
- The proposed noncompliance adds a layer of architectural interest from Panorama Terrace and brings the proposal in to line with the Desired future Character of the area.
- The scale and mass of the proposal is also in harmony with the massing of the neighbouring dwellings and the more recent architectural homes in the area.
- Given the proposal focuses on reuse of the existing dwelling, the non-compliance allows for the reasonable economic use of the site and its existing structure.
- Tying into the existing floor levels is a sensible design outcome.

COMPLIANCE WITH LEP HEIGHT OBJECTIVES (4.3)

The objectives of this clause are as follows:

- (a) to establish maximum height limits for buildings,

The established building height is 8.5 metres.

- (b) to permit building heights that encourage high quality urban form,

An imposition of the 8.5 metre height control eliminates the current design approach.

If full compliance was required on the subject site, any revised outcome would likely result in an

upper-level addition to the existing building form addressing Panorama Terrace in order to achieve the same level of amenity in this application. This form would significantly increase bulk and scale to the public context addressing Panorama Terrace and therefore would be a negative contribution to the urban form.

In this case, a breach of the height to the rear of the property where it has no discernible impact on the character of the area or the public context, while not numerically compliant, is a far superior outcome.



Above: View from Panorama Terrace. The proposed design is in keeping with the bulk and scale of the existing roof line (shown in yellow)

(c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,

The shadow diagrams provided with the application demonstrate that the development does not significantly impact on the surrounding context. Compliance with the height control would likely push the building form up higher on the street frontage and result in greater overshadowing from the proposal. Therefore, in this case, tying in with the existing floor plate for a small addition of floor space on each level, produces a non-compliance to the height, but is also the least impactful outcome to achieve the required amenity.

(d) to nominate heights that will provide an appropriate transition in built form and land use intensity,

Transition in built form with an exaggerated stepping down the site, would likely result in larger additional floorplate and larger building forms to suit an addition to the existing dwelling. The outcome would likely generate more site coverage and a greater height to the building on the streetscape in an effort to accommodate the building form under the height. Under this proposal the design outcome aims not to create entire new levels either at Panorama Terrace or at the rear of the site, but to tie in a small amount of additional footprint to the existing floor plates.

The additional height also allows the north light into the design and gives some relief to the heights between the various skillion rooves that give the design its character.

Reducing the height results in a significant reduction in north light and therefore a considerable reduction in the amenity of the dwelling.

Extending the existing floor plates eliminates the need for additional stairs, reduces the required floor space and therefore additional bulk but it does require variation to the height standard.

(e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,

Given the site falls away from Panorama Terrace, the tallest portions of new proposed building form are only 620mm above the existing ridge line of the single-story form to Panorama Terrace. The height proposed additions are adding 620mm to the building height. The additional space is created below the existing building ridge. This is beneficial for view corridors and view sharing as the RL of the building is not actually significantly increased by the proposal but rather remains reasonably consistent with the existing height of the current ridge line. An additional storey could be added at the Panorama Terrace frontage to seek closer compliance with height, but this would then interrupt view sharing and corridors across the site from the other side of Panorama Terrace.

As the topography falls away to the rear the height non-compliance also increases but this is not a true indication of the building height as the existing height of the roof lines is within 800mm of the existing roof line and the height non-compliance is formed by the site falling away to the rear.

(f) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.

The proposed addition to the rear does not place any additional overshadowing on the Public Open Space. However, strict compliance could result in more built form on Panorama Terrace and therefore would result in overshadowing on the public domain.

COMPLIANCE WITH DCP HEIGHT OBJECTIVES (3.1.2.1)

To ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality

The proposed building is consistent with the streetscape in which it is set. For the most part the existing condition of the building form remains with the addition of a more contemporary roof form. The alterations proposed will work to break the bulk and scale of the dwelling.

The dwelling proposes *retaining the existing hip* roof and adding a complementing form to the Secondary Dwelling. The addition of the skillion is consistent with the Desired Future Character.

The proposal aims to take a brick veneer dwelling with minimal coastal character and works to transform it into a proposal that is aligned with the Desired Future Character of the area. The design intent was to bring the character of the area into the alterations to enhance the overall context. The proposed non-compliance allows for an architectural outcome that takes in the view, but also adds a level of articulation and character to the context through added layering of forms. The upper roofs add a degree of articulation and interest to what is currently a typical brick veneer dwelling with a very basic roofline.

To ensure that the height of buildings protects the amenity of neighbouring properties

in terms of visual bulk, access to sunlight, privacy and views

With the neighbours to the North and South angled towards the available views to the West, the proposed building envelope does not impact the opportunities for view sharing. The non-compliance is not visible from the neighbouring dwellings and does not affect the view of either primary neighbours to the North and South.

To ensure that building height is compatible with the scenic qualities of hillside and ridgeline locations and respects the sites natural topography

The proposed dwelling is limited to two storeys. All additions have been positioned to maximise the privacy to the neighbouring dwellings and also assist in creating a layered, lightweight and articulated façade that is minimised on the street frontage.

The subject dwelling, in context with the neighbouring properties, sits comfortably within the streetscape and breaks down the bulk of the existing brick structure.

Building Height shall generally not exceed two storeys. Three storey dwellings will generally only be supported on steeply sloping sites, where the three-storey component extends for only a small section of the dwelling or where the lowest storey is contained predominantly within a basement level below natural ground and the maximum building heights are not exceeded.

The proposed additions result in a 2 storey form at the rear, but the single story form is maintained to Panorama Terrace.

I look forward to discussing the proposal with you further. Should you require any additional information or clarification prior to determining our application, please do not hesitate to contact me on 0404 073 360 or mail@osmondmcleod.com.au



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