

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2025/0591
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<b>Responsible Officer:</b>	Lachlan Rose
<b>Land to be developed (Address):</b>	Lot 12 DP 12383, 2 New Street BALGOWLAH NSW 2093
<b>Proposed Development:</b>	Modification of Development Consent DA2025/0088 granted for Alterations and additions to a dwelling house
<b>Zoning:</b>	Manly LEP2013 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Applicant:</b>	Matthew Degaris

<b>Application Lodged:</b>	20/10/2025
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	03/11/2025 to 17/11/2025
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The development is described as Modification of Development Consent DA2025/0088 granted for Alterations and additions to a dwelling house.

The proposal includes:

#### Demolition works:

- Additional demolition works

#### Proposed Ground Floor Plan

- Window enlarged to kitchen
- Laundry enlarged
- Bed 3 WIR deleted and changed to robe
- Amendment to windows in J&J bathroom

**Proposed New First Floor Plan**

- Southern balcony reduced in size with GFA added to retreat
- W20 amended

**Proposed Roof Plan**

- Carport roof pitch direction changed
- Skylights amended as per red clouded areas

**ASSESSMENT INTRODUCTION**

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

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

**SUMMARY OF ASSESSMENT ISSUES**

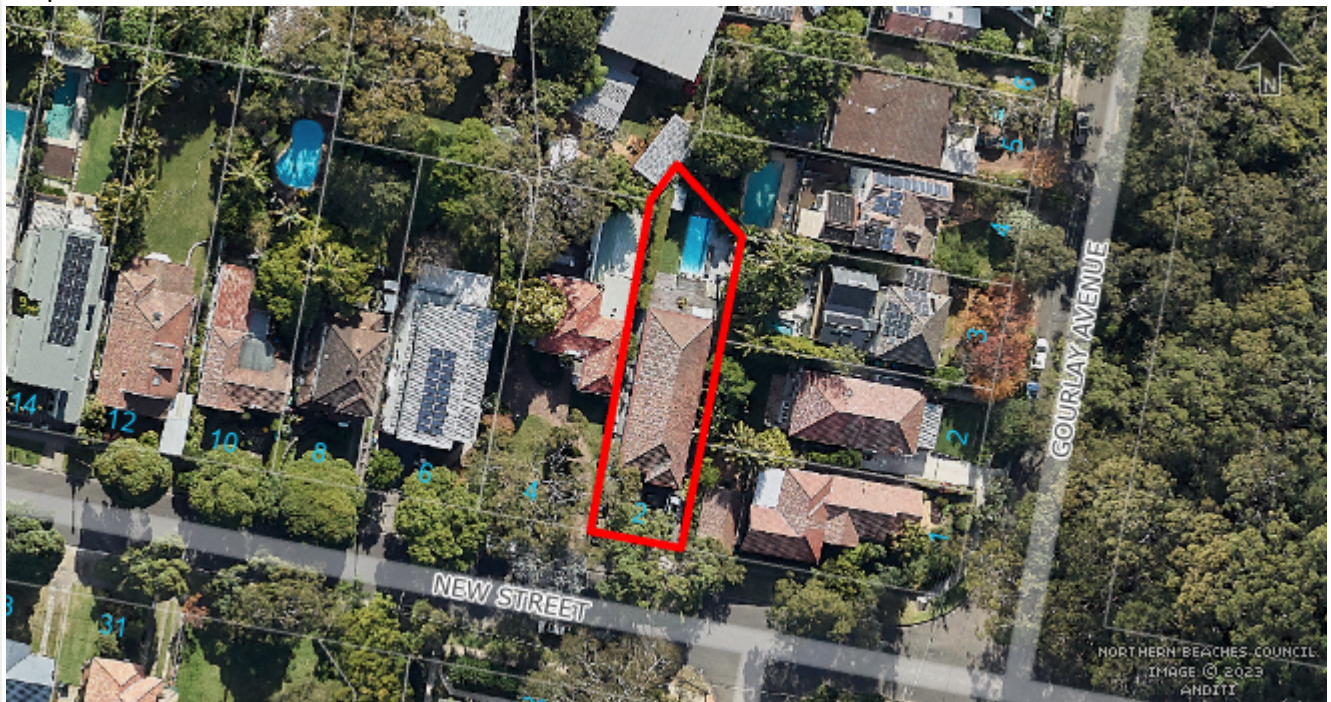
Manly Development Control Plan - 3.4.2 Privacy and Security

**SITE DESCRIPTION**

<b>Property Description:</b>	Lot 12 DP 12383 , 2 New Street BALGOWLAH NSW 2093
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<p><b>Detailed Site Description:</b></p>	<p>The subject site consists of one (1) allotment located on the northern side of New Street.</p> <p>The site is irregular in shape with a frontage of 12.19m along New Street and an average depth of 42.68m. The site has an angled rear boundary with a length of 5.505m and 12.095m. The site has a surveyed area of 550.1m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates single storey dwelling house with a swimming pool to the rear.</p> <p>The site does not have any significant change in the slope of the land with a slight fall from the east to west.</p> <p>The site includes landscaped areas of grass, trees and shrubs. There are no known threatened species located on the subject site.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by residential development including dwelling houses with swimming pools. There is a Council Reserve known as Wellings Reserve to the east of the subject site.</p>
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Map:



## SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's

records has revealed the following relevant history:

- Application **DA2025/0088** for Alterations and additions to a dwelling house was approved by delegate authority on 10/04/2025.
- Application **10.2007.346.1** for Alterations & Additions to an existing dwelling including new double carport at the front and new swimming pool was approved with a deferred commencement by Development Assessment Unit on 28/12/2007 and the deferred commencement granted on 05/02/2008.
- Application **10.2004.528.1** for Demolish & construct new two storey dwelling with garage and carport was approved by delegate authority on 23/02/2005.
- Application **5.1990.3586.1** for DA3586/90 was approved by delegate authority on 24/04/1900.

### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

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

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2025/0088, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
	A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

Section 4.55 (2) - Other Modifications	Comments
<p>(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2025/0088 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The modification remains the approved land use as a dwelling house.</li> <li>• The proposed modification is considered to not result in unreasonable additional amenity impact to adjacent properties or the public domain.</li> <li>• The built form of the dwelling will remain generally consistent with the approved development.</li> <li>• Streetscape character remains generally unchanged as a result of the works</li> <li>• The modification relates directly to the previously approved alterations and additions</li> <li>• The approved setbacks and building height generally remain unchanged</li> </ul>
<p>(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) 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</p>	<p>Development Application DA2025/0088 did not require concurrence from the relevant Minister, public authority or approval body.</p>



Section 4.55 (2) - Other Modifications	Comments
(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 under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining a modification application made under Section 4.55 (2) 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.

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

The reasons for the granting of the original consent have been considered in the assessment of this modification application. The proposed changes will result in a modified development that will not conflict with the original reasons for the granting of consent.

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

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

A Bush Fire Report was submitted with the development application (Australian Bushfire Consulting Services, dated 3rd December 2024). The report stated that the proposal does not comply with Planning for Bush Fire Protection.

The recommendations of the Bush Fire Report are included as part of the recommended conditions of consent. under the development application and still apply.

## **NOTIFICATION & SUBMISSIONS RECEIVED**

The subject application has been publicly exhibited from 03/11/2025 to 17/11/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

## **REFERRALS**

No referrals were sent in relation to this application

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)\***

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

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

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

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

### **SEPP (Sustainable Buildings) 2022**

A BASIX certificate has been submitted with the application (see Certificate No. A1779439\_03 dated 01 October 2025).

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

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

### **SEPP (Resilience and Hazards) 2021**

#### **Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this



Chapter and the land is considered to be suitable for the residential land use.

### Manly Local Environmental Plan 2013

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

### Principal Development Standards

Standard	Requirement	Approved	Proposed	Complies
Height of Buildings:	8.5m	8.5m	N/A	No change
Floor Space Ratio	FSR: 0.45:1 (247.545m <sup>2</sup> )	FSR: 0.395:1 (217.5m <sup>2</sup> )	FSR: 0.41:1 (227.1m <sup>2</sup> )	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

### Manly Development Control Plan

#### Built Form Controls

Built Form Controls - Site Area: 550.1m <sup>2</sup>	Requirement	Approved	Proposed	Complies
4.1.2.1 Wall Height	E: 6.8m (based on gradient 1:20)	5.7m	N/A	No change
	W: 6.7m (based on gradient 1:30)	6.5m	N/A	No change
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	0.3m, consistent with prevailing setback	10.8m (first floor)	Yes

4.1.4.2 Side Setbacks and Secondary Street Frontages	Eastern GF: 1.17m FF: 1.63m- 1.9m (based on wall height)	GF: 2.7m FF: 2.9m	N/A	No change
	Western GF: 1.3m FF: 1.96m- 2.17m (based on wall height)	GF: 0.9m FF: 2.7m	N/A	No change
	Windows: 3m	E: 3 at 2.9m 1 at 2.7m W: 6 at 2.7m	N/A	No change
4.1.4.4 Rear Setbacks	8m	Nil/ 0m (pool equipment) 0.4m (pool) 8.1m (deck)	N/A	No change
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS1/2/3/4	Open space 55% of site area	58% (318.6sqm)	56% (309.47m2)	Yes
	Open space above ground 25% of total open space	4.6% (14.6sqm)	2.41% (7.47m2)	
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	36.13% (115.1sqm)	37% (115.1m2)	Yes

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.3.3 Footpath Tree Planting	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

#### Detailed Assessment

### **3.4.2 Privacy and Security**

The modification results in additional skylights and amendments the previously approved windows. Additionally, the first floor balcony is reduced in size to result in a larger retreat area.

The window amendments will not result in unreasonable privacy impacts to adjoining properties and are suitably designed. The balcony will retain screening to the size elevations, with the first floor window amendments maintaining high sill designs with privacy opaque glazing and louvers to minimise privacy impacts. Therefore, the combination of the glazing design and setbacks to the side boundaries, the windows are considered satisfactory and will minimise loss of privacy to adjacent development.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

### **POLICY CONTROLS**

#### **Northern Beaches Section 7.12 Contributions Plan 2024**

Section 7.12 contributions were levied on the Development Application.

## CONCLUSION

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

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

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2025/0591 for Modification of Development Consent DA2025/0088 granted for Alterations and additions to a dwelling house on land at Lot 12 DP 12383,2 New Street, BALGOWLAH, subject to the conditions printed below:

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-580038 MOD2025/0591	The date of this notice of determination	Modification of Development Consent DA2025/0088 granted for Alterations and additions to a dwelling house  A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation

### **Modified conditions**

#### **A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:**

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
GA-102	S	DEMOLITION GROUND FLOOR PLAN	HARGROVES DESIGN CONSULTANTS	1/10/2025
GA-103	S	PROPOSED GROUND FLOOR PLAN	HARGROVES DESIGN CONSULTANTS	1/10/2025
GA-104	S	PROPOSED FIRST FLOOR PLAN	HARGROVES DESIGN CONSULTANTS	1/10/2025
GA-106	S	PROPOSED ROOF PLAN	HARGROVES DESIGN CONSULTANTS	1/10/2025
DA-110	S	EXISTING & PROPOSED FRONT & REAR ELEVATIONS	HARGROVES DESIGN CONSULTANTS	1/10/2025
GA-111	S	PROPOSED SIDE ELEVATIONS & SECTION	HARGROVES DESIGN CONSULTANTS	1/10/2025
GA-112	S	PROPOSED SOUTH ELEVATION, CROSS SECTION & BASIX	HARGROVES DESIGN CONSULTANTS	1/10/2025

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX CERTIFICATE (A1779439_03)	-	RP Design Studio	01 October 2025

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Lachlan Rose, Planner**

The application is determined on 21/11/2025, under the delegated authority of:



**Daniel Milliken, Manager Development Assessments**