
Sent: 12/05/2020 3:58:36 PM
Subject: Fw: Submission Against Development Application DA2020/0204 - 13 Cumberland Avenue, Collaroy NSW 2097 - Our ref: BP20200310
Attachments: 20200512 WHP Submissions to Council against Approval and Consent to DA2020-0204 as sent to Council 12.05.20.pdf; Annexure A - Original elevation and floor plans submitted for approval 1973 - 13 Cumberland Ave.pdf; Annexure B - Passed Elevation and Floor Plans B1502-73.pdf; Annexure C - Passed elevation plans - 13 Cumberland Ave Collaroy.pdf; Annexure D - B150273 Special Conditions of Council Approval.pdf; Annexure E - Title Search 19-1-10649.pdf; Annexure F - Deposited Plan 635859 re Right of Way.pdf; Annexure G - Deposited Plan 1010026 - Right of Carriageway 11 to 837.pdf; Annexure H - Basement Level 2009 marketing and advertising.jpg; Annexure I - Basement Level Floor Plan 2016 marketing and advertising.jpg; Annexure J - Tenant undertaking home occupation without council authorisation.png; Annexure K - Illegal Business blocking access to driveway and in breach of terms of use.png; Annexure L - 11 Cumberland Ave garage wall photo.jpg; Annexure M - Joint Survey Result.pdf; Annexure N - Pool Compliance Certificate expired on 22 October 2019.pdf; Annexure O - Shared Zone 10 sign proposed due to safety issues.png; Annexure P - Sewer Service Diagram - 13 Cumberland Ave.pdf;

Hi Admin,

Could you please register this submission?

Thanks,

Kye

From: Bill Parsons <billp@whparsons.com.au>
Sent: Tuesday, May 12, 2020 3:22 PM
To: Kye Miles <Kye.Miles@northernbeaches.nsw.gov.au>
Cc: Kylie Mashman <kylie@whparsons.com.au>; Sathya Sivalohan <sathya@whparsons.com.au>
Subject: Submission Against Development Application DA2020/0204 - 13 Cumberland Avenue, Collaroy NSW 2097 - Our ref: BP20200310

BY EMAIL ONLY: Kye.Miles@northernbeaches.nsw.gov.au

Dear Kye,

We refer to the above.

We act for Mr Matthew Monk.

We note our client's original preliminary submission to Council dated 27 March 2020 and his request for an extension of time to provide a comprehensive and considered submission in respect of the abovementioned Development Application.

We also note your email to our client dated 27 April 2020 confirming an extension to 12 May 2020 would be granted for the Submission to be prepared and lodged in proper form.

Please find **attached** our Submission Against Approval and Consent to Development Application DA2020/0204 for 13 Cumberland Ave, Collaroy NSW 2097.

The annexures referred to in this correspondence are separately **attached** for your convenience.

We will not be mailing a hard copy of this correspondence unless specifically requested, given the constraints of working remotely during this time.

Kindly confirm receipt of this correspondence by way of reply email.

Kind regards

Bill Parsons | [PRINCIPAL](#)



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approved under Professional Standards Legislation

Please consider the environment before printing this e-mail.

Despite COVID-19, WHP wants to reassure all our clients that we are still open for business.

However, for the safety of our staff and clients, our physical office will be closed from Monday, 30 March 2020 until further notice.

Please do not post mail to our PO Box and/or our street address and please do not send any facsimiles to our fax number.

If original hard copy documents must be posted, please contact our office on (02) 9264 9466 to discuss arrangements.

Please ensure all correspondence and enclosures are forwarded via email to Bill Parsons at bparsons@whparsons.com.au and Sathya Sivalohan at sathya@whparsons.com.au

For all property matters, please email Bill Parsons, Sathya Sivalohan and Kylie Mashman at kylie@whparsons.com.au

For all account related matters, please email Bill Parsons and Laura Kriznar at accounts@whparsons.com.au

12 May 2020

Northern Beaches Council
Development Assessment Department
Attention: Kye Miles

By email ONLY: kye.miles@northernbeaches.nsw.gov.au

Our Ref: BP20200310 KM5480

Your Ref:

Dear Kye,

**DA2020/0204 ALTERATIONS AND ADDITIONS - CHANGE OF USE FROM LOWER
GROUND FLOOR TO SECONDARY DWELLING
13 CUMBERLAND AVENUE, COLLAROY NSW 2097
BEING PART OF LOT 19 SECTION OF DEPOSITED PLAN 10649
SUBMISSION AGAINST DEVELOPMENT APPLICATION**

We confirm we act on behalf of Matthew Monk, who is the registered proprietor of both:

- 11 Cumberland Avenue, Collaroy NSW 2097; and
- 837 Pittwater Road, Collaroy NSW 2097.

Both of these properties are adjacent to and affected by Development Application DA2020/0204 for 13 Cumberland Avenue, Collaroy NSW 2097.

HISTORY

The subject property was designed, approved and built in accordance with an application lodged with the Shire of Warringah under reference B1502/73 which was approved and subject to Special Conditions of Approval.

Please see ***attached Annexure A*** – the original combined floor plans and elevations lodged with Council for the proposed dwelling in 1973.

Please see ***attached Annexure B*** – Council Passed Elevation and Floor Plans for Building Application B1502/73.

Liability limited by a scheme approved under Professional Standards Legislation.

Please see *attached **Annexure C*** - Passed Elevation Plans of Development Application B1502/73 and ***Annexure D*** - Special Conditions of Approval for B1502/73.

The Special Conditions of Approval being:

1. Plans being read in conjunction with original approval No. B1502/73 and conditions imposed by that approval.
2. One vehicular access only to be installed as shown in red on the plans, in accordance with the Shire Engineers requirements.
3. **The roof attic to be used for storage purposes only.**
4. **Premises not to be used or adapted as a residential flat building.**

The property was purchased by the current registered proprietors, Murray Duncan Graham and Stephanie Ann Graham in July 2009.

A title search for the property, the subject of DA2020/0204 records the land is subject to:

1. Reservations and Conditions in the Crown Grant(s)
2. Registered Dealing B143316 - Covenant
3. Registered Dealing N3292017 - Easement to Drain Water affecting part of the land above described shown 0.914 wide in plan annexed
4. Registered Dealing N392018 - Easement to Drain water appurtenant to the land above described affecting the land shown 0.914 wide in plan annexed to N392018
5. **Registered Dealing DP635859 - Right of Carriageway appurtenant to the land above described;** and
6. Registered Dealing AE941871 Mortgage to AMP Limited.

Please see *attached **Annexure E*** - Title search for Folio Identifier 19/1/10649 dated 28 April 2020.

Please also see *attached **Annexure F*** - Registered Dealing DP635859 - Right of Carriageway.

Annexure F is of great importance in the consideration of DA2020/0204.

Annexures E & F together, shows that **only** the registered Right of Carriageway DP635859 applies to the two adjoining properties (being 13 Cumberland Ave, Collaroy NSW 2097 and 11 Cumberland Ave, Collaroy NSW 2097).

You will note from Annexure F, this Right of Carriageway, 3 metres wide, extends along the existing front access from Cumberland Avenue up to past the mid-section of the driveway up to a length of 38 metres, noting the length of 11 Cumberland Ave, Collaroy NSW 2097 is 45.72 metres.

The remaining length of 7.72 metres along the boundary of 11 Cumberland Ave, Collaroy NSW 2097, remains exclusive to 11 Cumberland Ave, Collaroy NSW 2097 and is also subject to a further Right of Carriageway between 11 Cumberland Ave, Collaroy NSW 2097 and 837 Pittwater Road, Collaroy NSW 2097.

DP635859 burdens 11 Cumberland Avenue, Collaroy NSW 2097 (making it the servient tenement) and benefits 13 Cumberland Avenue, Collaroy NSW 2097 (making it the dominant tenement).

However, DP635859 is an easement in gross as defined in Schedule 4A of the *Conveyancing Act, 1919* (NSW).

An easement in gross affords the dominant tenement the right to:

"Full and free right for the body in whose favour this easement is created, and every person authorised by it, to go, pass and repass at all times and for all purposes with or without animals or vehicles or both over the land indicated herein as the servient tenement".

Accordingly, while the servient party **owns the land and has all the rights of ownership**, the dominant or benefiting party simply gains access to the part of land defined in the registered dealing as recorded in both DP635859 and on title for Lot 19/1/10649.

Easements do not confer a right of ownership in favour of the benefited land owner.

Rather, they confer a right of access in favour of the benefited land over the portion of land subject of the easement. Accordingly, an owner of land cannot seek an easement simply to expand the size of his land. **To do this the owner should either purchase or lease land from a neighbour.**

There is a long history of disputes between our client and the proprietors of 13 Cumberland Avenue Collaroy NSW 2097 involving the improper use of Registered Dealing DP635859, particularly involving parking and claims of exclusive use.

These disputes have resulted in an extensive history of disharmony between the subject proprietors and our client, Matthew Monk.

These issues of disharmony have resulted in aggressive and intimidating behaviour towards Mr Monk and his family members by the proprietors as evidenced in Police Reports under Event No's:

- #E72416581 May 2018
- #E72521625 - 7 December 2019
- #E72521625 - 14 December 2019
- #E72762632 - Constable Ckzechnik - Dee Why police station

Another issue of great importance is Registered Dealing DP1010026.

This Right of Carriageway is registered on the title to both Lot 20/1/10649 being 11 Cumberland Avenue, Collaroy NSW 2097 and Lot 6/1/10649 being 837 Pittwater Road, Collaroy NSW 2097.

Please see **attached Annexure G** – Registered Dealing DP1010026 – Right of Carriageway.

The vast majority of the disputes between the parties are based on the long-held belief of the Applicants for DA2020/0204, the proprietors of 13 Cumberland Ave Collaroy NSW 2097, that DP1010026 provides a Right of Carriageway that benefits their land.

It does not, and burdens 11 Cumberland Ave, Collaroy NSW 2097 and benefits 837 Pittwater Road, Collaroy NSW 2097 **ONLY**. **The proprietors of 13 Collaroy Avenue, Collaroy NSW 2097 do not have the benefit of DP1010026.**

DP635859 and DP1010026 both cover the same portion of land over 11 Cumberland Ave, Collaroy NSW 2097 from the commencement of road access from Cumberland Ave Collaroy NSW 2097 up to a length of 38 metres. However, as clearly delineated in the registered copies of both dealings, DP1010026 extends well beyond the bounds of DP635859, encompasses the remaining 7.72 metres along the boundary of 11 Cumberland Ave, Collaroy NSW 2097 and widens across the rear of 11 Cumberland Road, Collaroy NSW 2097 to enable access from 11 Cumberland Ave, Collaroy NSW 2097 through to 837 Pittwater Road, Collaroy NSW 2097.

Both of these properties are owned by our client. Our client has always been willing to allow vehicular access to the Applicants from the driveway, through the Right of Way

conferred by DP635859, over his real property of 11 Cumberland Ave, Collaroy NSW 2097 (unaffected by DP365859 and subject to his exclusive rights of DP1010026), to access the Applicant's garages for private parking.

In reality, any use of the area outside of the defined limitations of DP635859 by the proprietors of 13 Cumberland Ave, Collaroy NSW 2097 could be considered trespass.

The law of trespass is available to anyone who is an "occupier" – not just to the owner of the property (in this case, meaning Matthew Monk and his invitees). Under the law of trespass, if someone enters the property without permission you can ask them to leave. If they refuse to go when asked, they are trespassing, and you can use reasonable force to remove them.

Up until now, our client has chosen not to use reasonable force to remove the Applicants from his land, including the land comprising DP1010026 and the remaining property of 11 Cumberland Ave, Collaroy NSW 2097 unaffected by DP1010026, that proprietors of 13 Cumberland Ave, Collaroy NSW 2097 claim exclusive use rights to, although it is in fact within the lawful boundary of 11 Cumberland Ave, Collaroy NSW 2097 and outside of the boundary of DP635859.

As a result of the Applicants of DA2020/0204 misunderstanding as to the operation of DP1010026, our client and his family members have been the subject of:

- nuisance complaints made by the Applicants to Council from matters such as feeding of pigeons;
- bogus complaints to the RSPCA of killing pigeons;
- unfounded complaints of physical intimidation of their grandchildren with the use of a lawnmower; and
- complaints about the planting and maintenance of greenery along the driveway.

Noting that even though our client is the servient tenement of the easement in gross for DP635859, and as such, does not legally have to maintain the appearance and visual integrity of the easement, our client chooses to do so as the dominant tenements do not maintain the Right of Way in a way that is visually appealing and complimentary of the local surroundings.

Constant verbal abuse and in some cases, deliberate property damage, have resulted in our client having to install CCTV cameras within the boundaries of his land so that events are monitored and recorded and so that our client can protect himself, his partner Max, other family members and guests.

Our client has also been forced to accept inspections of his property from regulatory authorities (Ausgrid) for the unfounded complaint that the electricity boxes to the garages of 13 Cumberland Ave, Collaroy NSW 2097 were located on his property, 11 Cumberland Ave, Collaroy NSW 2097, which Ausgrid confirmed was a baseless allegation.

You will note, our client too has lodged (and since received a Determination of Approval) for the construction of a granny flat (secondary dwelling) on his property at 837 Pittwater Road, Collaroy NSW 2097 under DA2020/0108.

You will see from review of the documents available on Council's website for DA2020/0108, no less than three (3) submissions were made by the Applicants of DA2020/0204 against our client's development application, most of which rely on their interpretation that DP1010026 – Right of Carriageway, is an easement that benefits them and affords them use of the

defined space as recorded in the instrument and infringes their right of use and enjoyment of that space, which is incorrect.

**STATEMENT OF ENVIRONMENTAL EFFECTS PREPARED BY OUTLOOK
PLANNING & DEVELOPMENT SUBMITTED 24 FEBRUARY 2020 FOR DA2020/0204**

As stated in the abovementioned report, the land is currently zoned as R2 Low Density Residential Land as part of the Warringah LEP 2011 and subject to development controls under Warringah DCP 2011.

The land is affected by or subject to controls such as:

- Warringah DCP 2011- requiring landscaped open space and bushland setting of 40% of the subject site.
- Development Controls in respect of its designation as affected Riparian Land.
- Warringah LEP 2011 – development of the land is affected by its classification of Class 5 Acid Sulphate Soils.
- Warringah LEP 2011 identifies the development of the land being restricted due to current Land Slip Risk Map, being classed as land designated in Area A.
- The land is also subject to controls under Coastal Management SEPP.

We are instructed to advise that our client's view is that there has been a deliberate misrepresentation of the facts by the Applicants in respect of the use of the "proposed" secondary dwelling and the important factors are that it's approval will necessarily breach conditions under Warringah LEP 2011 and controls under the Warringah DCP 2011.

The primary objective Clause 6.10 of the Warringah LEP 2011 is to ensure that secondary dwellings on land to which this clause applies (being zones R2 and R3) *are of low impact and without adverse effects on the ecological, social and aesthetic values of the land.*

The premise on which this objective is made, is that the secondary dwelling does not already exist, being defined as development including the erection of, or alterations or additions to a secondary dwelling or alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

You will note from the abovementioned points made in the History above, the social values of the land have already been compromised.

Our client submits that to provide consent to the secondary dwelling would to be exacerbate existing issues between 11 Cumberland Ave, Collaroy NSW 2097 and 13 Cumberland Ave, Collaroy NSW 2097.

The fact is, this Development Application meets neither of the above criteria for approval as a secondary dwelling, as it is not yet classed as a secondary dwelling, albeit it has been used as a secondary dwelling for a substantial period of time. Therefore, the Application does not seek approval for alterations or additions to an existing secondary dwelling already approved by Council. Nor does it involve alterations or additions to a principal dwelling, given the secondary dwelling has already been constructed.

The simple fact is, the Applicants are seeking to obtain post-development approval for an illegal structure.

An application such as this, given the nature of the works already undertaken and by definition "illegal works"; despite the low cost quoted in the DA as lodged, should be subject to a pre-lodgement meeting with Council to assess the development already completed on the subject "proposed" secondary dwelling and to put Council on notice of

the previous alterations and additions undertaken, which we submit are in breach of the Special Conditions imposed on the construction of the property under B1502/73.

Clause 1.1 (Site Description) of the Statement of Environmental Effects ("SOEE") records "*access to the site is via Cumberland Avenue*".

The impact of this statement and the issue of the disharmony between property owners over the improper use of DP635859 have been briefly summarised above.

However, there have been multiple instances of the Applicants of DA2020/0204 parking on and improperly using the Right of Carriageway, including DP1010026 to which they have no benefit or right, to hold social gatherings and birthday parties and to conduct home businesses.

Clause 1.2 of the SOEE – Proposed Development

The Proposed development involves the approval to use the lower ground area of the dwelling for the purpose of a secondary dwelling.

The secondary dwelling comprises:

- a living room;
- dining room;
- kitchen;
- bathroom; and
- two bedrooms.

The proposed secondary dwelling application does not meet development standards in Warringah LEP 2011 in two (2) areas that it seeks to overcome.

Firstly, it is asserted that the secondary dwelling was already partially constructed by the predecessor on title and the current Applicants have simply **modified the area to accommodate a larger meal preparation area**.

It is noted this application for a secondary dwelling purports to represent that the secondary dwelling is solely for the family members of the owners of the property. The Application states the secondary property will not be separately rented out and the owners wish to retain the larger kitchen (they illegally installed without approval from Council).

Our client's view is that having regard to the matters raised in this submission, the Applicant should be required to make a Declaration under Oath as the truthfulness of the Application.

The Clause 4.6 Statement seeks the flexibility of Council in the non-compliance with development standards that the "existing" secondary dwelling is approximately 100m² in size, whereas the maximum floor area permitted for secondary dwellings under Clause 6.10(3) of the Warringah LEP 2011 is 75m². To overcome the non-compliance, the Applicant relies on the principles of *Wehbe v Pittwater Council* [2007] NSWLEC 827.

Our client strongly opposes the proposed purpose for the secondary dwelling on a number of grounds.

1. The Secondary Dwelling is not being used for the "sole purpose" of accommodating the Applicants' family members.

Our client asserts the secondary dwelling has been in use for a minimum of seven (7) years for the purpose of providing income.

A non-family member resident by the name of "Courtney" was observed moving into the basement level of the property, being the ("secondary dwelling") by our client.

This was noted by our client, because in the process of moving into the property, her father parked on and used the portion of the driveway, the subject of both DP635859 (benefitting the Applicants of DA2020/0204) and DP1010026 (no association with the Applicants), blocking our client's access to his premises.

The proposed secondary dwelling is currently "rented" to "David" in so far as our client is aware or, he is at the very least, a boarder paying private rent to the Applicants of DA2020/0204.

To confirm the property has been used as secondary dwelling for the purpose of generating income and not for the sole benefit of family members, along with evidence that the "proposed" additional works of the addition of a second bedroom have already been constructed, we note the following:

Please see below excerpt in respect of the unsuccessful listing of the property, the subject of DA2020/0204, in 2016 from the following website:

<https://www.propertyvalue.com.au/property/13-cumberland-avenue-collaroy-nsw-2097/1889349>

Dual Living In A Prime Location With Ocean Views

*This unique north facing home sitting on 697sqm of land delivers an abundance of character appeal in an enchantingly private setting. Flowing through well-proportioned interiors to an enticing in-ground pool with landscaped cottage-style gardens beyond. **The residence also offers the versatility of a substantial self-contained apartment, ideal for in-law accommodation or additional income with the option of keeping it as a large five bedroom home.** Well worth your considered inspection, this warmth-filled home is privately positioned moments by foot to supermarkets, restaurants, schools and buses.*

- Double brick & concrete slab construction
- Finely proportioned living and dining area with built in entertaining cabinet, timber floors and cosy fireplace
- Private north facing alfresco area is covered for year-round enjoyment offering the perfect place to entertain
- Well-equipped kitchen with stainless steel appliances, tiled splashbacks and ample cupboard space
- Generous bedrooms, 2 with large built-ins and a master with ensuite and balcony capturing ocean views, plus an additional upper level living area
- **Versatile attic style area serves as the perfect home office** and enjoys ocean and Dee Why Headland views
- Neat main bathroom with a bathtub, plus a lower level bathroom that is adjoining a large laundry
- Resort style in-ground pool with outdoor shower and w/c surrounded by mature tropical gardens

- *Option to easily convert to a 3 bedroom house with 2 living areas, plus a 2 bedroom self-contained apartment ideal for in-law accommodation or additional income*
- *Rare five car garaging, plus additional secure driveway parking perfect for boats, trailers or caravans*
- *Nestled in a sought after enclave, just footsteps from transport and shops, only a short stroll from Pittwater house, local schools and the picturesque Long Reef and Dee Why Beaches*

We also note the following listing for 13 Cumberland Avenue, Collaroy NSW 2097 from 2016:

<https://www.realestate.com.au/sold/property-house-nsw-collaroy-105341063>

Dual Family Living or Potential Income

Ideally located in a coveted sought after street, walking distance to Long Reef & Dee Why beaches, local schools, shops and public transport, this solid North facing residence is perfect for dual family living or running a business from home.

The property features three spacious living areas with an open fire place on all levels; main living space located on the middle level featuring an open plan design with polished hardwood floors, separate dining area and kitchen perfect for entertaining. The upper level include three double bedrooms, master bedroom with ensuite bathroom and balcony, full main bathroom, storage and a loft bedroom that children will adore.

The lower level is fully self contained area, with a separate bedroom, kitchen and bathroom, great for older children, home office, huge rumpus or potential income.

The home has two outdoor areas, the front courtyard is private and accessible from the main living area; the rear garden includes a heated in-ground pool, outdoor shower, BBQ area and low maintenance landscaped garden.

There is plenty of parking with a five car garage with three phase power, perfect for car enthusiasts looking for storage and work space.

The home features data cabling and the current owners have been run a home stay business for the last 10 years with a legitimate cash flow of approximately \$1000 per week.

The double brick concrete slab construction is well insulated ensuring the home is cool in summer and warm in winter.

2. **SOEE Clause 2.2.1 relies on the fact the “owners purchased the dwelling with the downstairs area being partially converted into a secondary dwelling by the previous owner. A larger meal preparation area was added by the current owners”.**

Please see **attached Annexure H** – which shows the floor plan from the property listing from 2009 at the time the Applicants purchased the property.

Clearly, there were works undertaken prior to the purchase by the Applicants in 2009 that are not in strict compliance with the original building construction's Special Conditions under B1502/73, however, you will note only:

- one bedroom;
- small kitchen; and
- large storage area.

Furthermore, evidence from the previous proprietor (not the proprietor responsible for the pre-2009 illegal works) confirms that the basement level, during his proprietorship was always primarily used as a games room, in accordance with the original Building Consent under B1502/73 and the approved Floor Plans and Elevations, the subject of Annexure B.

The abovementioned predecessor in title is willing to provide confirmation of same in a statutory declaration if required.

Please see ***attached Annexure I*** – which shows the floor plan from the property listing in 2016 by the Applicants.

This Floor Plan clearly shows the larger kitchen, the conversion of the storage area to another (larger) bedroom and dining area.

Effectively, had the Applicants not converted the storage area, so as to make the secondary dwelling more appealing for rental income, the proposed secondary dwelling may have come within the designated 75m² allowed for in the Development Controls.

3. Parking, Illegal Use of DP635859 and DP1010026 and Home Businesses

The examples offered above in the History section of this submission are not exclusive of the many instances where our client's access to either of his properties has been blocked due to parking of cars belonging to family members and visitors to the Applicants of DA2020/0204.

The Applicants of DA2020/0204 allow the conducting of a business (noting that their current tenant runs a personal training business from the premises and often uses DP635859 improperly to train clients) as well as the use of the one of the garages to store and operate gym equipment as part of this fitness business.

Please see ***attached Annexure J*** which clearly depicts personal training taking place on the driveway of 11 Cumberland Ave, Collaroy NSW 2097.

The operation of an illegal home personal training / gym business, utilising both the driveway, the subject of DP635859 and extending to the illegal use of DP1010026, and the improper conversion of one of the garages of the proprietor of Lot 19/1/10649 **is currently being investigated by Northern Beaches Council under BLD2020/00749.**

Please see ***attached Annexure K***, which, not only shows the illegal use of the Right of Carriageway by the tenant as he carries out his unapproved business, having clients effectively do "laps" of the driveway (the Right of Carriageway comprising both DP635859 and DP1010026). This Annexure clearly shows the blocking of the driveway

and preventing a visitor of the residents of 11 Cumberland Ave, Collaroy NSW 2097 from accessing the Right of Carriageway, which they should have full and free right to do without impediment or menace.

You will also note the time stamp on the photograph clearly shows that compliance with COVID-19 social distancing rules and restrictions are being flagrantly breached (i.e. the clients are not within 1.5 metres distance of each other and there is more than one client being “trained” at the time). The car in question has been forced to come to a complete standstill as none of the clients / personal trainer were willing to let the car pass until they had completed their “drill”. The person in the car is our client’s elderly mother. Such is the disregard for the terms of use of the Right of Carriageway by the Applicant, their tenants, their visitors and / or clients.

It also confirms there is a non-family member resident who is currently residing at the property in contravention of the SOEE. If there is a claim that the personal training and use of the garage as a gym qualify as a legitimate home business, we ask Council to consider the definition of a home business under the Warringah LEP 2011 which is noted as follows:

A **home business** as defined means a business that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve:

- (a) the employment of more than 2 persons other than those residents,
- (b) interference with the amenity of the neighbourhood by reason of the **emission of noise**, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) **the exposure to view, from any adjacent premises or from any public place, of any unsightly matter**, or
- (d) the exhibition of any signage (other than a business identification sign), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but **does not include bed and breakfast accommodation**, home occupation (sex services) or sex services premises.

If development for the purposes of a home business is permitted under this Plan, the carrying on of the business **must not involve the use of more than 50 square metres of floor area**.

It is unclear the exact size (in square metres) of the garage being utilised for the housing and operation of the gym equipment, but clearly the use of DP635859 is in contravention of the definition provided above.

It is also submitted that the garage has been “renovated” to accommodate the new “purpose and use” of the structure, effectively changing a non-habitable area (a garage) to a fitness facility (a business premises) with no council approval for the change of use

of the structure or the requisite safety compliance and other regulatory permits for the business. The establishment of a business involving the change of use of the premises would need to meet stringent planning controls, such as:

- the nature of the proposed use and whether it is permissible in the identified location;
- the intensity of the use, including the anticipated number of patrons and employees;
- any social impacts arising from the development, such as loss of affordable housing or community benefits from improved local services;
- the impact of the proposal on traffic and parking in the area;
- noise emissions either from the activities to be conducted, from patrons coming and going, or services such as air conditioning;
- the hours of operation of the fitness facility; and
- environmental impacts such as emissions, impacts on sensitive environments or critical habitat;
- the fire resistance of building elements and fire escape;
- services and equipment required, such as fire safety equipment (i.e. sprinklers, fire alarms);
- functional performance criteria (such as being able to get a stretcher into the site in the event of accident);
- the structural integrity of the building;
- access for people with disabilities;
- health and amenity standards such as toilets /showers and waterproofing of wet areas;
- facility capacity limits;
- light and ventilation controls;
- energy and acoustic performance;
- provision of glass/ mirrors;
- non-slip floor surfaces;
- secure storage of loose and free weights; and
- careful positioning and maintenance of equipment.

There is often loud music coming from either the garage or from a source located on the grounds of DP635859 / DP1010026 from as early as 7:00am in the morning on occasion and free weights are routinely “dropped” on the concrete areas of the premises from height damaging the concrete and creating further noise emissions.

Clearly, this negatively affects the amenity of the adjoining properties and “the neighbourhood”.

Another example of the blatant disregard for proper building controls is the unapproved replacement of the wall acting as a blockage of the access point constructed between the two properties (being 11 Cumberland Ave, Collaroy NSW 2097 and 13 Cumberland Ave, Collaroy NSW 2097) by our client’s father, the original owner of all three (3) properties mentioned in this submission. Our client understands this was done because of the pending sale of 13 Cumberland Ave, Collaroy NSW 2097.

At this time the existing proprietor of 13 Cumberland Ave, Collaroy NSW 2097 and the proprietor of 11 Cumberland Ave, Collaroy NSW 2097 had a very positive relationship in respect of their neighbouring properties and until the proprietor of 13 Cumberland

Ave, Collaroy NSW 2097 intended to sell the property, there had been no need to create a formal closure of the access point between the garages of the two properties.

Now being necessary, our client's father constructed a timber stud and marine ply wall to professional standards to fill in the access point which had previously existed.

In late April or early May 2019, the Applicants, without the knowledge or consent of our client, removed this structure and replaced it with a sub-standard structure of unsupported MDF board.

Please see *attached Annexure L* – showing the replaced structure as erected by the Applicants. We are instructed that no care or regard has been taken to conform to any notable building standard or the use of appropriate material nor was consent sought or obtained by the Applicant from our client for the replacement.

The dividing wall of the garages encroaches the property of our client. A joint survey completed in May 2018 records the encroachment which we estimate to be between 7 -8 inches in favour of our client.

Please see *attached Annexure M* – Survey By Survcorp Pty Ltd dated 1 May 2018.

We also submit there is encroachment along the dividing fence between the properties which is also in favour of our client. This is most accurately depicted in Annexure M, the survey.

The encroachment of the garage wall is more clearly evidenced in Annexure G – Deposited Plan 1010026 -Right of Way, which clearly shows the garages of 13 Cumberland Ave, Collaroy NSW 2097, encroach on the part of land located across the boundary of the land comprising the right rear garage of 11 Cumberland Avenue, Collaroy NSW 2096, if viewing the registered Right of Carriageway instrument. From the view of 11 Cumberland Ave, Collaroy NSW 2097, facing toward the rear of the property, it would be seen as the left garage.

Continuing the issue of home businesses being operated from the premises of the Applicants, one of the children of the Applicants has run / is running a home business from the property called "Mandy's Mobile Swim School". Clients have also improperly used the Right of Carriageway to park on the space where DP635859 and DP1010026 converge.

Please see the following URL in respect of Mandy's Mobile Swim School:

<http://collaroy-nsw.australian-reviews.com/mandys-mobile-swim-school.html/>

While **home businesses**, such as those noted above, **boarding houses** (if David is in fact a boarder and not occupying the secondary dwelling), **bed and breakfast accommodation** (referred to as a home-stay business in the second property listing noted above) and **secondary dwellings** are permitted **with Development Consent** for land designated as R2 Low Density Residential land in the Warringah LEP 2011, **no development consent has been obtained.**

In respect of any business connected to or usage of the swimming pool located at the property, the subject of DA2020/0204, we note the Pool Compliance Certificate expired

on 22 October 2019 and is at present, not a compliant in respect of Section 22B(3) of the *Swimming Pools Act 1992* (NSW).

Please see ***attached Annexure N*** – Swimming Pools Register Certificate of Compliance.

3. Part C Sitting Factors – Warringah DCP 2011 – Parking Facilities.

The SOEE states “sufficient car parking space exists on site and can be accessed through an existing driveway from Cumberland Avenue”.

Parking on DP635859 and DP1010026 has always been an issue of vexation for our client.

In *Hyder v McGrath Sales Pty Ltd* [2017] NSWSC 1647, a decision by Justice Parker of the Supreme Court of New South Wales on 30 November 2017, illustrated the vexed issue of parking on a right of way as noted below.

“In my opinion, the effect of the various easements and cross easements over the driveway area is to give the three lot owners equivalent rights over the whole area. It is no doubt open to the lot owners to park in the “private parking” area where that does not interfere with access to the properties served by the driveway. But, in my view, the owners of lot 4 have no greater legal right to park there than any other lot owner.” (para 90, Judgement)

“... they have no absolute right to park there at any and all times.” (para 125, Judgement).

Further, there has been no regulation of the speed at which vehicles are permitted to access the property by use of the Right of Carriageway (DP635859) to the parking area of 13 Cumberland Ave, Collaroy NSW 2097, the subject of DA2020/0204.

In 2012, Mandy Graham ran over the dog of our client from excessive speed on the Right of Carriageway.

In 2019, Christopher Graham was observed driving on the Right of Carriageway at speeds of approx 27 km per hour.

In 2019, David, the boarder, almost ran over our client’s spouse driving at excessive speed up the Right of Carriageway and did not stop to ensure he has not physically hurt the pedestrian who was conducting gardening and maintenance services on the Right of Way.

The number of passes and repasses on our client’s driveway by the Applicants can be in excess of 60 times in one day. On observation, Monday 13 April 2020, equalled 67 passes and repasses. This includes motor vehicles, bicycles, skateboarding by grandchildren, motorbike trailers pulled up the driveway by hand etc.

Finally, our client has recently lodged an application with Council to erect a sign on his property, please see ***attached Annexure O*** – the proposed signage to be erected on our client’s property and awaiting approval from council.

4. D3 – Warringah DCP 2011 – Noise

We submit the number of existing tenants in the premises, the subject of DA2020/0204 is excessive and neighbouring properties are already exposed to excessive noise issues and are impacted by acoustic privacy issues, there being currently approximately 10 people residing in the property.

This, in combination with the noise issues from the personal training business are in contravention of the provisions of D3.

5. D6 – Warringah DCP 2001 – Access to Sunlight

Given the basement level was never constructed for the purpose of a secondary dwelling, it has never been suitably tested to ensure adequate sunlight is received for a minimum of 3 hours, between 9am and 3pm on June 21.

6. D16 – Warringah DCP 2011 – Swimming Pools

As noted, there is not a current and valid Certificate of Compliance for the existing swimming pool and noting the proposed secondary dwelling adjoins this area in respect of the floor plan, it has not shown that use of the pool will not affect the quiet enjoyment of any residents of the secondary dwelling nor cause issues of flooding or rising damp given the location of the secondary dwelling is below ground level.

7. D21 – Warringah DCP 2011 – Provision and Location of Utility Services

Given none of the existing structures within the proposed secondary dwelling have been reviewed by or been the subject of Council approval, compliance or inspection, it is not shown in any plan submitted, where the connection to existing utility services on the site have been installed; including whether they were installed in accordance with regulatory standards or whether the secondary dwelling will have the benefit of appropriate sewage and drainage services along with services such as separately metred gas, electricity, water usage and telecommunications.

We note the following in respect of comments and observations made by the abovementioned predecessor in title regarding issues with drainage services and capability:

1. **The basement level (proposed site of the secondary dwelling) is below ground level.**
2. At water level – it will flood when a high tide and heavy rain occurs, the walls get mouldy and there is restricted airflow.
3. The water egress cannot be prevented as the concrete area in front of the garages at the back directs all the rainwater to the base of 13 Cumberland Avenue, Collaroy NSW 2097 and it flooded on several occasions when we owned it.
4. The Right of Carriageway on 11 Cumberland Avenue, Collaroy NSW 2097 was not intended for multiple occupancy access and will create additional

wear and tear on the property at 11 Cumberland Avenue, Collaroy NSW 2097.

5. The below ground floor (basement level) was designed as a storage area and workshop (or games room) and is not fit for accommodation due to the limited sunlight, air and egress.
6. You will find that power cables are raised due to the problems of water egress.
7. Both back balconies at 13 Cumberland Ave, Collaroy NSW 2097 have no adequate guttering. When it rains, the water flows over the edges and impedes access to the lower ground floor via the current external door. This water as well as the water coming down from the concreted area of the backyard, may lead to flooding. Access to the lower ground floor should be via the internal staircase on the ground floor only.
8. It is our client's understanding that the swimming pool overflow is connected to the stormwater, which if correct, is illegal.
9. The swimming pool itself could overflow and flood the lower ground floor as the top of the swimming pool is higher than the lower ground floor by a good three or four feet. Any overflow from the pool backing up or spilling over could go directly into the lower ground floor via the windows or the side doorway on the western side.
10. There is a one-way valve in the drain at the lowest level at the base of the rear of the dwelling. It closes when the water table is too high to stop water flooding into the back yard. But rainwater from the 50sqm of concrete back yard flows directly back into the basement of the building. Flooding can't be stopped when the valve closes, and it can get stuck closed if not dug out annually.
11. Please see *attached Annexure P* - sewer drainage diagram for 13 Cumberland Ave, Collaroy NSW 2097, which fails to show any connection from the swimming pool to the sewer. This could also result in flooding if the stormwater which flows across the back of the lower ground floor and then through to Pittwater Road, via a stormwater easement located on the land of 839 Pittwater Road (Dealing No's N392017 and N392018 on the Certificate of Title for Lot 19/1/10649, being 13 Cumberland Avenue, Collaroy NSW 2097).

The lack of adequate and authority-sanctioned drainage and infrastructure at 13 Cumberland Ave, Collaroy NSW 2097 has the potential to cause flooding at 839 Pittwater Road if there was ever a problem with the stormwater pipe getting blocked or not maintained.

8. E10 – Warringah DCP 2011 - Landslip Risk

The proposed development is on land located within Area A. Given the extensive change of use and the illegal structures which comprise the basement area, the subject of the proposed secondary dwelling, a preliminary assessment must be undertaken in

terms of geotechnical stability and development being carried out in good engineering practice, particularly due to detrimental impacts of stormwater discharge and existing subsurface flow.

Further, **Clause 2.2.4.10 of the SOEE (Ecology)** notes that the physical works will involve some minor earthworks for the footing / slab.

We reiterate, the Master Plans submitted with the Development Application are effectively a replica of existing works previously constructed without Council approval. Accordingly, it is doubtful on what basis the “minor earthworks for the footing / slab” are required.

We submit there is no notable change in the proposed Floor Plan for the secondary dwelling submitted as part of Development Application process than that already in existence from the 2016 Floor Plan attached to this Submission and noted as Annexure I.

9. Clause 2.2.4.9 – Bushfire

The site is located within a bushfire zone as well as being within a Vegetation Buffer Zone.

We maintain that due to the extensive unapproved works undertaken to the basement area, designed as a games and storage room only, that the Development Application be subject to standard mandatory reporting, which should not be overlooked due to the fact the secondary dwelling is located within the primary dwelling.

CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARD

The Author relies heavily on the premise that the Ground Floor Area, which is in excess of 75m², is the main variation to development standards applicable to the subject property and refers to the principles established in *Wehbe v Pittwater Council [2007] NSWLEC 827*.

However, rather than prove the principles of the abovementioned case are satisfied with solid examples, it instead simply restates them or notes they do not apply.

The five principles used to prove the Council should afford the Applicants flexibility are based on false premises and we object to the comments that the proposed secondary dwelling is consistent with the principles established by the decision of *Wehbe v Pittwater Council [2007] NSWLEC 827*.

Approval of the secondary dwelling does and will have high impact on adjacent properties and is not without adverse effects on the specific ecological, social and aesthetic values of the land.

Our client does not agree nor has the Clause 4.6 Exception Report demonstrated that the secondary dwelling will have a positive social and environmental impact on the area.

Comments in respect of the good design outcome of a previously “unused” space are manifestly false.

The Clause 4.6 Exception Report has not effectively demonstrated how the development is considered to be in the public interest or that there are sufficient grounds to justify contravening the standard.

We feel the following reports are warranted to complete any assessment of the Development Application in connection with the non-compliance with Development Controls under Clause 4.6 – Exception to Development Standard, being:

- Geotechnical – land is affected by land slip risk;
- Bushfire - site is located in a vegetation buffer zone;
- Natural Environment Response – Riparian;
- Natural Environment Response – Biodiversity;
- Development Engineering Referral Response; and
- Report – Stormwater and Drainage.

In addition, noting the alterations already made to the proposed secondary dwelling and the change of use of the garage space to a business premises, we would recommend Council undertake a thorough inspection of the premises.

Finally, it is brought to the attention of Council that the only party who can vary, modify or release the terms of either of the Rights of Carriageway, namely DP63589 or DP1010026, is the owner of Lot 20/1/DP10649, being our client, who granted the Rights of Carriageway.

Our client has instructed us, he intends to actively vary the terms of the Rights of Way if the illegal usage of the Easement in Gross continues in respect of DP635859, under the following terms if the secondary dwelling is approved by Council:

DP635859

1. To be used for vehicular access only by the residents of 13 Cumberland Ave, Collaroy, excluding any invited guests and tenants and invited guests of the tenants of the secondary dwelling who will need to use off-site parking.
2. No pedestrian access for the residents, invited guests and tenants of 13 Cumberland Ave, Collaroy, NSW 2097, which is to include the walking and exercising of pets, performing gym exercises, the riding of bikes, motorised or bicycles on the right of carriageway.

DP1010026 – to which the Applicant of DA2020/0204 is not a party to, nor do they receive the benefit of, will be maintained so that:

1. Both vehicular and pedestrian access for the residents and guests of 11 Cumberland Ave, Collaroy NSW 2097 and 837 Pittwater Road, Collaroy NSW 2097 will continue to have unconditional use of the Right of Carriageway.

We would also request you finalise your case in respect of BLD2020/00749 as part of this Submission as it should be considered in conjunction with the Development Application.

We also respectfully request that the original Special Conditions applicable to the construction of 13 Cumberland Ave, Collaroy NSW 2097 be enforced, or least be given due consideration when determining the outcome of this Development Application, being;

- **3. The roof attic is to be used for storage purposes only and not for a study or other use as has been advertised; and**

- **4. Premises not to be used or adapted as a residential flat building. We consider the consent to a secondary dwelling to change the use of the property from a dwelling house to that similar or a residential flat building.**

Please do not hesitate to contact us should you seek further information or require further submissions from our client.

Yours faithfully

W. H. PARSONS & ASSOCIATES

W. H. Parsons

Bill Parsons

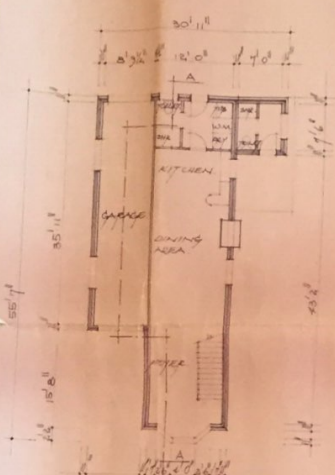
Encl



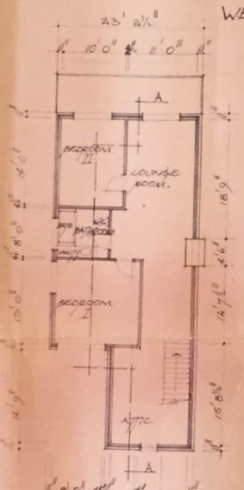
FRONT ELEVATION.



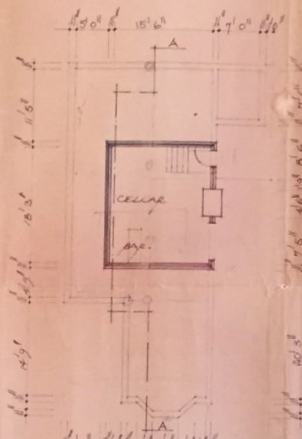
WESTERN ELEVATION.



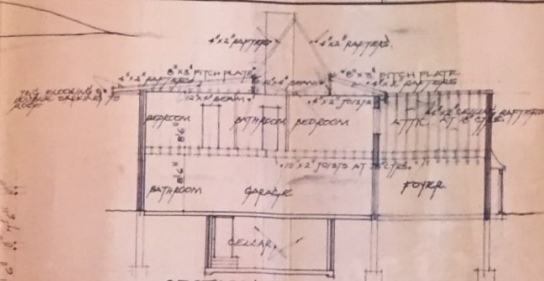
GROUND FLOOR PLAN.



FIRST FLOOR PLAN.



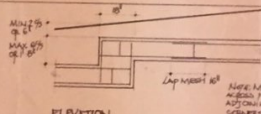
BASEMENT PLAN.



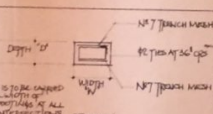
SECTION A-A.

- NOTES
- ALL WORK TO BE DONE IN ACC. WITH Q.D. 71.
 - ALL TIMBERS TO BE 2" OREGON.
 - JOISTS TO FIRST FLOOR TO BE 2" OREGON.
 - CEILING TO FIRST FLOOR TO BE 1/2" OREGON.
 - CONC. SLAB TO CELLAR & GROUND FLOOR TO BE 4" CONC. WITH REINFORCEMENT.
 - WINDOWS TO BE 2" TIMBER ALL ROUND.
 - WALLS TO BE CAVITY TO FIRST FLOOR.
 - ALL INTERNAL FITTINGS TO BE SELECTED.
 - SPEC. OF CEILING TIMBERS AS INDICATED IN SECTION A-A.
 - 1/2" FLOORING & DOUBLE BAKING TO ROOF.
 - CEILING HEIGHTS TO BOTH FLOORS TO BE 8' 0".

CUMBERLAND AVE. SITE PLAN.



TYPICAL STRIP FOOTING DETAILS.



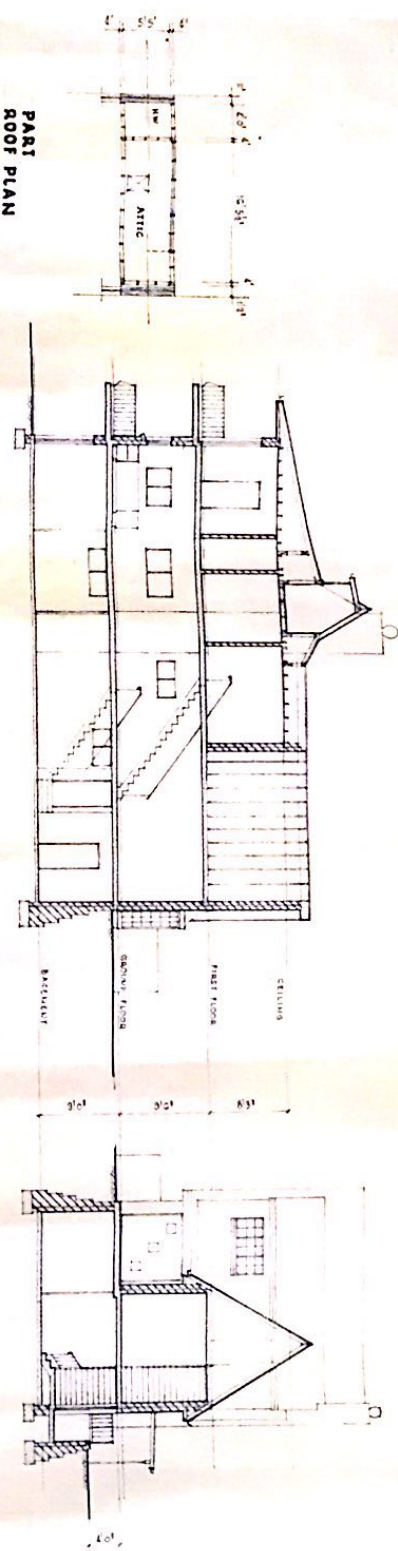
SECTION.

PROJECT: PROPOSED NEW RESIDENCE:
TO: N. 13 CUMBERLAND AVE, COLLAR OY.
FOR: MR & MRS F.A. SMITH, ESQ.
THESE PLANS ARE THE PLANS REFERRED TO IN CONTRACT NO. 1 AND BECOME PART OF THE SAME.

FORD JONES
DRAFTING PTY. LTD.
PHONE: 582-7805.

PROPOSED NEW RESIDENCE
SCALE: 1/8" TO 1' 0"
DRAWN BY: TONY STEVENS

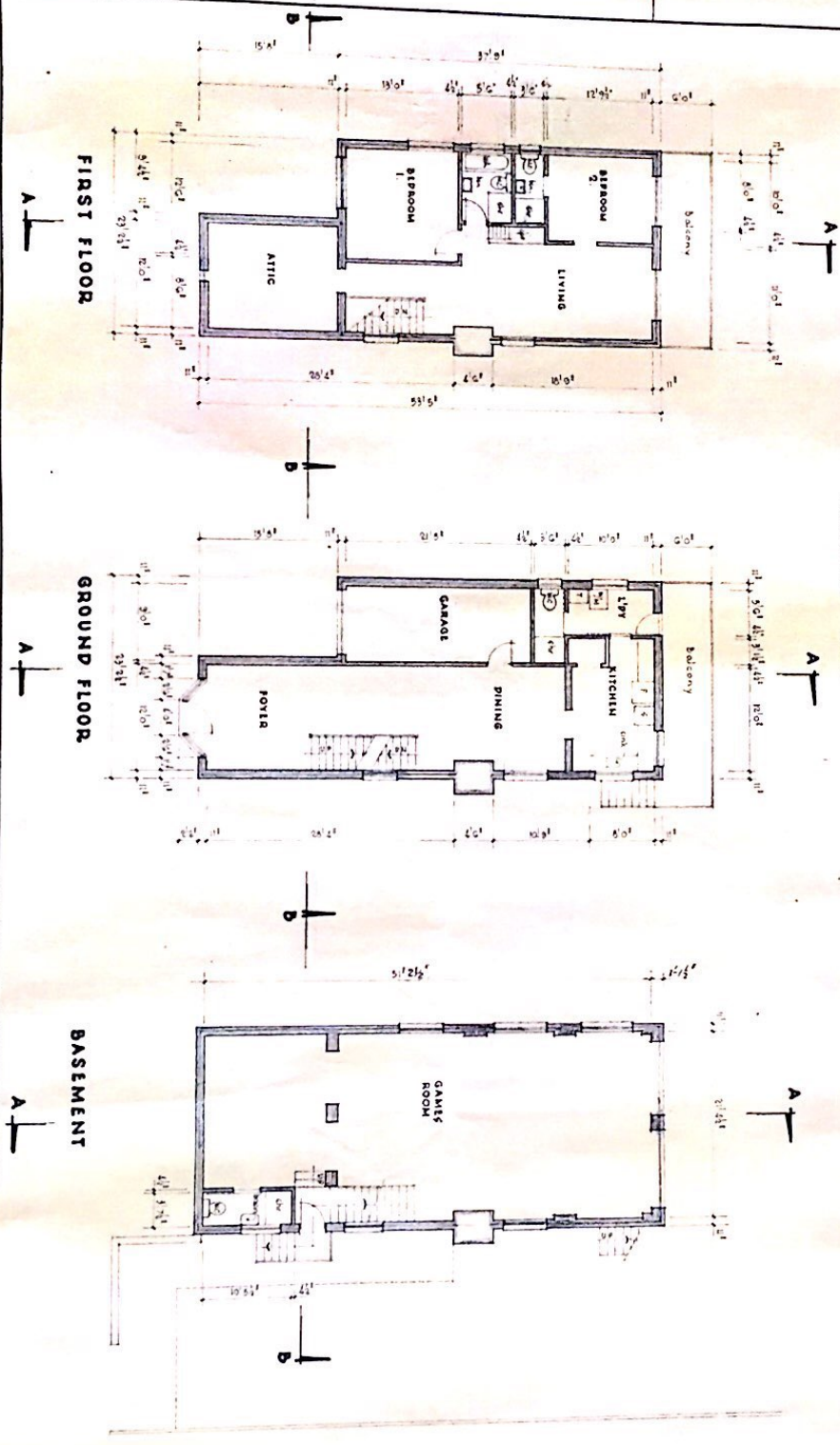
FJ 193



PART
ROOF PLAN

SECTION 'A.A.'

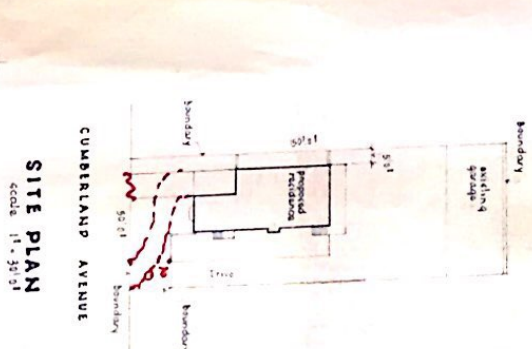
SECTION 'B.B.'



FIRST FLOOR

GROUND FLOOR

BASEMENT



SITE PLAN
SCALE 1" = 50' 0"

RESIDENCE AT
13 CUMBERLAND AVE., COLLAROY FOR MR. & MRS. F.A. SMITH

WORKING DRAWINGS
PLANS & SECTIONS

REV. 3/1/56 Generally amended

REV. 2/2/56 Stairs and window revised

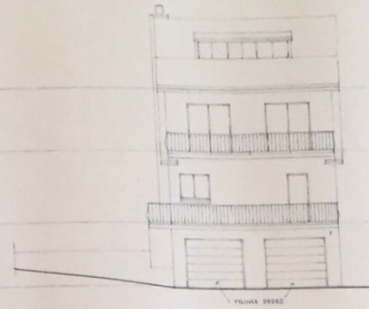
DATE 7.11.55

SCALE 1" = 1'

Design Drafting Pty. Limited
2 Pioneer Ave. Thornleigh 2120
Phone 44 3000



NORTH
ELEVATION



SOUTH
ELEVATION

CEILING
FIRST FLOOR
GROUND FLOOR
BASEMENT



EAST
ELEVATION

CEILING
FIRST FLOOR
GROUND FLOOR
BASEMENT



WEST
ELEVATION

RESIDENCE AT
13 CUMBERLAND AVE., COLLAROY FOR MR. & MRS. F.A. SMITH

REVISION B. (21/70) Generally amended
Rev A 4-2-73 Windows revised

WORKING DRAWING
ELEVATIONS

DATE: 7/12/75

SCALE: 1/4" = 1'-0"

Daniel Dooling Pty Limited
5 Pioneer Ave. Thornleigh 2120
Phone 04 9000

THE COUNCIL OF THE SHIRE OF WARRINGAH AS THE LOCAL
AUTHORITY UNDER THE LOCAL GOVERNMENT ACT 1919, AS
AMENDED, HEREBY APPROVES PLAN NO. **81502/73** FOR THE
ERECTION OF **DWELLING** ON LOT **13**
SECTION **D.P.** STREET **CUMBERLAND**

LOCALITY **COLLARNOY** UNDER THE PROVISIONS
OF PART XI OF SUCH ACT, SUBJECT TO THE FOLLOWING CON-
DITIONS:

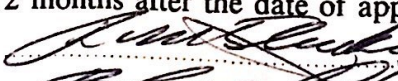
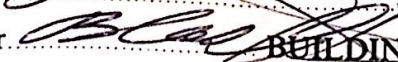
- (1) **Local Government Act**, 1919, as amended, and **Ordinances** thereunder being complied with.
- (2) **Council's Rules, Specifications and Conditions** relative to the erection of buildings being complied with.
- (3) **Metropolitan Water, Sewerage & Drainage Board** By-laws relative to all sanitary plumbing and drainage being complied with and **Special Inspection Certificates** from such authority being produced before occupation of building. Plans should be submitted to the Building Plans Section of the Board prior to commencement of building — failure may lead to penalty and demolition of work.
- (4) **"Special Conditions of Approval"** as indicated hereunder being complied with.
- (5) **Closet Accommodation** in accordance with Cl. 11A Ordinance 44 being provided during building operations.
- (6) **Street Levels** in relation to driveways, fences, garages, etc. being established from the Shire Engineer before construction commences.
- (7) **Builder's Refuse** being satisfactorily destroyed on the allotment or removed to Council rubbish tip.
- (8) **Notice of 48 Hours** being given to Council prior to the covering of the following:—
 - (a) Trenches (with steel in position) before footings are laid;
 - (b) Damp-proof course;
 - (c) Structural roof members;
 - (d) Drains.
- (9) **Notice in Writing** being given on completion of building before occupation in accordance with Cl. 3.3 Ordinance 70.
- (10) **Notice is Hereby Given That:—**
 - (a) Use or occupation of the building is prohibited until it has been completed to the satisfaction of the Council and in accordance with the Local Government Act, Ordinances thereunder and approved plans. Penalty \$200.00 plus daily penalty of \$10.00
 - (b) This approval shall be void if building work is not substantially commenced within 12 months after the date of approval.

(AMENDED)

(10.9.73) 11.2.76.

Date of Approval

Per

 SHIRE CLERK
 BUILDING INSPECTOR

SPECIAL CONDITIONS OF APPROVAL

1. Plans being read in conjunction with original approval No. 81502/73 and conditions imposed by that approval. 2. One vehicular access only to be installed as shown in red on the plans, in accordance with the Shire Engineers requirements. 3. The roof attic to be used for storage purposes only. 4. Premises not to be used or adapted as a residential flat building.





FOLIO: 19/1/10649

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
28/4/2020	12:35 PM	7	15/9/2018

NO CERTIFICATE OF TITLE HAS ISSUED FOR THE CURRENT EDITION OF THIS FOLIO.
CONTROL OF THE RIGHT TO DEAL IS HELD BY AMP BANK LIMITED.

LAND

LOT 19 OF SECTION 1 IN DEPOSITED PLAN 10649
AT DEE WHY
LOCAL GOVERNMENT AREA NORTHERN BEACHES
PARISH OF MANLY COVE COUNTY OF CUMBERLAND
TITLE DIAGRAM DP10649

FIRST SCHEDULE

MURRAY DUNCAN GRAHAM
STEPHANIE ANN GRAHAM
AS JOINT TENANTS (T AE941870)

SECOND SCHEDULE (6 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 B143316 COVENANT
- 3 N392017 EASEMENT TO DRAIN WATER AFFECTING THE PART OF THE
LAND ABOVE DESCRIBED SHOWN 0.914 WIDE IN PLAN ANNEXED
TO N392017
- 4 N392018 EASEMENT TO DRAIN WATER APPURTENANT TO THE LAND
ABOVE DESCRIBED AFFECTING THE LAND SHOWN 0.914 WIDE IN
PLAN ANNEXED TO N392018
- 5 DP635859 RIGHT OF CARRIAGEWAY APPURTENANT TO THE LAND ABOVE
DESCRIBED
- 6 AE941871 MORTGAGE TO AMP BANK LIMITED

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

PLAN FORM 1

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

* OFFICE USE

Council Clerk's Certificate

(c) The requirements of the Local Government Finance Act, 1919 (other than the requirements for the registration of plans), and
 (2a) the requirement of section 34B of the Finance Act, 1924, as amended (Finance Directorate Order No. 1078, 1926, as amended; Finance Director's Memorandum No. 1078, 1926, as amended; and Damage Act, 1938, as amended)

Have been complied with by the Applicant in relation to this proposed "new road", "subdivision" or "consolidated lot," as outlined herein

Satisfaction No.

Date

(Signature) _____
Council Clerk

*This part of certificate to be deleted where the application is only for a consolidated lot or the opening of a new road or where the land to be subdivided is wholly outside the areas of operations of the Metropolitan Water Sewerage and Drainage Board and the Hunter District Water Board.

Surveyor's Certificate

1. S. BLAIR, GROVE, OAK & PARTNERS
of D. X. BLAIR, RIDE
November 1938
immediately hereby certify that the survey mentioned in this
plan _____

It is recorde and has been made 114 by me John H. Williams
Immediate Supervisor in accordance with the Survey
Department instructions 107, and was completed on 2
25 OCTOBER, 1938.

Signature John H. Williams
Surveyor required under Survey Act, 1935, as amended.
Surveyor's name and stationing in 1935.
Stratified date 11 of 1931. (Insert date of survey.)

PLAN OF RIGHT OF CARRIAGEWAY OVER LOT 20,
SECTION 1 IN D. P. 10649

Mun./Shire : **WARRINGAH**
 Locality: **COLLARON**

Parish: **MANLY COVE** County: **CUMBERLAND**

Reduction Ratio 1: 4.00

Lengths are in metres



Last Plan: DP 10649

2

Title System: 100 RENS

Purpose: **EXAMINATION**

Ref Map: U2/b0-41

Last Plan: U F

PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919-GL (AS AMENDED) IT IS INTEND TO CREATE

Signatures, seals and statements of intention to dedicate public roads or to create public reserves; drainage reserves, easements or restrictions as to user,

W. H. Wood

CUMBERLAND AVENUE

64°	41'	113.32 TO WESTMORELAND AVE
15.24	(3)	

DP 635859

RIGHT OF CARRIAGEWAY
3 WIDE

Sec.

MPC

SURVEYOR'S REFERENCE 21048

Plan Drawing only to appear in this space

1

I, Bruce Richard Davies, Under Secretary for Lands and Register General for New South Wales, certify that this negative is a photograph made as a permanent record of a document in my custody this day.

13th December, 1983

Y	O	O	O	F	I	B
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PLAN FORM 2

SIGNATURES AND SEALS ONLY

MetLife Banking Corporation
 Attn: 007 457 741 131 175
 Attorney-in-Fact and Solicitor
 for the purposes of the
 Power of Attorney No. 831 Bank 10054
 Signature: _____
 Title: _____
 Witness:
 Signature: _____
 Title: _____
 Bank Officer: _____

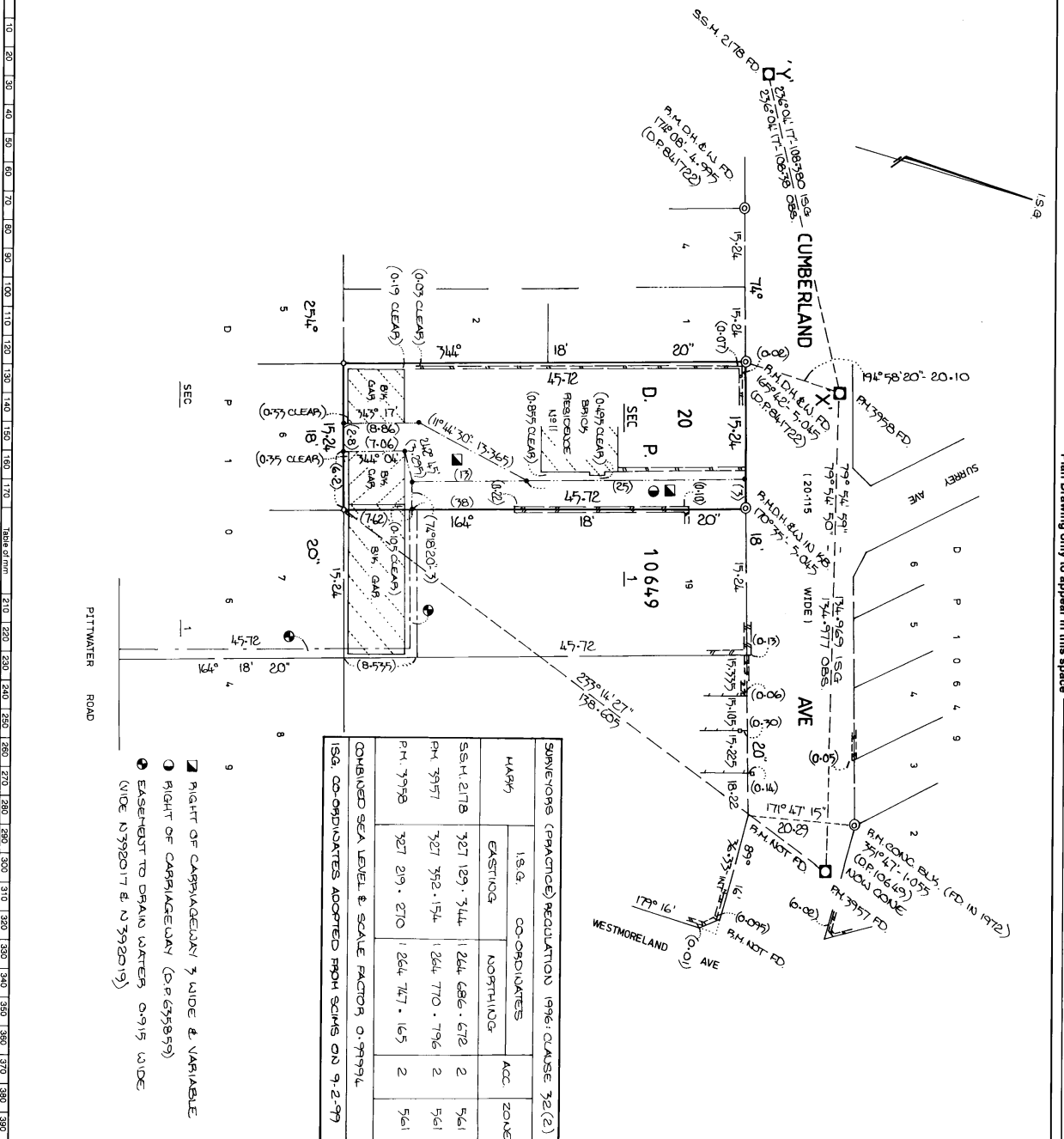
Signature: _____
 Title: _____

Crown Lands Office Approval
 Approved: _____
 Land Officer: _____
 Paper No.: _____
 Field Book: _____

Subdivision Certificate
 To certify the provisions of a 1996 of the Environmental Planning
 Assessment Act 1979 have been satisfied in relation to the
 (insert subdivision or new road)
 "Authorized Person/General Manager/Authorized Officer"
 of the Department of Planning and Infrastructure
 Division No.: _____
 Division Certificate No.: _____
 When the plan is to be lodged electronically in the Land Titles
 Office, the plan must be signed electronically by the Registrar-General
 or his/her delegate. The signature of the Registrar-General
 or his/her delegate is not required if the plan is to be lodged
 in hard copy form.

ONS REFERENCE: 60061 CHECKLIST

Plan Drawing only to appear in this space



WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

DP1010026

Regulation: 31-11-2000

C.A.: _____

Title System: TORENS

Purpose: EASEMENT

Ref. Map: U 2760-41

Last Part: _____

PLAN: OF RIGHT OF
 CARRIAGEWAY 3 WIDE &
 VARIABLE WITHIN LOT 20
 SECTION 1 IN DP10649
 Lengths are in metres. Reduction Ratio 1: 300

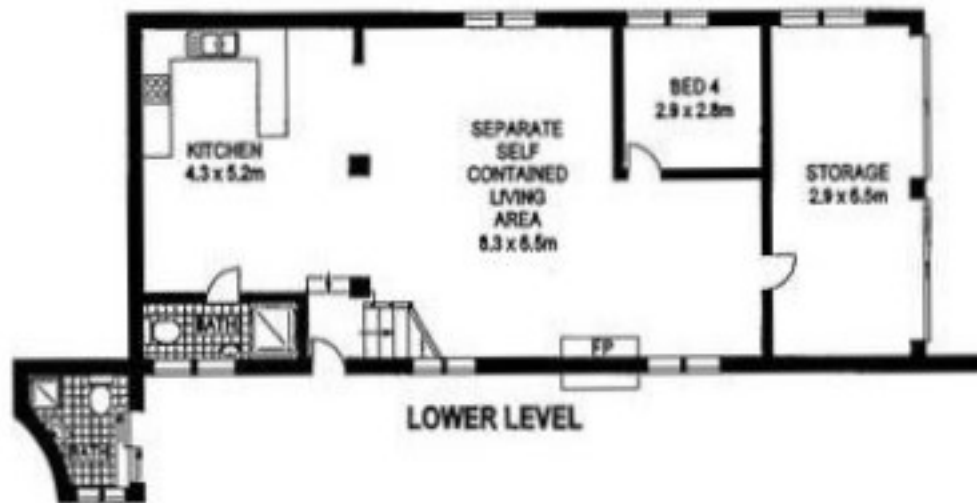
L.O.A.: WARRINGAH
 Locality: COLLARVOY
 Parish: MANLY COVE
 County: CUMBERLAND

This is a true and correct plan in accordance with the provisions of the Land Titles Act 1996.

Surveyor's Declaration
 I, _____, a duly qualified and licensed Surveyor, do hereby certify that the survey represented in this plan is accurate, has been conducted in accordance with the provisions of the Land Titles Act 1996 and that the plan is a true and correct plan in accordance with the provisions of the Land Titles Act 1996.
 Date: _____
 Signature: _____
 Title: _____

Prints used in preparation of survey: **computation**
 DP10649
 DP 841722
 DP 637589

NOTE: FOR USE ONLY for statements of intention to dedicate public roads to create public reserves, drainage easements, restrictions on the use of land or other purposes.
 PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, AS AMENDED, IT IS INTENDED TO CREATE:
 1/ RIGHT OF CARRIAGEWAY 3 WIDE & VARIABLE.
 2/ RIGHT OF CARRIAGEWAY 3 WIDE & VARIABLE.



GROUND FLOOR PLAN



LOWER GROUND FLOOR PLAN



Disclaimer: Notice is given that all dimensions, descriptions, and details are for the preparation of the information contained herein no warranty is offered or liability assumed in all respects. The site plan is not a survey. Site boundaries are shown for reference only.

13 CUMBERLAND AVENUE

ch03_20200407075606.mp4

07-04-2020 Tue 07:56:08



FRONT



ch01_20200501165200.mp4



01-05-2020 Fri 16:52:29

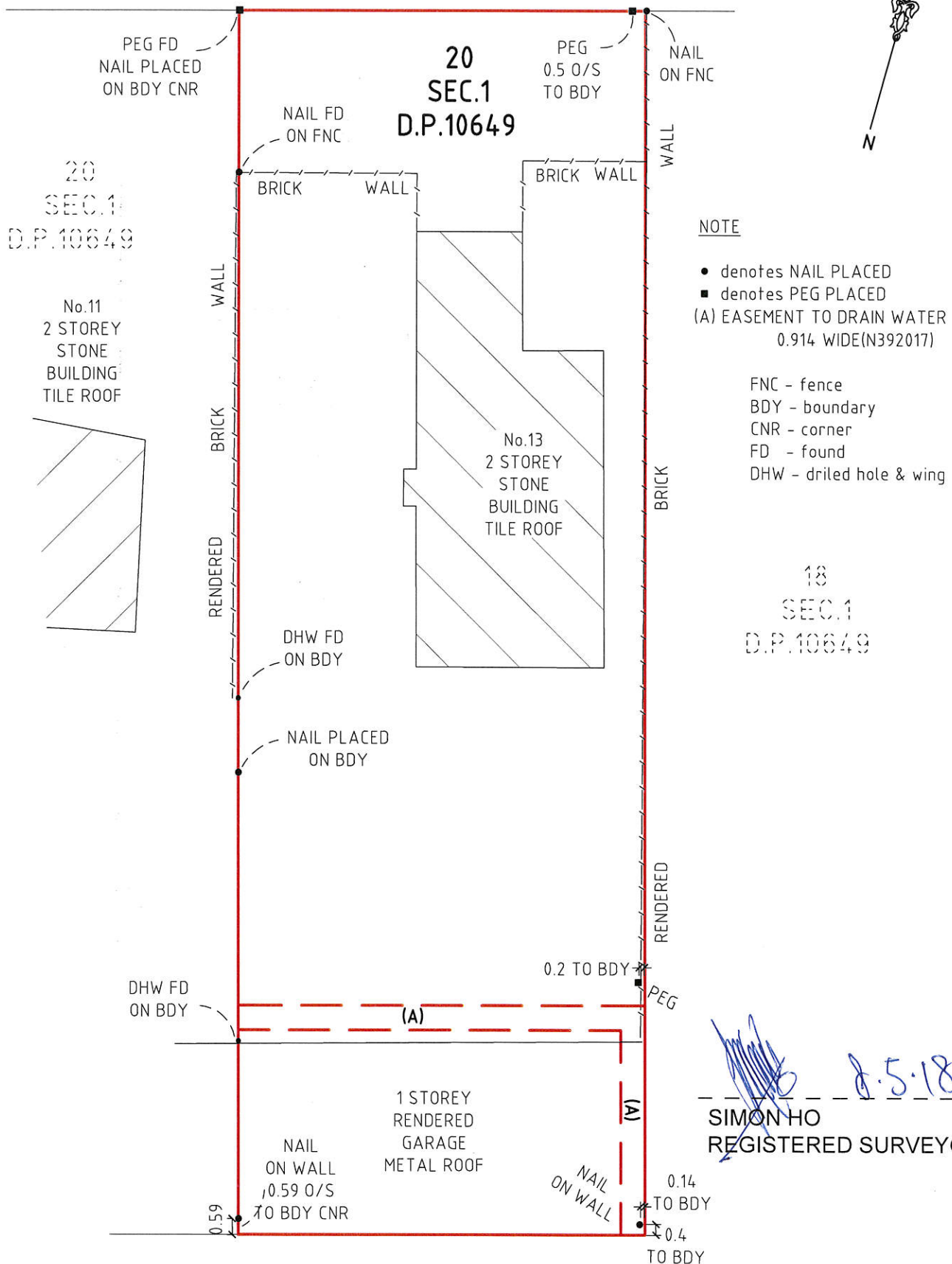
SIDE





**SKETCH SHOWING MARKS PLACED
AT No.13 CUMBERLAND AVENUE, COLLAROY**

CUMBERLAND AVENUE



NSW SWIMMING POOL REGISTER

Certificate of Compliance

Section 22D - Swimming Pools Act 1992

Pool No:	3476dfbf
Property Address:	13 CUMBERLAND AVENUE COLLAROY
Expiry Date:	22 October 2019
Issuing Authority:	Bob Rona - Accredited Certifier - bpb2406
Assessed against AS1926.1 version:	

The swimming pool at the above property complies with Part 2 of the *Swimming Pools Act 1992*. The issue of this certificate does not negate the need for regular maintenance of the swimming pool barrier to ensure it is compliant with the *Swimming Pools Act 1992*.

This certificate ceases to be valid if a direction is issued pursuant to Section 23 of the *Swimming Pools Act 1992*.

The swimming pool at the above property is not required to be inspected under the inspection program of the local authority while this certificate of compliance remains valid pursuant to Section 22B(3) of the *Swimming Pools Act 1992*.

Please remember:

- Children should be supervised by an adult at all times when using your pool
- Regular pool barrier maintenance
- Pool gates must be closed at all times
- Don't place climbable articles against your pool barrier
- Remove toys from the pool area after use



**SHARED
ZONE**



Sewer Service Diagram

Application Number: 846198

METROPOLITAN WATER SEWERAGE AND DRAINAGE BOARD

SEWERAGE SERVICE DIAGRAM

Smith
No. *693454*

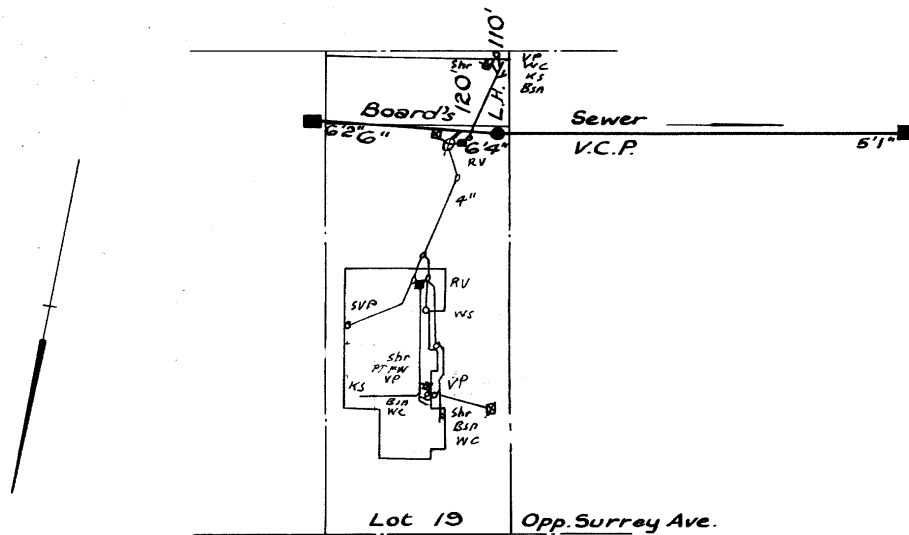
Municipality of *Warringah*

<input type="checkbox"/> Boundary Trap	<input type="checkbox"/> R.V. Reflux Valve	I.P. Induct Pipe	Bsn. Basin
<input type="checkbox"/> Pit	<input type="checkbox"/> Cleaning Eye	M.F. Mica Flap	Shr. Shower
<input type="checkbox"/> G.I. Grease Interceptor	<input type="checkbox"/> Vert. Vertical Pipe	T. Tubs	W.I.P. Wrought Iron Pipe
<input type="checkbox"/> Gully	<input type="checkbox"/> V.P. Vent. Pipe	K.S. Kitchen Sink	C.I.P. Cast Iron Pipe
<input type="checkbox"/> P.T. P. Trap	<input type="checkbox"/> S.V.P. Soil Vent. Pipe	W.C. Water Closet	F. W. Floor Waste
<input type="checkbox"/> R.S. Reflux Sink	<input type="checkbox"/> D.C.C. Down Cast Cowl	B.W. Bath Waste	W.M. Washing Machine

Scale: 40 Feet To An Inch

SEWER AVAILABLE

Where the sewer is not available and a special inspection is involved the Board accepts no responsibility for the suitability of the drainage in relation to the eventual position of the Board's Sewer



CUMBERLAND AVE.

RATE No. *8391* W.C.s U.C.s 19
SHEET No. *8391* OFFICE USE ONLY For Engineer House Services

DRAINAGE			BRANCH OFFICE		PLUMBING	
W.C.	Supervised by	Date	Date	HL	Supervised by	Date
Bth.	Inspector	/ /	Outfall	HL	Inspector	/ /
Shr.			Drainer	LL		
Bsn.	Chief Inspector	/ /	Plumber	1096 337 1476 043		
K.S.			Boundary Trap			
T.	Tracing Checked	/ /	is not required			
Ptg.						
Dge. Int.						
Dge. Ext.						

Document generated at 06-04-2020 08:13:45 AM

Disclaimer

The information in this diagram shows the private wastewater pipes on this property. It may not be accurate or to scale and may not show our pipes, structures or all property boundaries. If you'd like to see these, please buy a **Service location print**.