



Warringah Council

## DEVELOPMENT ASSESSMENT REPORT

<b>Assessment Officer:</b>	Kevin Short
<b>Address / Property</b>	Lot CP, SP 4129, 48A Queenscliff Road, Queenscliff
<b>Description:</b>	Alterations and additions to a residential flat building
<b>Development Application No:</b>	DA2011/0360
<b>Application Lodged:</b>	21 March 2011
<b>Plans Reference:</b>	Drawings 00 to 19 prepared by Blackwood Architects
<b>Applicant:</b>	Blackwood Architects
<b>Owner:</b>	Strata SP4129 Owners Corporation
<b>Locality:</b>	G8 Queenscliff
<b>Category:</b>	Category One (Housing)
<b>Draft WLEP 2009 Zoning</b>	R2 – Low Density Residential
<b>Draft WLEP 2009 Permissible or Prohibited Land use:</b>	Prohibited: Residential Flat Building
<b>Variations to Controls</b>	YES - front building setback, rear building setback and side setback (eastern)
<b>Referred to ADP:</b>	NO
<b>Referred to WDAP:</b>	YES (construction costs exceed \$1,000,000.00 and more than 2 objections)
<b>Land and Environment Court Action:</b>	No
<b>SUMMARY</b>	
<b>Submissions:</b>	Twenty two (22) submissions
<b>Submission Issues:</b>	<ul style="list-style-type: none"><li>• Overdevelopment of the site, including an increase in existing non-compliances (ie. housing density and rear building setback)</li><li>• Privacy and overlooking between adjoining properties</li><li>• View loss impacts</li><li>• Overshadowing</li><li>• Adverse acoustic impacts from the use of the proposed outdoor terrace area</li><li>• Insufficient carparking spaces and adverse traffic impacts</li><li>• Inaccurate and insufficient information to determine the application</li></ul>



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- Excessive excavation
- Adverse construction impacts
- Stormwater management
- Failure to comply with fire safety matters and disabled access requirements
- Structural inadequacies of the existing apartment building
- Non-compliances with State Environmental Planning Policies (SEPPs)
- Asbestos removal
- Loss of property values
- Additional garbage bins on Queenscliff Road

**Assessment Issues:**

- Housing density
- Rear building setback
- Side setback
- Landscaped open space
- Clause 57 - Development on Sloping Land
- Clause 61 - View loss
- Clause 65 - Privacy

**Recommendation:**

Approval subject to conditions of consent

**Attachments:**

Site and Elevation Plans



**LOCALITY PLAN** (not to scale)



**Subject Site:** Lot CP, SP 4129, 48A Queenscliff Road, Queenscliff

**Public Exhibition:** The subject application has been notified in accordance with the Warringah Development Control Plan. As a result, the application was notified to 136 adjoining land owners and occupiers for a period of 19 calendar days commencing on 1 April 2011 and being finalised on 19 April 2011.

Twenty two (22) submissions were received during the notification period and these are addressed in the “Public Exhibition” section of the report.



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## **SITE DESCRIPTION**

The subject site is located on the southern side of Queenscliff Road and is battle axe in shape with an area of 1081sqm. Existing apartment style housing adjoins the site to the north-west, west, south-west, west and north-east. These apartment style buildings vary in scale between two and five stories in scale. A one storey dwelling house occupies the site to the north, No.44 Queenscliff Road.

The site is currently occupied by an eleven (11) storey residential flat building comprising of 15 units with two units on each floor, a top floor penthouse, foyer level and basement carparking level. All units have cantilevered and wrap around balconies. The apartment building was constructed in the early 1960's.

The subject site contains a steep slope which has a diagonal fall of 18% in a north to south direction (from Queenscliff Road) towards Queenscliff Beach. The southern boundary of the site adjoins a landscaped reserve which adjoins Queenscliff Beach. Landscaped open space on site is characterised by areas of rock outcrops within the north-eastern portion of the site and poor quality shrubs, medium size trees ground cover and weeds within the rear (southern) portion of the site.

The site has been subject to substantial cut and fill in order to provide a podium terrace for the existing tower like apartment building on the lower southern portion of the site. The building is the tallest structure and most visually prominent structure on the Queenscliff Headland.

Vehicular access to the site is provided by a steep driveway from Queenscliff Road. On-site parking is provided on site by an outdoor parking area located to the north of the existing building on the ground floor, within the ground floor foyer area and within the basement level.

## **RELEVANT BACKGROUND**

### **Previous Development Application (DA2009/1471)**

Development Application for Alterations and additions to an existing residential flat building, comprising a new storeroom and tiling on the ground floor and basement level was approved on 6 January 2010.

### **Prelodgement Meetings**

On 28 January 2010 and 2011, two (2) pre DA meetings were held for alterations and additions to an existing residential flat building including a ground floor residential unit, additional carparking spaces within the existing sub-floor space and landscaping and remedial works.

In summary, the proposed works presented at the meetings were generally supported as it would provide a more contemporary building design to the lower portion of the building, improve the visual transition to the adjoining reserve at Queenscliff reserve, and increase the overall number of car parking spaces on-site. Furthermore, the pre-lodgement report noted that the design of the proposed development should maintain view sharing, solar access and privacy between adjoining properties, particularly No.1 and 1A Greycliffe Street.

In conclusion, the proposal was generally supported on the merits of the scheme.

## PROPOSED DEVELOPMENT

The proposal involves the construction of two (2) units, comprising of an undercroft Unit (Unit A) and lower ground level split level unit (Unit B), within the southern portion of the existing apartment building.

In addition, the proposal also comprises of alterations to the existing car parking areas located within the lower level and excavation works up to 7.5m in depth within the northern setback area of the site to construct three (3) levels of car parking, including six (6) mechanical car stacking spaces and two (2) visitor spaces. These works will result in an overall increase in the number of car parking spaces by 11 spaces, from 16 (existing) to 27 (proposed) spaces.

The existing access ramp will be utilised and modified with two (2) additional ramps to provide access to the existing and proposed car parking areas.

No works are proposed on the adjoining Queenscliff Beach landscaped reserve prior and during any construction phases of the proposed development.

The following is a detailed description of the proposed development:

Level	Proposed Development
Second Floor (RL 34.10)	<p><b>Roof Terrace</b></p> <ul style="list-style-type: none"> <li>• Provision of a pergola covered common use roof terrace (58.6sqm) within the northern setback area of the site and above the proposed Level 3 carpark;</li> <li>• Landscaping within the side, front and rear setback areas of the roof terrace area</li> <li>• A 1.5 high acoustic treated fence adjacent the northern boundary to No.44 Queenscliff Road</li> <li>• Access stairs from the terrace area to existing Units 3 and 4</li> </ul>
First Floor (RL 31.5)	<p><b>Car Park Level 3</b></p> <ul style="list-style-type: none"> <li>• Car Park (4 spaces) located within the northern setback area of the site</li> <li>• A new vehicular access ramp to the car park provided off the existing driveway</li> <li>• Access stairs from the carpark to proposed Units 1 and 2</li> </ul>
Ground Floor Level (RL 28.81)	<p><b>Car Park Level 2</b></p> <ul style="list-style-type: none"> <li>• Car Park (4 spaces) within the northern setback area of the site, including two (2) visitor spaces</li> <li>• A new vehicular access ramp to the car park provided off the northern portion of the existing driveway</li> <li>• Waste storage areas</li> <li>• Provision of a new entry foyer area and pond</li> <li>• Access stairs from the carpark to the upper floor of proposed Unit B</li> </ul> <p><b>Upper Level Unit B</b></p> <ul style="list-style-type: none"> <li>• Upper level of Unit B at the northern portion of the building, comprising of a bedroom, study, living/dining room, kitchen and deck area located off the southern and eastern portion of the unit.</li> <li>• Pergola constructed along the east facing balcony area</li> <li>• A privacy screen adjacent the western elevation of the deck</li> </ul>

<p>Lower Level (RL 26.15)</p>	<p><b>Car Park Level 1</b></p> <ul style="list-style-type: none"> <li>• 16 space car park, comprising of 4 spaces and 6 double mechanical stacked car parking spaces</li> <li>• Use of the existing access ramp to the car park provided off the southern portion of the existing driveway</li> <li>• Provision of 6 storage areas, including a bike storage area</li> <li>• Access stairs from the lower level to ground level</li> </ul> <p><b>Lower Level Unit B</b></p> <ul style="list-style-type: none"> <li>• Upper level of Unit B at the northern portion of the building, comprising of a bedroom, study, living/dining room, kitchen and deck area located off the southern and eastern elevation of the unit</li> <li>• Pergola covered east facing deck area</li> <li>• A privacy screen adjacent the western and eastern elevation of the deck</li> </ul>
<p>Undercroft Level (RL 22.9)</p>	<p><b>Storage Area</b></p> <ul style="list-style-type: none"> <li>• Provision of a storage area accessed from the lower level</li> </ul> <p><b>Unit A</b></p> <ul style="list-style-type: none"> <li>• The construction of Unit A within the existing undercroft area of the building, comprising of a living/dining room, kitchen and 2 bedrooms and deck area and garden terrace area located off the southern elevation of the unit</li> <li>• The Garden Terrace area is to be retained by a sandstone retaining wall with varying heights from 2.5m to 3.5m</li> </ul> <p><b>Landscaping works</b></p> <ul style="list-style-type: none"> <li>• Landscaping works, comprising of screen planting and a pebble path, is proposed within the 3.8m side setback to the western boundary and within the 0.9m rear setback area to the rear southern boundary (in front of the retaining wall)</li> </ul> <p><b>Stormwater Disposal</b></p> <ul style="list-style-type: none"> <li>• The collection and discharge of stormwater will occur via a rock swale dissipater (and overflow pit) located within the south-western corner of the site. The dissipater will discharge dissipated stormwater to the adjoining reserve, Manly Lagoon and ocean.</li> </ul>

### Waste Collection Enclosure

The Statement of Environmental Effects submitted with the application states that a waste collection enclosure is proposed at the far northern end of the battle axe, near Queenscliff Road. However, insufficient details have been provided in relation to the structure on submitted architectural plans to allow a complete and proper assessment. On this basis, the waste collection enclosure will not form part of any approved plans should the application be approved.

### Clause 14A - How is existing Category One or Category Two development dealt with?

In summary, an assessment of the submitted plans concludes that the proposed development does not satisfy the relevant requirements of Clause 14A (4) (b) of WLEP 2000. Specifically, the subject site is not within a "medium density area" and the proposed changes



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to the existing apartment building exceed the limitations prescribed under Clause 14A (4) (b) in terms of bulk, scale and size.

On this basis, the proposed development must be considered under the provisions of the G8 Locality Statement and any variations to the existing built form controls addressed under Clause 20 of WLEP 2000.

## STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulation 2000
- c) SEPP 55 – Remediation of Land
- d) SEPP 65 – Design Quality of Residential Flat Development
- e) SEPP (Building Sustainability Index: BASIX) 2004
- f) SEPP (Infrastructure) 2007
- g) SEPP 71 – Coastal Protection
- h) Warringah Local Environment Plan 2000
- i) Warringah Section 94A Development Contributions Plan
- j) Draft Warringah Local Environment Plan 2009 (DWLEP 2009)
- k) Warringah Development Control Plan

## PUBLIC EXHIBITION

As a result of the public exhibition and notification processes, Council received a total of twenty two (22) submissions from the following residents:

Name	Address
J. Hudson	Unit 1, No.1 Greycliffe Street, Freshwater
M. and M. Wayland	Unit 9, No.1 Greycliffe Street, Freshwater
P. Hatfield	Unit 11, No.1 Greycliffe Street, Freshwater
G. Wormald	Unit 15, No.1 Greycliffe Street, Freshwater
P. and A. Peterson	Unit 16, No.1 Greycliffe Street, Freshwater
P. Hatfield	On behalf of Committee, Strata Plan 60100, No.1 Greycliffe Street, Freshwater
IQ200 Pty Ltd	On behalf of Committee, Strata Plan 60100, No.1 Greycliffe Street, Freshwater
S. and H. Simpson	Unit 3, No.1A Greycliffe Street, Freshwater
A. and V. Mounsey	Unit 6, No.1A Greycliffe Street, Freshwater
M. Toohey	Unit 9, No.1A Greycliffe Street, Freshwater
Innovation Planning Australia Pty Ltd	On behalf of Unit 3, 6 and 9, No.1A Greycliffe Street, Freshwater
R. Smith	Unit 4, No.2 Greycliffe Street, Freshwater
S. Donovan	No.3 Greycliffe Street, Freshwater
T. and R. Carroll	No.23 Queenscliff Road, Freshwater
D. Ward	Unit 3, No.50A Queenscliff Road, Freshwater
J. Halverson and K. Lamond	No.52 Queenscliff Road, Freshwater
P. and P. Barbalace	Unit 1, No.42 Queenscliff Road, Freshwater
A. Kokoris	No.44 Queenscliff Road, Freshwater
B. Nicolls	Unit 1, No.42 Queenscliff Road, Freshwater
F. Goulding	Unit 1, No.38 Queenscliff Road, Freshwater
R. Musumeci	Unit 12, No.1 Greycliffe Street, Freshwater
M. Summerville	No.54 Queenscliff Road, Freshwater

The issues raised in the submissions are addressed as follows:



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### **(a) Overdevelopment of the site**

The concern is that the proposal is an overdevelopment of the site, particularly given the bulk, scale and building height of the existing apartment building and the front and rear building setback and housing density non-compliances proposed by the development.

**Comment:** The existing apartment building is eleven (11) stories in scale and is the tallest structure and most visually prominent residential building the Queenscliff Headland. The proposal generally involves the construction of two (2) units within the rear southern portion of the existing ground floor, lower ground floor level and undercroft area of the apartment building. In addition, the proposal also involves the construction of three (3) basement car parking levels and terrace above, adjacent the front northern elevation area of the building.

Having regard to the above, the proposed works will result in several new non-compliances with the built form controls for the G8 locality, including the rear and side building setback, landscaped open space and housing density controls. Notwithstanding, these non-compliances are assessed in detail under the 'Built Form Controls' section of this report, and in summary, are supported under a Clause 20 Variation of WLEP 2000. In addition, the variations to the controls do not translate into detrimental external impacts to adjoining and surrounding neighbours including overshadowing, noise, view loss, visual outlook impacts, privacy and traffic and parking impacts. Further, the proposed alterations and additions to the existing apartment building, including the southern elevation garden terrace, will maintain the existing scale of the apartment building whilst also having an acceptable impact on the bulk of the built form.

With respect to the bulk of the apartment building, the additional units are well articulated with recessive, open and projecting building elements, including open deck structures, a sandstone retaining wall and a mix of external materials and finishes, which will combine to provide a satisfactory visual transition to the remaining components of the existing building, adjoining apartment buildings and dwelling house and adjacent beachside reserve to the south. Adequate landscaping is proposed within the front and side setbacks which will also assist to minimise the visual impact of the proposal on these adjoining properties.

Based on the above, the concerns relating to the overdevelopment of the site do not carry determining weight and do not warrant the refusal of the application.

### **(b) Privacy Impacts**

Concern has been raised with regard to privacy by the adjoining property owners to the east (1/ 42 Queenscliff Road), north (44 Queenscliff Road), north-west (3/50 Queenscliff Road), west (Units 11 and 15 at No.1 Greycliffe Street) and south-west (Units 3, 6 and 9 at No.1A Greycliffe Street). Specifically, the concerns are that the proposed units and associated outdoor private open space areas and the communal garden terrace area will result in direct and close overlooking into the principal private open spaces of adjoining and surrounding properties.

**Comment:** Direct and close overlooking of the private open spaces and habitable rooms of the adjoining and surrounding properties is prevented by the following building and design techniques;

- adequate spatial separation;
- the incorporation of high sill windows along the western elevation of Unit B;





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- the use of glazed louvers on the eastern elevation of the pergola on the ground floor level of Unit B;
- the southern orientation of the lawn terrace area of Unit A and deck areas of Unit B;
- the use of privacy screens on the side elevations of Unit A and B;
- the difference in relative heights of Unit A and B to the private open spaces of adjoining properties;
- the incorporation of landscaping within the rear and side southern setbacks of the site;
- the incorporation of landscaping, a pergola structure and acoustic fence within the rear and side southern setback areas of the site;

In addition, the privacy impacts of the proposal on the adjoining and surrounding properties is assessed in detail under Clause 65 - Privacy in the General Principles of Development Control table of this report, where it is concluded that a reasonable and acceptable level of privacy between adjoining and surrounding properties and the subject site would be maintained.

Based on the above, the concerns raised in relation to privacy do not warrant refusal or redesign of the application.

### **(c) View loss impacts**

The concerns are that the proposed development, including the units, common terrace area and proposed landscaping elements will cause unreasonable and unacceptable view loss impacts on adjoining and surrounding properties.

**Comment:** The impact of the proposed development on the available views of adjoining and surrounding properties, including units within No.1A and 1 Greycliffe Street and No.44 Queenscliff Road, are assessed in detail in the General Principles of Development Control table of this report under *Clause 61 – Views*. In summary, the extent of view loss to adjoining and surrounding properties was assessed as being from negligible to minor. The view loss assessment also accounted for the proposed landscaping elements within the front, rear and side setback areas of the site.

Furthermore, it was found that the protection of views obtained across side boundaries and through the existing lower and ground floor void spaces (ie. existing driveway, carpark and entry foyer) of the existing building would be contrary to the four view loss planning principles outlined within the Land and Environment Court Case *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*.

Based on the above, it is concluded that the proposed development will have a reasonable impact on the available views from adjoining and surrounding properties. Therefore, the concerns raised in relation to view loss do not warrant refusal or redesign of the application.

### **(d) Overshadowing**

The concern is that the proposed development will cause overshadowing impacts on adjoining properties, including the adjoining building to the west, No.1A Greycliffe Street.

**Comment:** The submitted shadow diagrams reveal that proposed development will not result in any additional overshadowing of the private open spaces of the adjoining properties, including No.1A Greycliffe Street. As discussed under the General Principles of Development Control table in the report, the proposal also satisfies the requirements of Clause 62 –



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Access to Sunlight as it will not result in an unreasonable level of overshadowing of other adjoining and surrounding properties.

Based on the above, the concerns raised in relation to overshadowing do not carry a determining weight and do not warrant a redesign or refusal of the application.

#### **(e) Adverse acoustic impacts from the use of the proposed outdoor terrace area**

The concern is that the use of the proposed common terrace area located within the northern portion of the site will unreasonably diminish the acoustic amenity of the adjoining properties, including No.44 and 50 Queenscliff Road and No.1 and 1A Greycliffe Street.

**Comment:** The residential use of the common terrace area is not expected to result in an unreasonable level of noise emissions on the occupants of adjoining residential apartment buildings. In addition, adequate spatial separation, landscape buffering and a masonry fence has been provided between adjoining properties to further minimise any noise generated from this area. Further, the proposed development has been found to satisfy the requirements of Clause 48 – Noise.

It should also be noted that should the application be approved, a condition will be imposed one consent to restrict the hours of use of the terrace area to daylight hours from Monday to Thursday and Sunday and until 10pm on Friday and Saturday nights.

Based on the above, the concerns relating to the acoustic impacts of the development do not carry determining weight and so does not warrant the refusal of the application.

#### **(f) Insufficient carparking spaces and adverse traffic impacts**

The concern is that the existing and proposed apartment building does not provide a satisfactory amount of off-street car parking spaces and that this will result in an increase in the demand for parking spaces on Queenscliff Road, particularly given that there is a high demand for existing on-street carparking spaces.

**Comment:** The proposed and existing apartment building currently provides 16 car parking spaces and the proposed development will result in an overall increase in the number of car parking spaces by 11 spaces, from 16 to 27 spaces, including 6 mechanical car stacking spaces and 2 visitor spaces. Given the development involves the construction of two (2) additional units only, the provision of an additional 11 off-street car parking spaces is considered reasonable and acceptable, particularly given the lack of existing on-site car parking spaces and the constraints of the site. Furthermore, the provision of car parking for the development will exceed the minimum car parking requirements of WLEP 2000. This is discussed in detail under Clause 74 – Provision of Carparking in the General Principles of Development Control table in the report.

Based on the above, the proposal will not increase the demand for on-street carparking spaces and is satisfactory in terms of the provision of on-site carparking spaces. Accordingly, the concerns raised in relation to the provision of carparking do not carry determining weight or warrant the refusal of the application.

#### **(g) Inaccurate architectural plans and statement of environmental effects**



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Concern has been raised in submissions that the submitted architectural plans and Statement of Environmental Effects (SEE) submitted with the application does not provide an accurate portrayal of the proposed development and does not address or justify the extent of the variations sought to the requirements of the WLEP 2000 and the level of residential amenity impacts resulting from these non-compliances including privacy and view loss.

**Comment:** Having reviewed the submitted architectural drawings and conducted a site inspection, the plans are at scale and provide an accurate depiction of the proposal that satisfies the requirements of the Environmental Planning and Assessment Regulation 2000 and can be assessed accurately under Section 79C of the EP & A Act, 1979. In addition, it is also apparent that the architectural drawings are based on the survey plans prepared by a registered surveyor to locate the proposed works on the site and the adjoining buildings.

Based on the above, the submitted architectural drawings and Statement of Environmental Effects will assist Council in providing an independent assessment of the application, which includes addressing potential impacts on neighbours, and therefore, the concerns relating to inaccurate architectural plans and statement of environmental effects should not be given determining weight.

#### **(h) Excavation and geotechnical issues**

Concerns have been raised in regard to potential adverse geotechnical impacts on adjoining properties resulting from the proposed excavation works, including the closeness of excavation works to adjoining properties and related potential damage to the foundations of adjoining apartment buildings and dwelling houses.

**Comment:** The application was accompanied by a Geotechnical Report which stipulates the extent of excavation into sandstone will be up to 7.5m at the front (northern) setback area of the site and up to 3.5m deep into cut, fill and soil beneath and adjacent to the rear (southern) elevation of the existing building. In addition, these works are to be carried out close to and up to the property boundaries of adjoining sites.

The Geotechnical Report notes two (2) existing potential landslip hazards consisting of the sandstone overhangs and uncontrolled fill and soils located in the north-east corner and rear (southern) portions of the site. The report also identifies other hazards, of a lesser nature, including localised sandstone defects, water seepage, machinery vibrations and the like.

The report concludes that the proposed development will remove the two (2) identified hazards and will not create any further landslip risk provided the recommendations of the report are followed which include best practice excavation methods and further detailed geotechnical testing and supervision to provide detailed excavation design and construction methods.

Given the above, appropriate conditions of consent will be used to ensure that the excavation works are carried out in accordance with the Geotechnical Report and recommendations so that the development has an acceptable impact on adjoining properties including No.1 and 1A Greycliffe Street and No. 44 and 42 Queenscliff Road. In accordance with the recommendations of the Geotechnical Report, an additional condition (No.13) has been imposed on the draft consent for dilapidation reports to be prepared for adjoining properties to determine the condition of those properties in the event that excavation works and vibration impact may create on the structural integrity of adjoining buildings.

Subject to the above, the concerns relating to excavation works and related geotechnical issues does not warrant refusal of the application



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### **(i) Adverse construction impacts**

Concern has been raised by adjoining and surrounding property owners that the proposed development and associated construction and excavation works will result in adverse amenity impacts, including noise and air pollution and traffic and parking congestion.

**Comment:** The application was accompanied by a preliminary Construction Management Plan (CMP) which has provided details to the management of the site prior and during construction, including pedestrian movements, work zones, safety fencing and hoarding, erosion and sediment control, waste management, hours of construction, air quality, noise management, truck and car parking arrangements, storage areas, staging of construction processes and sedimentation and erosion controls. In addition, the CMP has been designed to address all relevant Australian Standards, Council Policies and best work practices to minimise the construction impacts of the proposed development on adjoining and surrounding properties.

Notwithstanding the above, it is acknowledged that the proposal will generate adverse impacts on the amenity of adjoining and surrounding properties, particularly with regard to vibration and noise generation. In this regard, the preliminary CMP has identified potential amenity measures and provided satisfactory mitigation measures to manage and minimise these impacts on adjoining and surrounding properties. Furthermore, conditions have been imposed on the consent for a more detailed CMP to be provided prior to issue of the Construction Certificate and that all noise emissions are to comply with the requirements of the Environment Protection Authority guidelines and provisions of the Protection of the Environment Operations Act 1997.

Subject to the above, the concerns regarding adverse construction impacts do not warrant refusal of the application

### **(j) Stormwater**

The concern is that the proposed development will result in an increase in the existing volume of stormwater runoff into adjoining properties, including No.1 and 1A Greycliffe Street.

**Comment:** The subject site and adjoining sites to the south, south-east and south-west are located on the lower side of Queenscliff Headland which is characterised by steep surface slope traversing downwards from north to south. Furthermore, the subject site and adjoining sites within this vicinity have been severely disturbed and subject to substantial cut and fill. Given these site characteristics, the subject site and adjoining sites are subject to stormwater run-off, including subsurface seepage, which drains to Manly Lagoon and the ocean.

Notwithstanding the above, the application was accompanied by a Preliminary Stormwater Plan which depicts that the collection and discharge of stormwater will occur via a rock swale dissipater (and overflow pit) located within the south-western corner of the site. The dissipater will discharge dissipated stormwater to the adjoining reserve, Manly Lagoon and ocean.

In addition, Council's Development Engineering section have reviewed the proposed development and raise no concern with the proposed method of stormwater disposal subject to conditions which have been included in the consent.



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Based on the above, the concerns regarding stormwater runoff impacts do not warrant refusal of the application

**(k) Failure to comply with fire safety matters and disabled access**

The concern is that the proposed development does not satisfy the relevant fire safety matters contained within the Building Code of Australia (BCA) and access and mobility provisions.

**Comment:** The application was accompanied by a BCA and Preliminary Fire Safety Assessment report which concludes that the proposal “*should be able to conform to the construction and safety standards expressed in the BCA deemed to satisfy provisions*”. In addition, the report states that any outstanding BCA related matters “*can be dealt with in conjunction with a future application for a construction certificate and implemented prior to the issue of an occupation certificate*”.

In relation to access and mobility issues, a review of submitted plans reveals that the proposed development can comply with part D3 of the BCA and relevant standards, including AS 1428.1 - 2009 Design for access and mobility - General requirements for access - New building work. In addition, conditions have been included in the consent to ensure the proposal satisfies these requirements.

Based on the above, the concerns regarding fire safety matters and access and mobility issues do not warrant redesign or refusal of the application.

**(l) Structural inadequacies of the existing apartment building**

The concern is that the existing apartment building is structurally unsound and that the proposed works would cause further damage to the building.

**Comment:** A Certificate of Existing Structural Adequacy was submitted to Council, prepared by Northern Beaches Consulting Engineers Pty Ltd (dated 6th May 2011), which concludes that the existing apartment building is structurally sound and that it would be able to support the proposed alterations and additions.

Based on the above, the concerns regarding the structural adequacy of the existing apartment building do not warrant the refusal of the application

**(m) Non-compliances with State Environmental Planning Policies (SEPPs)**

The concerns are that the proposed development does not comply with SEPP 55 Remediation of Land, SEPP 65 Design Quality of Residential Flat Development and SEPP 71 Coastal Protection.

**Comment:** A detailed assessment of the application against all relevant SEPPs is provided under the SEPP section of the report. In summary, the proposed development has been found to satisfy the requirements of all relevant SEPPs, including SEPP 55 Remediation of Land, SEPP 65 Design Quality of Residential Flat Development and SEPP 71 Coastal Protection.

In addition, a SEPP 65 Design Verification Certificate was submitted to Council which satisfies Clause 50 (1A) of the EP&A Regulation 2000.



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Based on the above, the concerns regarding compliance with relevant SEPPs does not warrant the refusal of the application

#### **(n) Asbestos removal**

The concern is that the existing apartment building and sub-soil surface may contain asbestos which could potentially result in adverse health impacts on the residents of the adjoining properties.

**Comment:** There is no evidence that asbestos has been used in the existing apartment building or within the sub-soil surface. Notwithstanding, should asbestos be found on site, its removal is governed by the legislative requirements of the Workcover Authority of NSW. Therefore, it is the responsibility of a licensed asbestos remover to ensure its safe handling and removal.

Based on the above, the concerns raised in relation to asbestos do not carry a determining weight do not warrant the refusal of the application.

#### **(o) Loss of property values**

The concern is that the property values of adjoining and surrounding properties will decrease as a result of the proposed development.

**Comment:** The issue of property values in not a relevant matter in the assessment of this application. On this basis, the concern does not warrant refusal of the application

#### **(p) Additional garbage bins on Queenscliff Road**

The concern is that the garbage bins of the additional units will cause additional clutter on Queenscliff Road, particularly on garbage collection days.

**Comment:** The proposal involves the construction of waste and recycling storage areas within the north-west portion of the ground level (Parking Level 2). These areas will be used to store the existing and additional wastes generated by the proposal. On waste collection days, the bins will be required to be taken to the bin storage area at the far northern end of the existing driveway (adjacent Queenscliff Road) for collection.

It is on collection days that Queenscliff Road becomes cluttered with waste and recycling bins, particularly given the localised high density of residents. However, provided the bins are collected and returned to the waste and recycling storage areas in a timely manner, this is not a relevant matter for the proposal. In this regard, the concerns raised in relation to waste and recycling bins do not carry determining weight and do not warrant the refusal of the application.

### **REFERRALS**

#### **Internal Referrals**

<b>Department</b>	<b>Comments received</b>
<b>Development Engineers</b>	The application was referred to Council's Development Engineering section for comment and no concerns were raised in relation to the proposed development subject to conditions which have been included in the draft



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Department	Comments received
	consent.
<b>Landscape</b>	The application was referred to Council's Landscape Officer for comment and no concerns were raised in relation to the proposal subject to conditions which have been included in the draft consent.
<b>Heritage Officer</b>	The application was referred to Council's Heritage Officer for comment and no concerns were raised in relation to the proposal.
<b>Traffic Engineering</b>	The application was referred to Council's Traffic Engineering section for comment and no concerns were raised in relation to the proposal.

### External Referrals

<b>Energy Australia</b>	The application was referred to Energy Australia and no concerns are raised with the proposal subject to conditions which have been included in the draft consent.
<b>Aboriginal Heritage Office</b>	The application was referred to the Aboriginal Heritage Office and no concerns are raised with the proposal subject to conditions which have been included in the draft consent.

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

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
<b>Section 79C (1) (a)(i) – Provisions of any environmental planning instrument</b>	See discussion on SEPP BASIX, SEPP (Infrastructure) 2007, SEPP No. 55 – Remediation of Land, SEPP 65 Design Quality of Residential Flat Development, SEPP 71 – Coastal Protection and WLEP 2000 in this report.
<b>Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument</b>	The proposed development is consistent with the aims and objectives of the R2 – Low Density Residential Development zone and the planning objectives pursuant to the Draft Warringah Local Environment Plan 2009 (Draft WLEP 2009). This is also discussed under the Draft WLEP 2009 section of the report.
<b>Section 79C (1) (a)(iii) – Provisions of any development control plan</b>	The application was notified in accordance with Warringah Development Control Plan.
<b>Section 79C (1) (a)(iii)(a) - Provisions of any Planning Agreement or Draft Planning Agreement</b>	N/A.
<b>Section 79C (1) (a)(iv) - Provisions of the regulations</b>	All relevant provisions of the EP&A Regulation 2000 have been taken into consideration during the assessment of this development application.  Clause 98 of the EP&A Regulation 2000 requires the consent



Section 79C 'Matters for Consideration'	Comments
	<p>authority to consider the provisions of the Building Code of Australia. A BCA Report has been submitted with the application. The Report concludes that the building can readily achieve compliance with the provisions of the BCA 2008. A condition has been included in the recommendation to ensure that the proposal complies with the BCA.</p> <p>Suitable conditions have been included in the consent to ensure the building satisfies the requirements of EP&amp;A Regulation 2000 Clause 92 Demolition of Structures and Clause 143 Fire Protection and Structural Capacity.</p> <p>A design verification certificate prepared by the Architect accompanied the application which satisfies the requirements of Clause 50(1A) of the EP&amp;A Regulation 2000.</p>
<p><b>Section 79C (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</b></p>	<ul style="list-style-type: none"> <li>(i) The environmental impacts of the proposed development on the natural and built environment are addressed in detail under the General Principles of Development Control section in the report. In summary, the proposed development's impact on the natural and built environment has been found to be acceptable and reasonable in terms of its context and settings.</li> <li>(ii) The proposed development will not have a detrimental social impact in the locality considering the residential character of the proposal.</li> <li>(iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the existing and proposed land use.</li> </ul>
<p><b>Section 79C (1) (c) – The suitability of the site for the development</b></p>	<p>The site is constrained by its battle axe shape, steep slope and the location and scale (11 storeys) of the existing apartment building and basement car parking level.</p> <p>Having regard to the above, the site is considered suitable for the proposed development as it has been designed in accordance with the opportunities and constraints of the site. Specifically, the development involves excavation works into the existing sandstone areas at the front (northern) portion of the building to provide additional basement level car parking levels. The existing driveway will be utilised to provide access to these areas. In addition, two (2) additional units are to be constructed within the southern portion of the ground floor, lower ground floor level and undercroft area of the existing apartment building.</p> <p>The proposal will provide new car parking areas, provide a satisfactory amount of car parking, provide a formalised stormwater drainage system, improve the architectural articulation of the lower southern portion of the existing building and provide a satisfactory visual transition to the adjoining Queenscliff Beach reserve.</p> <p>Based on the above, the site is considered suitable for the proposed development.</p>
<p><b>Section 79C (1) (d) – Any submissions made in accordance with the EPA Act or EPA Regs</b></p>	<p>All submissions have been adequately addressed under the 'Notification and Submissions' section of this report. In summary the submissions are not concurred with, addressed by conditions of consent or do not warrant the refusal or redesign of the application.</p>





Warringah Council

Section 79C 'Matters for Consideration'	Comments
<p><b>Section 79C (1) (e) – The public interest</b></p>	<p>The public interest is served by development of the site in accordance with the planning controls under the WLEP 2000 and other relevant Environmental Planning Instruments, and the continued residential use of the site, and as an appropriate land use within this locality.</p> <p>The variations to the planning controls for housing density, landscape open space and side and rear setbacks have not been shown to translate into significant adverse impacts, including loss of views or privacy.</p> <p>The improved building character and design of the apartment building will provide a satisfactory urban design outcome, enhanced landscape environment and finishes which are consistent with the Desired Future Character of the G8 Locality and the immediate vicinity in Queenscliff Road and Greycliffe Street.</p> <p>Given the above, the front and rear setbacks are satisfactory and the building articulation of the additional two (2) units will provide visual interest to the existing apartment building when viewed from Queenscliff Beach. Therefore, the development represents a satisfactory response to the sites topography and will sit comfortably on the site when viewed from surrounding vantage points. As such, the proposed development will have an overall public benefit.</p>

## DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

### Draft Warringah Local Environmental Plan 2009 (Draft WLEP 2009)

The public exhibition of the draft WLEP 2009 commenced on 12 October 2009 and ended on 30 December 2009. The draft LEP was adopted by Council at its meeting held on 8 June 2010. The draft WLEP 2009 is therefore a mandatory matter for consideration under Section 79 C (1) (a) (ii) of the Environmental Planning and Assessment Act, 1979.

**Definition:** Residential Flat Building

**Land Use Zone:** R2 Low Density Residential

**Permissible or Prohibited:** Residential Flat Building (prohibited)

### Principal Development Standards:

The following development standards under the Draft WLEP 2009 are relevant to the assessment of this application:

Development Standard	Required	Proposed	Complies	Clause 4.6 Exception to Development Standard
Height of Buildings	8.5m	The existing apartment building is eleven (11)	NO	N/A (existing non-compliance)



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		storeys in height		
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In conclusion, the proposal does not seek to increase the height of the existing apartment building. On this basis, the proposed development is considered acceptable with the Draft WLEP 2009.

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)**

### **STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)**

#### **SEPP (Building Sustainability Index: BASIX) 2004**

SEPP (Building Sustainability Index: BASIX) 2004 applies to the development. A BASIX Certificate was been submitted with the application. The certificate confirms that the proposed development meets the NSW government's requirements for sustainability.

#### **SEPP No. 55 – Remediation of Land**

Clause 7(1)(a) of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) and Clause 48 of WLEP 2000 state that a 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 the land is contaminated, it is satisfied that the land is suitable in its contaminated state for the purpose for which the development is proposed to be carried out, and*
- *If the land requires remediation to be made suitable for the development proposed to be carried out, it is satisfied that the land will be remediated before the development is carried out.*

The history of land use on this site does not indicate that there is a risk of contamination in accordance with the Contaminated Land Planning Guidelines. No further investigation is required.

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

The application was referred to Energy Australia to determine if the subject site was within or immediately adjacent to any of the above electricity infrastructure. Energy Australia, by letter, stated that the subject site was not affected by any of the above electricity infrastructure. In this regard, the subject application is considered to satisfy the provisions of Clause 45 of SEPP Infrastructure.

#### **SEPP 65 – Design Quality of Residential Flat Development**

SEPP 65 applies to new residential flat buildings, the substantial redevelopment or refurbishment of existing residential flat buildings and conversion of an existing building to a residential flat building.

The proposed development involves the addition of two (2) units within the existing lower levels of the existing eleven storey apartment building. The provisions of SEPP 65 have been applied to the assessment of the application to provide a complete and proper assessment of the proposed development given the level of redevelopment.



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SEPP 65 requires any development application for residential flat development to be assessed against the 10 Design Quality Principles contained in Clauses 9-18 of SEPP 65 and the matters contained in the Residential Flat Design Code (RFDC).

### **Design Quality Principle 1: Context**

*“Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.*

*Responding to context involves identifying the desirable elements of a location’s current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.”*

**Comment:** The proposal adequately responds to its context for the following reasons;

- The proposed development is consistent with the DFC statement of the G8 locality in that it provides an improved design for the existing apartment style building and will have an acceptable visual impact when viewed from Queenscliff Beach and surrounding properties.
- The bulk and scale of the proposed development is consistent with SEPP 71 – Coastal Protection and Clause 66 – Building Bulk of WLEP 2000;
- The proposal is considered to be compatible within the context of the surrounding residential development which is characterised by a mixture of historic style and modern residential flat buildings and dwellings;
- The additional units are located within the undercroft and lower ground floor levels of the existing building footprint and effectively maintains the context of the site and the locality

Given the above, the proposed development is an appropriate response to “Context” in relation to the scale and form of existing and desired development in the locality. Accordingly, the proposal satisfactorily addresses the design objectives of the principle.

### **Design Quality Principle 2: Scale**

*“Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.*

*Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.”*

**Comment:** Whilst the existing apartment building does not comply with the current maximum height limit control under WLEP 2000, the additional units are located within the undercroft and lower ground floor levels of the existing building and have been designed to provide articulation and visual interest to the existing apartment building. For these reasons, the proposed development is considered acceptable in terms of the bulk and scale of the building.



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### **Design Quality Principle 3: Built Form**

*“Good design achieves an appropriate built form for a site and the building’s purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.*

*Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.”*

**Comment:** The built form of the proposed development is considered to be a site responsive design. The alterations and additions to the existing apartment building, including the roof terrace area, additional car parking spaces and storage areas and will improve the amenity available to residents of the apartment building. Also, the articulation and external materials and finishes of the units will complement the existing built form and provide visual interest to the building when viewed from Queenscliff Beach.

For the reasons given above, the proposal is considered to be consistent with this design quality principle.

### **Design Quality Principle 4: Density**

*“Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).*

*Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.”*

**Comment:** The proposal will result in a marginal increase in the housing density of the existing apartment building. The additional two (2) units are to be located within the undercroft and lower ground floor levels of the existing building which is an appropriate use of that space. In addition, the site would continue to be serviced by a reasonable level of infrastructure, public transport, community facilities and environmental quality. The additional units would also serve to accommodate the increasing population in the local government area.

### **Design Quality Principle 5: Resource, energy and water efficiency**

*“Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.*

*Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.”*

**Comment:** The application has addressed the recycling of demolition and excavation materials and the ongoing waste management for the completed development through an Erosion and Sedimentation Plan and Preliminary Construction Management Plan.



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In addition, a BASIX certificate has been submitted with the application.

Based on the above, the proposal is consistent with the design quality principle.

### ***Design Quality Principle 6: Landscape***

*“Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.*

*Landscape design builds on the existing site’s natural and cultural features in responsible and creative ways. It enhances the development’s natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.*

*Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours’ amenity, and provide for practical establishment and long term management.”*

**Comment:** The site is extremely limited in terms of landscaped open space which is characterised by areas of rock outcrops within the north-eastern portion of the site and poor quality shrubs, medium size trees, ground cover and weeds within the rear (southern) portion of the site. The proposed development will enhance and provide an improved landscape setting of superior quality on site which will also integrate with the built form once established and assist in providing additional neighbour amenity in terms of visual and acoustic privacy and visual outlook.

Based on the above, the proposed landscaping design is acceptable in relation to the design quality principle.

### ***Design Quality Principle 7: Amenity***

*“Good design provides amenity through the physical, spatial and environmental quality of a development.*

*Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.”*

**Comment:** The proposal makes minimal changes to the existing apartment building and no changes to the arrangement of the units except for the additional units and associated balconies. Therefore, the opportunities to improve the overall physical, spatial and environmental quality of the existing building are restricted.

With the exception of solar access, the building layout for the two (2) additional units provides for an adequate level of amenity for future occupants in terms of the room dimensions and shapes (including a split level unit), natural ventilation, visual and acoustic privacy, visual outlook, storage and indoor and outdoor space.



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The existing building and Unit A is accessible for all age groups and degrees of mobility as there is an internal lift within the development.

Accordingly, the proposal is consistent with this Design Quality Principle.

***Design Quality Principle 8: Safety and security***

*“Good design optimises safety and security, both internal to the development and for the public domain.*

*This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.”*

**Comment:** The existing units are elevated and have dual aspect towards the north and south which provides excellent casual surveillance opportunities of Queenscliff Beach and Queenscliff Road. The proposed units will also provide satisfactory external safety and security through the orientation of living areas and balconies towards Queenscliff Beach, thus, maintaining opportunities for casual surveillance.

The sandstone wall adjoining the rear (southern) boundary to Queenscliff Beach and the roof top terrace and basement carparking levels will provide a clear definition between public and private spaces.

A pedestrian access point into the building is separated from vehicular traffic and is considered to provide a clear and safe access point from Queenscliff Road. The provision of internal access from the basement levels to the dwellings/foyer also assists in security.

Given the above, the proposal is considered to be consistent with the intent of this principle.

***Design Quality Principle 9: Social dimensions***

*“Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.*

*New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.”*

**Comment:** As mentioned elsewhere in the report, the proposed development will increase the housing density whilst maintaining the bulk and scale of the existing apartment building. In addition, a common roof terrace area has been provided within the front (northern) setback area of the site which will complement the existing social context.

The proposal has been skilfully designed and articulated to have an acceptable visual impact on Queenscliff Beach and adjoining properties whilst also maintaining a satisfactory level of amenity for its future occupants.

Based on this, the current proposal is consistent with the desired future character of the area as it will provide an improved standard of design and amenity to apartment style housing. Therefore, the proposed development is consistent with this Design Quality Principle.

### **Design Quality Principle 10 Aesthetics**

*“Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.”*

**Comment:** The development application was accompanied by a photomontage of the proposed development and a schedule of colours and finishes to demonstrate the aesthetics of the design.

The aesthetics of the proposal are compatible with more modern and contemporary developments in the area and will complement the existing built form of the historical apartment building.

A variety of textures and colours have been incorporated into the design of the proposal including a metal ‘mansard’ roof design, aluminium framed glass doors and windows, steel columns and rendered cladding and cement external walls. As such, these building elements will result in a more contemporary designed apartment building with visual interest.

In this regard, the application is consistent with this principle.

### **Conclusion on the 10 Design Quality Principles**

The proposed development is assessed as being consistent and compatible with the Design Quality Principles contained in Clauses 9-18 of SEPP 65.

### **SEPP 65 - Residential Flat Design Code**

<b>SEPP 65 - Residential Design Code Checklist</b>		
Part	Guideline	Compliance/Comments
<b>PART 01 - LOCAL CONTEXT</b>		
Primary Development Controls		
Building Height	Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.	<b>N/A</b>
	Test heights against the number of storeys and the minimum ceiling heights required for the desired building use.	<p><b>YES</b></p> <p>The development provides two (2) units generally within the existing sub floor level area, one of which is split level.</p> <p>The floor to ceiling heights for each unit are as follows:</p> <ul style="list-style-type: none"> <li>•Unit A – 2.8m</li> <li>•Unit B – 2.4m (both levels)</li> </ul> <p>Based on the above, the proposal is considered satisfactory in regards to this provision of the Residential Flat Design Code (refer to Building</p>

SEPP 65 - Residential Design Code Checklist		
Part	Guideline	Compliance/Comments
		Configuration – Ceiling Heights section of the SEPP)
Building Depth	In general, an apartment building depth of 10m -18m is appropriate. Developments that propose wider than 18m must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	<b>YES</b> The proposed units have building depths less than 18.0m and achieve effective natural ventilation.
Building Separation	<p>Design and test building separation controls in plan and section.</p> <p>For buildings greater than nine storeys and above 25m:</p> <p>(a) 24m between habitable rooms/balconies;</p> <p>(b) 18m between habitable/balconies and non-habitable rooms;</p> <p>(c) 12m between non-habitable rooms.</p> <p><b>Note:</b> The RFDC defines a habitable room as any room or area used for normal domestic activities, including living, dining, family, lounge, bedrooms, study, kitchen, sun room and play room</p> <p>Test building separation controls for daylight access to buildings and open spaces.</p>	<p><b>YES</b></p> <p>The proposed units will comprise of south facing indoor and outdoor (habitable) living rooms. These areas have varying side setbacks to the western and eastern side boundaries from 0.9m to 5.0m and 2.1m to 5.4m, respectively. With the exception of the outdoor deck areas, the two units do not include any external openings towards adjoining properties, including No. 1 and 1A Greycliffe Street and No.42 Queenscliff Road.</p> <p>Having regard to the above, the external balconies of Unit A and B are located at varying distances from 4.6m to 5.8m to the external balconies at No.1A Greycliffe Street and over 20m from the south-east corner of the apartment building at No.1 Greycliffe Street. In addition, the external balconies of Unit A and B are located 4.0m from the external balconies at 42 Queenscliff Road.</p> <p>The spatial separation between buildings does not satisfy the minimum 24m standard prescribed under the SEPP. Notwithstanding, the spatial separation to adjoining properties is considered acceptable in this instance for the following reasons;</p> <p>a) As described in detail under Clause 62 – Privacy in the General Principles of Development Control table, direct and close overlooking of the private open spaces and habitable rooms of the adjoining and surrounding properties has been satisfactorily prevented by adequate spatial separation, building and design techniques;</p> <p>b) the areas of the outdoor deck and garden terrace areas are relatively small and their use is not expected to generate an unreasonable level of acoustic impacts on adjoining properties given the residential nature of the apartment building;</p> <p>c) the distance of separation proposed will not impact on daylight access to any adjoining residential buildings; and</p>





<b>SEPP 65 - Residential Design Code Checklist</b>		
Part	Guideline	Compliance/Comments
		<p>d) Strict compliance with the standard in this instance is unreasonable (and impossible) given the location of the existing building. It is considered that the location, relatively small size and orientation of the terraces and balconies, will ensure satisfactory visual and acoustic privacy between properties.</p> <p>Based on the above assessment, the proposed separation between buildings is satisfactory.</p>
Street Setbacks	Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.	<p><b>N/A</b></p> <p>The development cannot be viewed from Queenscliff Road, and therefore, it will not impact on the existing streetscape of Queenscliff Road.</p>
	Identify the quality, type and use of gardens and landscaped areas facing the street.	<p><b>N/A</b></p> <p>See discussion above.</p>
Side and Rear Setbacks	Relate side setbacks to existing streetscape patterns.	<p><b>YES</b></p> <p>The proposal will result in the existing rear setbacks to decrease and worsen an existing non-compliance. Notwithstanding, the setback is supported under a Clause 20 Variation WLEP 2000 (which is discussed in detail under the WLEP 2000 section of the report).</p>
Floor Space Ratio	Test the desired built form outcome against proposed floor space ratio to ensure consistency with building height- building footprint the three dimensional building envelope open space requirements.	<p><b>N/A</b></p> <p>No FSR applies to the subject site under WLEP 2000.</p>
<b>PART 02- SITE DESIGN</b>		
<b>Site Configuration</b>		
Deep Soil Zones	A minimum of 25 percent of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, storm water treatment measures must be integrated with the design of the residential flat building.	<p><b>YES</b></p> <p>A detailed Landscape Plan has been submitted with the application which demonstrates that the proposed development will improve the existing landscape setting of the site and will assist in providing amenity for future occupants and adjoining properties.</p>
Open Space	The area of communal open space required should generally be at least between	<p><b>YES</b></p>



<b>SEPP 65 - Residential Design Code Checklist</b>		
Part	Guideline	Compliance/Comments
	<p>25 and 30 percent of the site area. Larger sites and brownfield sites may have potential for more than 30 percent.</p> <p>Where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space.</p>	<p>No communal landscaped area controls apply to the G8 locality under WLEP 2000. In addition, the existing site does not contain an area of communal open space.</p> <p>Notwithstanding, the proposal includes a roof terrace common area with associated landscaping within the front (northern) portion of the site. In addition, the beach and public open space is located within close proximity to the site.</p> <p>Based on the above, all residents have adequate access to open space.</p>
	<p>The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m<sup>2</sup>; the minimum preferred dimension in one direction is 4 metres. (See "Balconies" for other private open space requirements)</p>	<p><b>YES</b></p> <p>WLEP 2000 requires a minimum area of private open space of 10sqm with minimum dimensions of 2.5m for apartment style dwellings. Both units exceed these dimensions. In addition, the private open space of each unit is directly accessible from the living room.</p> <p>Having regard to the above the provision of private open space for the apartments is satisfactory.</p>
	<p>Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.</p>	<p><b>N/A</b></p>
Visual Privacy	<p>Refer to Building Separation minimum standards.</p>	<p><b>YES</b></p> <p>As discussed in the preceding 'Building Separation' section, adequate building separation is provided to adjoining buildings and will not cause unacceptable privacy and acoustic impacts or overshadowing.</p>
Building Entry	<p>Identify the access requirements from the street or car parking area to the apartment entrance.</p> <p>Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.</p> <p>Provide barrier free access to</p>	<p><b>YES</b></p> <p>Unit A can be accessed by the western and eastern side elevation staircase which is accessed from the lower level carparking area and/or lift.</p> <p>Unit B can be accessed via the entry foyer area and directly from the Level 2 parking area.</p> <p>In relation to access and mobility issues, a review of submitted plans reveals that the proposed development can readily comply with part D3 of the BCA and AS 1428.1 - 2009 Design for access and mobility - General requirements for access - New building work. In addition, conditions have been included in the consent to ensure the proposal satisfies these requirements.</p>



<b>SEPP 65 - Residential Design Code Checklist</b>		
<b>Part</b>	<b>Guideline</b>	<b>Compliance/Comments</b>
	at least 20 percent of dwellings in the development.	
Vehicle Access	Generally limit the width of driveways to a maximum of six metres.	<p><b>YES</b></p> <p>The existing driveway entry from Queenscliff Road will continue to provide vehicular access to the site and the existing and proposed basement carparking level. Two (2) new access ramps will be constructed off the lower end of the existing driveway to provide access to the proposed ground and lower ground floor car parking levels located within the front (northern) setback area of the site.</p> <p>The preliminary Parking and Access report submitted with the application concludes that the driveway and ramps generally comply with relevant Australian Standards, including AS2890.12004 – Parking facilities – Off-street parking. Furthermore, Council's Engineering and Traffic Sections have raised no concerns in relation to the proposed parking and access methodology.</p> <p>Having regard to the above, vehicular access to the site is considered satisfactory.</p>
Pedestrian Access	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	<p><b>YES</b></p> <p>The proposal includes the provision of a 1.0m wide pedestrian egress path on the eastern side of the existing driveway from Queenscliff Road. This pathway will also provide access to the communal terrace area.</p> <p>The existing stairway will provide access to the rear of the site from Queenscliff Beach.</p> <p>The vehicular entry and pedestrian access to the apartment building is clearly defined and adequately separated.</p>
<b>PART 03 - BUILDING DESIGN</b>		
<b>Building Configuration</b>		
Apartment Layout	Single-aspect apartments should be limited in depth to 8 metres from a window.	<p><b>YES</b></p> <p>All 15 units within the existing apartment building have dual aspect.</p> <p>Unit A is single aspect with a depth less than 8m.</p> <p>Unit B is dual aspect.</p> <p>Based on the above, the proposal is satisfactory in this regard.</p>
	The back of a kitchen should be no more than 8 metres from a window.	<p><b>YES</b></p> <p>The kitchens of Unit A and B comply with this requirement.</p>



<b>SEPP 65 - Residential Design Code Checklist</b>		
Part	Guideline	Compliance/Comments
	The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts.	<b>SATISFACTORY</b>  No units are greater than 15m in depth and therefore the proposal is satisfactory in this regard.
	If Council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: (apartment size is only one factor influencing affordability) - 1 bedroom apartment 50m <sup>2</sup> - 2 bedroom apartment 70m <sup>2</sup> - 3 bedroom apartment 95m <sup>2</sup>	<b>SATISFACTORY</b>  Council's LEP does not provide 'standards' for apartment sizes. Notwithstanding, both units exceed the minimum standards under the SEPP. As such, the apartment sizes are considered to be satisfactory.
Balconies	Provide primary balconies for all apartments with a minimum depth of 2 metres.  Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.	<b>YES</b>  This has been discussed in detail under Part 2 Design Site – Site Configuration. In summary, the provision of balconies on all units will provide a satisfactory area of private open space and significantly improve the amenity for all residents compared to the existing situation.
Ceiling Heights	The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired.  In general, 2.7 metres minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.	<b>YES</b>  The floor to floor heights for each level are as follows;  <b>Unit A</b>  2.8m (non-habitable and habitable)  <b>Unit B</b>  2.4m both levels (non-habitable and habitable)  The floor to floor heights are considered acceptable on the upper level of Unit B (habitable) given the shallow depth of the living rooms, high level of natural ventilation, visual outlook and large expanse of window area along the southern and western elevations of the Unit.
Ground Floor Apartments	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and	<b>YES</b>  Unit A is located on the undercroft level and has separate access provided at adjacent the western and eastern elevation.



<b>SEPP 65 - Residential Design Code Checklist</b>		
<b>Part</b>	<b>Guideline</b>	<b>Compliance/Comments</b>
	topography of the site.	
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	<b>YES</b>  Unit A is located on the undercroft level and has direct access to a ground floor terrace.
Internal Circulation	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Exceptions may be allowed: for adaptive reuse buildings where developments can demonstrate the achievement of the desired streetscape character and entry response Where developments can demonstrate a high level of amenity for common lobbies, corridors and units, (cross over, dual aspect apartments).	<b>N/A</b>  No corridors are proposed.
Storage	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: <ul style="list-style-type: none"> <li>• two-bedroom apartments 8m<sup>3</sup></li> <li>• three bedroom apartments 10m<sup>3</sup></li> </ul>	<b>YES</b>  The proposal will retain the existing storage areas within the lower level and provide an additional 50sqm in storage areas within the undercroft and lower levels. The amount of storage space provided is satisfactory.
Acoustic Privacy		<b>YES</b>  Masonry walls separate each unit and will mitigate the acoustic impact between each unit to a reasonable level.
<b>Building Amenity</b>		
Daylight Access	Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid winter. In dense urban areas a minimum of two hours may be acceptable.	<b>YES</b>  The proposed units (A and B) are orientated towards the south and would not receive any effective sunlight. Notwithstanding, this would be off-set by the high level of amenity for future occupants in terms of the room dimensions and shapes (including a spill level unit), natural ventilation and daylight, visual and acoustic privacy, visual outlook, storage and indoor and outdoor space.  In addition, the existing 15 units (88% or 15 apartments out of 17 apartments)) are dual aspect and would receive in excess of 3hrs sunlight between 9am and 3pm in mid winter.



<b>SEPP 65 - Residential Design Code Checklist</b>		
<b>Part</b>	<b>Guideline</b>	<b>Compliance/Comments</b>
		Accordingly, the proposed development is satisfactory in regards to daylight access.
	Limit the number of single-aspect apartments with a southerly aspect (SW/SE) to a maximum of 10% of the total units proposed.	<b>YES</b>  Whilst Unit A is single aspect and orientated towards the south, the proposal will result in 16 units out of 17 units (94%) to have dual aspect.
Natural Ventilation	Building depths, which support natural ventilation typically range from 10 to 18 metres.	<b>YES</b>  The proposed development achieves compliance with the building depth requirement.
	Sixty percent (60%) of residential units should be naturally cross-ventilated.	<b>YES</b>  All units are naturally cross-ventilated.
<b>Building Form</b>	No rules of thumb	<b>Not Applicable</b>
<b>Building Performance</b>		
Waste Management	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	<b>YES</b>  A satisfactory Construction Management Plan has been provided as part of the application which satisfies this component of the SEPP.
Water Conservation	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos-cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	<b>YES</b>  BASIX certificate submitted.

### **SEPP No. 71 – Coastal Protection**

The proposal has been identified as being located within the Coastal Zone. Accordingly, State Environmental Planning Policy No.71 – Coastal Protection (SEPP 71) applies to the subject site.

Clause 7 of SEPP 71 states that the matters for consideration set out in Clause 8 must be taken into consideration by a consent authority when it determines a development application to carry out development on land to which the policy relates.

The application has been assessed against the requirements of Clause 8 where it is concluded that the proposed development satisfies the matters for consideration pursuant to Clause 8 of the SEPP. This assessment is provided below;



Matters for Consideration	Comment	Complies
<p>(a) The aims of the policy</p> <p>This Policy aims:</p> <p>(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and</p> <p>(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and</p> <p>(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and</p> <p>(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and</p> <p>(e) to ensure that the visual amenity of the coast is protected, and</p> <p>(f) to protect and preserve beach environments and beach amenity, and</p> <p>(g) to protect and preserve native coastal vegetation, and</p> <p>(h) to protect and preserve the marine environment of New South Wales, and</p> <p>(i) to protect and preserve rock platforms, and</p> <p>(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the <a href="#">Protection of the Environment Administration Act 1991</a>), and</p> <p>(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and</p> <p>(l) to encourage a strategic approach to coastal management.</p>	<p>The proposal is considered consistent with the aims of the policy.</p>	<p>YES</p>
<p>(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</p>	<p>The public access to the foreshore is not altered by the proposal.</p>	<p>YES</p>
<p>(c) Opportunities to provide new public access to and along the coastal foreshore for</p>	<p>The proposal is for additions and alterations to an existing residential flat building and does not</p>	<p>YES</p>



pedestrians or persons with a disability	have potential to provide new public access to the foreshore.	
(d) The suitability of development given its type, location and design and its relationship with the surrounding area	The proposal is considered suitable for the subject site.	YES
(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	The proposal will result in negligible amenity impacts on adjoining and adjoining properties, including loss of views from public places.	YES
(f) The scenic qualities of the New South Wales coast, and means to protect and improve these qualities	The proposal is not considered to detract from the scenic qualities of the New South Wales coast.	YES
(g) Measures to conserve animals (within the meaning of the <a href="#">Threatened Species Conservation Act 1995</a> ) and plants (within the meaning of that Act), and their habitats	The site is in an urban area and contains an existing residential flat building. There is no remanent native vegetation or potential habitat for threatened species on the subject site, as such measures to conserve animals, plants or their habitat are not required.	YES
(h) Measures to conserve fish (within the meaning of Part 7A of the <a href="#">Fisheries Management Act 1994</a> ) and marine vegetation (within the meaning of that Part), and their habitats	The proposal is for an addition to the existing residential flat building and additional measures to conserve fish and marine vegetation are not required.	YES
(i) Existing wildlife corridors and the impact of development on these corridors	The proposal will not have any significant impact any existing wildlife corridors.	YES
(j) The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	The proposal being an addition to an existing residential flat building is not considered to increase the likely impacts of coastal processes and coastal hazards to the development. Furthermore, it is considered that the proposal does not significantly alter the existing impacts of the development on coastal processes and coastal hazards	YES
(k) Measures to reduce the potential for conflict between land-based and water-based coastal activities	There are no large water based activities in the area and the subject site is an existing allotment in a residential urban area. Therefore the proposal does not require measures to reduce the potential for conflict between land-based and water based coastal activities.	YES
(l) Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals	The proposal does not require any specific measures for the preservation of cultural places, values, customs or beliefs.	YES
(m) Likely impacts of development on the water quality of coastal waterbodies	The proposal is unlikely to create any additional impact to water quality.	YES
(n) The conservation and preservation of items of heritage, archaeological or historic significance	The subject site is not in the immediate vicinity of any known items of heritage, archaeological or historic significance.	YES
(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	The proposal has been assessed as being satisfactory in regards to the Draft WLEP 2009.	YES
(p) Only in cases in which a development application in relation to proposed development is determined:	The cumulative impacts of the proposal are considered acceptable.	YES
(i) <i>the cumulative impacts of the proposed</i>	The development is considered satisfactory in relation to water and energy usage as a BASIX	





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<p><i>development on the environment, and</i></p> <p>(ii) measures to ensure that water and energy usage by the proposed development is efficient</p>	<p>certificate has been submitted with the application.</p>	
<p>S13) A provision of an environmental planning instrument that allows development within a zone to be consented to as if it were in a neighbouring zone, or a similar provision, has no effect.</p>	<p>The proposal does not attempt to allow development within a zone to be consented to as if it were in a neighbouring zone.</p>	<p>YES</p>
<p>S14) A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.</p>	<p>The proposal is unlikely to result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.</p>	<p>YES</p>
<p>S15) The consent authority must not consent to a development application to carry out development on land to which this Policy applies in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.</p>	<p>The proposal does not involve a non-reticulated effluent disposal system that will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.</p>	<p>YES</p>
<p>S16) The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.</p>	<p>Uncontrolled stormwater (surface runoff) will be collected and discharged via a rock swale dissipater (and overflow pit) located within the south-western corner of the site. The dissipater will discharge dissipated stormwater to the adjoining reserve, Manly Lagoon and ocean.</p> <p>Council's Engineering section have imposed conditions on the consent requiring stormwater to be collected, stored and discharged to the existing and approved drainage system (details of which are to be provided at the Construction Certificate stage).</p>	<p>YES</p>

## WARRINGAH LOCAL ENVIRONMENTAL PLAN 2000

### DESIRED FUTURE CHARACTER – G8 QUEENSCLIFF LOCALITY

*The Queenscliff locality will remain characterised by a mix of detached style housing and apartment style housing in landscaped settings interspersed by complementary and compatible uses. The development of new apartment style housing will be restricted to the medium density areas shown on the map.*

*The quality of existing development in the Queenscliff locality is inconsistent and suffers as a result of poorly designed buildings which failed to respond to the prominence and natural qualities of this coastal headland and its relationship to the surrounding public spaces including nearby beaches and the parklands surrounding Manly Lagoon. Future development will be of an improved standard of design that addresses public streets and spaces, integrates with the landscape and topography, including rock outcrops and remnant bushland, and complements long distance views of the locality. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.*



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*The opportunities for further development in Queenscliff will be limited.*

*The land bound by Queenscliff Road, Pittwater Road and the public accessway which links Queenscliff Road, may be developed for apartment style housing. Development on this land will be designed to minimise view loss from residences to the north and will maintain a view corridor through the site to Manly Lagoon. Development will present as two storeys when viewed from the section of Queenscliff Road shown in Diagram 8.1 available from the office of the Council, with any storey above being set back and providing the absolute height for the site. The bulk of the buildings will be reduced through stepping the building down the site and avoiding long continuous top floors. It is intended that vehicle access to Queenscliff Road will be shared with 166 Queenscliff Road and 366 Pittwater Road.*

*The locality will continue to be served by the existing local retail centre shown on the map. Future development in this centre will be in accordance with the general principles of development control provided in clause 39.*

The proposed development is defined as 'Housing' which is Category 1 development within the G8 – Queenscliff Locality.

Clause 12(3) (a) of WLEP 2000 provides that the consent authority must consider Category 1 development against the localities Desired Future Character. An assessment of the related components of the DFC has been undertaken as follows:

***The Queenscliff locality will remain characterised by a mix of detached style housing and apartment style housing in landscaped settings interspersed by complementary and compatible uses. The development of new apartment style housing will be restricted to the medium density areas shown on the map.***

Existing apartment style housing adjoins the site to the north-west, west, south-west, west and north-east. These apartment style buildings vary in scale between two and five stories in scale. Whilst these sites are occupied by apartment style housing, the subject site and adjoining sites are not within a "medium density area" as identified by WLEP 2000.

The proposal involves alterations and additions to an existing 11 storey apartment building, including an additional two apartments, with associated landscaping works within the front, rear and side building setbacks. The proposed

The site is extremely limited in terms of landscaped open space which is characterised by areas of rock outcrops within the north-eastern portion of the site and poor quality shrubs, medium size trees, ground cover and weeds within the rear (southern) portion of the site. The proposed development will enhance and provide an improved landscape setting of superior quality on site which will also integrate with the built form once established and assist in providing additional neighbour amenity in terms of visual and acoustic privacy and visual outlook.

Based on the above, the proposal is consistent with this component of the DFC.

***The quality of existing development in the Queenscliff locality is inconsistent and suffers as a result of poorly designed buildings which failed to respond to the prominence and natural qualities of this coastal headland and its relationship to the surrounding public spaces including nearby beaches and the parklands surrounding Manly Lagoon. Future development will be of an improved standard of design that addresses public streets and spaces, integrates with the landscape and topography, including rock outcrops and remnant bushland, and complements long distance views***



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***of the locality. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.***

The proposal is considered to have given due regard to the topography of the land, which includes a steep slope that falls across the site (coastal headland) in a north to south direction from Queenscliff Road. As discussed throughout the report, the proposed development (additional units) are well articulated with recessive, open and projecting building elements, including open deck structures, a sandstone retaining wall and a mix of external materials and finishes. These building elements will combine to minimise the visual bulk of the proposed apartment and complement the built form of the existing and podium like apartment building, particularly when viewed from Queenscliff Beach. Further, the proposal has been found not to unreasonably affect the views of adjoining properties, including 1A and 1 Greycliffe Street and No.44 and 42 Queenscliff Road.

Having regard to the above, the proposed development will provide a positive contribution to the standard of architectural design of adjoining and surrounding properties, which consists of a mixture of both contemporary and historic apartment housing styles. The design of the development is seen as a positive response to its prominent location and its relationship to the surrounding public spaces, including Queenscliff Beach. Furthermore, the landscape plantings proposed within the front, rear and side setbacks of the site will improve the landscape setting of the site and its relationship with the immediate natural environment.

The proposal does not involve the subdivision of land.

Based on the above, the proposal is consistent with this component of the DFC.

***The land bound by Queenscliff Road, Pittwater Road and the public accessway which links Queenscliff Road, may be developed for apartment style housing. Development on this land will be designed to minimise view loss from residences to the north and will maintain a view corridor through the site to Manly Lagoon. Development will present as two storeys when viewed from the section of Queenscliff Road shown in Diagram 8.1 available from the office of the Council, with any storey above being set back and providing the absolute height for the site. The bulk of the buildings will be reduced through stepping the building down the site and avoiding long continuous top floors. It is intended that vehicle access to Queenscliff Road will be shared with 166 Queenscliff Road and 366 Pittwater Road.***

The subject site is not bound by Queenscliff Road, Pittwater Road and the public accessway which links Queenscliff Road. Further, the site is not identified on "Diagram 8.1" and does not share vehicular access with "166 Queenscliff Road and 366 Pittwater Road".

***The locality will continue to be served by the existing local retail centre shown on the map. Future development in this centre will be in accordance with the general principles of development control provided in clause 39.***

The subject site is not located within a local retail centre.

### **Conclusions on consistency with the DFC**

Based on the above assessment, the proposal is considered to be consistent with the DFC.

### **Built Form Controls for Locality G8 Queenscliff locality**



The following table outlines compliance with the Built Form Control's of the above locality statement:

Built Form Standard	Required	Existing and Proposed	Compliance
Housing Density Site area (1081sqm) Access handle (212.1sqm)	1 dwelling per 450sqm	<b>Existing</b>  15 units (1 dwelling per 57.9sqm)  <b>Proposed</b>  2 additional unit 17 units (1 dwelling per 51.1sqm)  <b>(Variation of 392.1sqm<sup>2</sup> or 87%)</b>	NO    <b>NO(*)</b>
Building Height Metres/ Storeys	8.5m ground – roof and 7.2m ground - ceiling	<b>Existing</b>  11 Storey building  <b>Proposed</b>  Two (2) additional units within the existing lower floor and undercroft level of the building.  There is no change to the existing height of the building, and therefore, this matter does not need to be addressed further.	NO    NO
Front Setback (battleaxe lot)	6.5m	<b>Existing</b>  58m  <b>Proposed</b>  <b>45m</b>	YES    YES
Rear Setback	6.0m	<b>Existing</b>  External walls: varying setbacks from 4.1m to 6.4m  Balconies: varying setbacks from 2.1m to 4.4m  <b>Proposed (Unit A and B)</b>  External walls: varying setbacks from 4.1m to 6.4m  Balconies: varying setbacks from 2.1m to 4.4m  <b>Proposed (Unit A)</b>  Garden terrace: exceeds 50% of the rear building setback area.	NO  NO   <b>NO (*)</b>  <b>NO(*)</b>  <b>NO(*)</b>
Side Setbacks	0.9m	<b>Existing - West</b>	



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		External walls: 5.2m	YES
		Balconies: 3.7m	YES
		Concrete Ramp: Nil	NO
		<b>Existing - East</b>	
		External walls: 7.3m	
		Balconies: 2.4m to 4.0m to existing Unit 1 and 2 (upper level)	YES
		4.0m to remaining upper level units	YES
		<b>Existing - North</b>	
		12.7m	YES
		<b>Proposed - West</b>	
		<b>Unit A and B</b>	
		External walls: 2.16m	YES
		Balconies/Garden Terrace: 3.75m	YES
		<b>Carparking levels</b>	
		Varying setbacks from 0.9m to 6.9m	YES
		<b>Proposed - East</b>	
		<b>Unit A and B</b>	
		Varying setbacks from 2.1m to 2.4m	NO (*)
		<b>Carparking levels</b>	
		<b>Lower level</b>	
		Storage area: Nil setback	NO(*)
		Carpark: 0.9m:	YES
		<b>Ground level</b>	
		Carpark: 0.9m:	YES
		<b>Upper level</b>	
		Carpark: Nil setback	NO (*)
		<b>Roof terrace common area</b>	
		3.2m	YES
		<b>Proposed - North</b>	
		<b>Lower level</b>	
		Carpark: Nil setback	NO (*)
		<b>Ground level</b>	



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		Carpark: Nil setback <b>Upper level</b> Carpark: Nil setback <b>Roof terrace common area</b> 3.6m	<b>NO(*)</b>  <b>NO(*)</b>  YES
Side Boundary Envelope	5.0 m x 45 degrees	<b>West</b> The proposed units do not project outside of the projected building envelope  <b>East</b> The proposed units do not project outside of the projected building envelope	YES  YES
Landscape open space	40% (1432.4sqm)	25.6% (288sqm) - Existing 18.5% (200m <sup>2</sup> ) - Proposed	NO <b>NO (*)</b>

(\*) These variations are addressed below.

### Variations to the Built Form Controls: G8 Queenscliff locality

As shown in the table above, the proposed development does not comply with the following Built Form Controls for the locality:

- Housing Density
- Rear Building Setback
- Side Setback
- Landscaped Open Space

The above non-compliances are addressed below.

#### Clause 20 Variation (Housing density, Rear and Side Building Setbacks and Landscaped Open Space)

*Consent may be granted to proposed development even if the development does not comply with one or more development standards, providing the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State Environmental Planning Policy.*

#### Council's Assessment

In assessing the non-complying element of this proposal, consideration must be given to its consistency with the following, as the primary test under Clause 20 of WLEP 2000:



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### **Desired Future Character of the Locality**

As discussed in the preceding section of this report, the proposal is consistent with the Desired Future Character of the Locality.

### **General Principles of Development Control**

As discussed in the following section of this report, the proposal is assessed as being consistent with the General Principles of Development Control.

### **Relevant State Environmental Planning Policies**

The development was assessed as being consistent with SEPP BASIX, SEPP (Infrastructure) 2007, SEPP 55 – Remediation of Land, SEPP 65 - Design Quality of Residential Flat Development and SEPP 71 - Coastal Protection.

Based on the above assessment, the proposed development can be considered for a variation to the Housing Density, Rear and Side Building Setbacks and Landscaped Open Space controls.

### **Clause 20 Variation**

It is important to note that the numerical standards and variations sought under a Clause 20 Variation of WLEP 2000 directly relate to the primary envisaged use of the site, which in this instance, is detached style housing.

In this regard, the Clause 20 Variation assessment must consider the fact that the proposed development constitutes alterations and additions to an existing apartment building on a site which is not in a 'medium density' area and that the proposal has been assessed as being consistent with the Desired Future Character for the G8 Locality (refer to preceding section of this report).

### **Housing Density**

The maximum housing density in the locality is 1 dwelling per 450sqm. As detailed in the Built Form Control table above, the proposed housing density is 1 dwelling per 51.1sqm which does not comply with the requirements of the control.

The following considerations have been applied in the assessment of the Housing Density non-compliance:

- a) Each allotment proposed will contain one dwelling except in medium density areas, local retail centres, housing for older people or people with disabilities and on land equal to or greater than 3000sqm in area, where a building may contain more than one dwelling.**

**Comment:** The subject site is not within a "medium density area" and the existing proposed housing density is 1 dwelling per 57.9sqm. The proposal will result in a marginal increase in the existing housing density to 1 dwelling per 51.1sqm. In this regard, a future total of 17 "dwellings" is achieved.

- b) The proposal should respond to site opportunities and constraints, the size and configuration of allotments should be designed so that the resulting**



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**allotments can be developed to meet the requirements of the LEP such as the Locality Statements and General Principles.**

**Comment:** The design of the proposed development partly due to the planning controls and partly due to the constraints of the site, which are described as follows;

- a) A steep slope with a diagonal fall of 18% in a north to south direction (from Queenscliff Road towards Queenscliff Beach);
- b) Substantial site disturbance, including extensive cut and fill, in order to provide a podium terrace for the existing 11 storey apartment building;
- c) Expansive areas of rock outcrops within the front northern setback of the site;
- d) Bulk and scale and visual prominence of the existing apartment building;
- e) The steep access driveway and lack of existing car parking spaces; and
- f) Lack of existing landscaped open space

Having regard to the above, the proposed development is an acceptable design response to the site opportunities and constraints, particularly given the downward sloping topography of the site and bulk and scale of the existing apartment building. Further, as detailed throughout the report, the proposed development has satisfactorily demonstrated that it can be developed in general accordance with the requirements of relevant SEPP's and WLEP 2000, including the Desired Future Character of the locality and General Principles of Development Control.

### **Housing Density Non-Compliance – Supported**

#### **Rear Building Setback Control**

The applicable rear building setback is 6.0m.

As described in the compliance table for the locality, the rear setbacks to the existing eleven (11) storey apartment building to the existing balconies and main elevation walls vary from 2.1m to 4.4m and 4.1m to 6.4m respectively.

The proposed development will result the two (2) lower floor level units to have the following rear setbacks which are not compliant with the control:

- Nil setback to the Garden Terrace (Unit A);
- Varying setbacks from 2.1m to 4.4m to the balconies of Unit A and B; and
- Varying setbacks from 4.1m to 6.4m to the external walls of Unit A and B

With the exception of the Garden Terrace wall (Unit A), the proposed development will maintain the rear building setbacks of the existing apartment building.

The following considerations have been applied in the assessment of the rear building setback control:





**(a) Create a sense of openness and preserve amenity**

**Comment:** The areas of non-compliance are confined within the lower floor and undercroft levels of the existing apartment building. In addition, a substantial amount of the non-compliance relates to open balcony structures and a landscaped garden terrace area. These structures are of acceptable visual and physical bulk and will maintain the sense of openness that characterises the rear of the site.

**(b) Maintain visual continuity and privacy**

**Comment:** As discussed previously in the report under SEPP 65, adequate building separation to adjoining and surrounding properties will be maintained by the proposed development. The terrace structure also provides visual interest to the rear of the apartment building and complements the overall bulk of the southern elevation and provides a satisfactory transition to Queenscliff Beach.

In this regard, the proposal will maintain privacy and visual continuity between adjoining and surrounding properties.

**(c) Provide opportunities for landscape planting**

**Comment:** The rear of the site is constrained by the location of the existing apartment building, localised area of landslip (uncontrolled fill) and lack of landscape setting. The proposal will retain the rear setback area and provide a superior landscape setting which will assist to minimise the visual impact of the built form and adjoining reserve.

**Conclusion - Rear Building Setback Control**

Having regard to the above, the Clause 20 Variation to the Rear Building Setback is supported

**Side Building Setback**

The subject site is within the G8 – Queenscliff locality and is subject to a minimum side setback of 0.9m.

The proposed development will result in the storage and carparking area to have a nil setback to the eastern and northern boundary.

The variations to the side building setback have been assessed follows:

**(a) The development is to be not visually dominant by virtue of its height and bulk.**

**Comment:** The non-compliance relates directly to the proposed carparking levels which are generally located beneath the existing ground level with the upper most level concealed beneath the roof top terrace. Further, the carparking levels are also located beneath the existing floor levels of the adjoining properties to the east and north.

Given the above, the development will not be visually dominant by virtue of its height and bulk.

**(b) The development shall preserve the amenity of the surrounding land.**

**Comment:** The side building setback non-compliance does not translate to unreasonable external impacts to adjoining and surrounding neighbours in terms of overshadowing, privacy, visual outlook and view loss.

**(c) The development must respond to site topography.**

**Comment:** Whilst the proposal does involve substantial excavation works to construct the car parking levels, the proposed development is an acceptable design response to the site opportunities and constraints, including the downward sloping topography of the site and the location of the existing apartment building and car parking areas.

Having regard to the above, the proposed development is an acceptable design response to the topography and constraints of the site, and in this regard, the non-compliance is reasonable.

**(d) Adequate separation must be provided between buildings.**

**Comment:** As discussed previously in the report under SEPP 65 – Residential Flat Design Code, adequate building separation to adjoining and surrounding properties will be maintained by the proposed development. In addition, the car parking levels will not be able to be viewed from adjoining properties to the north and east.

In this regard, adequate spatial separation between adjoining buildings is maintained.

**(e) Provision is to be made for adequate landscaping opportunities.**

**Comment:** Adequate landscaped open space is provided above the carparking levels (ie. roof terrace area) within the side setback areas of the outdoor garden terrace area.

**(f) A sense of openness is to be maintained between adjoining properties.**

**Comment:** Adequate landscaped open space, particularly within the side setback areas above the carparking levels, will provide a sense of openness between adjoining properties.

## **Conclusion - Side Building Setback**

### **Landscaped Open Space**

The minimum area of landscaped open space is 40% of the site area and is measured by excluding landscaped areas with an area less than 2.0m in area. An assessment of plans reveals that the existing amount of landscaped open space (LOS) is calculated at 25.6% (288sqm) and that the proposed development will decrease LOS by 7.1% (88sqm), to 18.5% (200sqm) which does not satisfy the standard.



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Having regard to the above, the Clause 20 Variation to the Side Boundary Envelope is supported.

**a) Enable the establishment of appropriate plantings to maintain and enhance the streetscape and the desired future character of the locality.**

**Comment:** The proposed landscaping on site will enable the establishment of appropriate planting within the rear and side setback areas which will improve the landscaped settings of the site which is consistent with desired future character of the locality.

**b) Enable the establishment of appropriate plantings that are of a scale and density commensurate with the building height, bulk and scale**

**Comment:** The site contains very limited landscaped open space on site which is characterised by areas of rock outcrops within the north-eastern portion of the site and poor quality shrubs, medium size trees ground cover and weeds within the rear (southern) portion of the site.

Landscaping consists of small canopy trees, understory species and grasses which are commensurate with the height and scale of the lower levels of the existing apartment building.

**c) Enhance privacy between dwellings**

**Comment:** The proposed vegetation (once established) located within the rear and side setback is appropriate in size, foliage, density and height to assist in maintaining privacy and amenity between adjoining residences.

**d) Accommodate appropriate outdoor recreational needs and suit the anticipated requirements of dwelling occupants.**

**Comment:** The proposed garden terrace area will provide a common area which is sufficient in area to accommodate the outdoor recreational needs of the anticipated requirements of the apartment's occupants.

**e) Provide space for service functions, including clothes drying.**

**Comment:** The proposed landscaped open space will allow for more areas for the occupants of Unit A to utilise for service functions, such as clothes drying.

**f) Facilitate water management including onsite detention and infiltration of stormwater.**

**Comment:** The proposed landscaped open space within the rear south western corner of the site will also be utilised for the collection and discharge of stormwater (via a rock swale dissipater and overflow pit). On this basis, the proposed development will reduce stormwater runoff onsite and on Queenscliff Beach.

**g) Incorporate the establishment of any plant species nominated in the relevant Locality Statement.**



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**Comment:** Not Applicable

**h) Enable the establishment of indigenous vegetation and habitat for native fauna,**

**Comment:** Landscaping on site consists of poor quality shrubs, medium size trees, ground cover and weeds within the rear (southern) portion of the site. As discussed throughout the report, the proposal will provide a far superior landscape setting which will enable the establishment of indigenous vegetation and habitat for native fauna.

**i) Conserve significant features of the site.**

**Comment:** Not Applicable

**Clause 20 Variation to the Landscaped Open Space Control – Supported**

**GENERAL PRINCIPLES OF DEVELOPMENT CONTROL**

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan, 2000 are considered relevant to the consideration of the proposed development;

<b>Principal</b>	<b>Applies</b>	<b>Comments</b>	<b>Compliant</b>
CL38 Glare & reflection	YES	The applicant has submitted a schedule of external colours with the application. The overall proposed materials and finishes are considered to be satisfactory.	YES (subject to conditions)
CL39 Local retail centres	NO	No Comment	Not Applicable
CL40 Housing for Older People and People with Disabilities	NO	No Comment	Not Applicable
CL41 Brothels	NO	Not Applicable	Not Applicable
CL42 Construction Sites	YES	The proposed development involves major construction and excavation works within close proximity to adjoining properties. In this regard, the application was accompanied by a preliminary Construction Management Plan (CMP) which has provided details to the management of the site prior and during construction, including pedestrian movements, work zones, safety fencing and hoarding, erosion and sediment control, waste management, hours of construction, air quality, noise management, truck and car parking arrangements, storage areas, staging of construction processes and sedimentation and erosion controls. In addition, the CMP has been designed to address all relevant Australian Standards, Council Policies and best work practices, including noise and air quality management and monitoring, to minimise the construction impacts of the proposed development on adjoining and surrounding properties.  In addition to the above, suitable conditions have been imposed on the draft consent for a CMP to be provided to the Certifying Authority prior to issue of the Construction Certificate.	YES (subject to conditions)



Principal	Applies	Comments	Compliant
CL43 Noise	YES	<p>The apartment units have been designed to successfully mitigate adverse acoustic impacts through the use of masonry walls between units and adequate spatial separation to adjoining properties.</p> <p>The noise impacts of the development largely revolve around the proposed communal garden terrace area, which is located within the northern side setback area of the site and adjoins the residential property at No.44 Queenscliff Road. A 1.8m high masonry wall and 3.6m wide landscaped buffer is proposed adjacent the common northern boundary which will assist to minimise the noise generated from the use of the garden terrace area.</p> <p>A draft condition of consent has been imposed requiring all noise emissions to be carried out in accordance with Environment Protection Authority guidelines for noise emissions from construction/demolition works and these works must also comply with the provisions of the Protection of the Environment Operations Act 1997.</p>	YES (subject to conditions)
CL44 Pollutants	NO	No Comment	Not Applicable
CL45 Hazardous Uses	NO	No Comment	Not Applicable
CL46 Radiation Emission Levels	NO	No Comment	Not applicable
CL47 Flood Affected Land	NO	No Comment	Not Applicable
CL48 Potentially Contaminated Land	YES	These issues have been addressed in detail under 'State Environmental Planning Policy No.55 - Remediation of Land' in this report. The site has been found to be suitable for its residential use in its current state.	YES
CL49 Remediation of Contaminated Land	YES	Refer to comments under Clause 48 - Potentially Contaminated Land.	YES
CL49a Acid Sulfate Soils	NO	No Comment	Not Applicable
CL50 Safety & Security	YES	The proposal will not be detrimental to the safety and security of the locality as the building allows for casual surveillance.	YES
CL51 Front Fences and Walls	NO	No Front Fence is proposed as part of this application.	Not Applicable
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	YES	<p>The proposal would not have a detrimental impact on the landscape character, public use and enjoyment of the adjoining Queenscliff Beach. The proposal would not affect public access and views to Queenscliff Beach.</p> <p>The new sandstone retaining wall and security gate would clearly demarcate the public and private space of the subject site, whilst providing a visual transition between the two spaces.</p>	YES
CL53 Signs	NO	No signs are proposed as part of this application.	Not



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Principal	Applies	Comments	Compliant
			Applicable
CL54 Provision and Location of Utility Services	YES	The site is satisfactorily serviced with utility services including the provision for the supply of water, gas, telecommunications and electricity and the satisfactory management of sewage and drainage.	YES (Subject to conditions)
CL55 Site Consolidation in 'Medium Density Areas'	NO	No Comment	Not Applicable
CL56 Retaining Unique Environmental Features on Site	NO	No Comment	Not Applicable
CL57 Development on Sloping Land	YES	<p>The proposal is considered to have given due regard to the topography of the land. The site is characterised by a steep slope that falls across the site in a north to south direction from Queenscliff Road. The proposed units are to be contained within the lower and undercroft floor levels of the existing 11 storey apartment building (cut up to 3.5m) whilst the car parking facilities are to be excavated (up to 7.5m) into the upper northern setback area of the site.</p> <p>A 2.5m to 3.5m high sandstone retaining wall is also proposed on the lowest level of the building (as part of Unit A private open space) and extends to the southern boundary, adjacent Queenscliff Beach.</p> <p>The articulation of the built form, sandstone retaining wall and associated landscaping will complement the bulk and scale of the existing building. In addition, these building components will combine to minimise the overall visual impact of the built form when viewed from Queenscliff Beach.</p> <p>The subject site is also identified on Council's Landslip Hazard Map as being potentially subject to landslip. In this regard, a Geotechnical Report, prepared by Crozier Geotechnical Consultants, was submitted with the development application which concludes that the geotechnical stability of the land has the ability to support the proposed development.</p> <p>The Geotechnical Report notes two (2) potential landslip hazards consisting of the sandstone overhangs and uncontrolled fill and soils located in the north-east corner and rear (southern) portions of the site, respectively. The report also identifies other hazards, of a lesser nature, including localised sandstone defects, water seepage, machinery vibrations and the like.</p> <p>The report also notes that the proposed works are to be constructed "close to and up to the property boundaries of adjoining sites", specifically 0.9m to 3.75m to the western boundary, 0.22m to the northern boundary and 0.9m to 2.1m to the eastern boundary.</p> <p>The report concludes that the proposed development will remove the two (2) identified hazards and will not create any further landslip risk provided the recommendations of the report are followed which</p>	YES (Subject to conditions)



Principal	Applies	Comments	Compliant
		<p>include best practice excavation methods and further detailed geotechnical testing and supervision to provide detailed excavation design and construction methods.</p> <p>Given the above, appropriate conditions have been included in the draft consent requiring the excavation works to be carried out in accordance with the Geotechnical Report and recommendations so that the development has an acceptable impact on adjoining properties including No.1 and 1A Greycliffe Street and No. 44 and 42 Queenscliff Road. In accordance with the recommendations of the Geotechnical Report, an additional condition has been imposed on the consent for dilapidation reports to be prepared for adjoining properties to determine the condition of those properties in the event that excavation works and vibration impact may create on the structural integrity of adjoining buildings.</p> <p>Subject to the above, the proposal is satisfactory in regards to the General Principle.</p>	
CL58 Protection of Existing Flora	YES	The landscape plan submitted with the application demonstrates that the development will provide a positive contribution to the natural resource and landscaping assets of the site and adjoining properties.	YES
CL59 Koala Habitat Protection	NO	No Comment	Not Applicable
CL60 Watercourses & Aquatic Habitats	NO	No Comment	Not Applicable
CL61 Views	YES	<p><b>Clause 61 - Views</b></p> <p>Clause 61 stipulates "Development is to allow for the reasonable sharing of views".</p> <p>In the assessment of view loss, a site inspection of the following properties occurred:</p> <p><b>No.1A Greycliffe Street (Units No.3, 6 and 9)</b></p> <p>The apartment building at No.1A Greycliffe Street is located to the west of the subject site. The units are at ground, first and second floor level and located off the rear eastern portion of the apartment building.</p> <p>It should be noted that the units within the front portion of the apartment building are located to the north of the subject site. On this basis, the proposal will not impact on the views available from these units.</p> <p><b>No. 1 Greycliffe Street (Units No.3, 4, 15 and 16)</b></p> <p>The apartment building at No.1 Greycliffe Street is located to the north-west of the subject site. The units are at ground, third and fourth level and located off the eastern side of the apartment building.</p> <p><b>No.44 Queenscliff Road (dwelling house)</b></p> <p>The dwelling house is located directly to the north of</p>	YES



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Principal	Applies	Comments	Compliant
		<p>the subject site and existing apartment building.</p> <p><b>View Loss Assessment</b></p> <p>As detailed above, site inspections did not occur of every unit within all adjoining properties. However, it is considered that the site inspections that were carried out would allow for a thorough and accurate view loss assessment of the proposed development against the principles contained in Clause 61 of WLEP.</p> <p>In summary, it is concluded that the proposal will not unreasonably affect the views of adjoining properties, including all the apartments within 1A and 1 Greycliffe Street and No.44 and 42 Queenscliff Road, and other nearby and surrounding properties on Greycliffe Street and Queenscliff Road.</p> <p>In determining the extent of view loss to the above properties, the four planning principles outlined within the Land and Environment Court Case Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, were used and are detailed as follows:</p> <p><b>Principle One: The nature of views to be affected</b></p> <p><i>The first step is to assess the nature of the views to be affected, water views are valued more highly than land views, iconic views (such as of the Opera House, the Sydney Harbour Bridge or North Head) are valued more highly than views without those icons, and whole views are valued more highly than partial views. For example, a water view in which the interface between the water and the land is visible is more valuable than one in which it is obscured.</i></p> <p><b>Comment:</b> The views available from affected properties include whole views of the Queenscliff Beach land/water interface, the Pacific Ocean and distant views of North Head and St. Pauls College. These views are highly valued.</p> <p>These views are also obtained through building corridors and voids and landscaping are also available. Accordingly, these views are considered of minor to moderate value.</p> <p>District views of Manly Vale, Balgowlah and Fairlight are also available and are considered moderate in value.</p> <p><b>Principle 2: Where the views are obtained</b></p> <p><i>The second step is to consider from what part of the property affected the views are obtained. In this regard it is more difficult to protect views obtained across side boundaries than the protection of views from front and rear boundaries. Also, whether the view is obtained from a standing or sitting position may also be relevant. Sitting views being more difficult to protect. The Senior Commissioner noted that the expectation to retain side or sitting views is</i></p>	





Principal	Applies	Comments	Compliant
		<p><i>often unrealistic.</i></p> <p><b>No.1A Greycliffe Street (Units No.3, 6 and 9)</b></p> <p><b>Comment:</b> The apartment building has a southern orientation, however, the units are located to the rear (north) of balcony and each unit has a partly covered eastern elevation balcony area.</p> <p>The potential view loss is in a standing and sitting position across the eastern side boundary and through existing vegetation located on the subject property, No.48A Queenscliff Road.</p> <p><b>No.1 Greycliffe Street (Units No.3, 4, 15 and 16)</b></p> <p><b>Comment:</b> The apartment building has a southern orientation and is located directly behind (northward) the apartment building at No.1A Greycliffe Street. Each unit has a covered southern elevation balcony area.</p> <p>The proposal would have a nil to negligible impact on any views obtained from the ground floor units (No.3 and 4).</p> <p>The potential view loss to the upper floor levels would be in a standing position across the eastern side boundary and through the void areas (under and above the existing driveway) of the apartment building at No.48A Queenscliff Road.</p> <p><b>No.44 Queenscliff Road (dwelling house)</b></p> <p><b>Comment:</b> The dwelling house has a southern orientation and is located directly behind (northward) the apartment building at No.48A Queenscliff Road.</p> <p>The potential view loss would be the view corridor between the apartment buildings located at No.48A and 42 Queenscliff Road which is obtained over the rear (southern) boundary from the balcony area in a standing position from the external balcony area.</p> <p><b>Third Principle: The extent of the impact</b></p> <p><i>The third step is to assess the extent of the impact. This needs to be done for the whole of the property, and not just to that part of it from where the views are affected. The views from living areas (including kitchen areas) are more significant than from bedrooms or service areas. Whilst the impact could be assessed quantitatively, it is more useful to look at the issue in a qualitative sense and ask whether the view loss is negligible, minor, moderate, severe or devastating.</i></p> <p><b>No.1A Greycliffe Street (Units No.3, 6 and 9)</b></p> <p><b>Comment:</b> On balance, the proposal (western elevation of the garden terrace, balcony and units) will have a negligible to minor impact on the views obtained from internal and external living areas of</p>	



Principal	Applies	Comments	Compliant
		<p>each unit, particularly given the panoramic views that would be retained of the Queenscliff beach/water interface and distant views of North Head.</p> <p>The ground floor unit (No.3) would be worst affected (negligible to minor impact) given it would lose obscured and distant views of North Head, obtained across the side boundary, from the internal living rooms and northern portion of the balcony.</p> <p><b>No.1 Greycliffe Street (Units No.3, 4, 15 and 16)</b></p> <p>The proposal (western elevation of the garden terrace, balcony and units) will have an overall negligible to minor impact on the views obtained from the internal and external living areas of each unit, particularly given the panoramic views that would be retained of the Queenscliff beach/water interface and distant views of North Head.</p> <p>The upper most unit (No.16) would be worst affected (negligible to minor impact) given it would lose a partial downward view of the Queenscliff Beach water interface obtained from the external balcony in a standing position.</p> <p><b>No.44 Queenscliff Road (dwelling house)</b></p> <p>Overall, the proposal (rear garden roof terrace area) will have a negligible impact on the views obtained from the dwelling house, given it would lose a partial downward and obscured view of the Queenscliff Beach water land interface obtained from the external balcony in a standing position.</p> <p><b>Forth Principle: The reasonableness of the proposal</b></p> <p><i>The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all relevant planning controls would be considered more reasonable than one that breaches them. Importantly, the Senior Commissioner said that “where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable”. Where a development complies with the planning controls, the question is whether a more skilfully designed proposal could provide the same development potential whilst reducing the impact to neighbours. In that situation the view impact of a complying development would probably be considered acceptable, and the view sharing reasonable.</i></p> <p><b>Conclusion</b></p> <p>The assessment of view loss caused by the development, namely the western elevation of the garden terrace, balcony and units and roof top garden terrace, to surrounding properties is considered reasonable as the vast majority of all highly valued</p>	



Principal	Applies	Comments	Compliant
		<p>views are retained including all the land and water interface views of Queenscliff Beach, the Pacific Ocean and North Head.</p> <p>The worst affected property has been assessed as being Unit 3/1A Queenscliff Road, which will experience a partial view loss of North Head and the Pacific Ocean, however, the impact is minor when consideration is given that these views are obtained across a side boundary, that these views can be obtained from other on-site locations and the extent of retained views including the Queenscliff Beach land and water interface.</p> <p>Whilst the proposal contains several non-compliances, including the side and rear building setbacks and landscaped open space, these have been assessed in detail and are not seen as an unacceptable design response to site constraints, including its steepness and the location of the existing building, and do not translate to unacceptable view loss impacts to adjoining and surrounding neighbours.</p> <p>It should also be noted that the proposed landscape plantings on-site, including the maturity height and foliage density of trees and understorey species, is not expected to result in further unacceptable and unreasonable view loss impacts to adjoining and surrounding lands.</p> <p>Given the above, the development has been assessed as having a reasonable and acceptable impact on the available views of adjoining and surrounding properties, including all the apartments within 1A and 1 Greycliffe Street and No.44 and 42 Queenscliff Road, and other nearby and surrounding properties on Greycliffe Street and Queenscliff Road. On this basis, the design of the development is acceptable with respect to view loss and does not warrant refusal or redesign of the application including redesign of the retaining wall structure.</p> <p>Accordingly, the development is reasonable and acceptable with regard to the requirements of view loss CL.69 of WLEP.</p>	
CL62 Access to sunlight	YES	<p>Clause 62 states that development is not to unreasonably reduce sunlight to surrounding properties. In this regard, sunlight to at least 50% of the principal private open space is not to be reduced to less than 2 hours between 9am and 3pm on June 21 and where overshadowing by existing structures and fences is greater than this, sunlight is not to be further reduced by the development by more than 20%.</p> <p>The submitted shadow diagrams depict that the proposed development will not provide any additional overshadowing of the private open spaces at the adjoining and nearby lands, including all the apartments within No.1 and 1A Greycliffe Street and No. 42 Queenscliff Road.</p>	YES

Principal	Applies	Comments	Compliant
		On this basis, the proposal is consistent with the requirements of the General Principle.	
CL63 Landscaped Open Space	YES	As discussed throughout this report, the proposal involves the establishment of additional on-site plantings which is an improvement to that of the existing situation, and will be beneficial to the existing lot, adjoining properties and streetscape.  Given the above, the proposal is considered to achieve the objectives of this general principle.	YES
CL63A Rear Building Application		The breach of the rear setback area is supported under a Clause 20 Variation of WLEP 2000 in that an acceptable level of privacy, spatial separation and the sense of openness between properties would be maintained by the development.  On this basis, the proposal is consistent with the requirements of the General Principle.	YES
CL64 Private open space	YES	In accordance with Clause 64 of WLEP 2000, apartment style housing is to be provided with a minimum of 10 square metres of private open space with minimum dimensions of 2.5 metres.  This has been discussed in detail under the SEPP 65 – Residential Flat Design Code section of the report (refer to Part 2 Design Site – Site Configuration) where in summary, the provision of balconies/terraces for all units will provide a satisfactory private open space.  Based on the above, the proposed development is satisfactory in regard to private open space.	YES
CL65 Privacy	YES	Direct and close overlooking of the private open spaces and habitable rooms of adjoining and surrounding neighbours, including No.1A and 1 Greycliffe Street, No.42 and 44 Queenscliff Road and surrounding lands, is prevented by sufficient spatial separation and building design including the effective location and orientation of windows and balconies, use of privacy screens and glass louvres and proposed landscaping.  Specifically, the proposed development, including the two units and outdoor terrace area, will maintain privacy to adjoining properties for the following reasons:  <b>a) Unit A</b>  No external windows are proposed on the side elevations of the unit. An entry gate is also proposed on the western elevation of the deck. On this basis, privacy issues between properties are confined to the external garden terrace area and western end of the deck area.  The garden terrace area is setback 3.7m and 5.3m from the western and eastern side boundary,	YES



Principal	Applies	Comments	Compliant
		<p>respectively. This area is orientated southward and located forward (south) of the private open space areas at the adjoining properties, No.1 Greycliffe Street and No.42 Queenscliff Road. In addition, landscaping is proposed within the side setback areas, which once established, will satisfactorily prevent any overlooking of adjoining properties.</p> <p><b>b) Unit B</b></p> <p><b>Lower Floor:</b> No external windows are proposed on the side elevations of unit. Therefore, privacy issues between properties are confined to the deck area.</p> <p>Privacy screens are proposed on each side elevation of the deck to prevent the overlooking of adjoining properties.</p> <p><b>Upper Floor:</b> The external windows on the western elevation are high sill which would prevent the overlooking of adjoining properties to the west. Therefore, privacy issues between properties are confined to the deck area.</p> <p>A privacy screen is proposed on the western and eastern side elevations of the deck and a “balcony wind break oversized louvers” is proposed on the eastern elevation of the deck, respectively. These structures are considered satisfactory to prevent the overlooking of adjoining properties, including No. 42 Queenscliff Road.</p> <p><b>c) Roof Terrace Common Area</b></p> <p>The roof terrace common area (RL 34.1) is located beneath the adjoining property to the rear, No. 44 Queenscliff Road (RL 35.72). This area is setback 3.6m to the northern boundary, 3.4m to the eastern boundary and 7.0m to the western boundary. In addition, the northern and western side setback areas are landscaped and a 1.8m high masonry wall is proposed to be constructed adjacent the common boundary to No.44 Queenscliff Road. Further, a pergola is proposed to be erected above the Roof Terrace Common Area.</p> <p>Accordingly, direct and close overlooking of the private open spaces and habitable rooms of adjoining and surrounding lands, including No.44 Queenscliff Road, is prevented by sufficient spatial separation and building design including the use of the pergola, masonry fence and proposed landscaping.</p> <p>Based on the above, the requirements of the General Principle are satisfied.</p>	
CL66 Building Bulk	YES	<p>The proposed units are located within the existing lower and undercroft floor levels of the existing building footprint.</p> <p>The on-site carparking area is located beneath and/or adjacent the northern elevation of the existing apartment building and cannot be viewed from</p>	YES



Principal	Applies	Comments	Compliant
		<p>Queenscliff Road or Beach. Furthermore</p> <p>The building bulk of the proposed development has specifically been minimised by the avoidance of long, continuous wall planes, the use of varying side and rear setbacks and the incorporation of open balcony structures and landscaping into the building design.</p> <p>Based on the above, the proposed development will maintain the scale of the existing building whilst also providing visual interest which will enable the built form to sit comfortably on the site and appropriately address the building when viewed from Queenscliff Beach.</p>	
CL67 Roofs	NA	No Comment	Not Applicable
CL68 Conservation of Energy and Water	YES	A BASIX Certificate has been submitted for the residential component of the development with the application. The development achieves the target for water, thermal comfort and energy use.	YES (Subject to conditions)
CL69 Accessibility – Public and Semi-Public Buildings	YES	A review of submitted plans reveals that the proposed development can comply with part D3 of the BCA and AS 1428.2 - 1992, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities. In addition, conditions have been included in the draft consent to ensure the proposal satisfies these requirements prior to issue of the Construction Certificate.	YES (Subject to conditions)
CL70 Site facilities	YES	The existing site facilities are to be utilised by the existing residents. Accordingly, the proposed development is satisfactory in regard to the General Principle.	YES
CL71 Parking facilities (visual impact)	YES	<p>Clause 71 requires that car-parking facilities are to be sited and designed so as not to dominate the street frontage or other public spaces.</p> <p>The on-site carparking area is located beneath and/or adjacent the northern elevation of the existing apartment building and cannot be viewed from Queenscliff Road or Queenscliff Beach.</p> <p>In this regard, the outcome is consistent with achieving the objectives under the General Principle.</p>	YES
CL72 Traffic access & safety	YES	<p>The existing driveway will continue to provide vehicular access to the site from Queenscliff Road (albeit with a reduced width to provide a pedestrian pathway). The lower portion of the driveway will be modified to provide two (2) vehicular access ramps to the proposed car parking areas.</p> <p>The site is located on a local road network. Accordingly, the traffic using this part of Queenscliff Road would be generally small volumes of local traffic.</p>	YES



Principal	Applies	Comments	Compliant
		<p>The proposed works will maintain use of the existing cross-over and will have negligible impact on the surrounding road network and nearby intersections and junctions.</p> <p>A preliminary Parking and Access Traffic report was submitted with the development application which notes that the parking and access works generally comply with relevant Australian Standards, including AS2890.1:2004 – Parking facilities – Off-street car parking, AS2890.3.1993 – Parking facilities – Bicycle parking facilities and AS2890.6.2009 – Off-street parking for people with disabilities.</p> <p>In addition, Council's Traffic Engineering section raise no concerns to the proposal.</p> <p>Based on the above, the proposal is satisfactory in regard to the General Principle.</p>	
CL73 On-site Loading and Unloading	NA	No comment	Not Applicable
CL74 Provision of Carparking	YES	<p>The proposed development will provide an additional 11 car parking spaces, increasing the overall total of spaces from 16 (existing) to 27 (proposed). These carparking spaces also comprise of 2 visitor spaces (including a disabled space) and 6 spaces utilising mechanical car stacking on the lower level plan.</p> <p>The proposal is for the addition of two (2) units to the existing apartment building, and therefore, an additional 4 car parking spaces would be required to be comply with the requirements of the General Principle and Schedule 17. In this regard, the provision of an additional 11 off-street car parking spaces is considered reasonable and acceptable, particularly given the lack of existing on-site car parking spaces and the existing site constraints.</p> <p>The use of mechanical car stacking devices in this instance is supported given the constraints of the site, including its steepness and location of the existing building and the insufficient number of existing carparking spaces on-site.</p> <p>For the reasons given above, the proposed parking provision for the development is satisfactory and will accommodate the parking demand generated by the development.</p>	YES
CL75 Design of Carparking Areas	YES	<p>As discussed previously in the report, the design of carparking areas is assessed in the applicant's preliminary Parking and Traffic report which concludes that the proposal will generally comply with relevant Australian Standards, including AS2890.1:2004 – Parking facilities – Off-street car parking, AS2890.3.1993 – Parking facilities – Bicycle parking facilities and AS2890.6.2009 – Off-street parking for people with disabilities.</p> <p>It is further considered that the proposal will provide for safe pedestrian movement and therefore satisfies</p>	YES



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Principal	Applies	Comments	Compliant
		the requirements of this General Principle.	
CL76 Management of Stormwater	YES	<p>Council's Development Engineers have reviewed the proposal and amended plans and raised no objections subject to a number of conditions being included on the consent. All recommended conditions have been included on the attached draft consent.</p> <p>Based on the above, the proposal is considered to satisfy the General Principle.</p>	YES (subject to conditions)
CL77 Landfill	YES	Excavated and crushed rock will be used as clean fill to construct the garden terrace areas within the southern portion of the site. Any contaminated material found during this process will be removed and disposed off site in accordance with relevant standards and legislation.	YES (subject to conditions)
CL78 Erosion & Sedimentation	YES	<p>Appropriate conditions associated with the management of erosion and sedimentation are included as conditions of consent should the application be approved.</p> <p>Appropriate erosion and sediment control measures have been considered in detail within the Preliminary Construction Management Plan submitted with the application. Appropriate conditions associated with the management of erosion and sedimentation are included as conditions of consent should the application be approved.</p>	YES (subject to conditions)
CL79 Heritage Control	YES	The subject site is not a listed item of heritage significance however it is within the vicinity of the several items of heritage significance (Queenscliff Rock Pool, Queenscliff Tunnel and Dwelling – 56 Queenscliff Road). Accordingly, the application was referred to Council's Heritage Officer and no concerns are raised in relation to the proposed development subject to conditions which have been included in the recommendation.	YES
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service, and  AND  CL83 Development of known or potential archaeological sites	YES    YES	The site is identified as potentially containing items of culturally significance (Aboriginal potential areas 2). Accordingly, the application was referred to the Aboriginal Heritage Office (MLALC) for comment and no concerns are raised in relation to the proposed development subject to conditions which have been included in the recommendation.	YES (subject to conditions)   YES (subject to conditions)
CL81 Notice to Heritage Council	NO	No Comment	Not Applicable
CL82 Development in the Vicinity of Heritage Items	YES	Refer to discussion in Clause 79 - Heritage Control above	YES





## SCHEDULES

### Schedule 8 - Site Analysis

Adequate site analysis documentation has been provided with this application.

### Schedule 17 – Carparking Provision

For further details please refer to *Clause 74 Provision of car parking* in the General Principles of Development Control table in this report. In summary, the number of carparking spaces to be provided is supported.

## POLICY CONTROLS

### Warringah Section 94A Development Contributions Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan. The following monetary contributions are required to provide for additional infrastructure generated from this development;

<i>Warringah Section 94A Development Contributions Plan</i>		
Contribution based on total development cost of		\$3,002,075.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	\$28,519.70
S94A Planning and Administration	0.05%	\$1,501.00
<b>Total</b>	<b>1.0%</b>	<b>\$30,020.70</b>

## CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, SEPP 65 – Design Quality of Residential Flat Development, SEPP (Building Sustainability Index: BASIX) 2004, SEPP (Infrastructure) 2007, SEPP 55 – Remediation of Land, SEPP 71 – Coastal Protection, Warringah Local Environmental Plan 2000, Draft Warringah Local Environmental Plan 2009, Warringah Development Control Plan and the relevant codes and policies of Council.

The proposed development is satisfactory with regard to the Residential Flat Design Code requirements of SEPP 65, and the new apartments will have an acceptable impact on surrounding properties, the locality and Queenscliff Beach. In addition, the proposed development is satisfactory in terms of its visual quality, architecture, external finishes and transitional design to adjoining residential properties.

The proposal exceeds the development threshold requirements of Clause 14A of WLEP 2000, and therefore, the Application has been considered under the provisions of the G8



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Locality Statement and variations assessed under Clause 20 of WLEP 2000 to the existing set of development controls which directly relate to the preferred use of the site as 'detached housing' rather than 'apartment style housing'.

The proposed development has been found to be consistent with the Desired Future Character statement for the G8 Queenscliff locality as the built form of the proposed apartments will present as a modern and contemporary addition to the existing residential flat building. In addition, the improved design of the building will also significantly improve the residential amenity for its occupants, particularly the outdoor common roof terrace area.

The Clause 20 variations in relation to the housing density, side and rear building setbacks and landscaped open space for the detailed reasons given in this report, which in summary, relate to the positive planning and designing outcomes of the proposal.

Twenty two (22) submissions were received in response to the advertising and notification of the proposal. The issues raised in relation to the development, including view loss and privacy impacts, were not concurred with or found not to carry a determining weight as to warrant the redesign and refusal of the application.

Having regard to the above, the application is supported as it satisfies the planning controls under WLEP 2000 and SEPP 65, and therefore, the proposal is recommended for approval subject to deferred commencement condition.

## RECOMMENDATION

The Development Application No.2011/0360 for alterations and additions to a residential flat building at Lot CP, SP 4129, 48A Queenscliff Road, Queenscliff, be approved subject to the following conditions;

## GENERAL CONDITIONS

## CONDITIONS THAT IDENTIFY APPROVED PLANS

### 1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

<b>Architectural Plans - Endorsed with Council's stamp</b>		
Drawing No.	Dated	Prepared By
01 (Issue 4)	07.03.2011	Blackwood Architects
02 (Issue 4)	07.03.2011	Blackwood Architects
03 (Issue 4)	07.03.2011	Blackwood Architects
04 (Issue 4)	07.03.2011	Blackwood Architects
05 (Issue 4)	07.03.2011	Blackwood Architects
06 (Issue 4)	07.03.2011	Blackwood Architects
07 (Issue 4)	07.03.2011	Blackwood Architects
08 (Issue 4)	07.03.2011	Blackwood Architects



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09 (Issue 4)	07.03.2011	Blackwood Architects
10 (Issue 4)	07.03.2011	Blackwood Architects
11 (Issue 4)	07.03.2011	Blackwood Architects
12 (Issue 4)	07.03.2011	Blackwood Architects
13 (Issue 4)	07.03.2011	Blackwood Architects
14 (Issue 4)	07.03.2011	Blackwood Architects
19 (Issue 4)	07.03.2011	Blackwood Architects

<b>Reports / Documentation</b>		
Report No. / Page No. / Section No.	Dated	Prepared By
Recommendations contained within the Geotechnical Report for Alterations and Additions at 48A Queenscliff Road, Queenscliff	February 2011	Crozier Geotechnical Consultants
Recommendations contained within the Geotechnical Report for Alterations and Additions at 48A Queenscliff Road, Queenscliff	20 <sup>th</sup> December 2010	Crozier Geotechnical Consultants
Recommendations contained within the Building Code of Australia and Fire Safety Assessment Report	March 8 2011	Building Code of Australia Consultants

No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

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

<b>Landscape Plans - Endorsed with Council's stamp</b>		
Drawing Number	Dated	Prepared By
LPDA11-300/1 (Issue A)	15/02/2011	Conzept Landscape Architects
LPDA11-300/2 (Issue A)	15/02/2011	Conzept Landscape Architects
LPDA11-300/3 (Issue A)	15/02/2011	Conzept Landscape Architects

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

## 2. Compliance with External Department, Authority or Service Requirements

The development must be carried out in compliance with the following:

External Department, Authority or Service	E-Services Reference	Dated
Ausgrid	Response Ausgrid	28 March 2011
Aboriginal Heritage Office	Response Aboriginal Heritage Office	24 March 2011

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au))

**Reason:** To ensure the work is carried out in accordance with the determination and the statutory requirements of External Department, Authority or Bodies. (DACPLB02)



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### 3. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.



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

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

**Reason:** Legislative Requirement. (DACPLB09)

#### 4. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:  
7.00 am to 5.00 pm inclusive Monday to Friday  
8.00 am to 1.00 pm inclusive on Saturday,  
No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:  
8.00 am to 5.00 pm Monday to Friday only.

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

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



- (f) Smoke alarms are to be installed throughout all new and existing portions of any Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy. )
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

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

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

**5. Section 94A Contributions**

\$30,020.70 in Section 94A Contributions are required to be paid for this development. This amount has been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index).

The basis for the contributions is as follows:

<i>Warringah Section 94A Development Contributions Plan</i>		
Contribution based on total development cost of :		\$3,002,075.00
<b>Contribution - all parts Warringah</b>	<b>Levy Rate</b>	<b>Contribution Payable</b>
Total S94A Levy	0.95%	\$28,519.70
S94A Planning and Administration	0.05%	\$1,501.00
<b>Total</b>	<b>1.0%</b>	<b>\$30,020.70</b>



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

**Reason:** To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development. (DACPLC01)

## 6. Compliance with Standards

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

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

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

**Advice to Applicants:** At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures\*\*
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings\*\*
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting\*\*
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) \*\*
- (e) AS 4970 - 2009 'Protection of trees on development sites'\*\*\*
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking\*\*
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities\*\*
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities\*\*
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking\*\*
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities\*\*
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set\*\*
- (l) AS 1428.1 - 2009\* Design for access and mobility - General requirements for access - New building work\*\*
- (m) AS 1428.2 - 1992\*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities\*\*

**\*Note:** The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website [http://www.humanrights.gov.au/disability\\_rights/buildings/good.htm](http://www.humanrights.gov.au/disability_rights/buildings/good.htm)

**\*\*Note:** the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.

## 7. Sewer / Water Quickcheck

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



Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

## 8. Construction Management Program

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

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

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

**Reason:** To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community. (DACPLC13)

## 9. Geotechnical Report

A Geotechnical Report and certificate shall be prepared by an appropriately qualified Geotechnical Engineer certifying that the existing rock formations and substrate on the site are capable of withstanding:

- (a) the proposed loads to be imposed;
- (b) the extent of the proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation;
- (c) protection of adjoining properties;
- (d) the provision of appropriate subsoil drainage during and upon completion of construction works.





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

**Reason:** To ensure the structural integrity of the subject site and adjoining sites during the excavation process. (DACPLC14)

#### **10. Geotechnical Endorsement**

As the site is located in an area susceptible to landslip, the Construction Certificate application plans must be endorsed or countersigned by a qualified practicing Geotechnical Engineer with corporate membership of the Institute of Engineers Australia or who is eligible to become a corporate member and has appropriate experience and competence in the related field.

**Reason:** Land Stability

#### **11. Certification of the Geotechnical and Hydrogeological design**

A certificate prepared by a suitably qualified and experienced geotechnical and/ or hydrogeological engineer confirming that the design of any new below ground structures has been undertaken in accordance with the Geotechnical Reports and relevant Australian Standards.

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

**Reason:** Land Stability

#### **12. Security Bond**

A bond (determined from cost of works) of \$2000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection)

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** To ensure adequate protection of Council infrastructure. (DACENC01)

#### **13. Stormwater Disposal**

Plans indicating all details relevant to the collection and disposal of stormwater from the proposed buildings, paved areas and where appropriate adjacent catchments, shall be submitted prior to the issue of the Construction Certificate. Stormwater shall be conveyed from the site to existing approved drainage system.



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

**Reason:** To ensure appropriate provision for disposal and stormwater management and compliance with the BASIX requirements, arising from the development. (DACENC07)

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 14. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

**Reason:** To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

### 15. Dilapidation Survey

A dilapidation survey of adjacent buildings must be conducted prior to any site work. The lateral extent of the survey must cover the likely "zone of influence" of any excavation or construction induced vibration. The survey must be properly documented. The dilapidation report must be submitted to Council and the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** Proper management of records.

## CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

### 16. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.



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Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

**Reason:** To protect the environment from the effects of sedimentation and erosion from development sites. (DACPLE02)

#### 17. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

**Reason:** Public Safety. (DACENE09)

#### 18. Support for Neighbouring Buildings

(1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- (a) must preserve and protect the building from damage;
- (b) if necessary, must underpin and support the adjoining building in an approved manner Subject to adjoining owner's consent; and
- (c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

(2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

**Reason:** To ensure adjoining owner's property rights are protected and protect adjoining properties from potential damage.

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

#### 19. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.



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

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

**Reason:** Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

## 20. Swimming Pool Requirements (Pond)

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

- (a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:
  - (i) Swimming Pools Act 1992;
  - (ii) Swimming Pools Amendment Act 2009;
  - (ii) Swimming Pools Regulation 2008
  - (iii) Australian Standard AS1926 Swimming Pool Safety
  - (iv) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
  - (v) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools
- (b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.
- (c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.
- (d) A warning sign stating 'YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL' has been installed.
- (e) All signage shall be located in a prominent position within the pool area.

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

**Reason:** To protect human life (DACPLF09)

## 21. Stormwater Disposal



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

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

(Note: The following Standards and Codes applied at the time of determination:

- a) Australian/New Zealand Standard AS/NZS 3500.3:2003 - Plumbing and drainage - Stormwater drainage
- b) Australian/New Zealand Standard AS/NZS 3500.3:2003/Amdt 1:2006 - Plumbing and drainage - Stormwater drainage
- c) National Plumbing and Drainage Code.)

**Reason:** To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

## 22. Certification of Geotechnical and Hydrogeological Monitoring Program and Construction work

A report is to be prepared including a copy of records of inspections and monitoring as required by the Geotechnical Reports, "Geotechnical Report for Alterations and Additions at 48A Queenscliff Road, Queenscliff " prepared by "Crozier Geotechnical Consultants, dated February 2011 and 20 December 2010, submitted in report form to Council or an Accredited Certifier for approval prior to release of a final/interim Occupation Certificate or final building inspection. A geotechnical/hydrogeological engineer must also certify that all below ground work has been carried out in accordance with any applicable development consent conditions and the recommendations of the Geotechnical and Hydrogeological Report.

**Reason:** Land Stability

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

### 23. Visitor Car parking

Visitor car parking must be permanently available, freely accessible and clearly marked / signposted. The visitor car parking spaces area not to be allocated to individual units / tenancies.

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

**Reason:** To ensure visitor carparking is available at all times and is clearly identified. (DACPLG02)

### 24. PCA Responsibility

The PCA shall ensure that all reasonable steps are taken to prevent landslip and damage to adjoining and nearby properties during excavation and construction works. This shall include engaging a geotechnical engineer at regular intervals to conduct site



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stability inspections during excavation and construction works.

**Reason:** Land Stability

## 25. Compliance with Geotechnical Report Recommendations

Excavation must be undertaken in accordance with the recommendations of Geotechnical Reports, "Geotechnical Report for Alterations and Additions at 48A Queenscliff Road, Queenscliff " prepared by "Crozier Geotechnical Consultants, dated February 2011 and 20 December 2010, and any oral or written direction of a professional engineer with expertise and experience in geotechnical engineering supervising the project.

**Note:** The consent authority cannot require that the author of the geotechnical report be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

**Reason:** Land Stability

## 26. Adjoining buildings founded on loose foundation materials

The *principal contractor* must ensure that a *professional engineer* determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The *professional engineer* (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the *principal contractor* must comply with any reasonable direction of the *professional engineer*.

**Note:** A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.

**Reason:** Land Stability

## 27. Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.



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Where such any alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given to the principal contractor and any sub-contractor clearly setting out required work practice.

The principal contractor and any sub-contractor must comply with all work practice directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

**Note:** Professional engineer has the same mean as in Clause A1.1 of the BCA.

**Note:** Building has the same meaning as in section 4 of the Act i.e. “building includes part of a building and any structure or part of a structure”.

**Note:** Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

**Reason:** Land Stability

## **28. Hours of Operation – Roof Terrace Area**

The hours of operation of the Roof Terrace Area, located within adjacent the northern elevation of the apartment building (as shown on the approved plans), are to be restricted to:

- Sunday to Thursday: Daylight hours only
- Friday and Saturday: Daylight hours to 10pm.

A clearly visible sign is to be located within the Roof Terrace Area to clearly specify these hours of use.

**Reason:** To maintain acoustic privacy to adjoining residential properties



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