

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/0047
----------------------------	-------------

Responsible Officer:	Monty Masrur
Land to be developed (Address):	Lot 17 DP 233078, 3 Plateau Road COLLAROY NSW 2097
Proposed Development:	Use of building as a Dwelling House
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Development Determination Panel
Land and Environment Court Action:	No
Owner:	Giuseppe Casella Kathleen May Casella
Applicant:	Mark Pupo

Application lodged:	23/01/2017
Application Type:	Local
State Reporting Category:	Residential - Single new detached dwelling
Notified:	25/01/2017 to 10/02/2017
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	2
Recommendation:	Approval

Estimated Cost of Works:	\$ 0.00
---------------------------------	---------

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

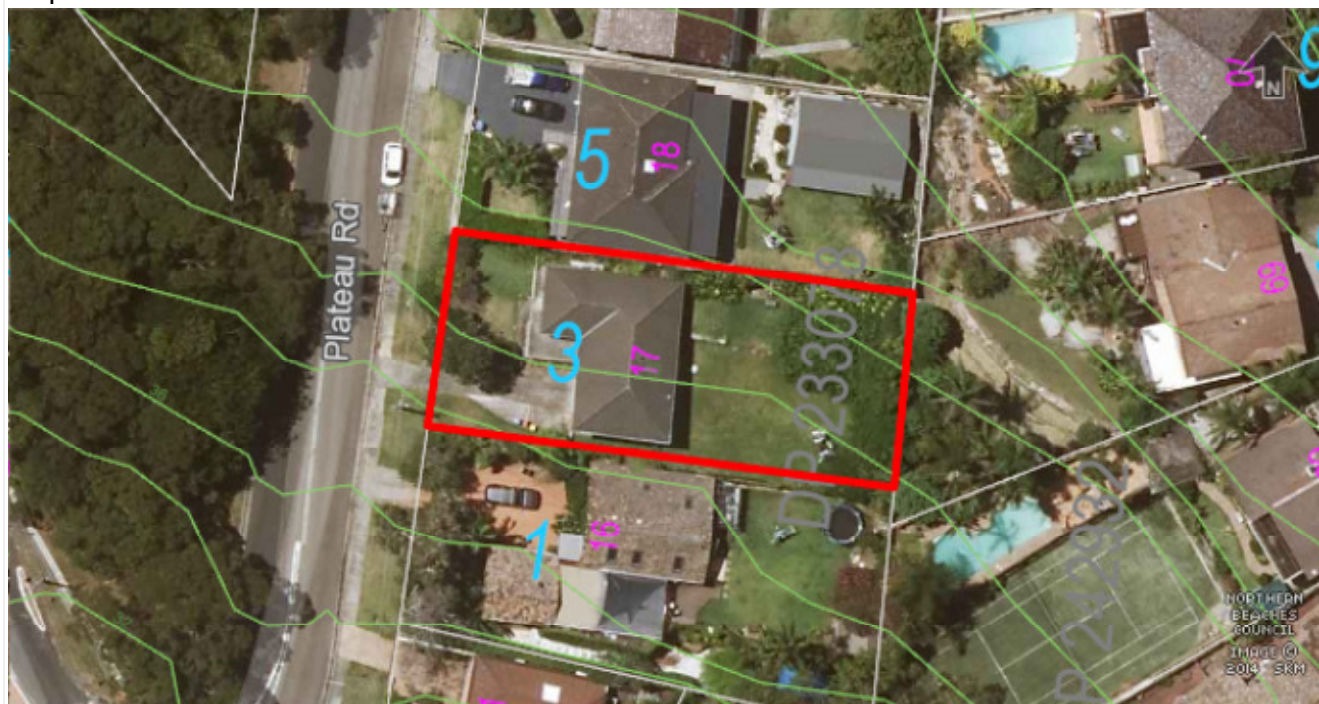
NORTHERN BEACHES COUNCIL

Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - B5 Side Boundary Setbacks
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 17 DP 233078 , 3 Plateau Road COLLAROY NSW 2097
Detailed Site Description:	<p>The subject site consists of one allotment located on the eastern side of Plateau Road, Collaroy. It is regular in shape with a frontage of 17.68m along Plateau Road and a depth of 42.67m. The site has a surveyed area of 747.6m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a two - three storey dwelling.</p> <p>Surrounding development consists of residential dwellings of varying architectural design.</p> <p>The site slopes from the northern side boundary to the southern side boundary.</p> <p>There are no known threatened species on the site.</p>

Map:



SITE HISTORY

The relevant history to the application is set out in a timeline as follows:

NORTHERN BEACHES COUNCIL

03/06/2015 – External CDC2015/0235 lodged with Council – Alterations and additions to an existing two storey dwelling.

11/6/2015 – Letter from Council's Building Investigations to Form Building Certifiers (2015/164959) passing on complainant allegations received by Council in relation to works on site.

19/6/2015 – Form Building Certifiers state that applicant will be lodging a DA for works not approved under the CDC, makes the following answers to allegations:

1. *Total view loss - This is not a matter to consider under the SEPP.*
2. *Records indicate telephone conversations with each property either side would confirm that*
3. *Landslip - The 149(2) does not make any mention of this and our site inspection revealed th*
4. *Works very close - We have only approved works that are permitted to be approved under ti*
5. *The applicant for this CDC will be lodging a Development Application for the works which w*

24/6/2015 – Council writes to complainant passing on FBC's answers to allegations and states Council will take no further action.

25/9/2015 – DA2015/0927 lodged with Council for Alterations and additions, Dwelling House.

11/12/2015 – Council requests withdrawal of DA due to unauthorised works already started, Front boundary setback non-compliance, Height of buildings, Front boundary fence.

16/12/2015 – Letter to FBC from Council Building Investigations alleging works begun without consent.

17/12/2015 – Development Application withdrawn.

22/12/2015 – Complaint regarding various aspects of the development including retaining wall on boundary.

29/12/2015 – Notice of Intention to serve order issued by FBC.

9/3/2016 – Council issues Notice of Intention to serve order.

21/4/2016 – Council issues Penalty Infringement Notice for excavation not in accordance with approved CDC.

13/5/2016 – Street levels issued by Council for 3 Plateau Road.

4/7/2016 – Building Certificate BC2016/0063 lodged with Council.

5/10/2016 – BC2016/0063 refused for the following reasons:

1. *The "as built" works fail to show consistency with the Objectives of the R2 Low Density Resi*
2. *The "as built" works fail to show consistency with Clause 6.4 'Development on Sloping Land*
3. *Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979 th*
4. *Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979 th*
5. *Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979 th*
6. *Pusuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979 the*
7. *The unauthorised retaining wall along the Northern boundary encroaches over the neighbou*

10/10/2016 – Order issued to comply with CDC2015/0235 and demolish all unauthorised works.

23/1/2017 – DA2017/0047 and BC2017/0003 lodged with Council.

PROPOSED DEVELOPMENT IN DETAIL

A Complying Development Certificate was previously approved on site (CDC2015/0235), approved by Form Building Certifiers. However, the dwelling was not built in accordance with the plans approved under this CDC. The plans lodged with the current Development Application show the parts of the building approved in the CDC in white, with red dotted lines.

The proposed Development Application is for the use of the existing constructed building as a dwelling house. No works are proposed as part of the proposal. It relates to the parts of the dwelling shown in green on the plans lodged with the application. These green shaded parts of the plan are the parts that were built outside of the approved plans under the CDC.

A Building Certificate (BC2017/0003) has been lodged in conjunction with the Development Application, to regularise the works constructed without approval.

The assessment of this Development Application therefore relates to the parts of the dwelling (shown shaded green on the plans) that were not approved under CDC2015/0235.

These works include:

Lower Ground Floor

- New front entry path.
- New timber deck and retaining wall along northern side boundary.

Ground Floor

- New kids room at north eastern corner of dwelling.
- extension of family room to the south and east at the southeastern corner of the dwelling.

Upper Floor

- New master bedroom at front north western corner of dwelling.
- New Bedroom 1 and walk in robes at north eastern corner of dwelling.
- Eastern extension of Bedroom 3 at south eastern corner of dwelling.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.

NORTHERN BEACHES COUNCIL

Section 79C 'Matters for Consideration'	Comments
<p>Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)</p>	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<p>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</p>	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering</p>

NORTHERN BEACHES COUNCIL

Section 79C 'Matters for Consideration'	Comments
	the nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Submissions” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Withheld	COLLARROY NSW 2097
Gina Cutrone	5 Plateau Road COLLARROY NSW 2097

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

- Views
- Bulk and scale
- Alterations and additions
- Australian building codes/standards
- Landscaped area, setbacks, possible swimming pool
- Property occupied prior to occupation certificate being issued, Certifier's sign not visible

The matters raised within the submissions are addressed as follows:

- Views
Comment: Concerns were raised with view loss from the northern neighbour's property at 5 Plateau Road. This issue is addressed in detail under Clause D7 *Views* in this report. In summary, the extra works which are the subject of this application, additional to what was approved under the CDC, are not considered to result in unreasonable view loss.
- Bulk and scale
Comment: Concerns were raised regarding the overall bulk and scale of the development. This issue is addressed in detail under Clause D9 *Building Bulk* in this report. In summary, the works proposed as part of this application are not considered to result in an unreasonable bulk and scale in built form.

- Alterations and additions

Comment: Concerns were raised that the previous dwelling on site had been almost entirely demolished, and that the works should not therefore be defined as alterations and additions. The application as proposed is for use of the existing building as constructed as a dwelling house, and the application was notified as such. As described in the Development Description and History sections of this report, the original approval was a Complying Development Certificate, which was not built to the approved plans. The current application has therefore applied for the use of the building as constructed, and is in conjunction with a building certificate application to ensure the works are structurally stable. The application has not been applied for, nor notified as 'alterations and additions'.

Notwithstanding the above, the plans are clear as to which parts of the dwelling have been built outside of the previous CDC approval, and are adequate for Council to carry out a satisfactory assessment of the application.

- Australian building codes/standards

Comment: Concerns were raised that the proposal may not be built in accordance with the relevant standards and building codes. The Development Application has been lodged in conjunction with a Building Certificate application. The Development Application is for the use of the building, and the Building Certificate will certify that the building is structurally sound and built in accordance with the relevant standards. Subject to Council's Building Assessments team's assessment of the Building Certificate, the submission is considered to be satisfied in this regard.

- Landscaped area, setbacks, possible swimming pool

Comment: Concerns were raised that it was difficult to estimate landscaped area, setbacks and whether there was a pool in the rear yard. The plans are clear, and are adequate for an assessment against all relevant built form controls including landscaped area and setbacks, as noted in this report. The proposal complies with the landscaped open space requirements, and generally complies with the setback requirements. The proposed non-compliances with built form controls are discussed in the relevant sections of this report, and are considered to be reasonable in their context.

A swimming pool and deck are shown on the proposed concept stormwater plan, but not on any of the other plans. Additionally, the Statement of Environmental Effects submitted with the application does not mention a swimming pool, and states that D16 *Swimming Pools and Spa Pools* is not applicable to the development. The application is not considered to have made adequately clear whether or not a pool is proposed, and as such, a condition of consent is recommended stating that no approval is given to a swimming pool.

- Property occupied prior to occupation certificate being issued, Certifier's sign not visible

Comment: Concerns were raised that the property has been occupied prior to being issued with an occupation certificate. The applicant stated that the Certifier issued an interim occupation certificate for the works approved by the CDC, but is no longer certifying the works in relation to the areas of the development which are the subject of the current Development Application and Building Certificate application. The property is currently occupied, but Council does not have a record of the interim occupation certificate. However, this issue does not affect the assessment of the proposed/as-built works and use of the building under the current application. The matter has been referred to Council's Compliance department for action if necessary.

MEDIATION

NORTHERN BEACHES COUNCIL

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The approval being sought involves permitting use of unauthorized building works that have been the subject of Building Certificate (BC 2016/0063) which was refused (trim 2016/329337). The grounds for refusal were based on the Development Assessment referral comments from Mitchell Drake (trim 2016/257694).</p> <p>The unauthorized works are also subject to a formal Order issued by the Building Investigations Group.</p> <p>The applicant has also lodged a new Building Certificate application concurrently with this DA.</p> <p>Should Planning determine that the additional unauthorized works are suitable/acceptable then appropriate conditions have been included for this referral.</p>
Compliance Management	<p>The Building Investigations Team is currently investigating a matter relating to the property - reference EPA2016/0045.</p> <p>The approved of this application may assist in resolving part of this investigation.</p>
Natural Environment (Biodiversity)	No comments and no conditions.
Natural Environment (Biodiversity)	

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

NORTHERN BEACHES COUNCIL

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environment Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.46m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

NORTHERN BEACHES COUNCIL

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.61m	5.7%	No
B3 Side Boundary Envelope	North - 4m	Encroachment new works Master bedroom up to 1.6m for length of 4.91m Bedroom 1 up to 500mm for length of 5.53m	Up to 40%	No
	South - 4m	Encroachment new works Bedroom 3 up to 1.5m for length of 1m	Up to 25%	No
B5 Side Boundary Setbacks	North - 0.9m	Dwelling -1.9m Retaining wall 0.4m	N/A 93.85%	No
	South - 0.9m	0.9m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	Dwelling - 8m	N/A	Yes
B9 Rear Boundary Setbacks	6m	8.3m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	41.25% (308.453m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes

NORTHERN BEACHES COUNCIL

Clause	Compliance with Requirements	Consistency Aims/Objectives
D8 Privacy	Yes	Yes
D9 Building Bulk	No	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The proposed wall height is up to 7.61m to the underside of the ceiling, at the south western corner of the new master bedroom.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The proposal complies with the overall height limit of 8.5m, and the non-compliance is partly the result of the slope of the site down from north to south, as the new master bedroom element of the building will comply with the wall height control on the northern side (6.67m high). The dwelling is lower overall than the neighbour to the north, and higher than the neighbour to the south, and will provide a stepping transition down in accordance with the topography. The overall visual impact of the non-compliance on Plateau Road is not considered to be unreasonable, and the non-compliant element of the works proposed under this application (being the south eastern corner of the master bedroom at the front of the dwelling) is not highly visible from neighbouring properties, and does not have any significant impacts in terms of amenity.

- *To ensure development is generally beneath the existing tree canopy level*

Comment:

The proposal will remain below the overall height limit of 8.5m, and generally beneath tree canopy in the area. The topography of the area falls quite significantly from north to south, and the dwelling is not on any ridge or above tree canopies in the area.

- *To provide a reasonable sharing of views to and from public and private properties.*

Comment:

This issue is discussed in detail under Clause D7 Views in this report. In summary, the proposal is considered to result in a reasonable sharing of views. The element of the new works that is non-compliant with the wall height control does not significantly impact on views (available from the north towards the south), being on the southern side of the new master bedroom.

- *To minimise the impact of development on adjoining or nearby properties.*

Comment:

The non-compliant element of the proposal is in the centre of the site, and setback 8m from the front boundary. It will not have any significant or unreasonable impacts on neighbouring properties. The proposal maintains the heights approved under CDC2015/0235, and the continuation of the heights of that development is considered acceptable in this instance.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

The topography in the area falls from north to south. The development will remain below the overall height of the northern neighbour, and above the southern neighbour. The building will also continue to step down from north to south, and the new works are considered to generally continue to respond to the topography.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

The proposed new works continue the roof design approved under the CDC. The non-compliance occurs at the south western corner as the land slopes down to the south, and the overall development complies with the height limit. The design of the roof is a parapet type design, and is considered sufficiently innovative.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B3 Side Boundary Envelope

Description of non-compliance

On the northern side of the dwelling, the proposed new master bedroom will breach the envelope by up to 1.6m for 4.91m, and Bedroom 1 will breach the envelope by up to 500mm for a length of 5.53m.

On the southern side, the proposed new works will breach in the south western corner of Bedroom 3 by up to 1.5m for a length of 1m.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying

Objectives of the Control as follows:

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

The proposed new works do not comply with the envelope on both the southern and northern sides. However, the works generally continue the heights and side setbacks of the dwelling as approved under CDC2015/0235. The proposed new works are not considered to cause the development to become unreasonably more visually dominant than what was previously approved under the CDC. The dwelling will continue to be setback on a front building line generally consistent with neighbours to the north and south, and the topography means that the development will continue to provide a visual transition in height down from the northern neighbour to the southern neighbour. To require the new works to step in from the side boundary to comply with the control would not provide any great benefits in terms of visual impacts on the street, or on neighbours.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

The new works on the southern side of the development cause only a small amount of additional overshadowing, compared to what was previously approved under the CDC application, and does not cause the overall development to become non-compliant with Clause D6 *Access to Sunlight*. There is one new window proposed on the northern side of the master bedroom that is outside the side boundary envelope. However, this window is screened, and it is only the top of the window - generally above eye level that is outside the envelope. It is adjacent to the northern neighbour's front entry deck (not the private open space), and is not considered to result in unreasonable privacy impacts.

- *To ensure that development responds to the topography of the site.*

Comment:

The new works have generally maintained the existing heights and side setbacks approved under the CDC application. Overall, the development is under the 8.5m height limit, and will continue to provide a visual step down from the height of the northern neighbour to the height of the southern neighbour. The envelope breaches are a continuation of what was previously approved under the CDC, and do not cause the overall development to become unresponsive to the topography.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B5 Side Boundary Setbacks

Description of non-compliance

The works to the dwelling comply with the side setback control. However, a retaining wall is shown 400mm from the northern side boundary. This wall has been constructed already along with the other works shown in green on the plans. There is another wall shown (not coloured green on the plans) which is on the northern neighbour's property. Concerns have been raised that this wall was

constructed without approval on the neighbour's property.

This current application relates only to the new parts of the building shown in green on the plans, and a condition of consent is recommended to make absolutely clear that the approval relates only to those parts of the development, and not to any works constructed over the boundary on neighbouring properties.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To provide opportunities for deep soil landscape areas.*

Comment:

The retaining wall 400mm from the side boundary does not restrict opportunities for deep soil landscaped area. The development will comply with the overall 40% landscaped open space requirement on site.

- *To ensure that development does not become visually dominant.*

Comment:

The retaining wall is mostly screened from view from the street by the dwelling, and is not significantly higher than the height of the ground level at the northern neighbour's property. It does not create any unreasonable visual dominance of the area.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

The retaining wall does not create any significant bulk and scale in the area.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment:

The retaining wall does not have any significant impacts on privacy, amenity and solar access. The actual dwelling maintains compliance with the control and provides adequate building separation.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment:

The retaining wall does not have any impact on views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B7 Front Boundary Setbacks

Description of non-compliance

The proposed dwelling complies with the front setback control, with the new works being 8m from the front boundary. A wall up to 4m high has been constructed (as shown in green on the plans) between the driveway and entry stairs. This is an element that is considered to comply with the control, as it is part of the entry path/stairs that are a normal and essential part a development. However, it is larger than originally approved under the CDC, and being adjacent to the open driveway creates a visually large bulky element in the front setback from Plateau Road.

There is a strip of soft landscaping between the driveway and wall, and a condition is recommended to plant screen planting in this strip of land, to screen the wall, and minimise the visual impact of the wall. Subject to this condition, the proposal is considered acceptable with regard to the front setback control.

D7 Views

Merit consideration

Concerns were raised by the northern neighbours (5 Plateau Road) regarding loss of views. The development is considered against the underlying Objectives of the Control as follows:

- *To allow for the reasonable sharing of views.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

The views affected by the development include water views of the ocean to the south east, and district views of Cromer and Dee Why to the south and south west. In accordance with principle 1, the water views are considered relatively valuable, but not iconic, while the district views are not considered to be of high value. It must be noted that the vast majority of view loss has already been caused by the development approved by CDC2015/0235. The additional view loss caused by the works under consideration in this application (shown in green on the plans) are confined to some extra district views to the south at the front of the property, and a small sliver of water filtered by trees view to the south east from the rear of 5 Plateau Road. In this respect, the views overall being affected by the proposed works under the current application are not considered to be highly valuable in the context of these principles.

2. What part of the affected property are the views obtained

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

Comment to Principle 2:

The district views affected by the new works are from the front (western) entry deck and south facing living room windows of 5 Plateau Road. The water views affected by the extension to the rear are from the rear deck of 5 Plateau Road. The views are directly across the side boundary and are both sitting and standing.

3. Extent of impact

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

Comment to Principle 3:

To the rear, the extra 1m of building at the rear of 3 Plateau Road blocks the small portion of tree filtered water view that remained from the rear deck past the eastern end of the development. However, from a standing position on the rear deck, the water and horizon still remains visible above the extension. To the south west, the extension of the master bedroom to the front of 3 Plateau Road will block out a much larger portion of the district views from the south facing living room windows, and from the front entry deck. However, wide district views will also remain to the south and west.

Given that the views are across the side boundary, and that the water views are largely obscured by the existing CDC approval rather than the new works, and that wide district views will remain to the south west from the front deck and west facing front doors, the view loss caused by the additions proposed under the current application is considered to be minor in the context of these principles.

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

The proposal is generally compliant with the built form controls, with the exception of the side boundary envelope control. The front setback to the additional works is 8m, which is 1.5m greater than the minimum 6.5m requirement under the DCP. The rear setback is 7.93m, which is an additional 1.93m more than the minimum 6m requirement. The development also complies with the overall height limit. The envelope non-compliance on the northern side of the master bedroom is significant, however, given that it is the height of the development blocking the view to the south (rather than the side of the development), compliance with this control through moving the extension to the south or a different roof design would not create significant gains in terms of district views to the south. Compliance with the envelope *would* possibly maintain greater district views in a south westerly direction from the south facing living room windows. However, as discussed above, these views are across the side boundary, and 5 plateau Road will still maintain wide district views to the south west from the western entry deck and west facing living room glass doors.

Given these considerations, the envelope non-compliance is not considered to have unreasonable impacts on views, and the greater than required front and rear setbacks, and compliant overall height of the development maintain a reasonable sharing of views.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The design of the additions maintains the design originally approved under the CDC. Given that the proposal is considered to maintain a reasonable sharing of views, the design is considered to be sufficiently innovative.

- *To ensure existing canopy trees have priority over views.*

Comment:

No canopy trees are proposed for removal.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D9 Building Bulk

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

The proposed new works (shown in green on the plans) do not provide for side and rear setbacks which progressively increase as wall height increases. However, the new works match the existing design of the dwelling as approved under the CDC application. The design

is a 'boxy' type design, with a parapet style roof, and is not unusual in modern architecture. The materials and colours used are considered to be attractive, and help to create a building which provides a positive contribution to the streetscape. The overall design of the building is considered to achieve this objective.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The development is a large dwelling, but it is generally consistent with the built form controls applicable to the site. The overall height of the development provides a visual transition down from the northern neighbour to the southern neighbour, in accordance with the topography. The development is generally consistent with the setback controls and overall height control. There are significant breaches of the side boundary envelope control, however these were approved in large part under the CDC application, and the new works proposed under this application simply maintain the setbacks and design of the building approved under that application.

The setting of the dwelling on the side of a hill means that it does not tower over surrounding development, other than the southern neighbour, but this is normal on a south facing slope. The neighbouring dwelling to the north will remain significantly higher than the dwelling on 3 Plateau Road, also due to the slope, and the overall visual impact from the public domain is not considered to be unreasonable. The impacts on neighbours have been assessed throughout this report, and is not considered to be unreasonable.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;

NORTHERN BEACHES COUNCIL

- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2017/0047 for Use of building as a Dwelling House on land at Lot 17 DP 233078, 3 Plateau Road, COLLAROY, subject to the conditions printed below:

DEFERRED COMMENCEMENT CONDITIONS

1. **Building Certificate**

The consent will not become active until a building certificate is issued by Council for the works constructed without approval, as shown shaded green on the approved plans.

Once a building certificate is issued, the applicants must apply to Council to activate the consent.

Reason: To ensure the works completed without approval are in accordance with the relevant building standards. (DACPLADC1)

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000.

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

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
BC100	20.05.2016	AG Design
BC110	20.05.2016	AG Design
BC111	20.05.2016	AG Design
BC112	20.05.2016	AG Design
BC200	20.05.2016	AG Design
BC201	20.05.2016	AG Design
BC202	20.05.2016	AG Design
BC203	20.05.2016	AG Design
BC204	20.05.2016	AG Design
BC205	20.05.2016	AG Design
BC206	20.05.2016	AG Design

Engineering Plans		
Drawing No.	Dated	Prepared By
DA300	21.06.2015	AG Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary Geotechnical Assessment MQ30223	26 August 2015	Jack Hodgson Consultants

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

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

3. **No Approval for works**

No approval is given for the following works:

- The rear deck and pool shown on the stormwater plan
- Any retaining wall on the northern neighbour's property

Reason: Works not applied for, and not on subject property. (DACPLBOC2)

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

4. **Screen planting**

NORTHERN BEACHES COUNCIL

Screen planting is to be provided along the northern side of the driveway, between the driveway and the wall adjacent to the entry stairs.

The selected planting is to comprise of species capable of attaining a minimum height of 3 metres at maturity. Planting is to be maintained for the life of the development.

Reason: To mitigate the built form in the front setback area. (DACPLGOG1)

I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

Signed

Anna Williams, Development Assessment Manager

The application is determined under the delegated authority of:

Anna Williams, Development Assessment Manager

ATTACHMENT A

No notification plan recorded.

ATTACHMENT B








	Notification Document	Title	Date
	2017/022380	Notification Map	24/01/2017

NORTHERN BEACHES COUNCIL

ATTACHMENT C

Reference Number	Document	Date
 2017/042663	Compliance Management Referral Response	05/01/2016
 2017/022073	Builders Quote	18/01/2017
 2017/022074	Plans - Survey	18/01/2017
 2017/022103	Site and Elevation Plans	18/01/2017
 2017/022104	Report - Statement of Environmental Effects	18/01/2017
 2017/022075	Report - BASIX Certificate	18/01/2017
 DA2017/0047	3 Plateau Road COLLAROY NSW 2097 - Development Application - Alterations and Additions	23/01/2017
 2017/020632	DA Acknowledgement Letter - Mark Pupo	23/01/2017
 2017/022108	Report - Structural	24/01/2017
 2017/022110	Plans - Stormwater	24/01/2017
 2017/022134	Delete	24/01/2017
 2017/022109	Plans - Shadow Diagrams	24/01/2017
 2017/022137	Plans - Master Set	24/01/2017
 2017/022070	Development Application Form	24/01/2017
 2017/022072	Applicant Details	24/01/2017
 2017/022135	Plans - External	24/01/2017
 2017/022136	Plans- Internal	24/01/2017
 2017/022354	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2017/0047 - 3 Plateau Road COLLAROY NSW 2097 - PR	24/01/2017
 2017/022380	Notification Map	24/01/2017
 2017/022387	Notification Letter - 15	24/01/2017
 2017/023099	Building Assessment Referral Response	25/01/2017
 2017/038784	Questions regarding DA - 3 Plateau Road Collaroy	10/02/2017
 2017/040564	Submission - Farrar	13/02/2017
 2017/079195	Submission - Cutrone	20/03/2017
 2017/079957	Illegal works - DA2017/0047 - 3 Plateau Road Collaroy Plateau	20/03/2017
 2017/086357	Submission Acknowledgement Letter - Gina Cutrone - SA2017/079195	28/03/2017
 2017/093271	Additional information - 3 Plateau Road Collaroy Plateau - BC2017/0003 - DA2017/0047 - Cutrone	29/03/2017
 2017/089618	Working plans	30/03/2017
 2017/116648	Timeline Memo 3 Plateau	28/04/2017
 2017/133103	Geotech report	04/05/2017
 2017/249034	DDP Plans	25/07/2017
 2017/249092	DAO Checklist Development Panel Reports - Mark Pupo	25/07/2017
 2017/249188	Assessment Report	25/07/2017

NORTHERN BEACHES COUNCIL

	2017/249905	Letter to applicant and owner DDP	25/07/2017
	2017/249902	letter to submitters DDP	25/07/2017
	2017/265924	Complaint - Submission overdue - 3 Plateau Road Collaroy Plateau	01/08/2017
	2017/261432	Forward to Compliance: 2017/261338 : e-mail from B and D Farrar	02/08/2017
	2017/261456	S94A fees receipt for CDC2015/0235	02/08/2017
	2017/298402	Stamped Plans	21/08/2017
	2017/298437	Notice of Determination	21/08/2017