
Bayside Planning Panel

27/03/2018

Item No	6.1
Application Type	Development Application
Application Number	DA-2017/1235
Lodgement Date	7 December 2017
Property	18A Cowper Avenue, Pagewood
Owner	Christina Curry
Applicant	Rod Whitley
Proposal	Alterations and additions (including a first floor addition) to the existing dwelling and construction of an in-ground swimming pool
No. of Submissions	Two (2)
Cost of Development	\$375,000
Report by	Andrew Ison, Contract Planner

Officer Recommendation

- 1 That the Bayside Planning Panel support the variation to the height development standard, as contained in Clause 4.4 – Floor Space Ratio in the Rockdale LEP 2013, in accordance with Clause 4.6 of the LEP, submitted by the applicant.
 - 2 That Development Application DA-2017/174 for alterations and additions (including a first floor addition) to the existing dwelling and construction of an in-ground swimming pool at 18A Cowper Avenue, Pagewood be **APPROVED** pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and subject to the modifications to conditions of consent attached to this report.
 - 3 That the objectors be advised of the Bayside Planning Panel's decision.
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Attachments

- 1 Planning Assessment Report
- 2 Site Plan
- 3 Roof Plan
- 4 Elevations 1
- 5 Elevations 2
- 6 Clause 4.6 – Exception to Development Standard

Location Plan



BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/1235
Date of Receipt:	7 December 2017
Property:	18A Cowper Street, Pagewood
Lot & DP/SP No:	Lot A in DP 378977
Owner:	Christina Curry
Applicant:	Rod Whitley
Proposal:	Alterations and additions (including a first floor addition) to the existing dwelling and construction of an in-ground swimming pool
Recommendation:	Approve the development, subject to conditions
Value:	\$375,000
No. of submissions:	One (1) submission
Author:	Andrew Ison, Consultant Planner
Date of Report:	27 March 2018

Key Issues

Bayside Council received Development Application No. 2017/1235 on 7 December 2017 seeking consent for alterations and additions (including a first floor addition) to the existing dwelling and construction of an in-ground swimming pool at 18A Cowper Street, Pagewood.

The application is referred to the Bayside Planning Panel as the owner is a current elected Councillor of Bayside Council.

The application was placed on public exhibition from 18 December 2017 to 15 January 2018. Two (2) submissions were received.

Key issues with this application relate to the Floor Space Ratio.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979 (EPA Act)* and is recommended for approval, subject to conditions of consent.

Recommendation

It is RECOMMENDED that Council, resolve:

1. That Development Application DA-2017/1235 for the proposed alterations and additions (including a first floor addition) to the existing dwelling and construction of an in-ground swimming pool at 18A Cowper Street, Pagewood be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report; and
2. That the submitters are advised of Council's decision.

Background

History

There are no records on Council's system with relation to any previous applications relating to this property.

Proposal

The development application seeks consent for alterations and additions (including a first floor addition) to the existing dwelling and construction of an in-ground swimming pool.

The specifics of the proposal are as follows:

Ground Level

- Refurbishment of the ground floor level including a rear addition comprising living room, deck, and a repaired garage;
- Inground swimming pool; and
- Landscaping throughout the site.

First Floor

- Proposed first floor level, to accommodate three (3) bedrooms, retreat, ensuite, walk-in-robe, and small rear deck off the master bedroom.

There are three Cypress Pine trees at the rear of the subject site which are to be removed to accommodate the construction. Separate approval was issued by Council on 17 April 2017 by way of a tree removal request.

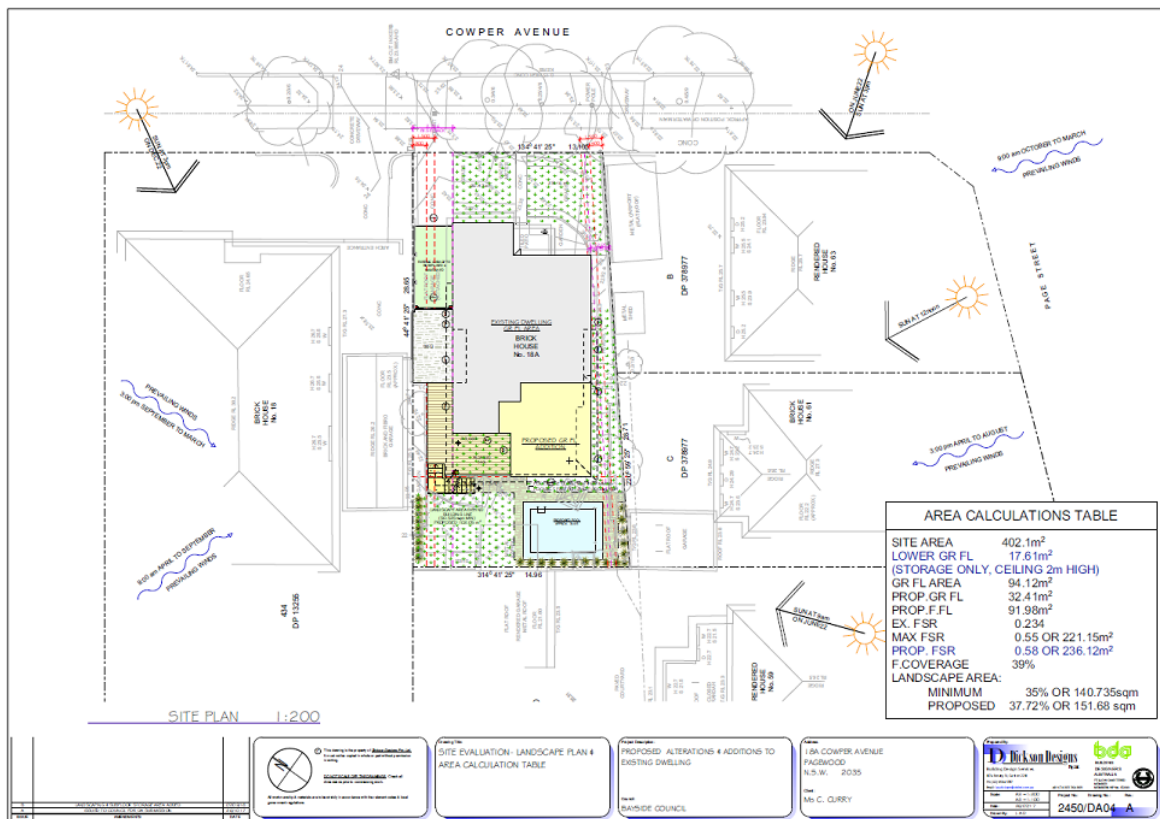


Figure 1: Site plan

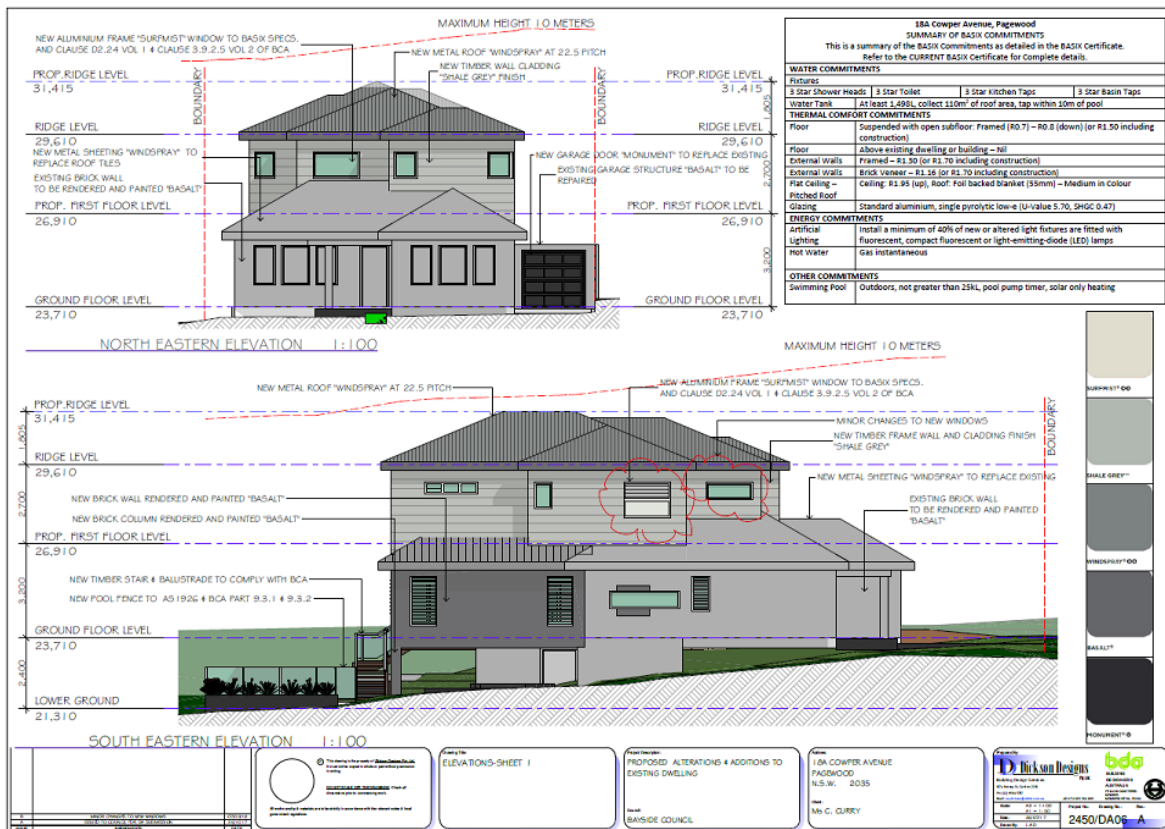


Figure 2: Elevations

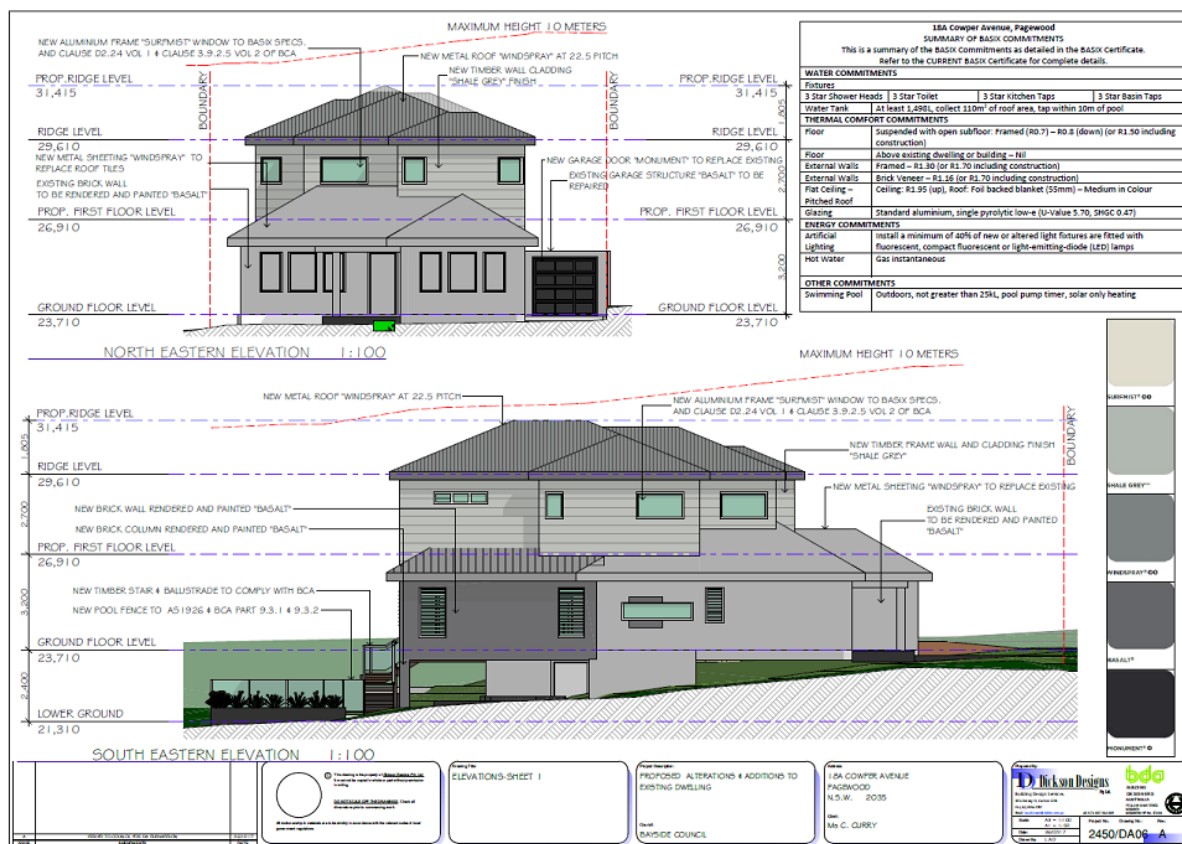


Figure 3: Elevations

Key Requirements

The key controls relevant to the proposal are provided below:

Botany Bay Local Environmental Plan (LEP) 2013

Standard	Required	Proposed	Complies
Zone	R2 Low Density	Additions to dwelling house and swimming pool	Yes
Floor Space Ratio	0.55:1 (221.15m ²)	0.58:1 (236.12m ²)	No – see Clause 4.6 variation
Height of Building	10m	9.5m	Yes

Botany Bay Development Control Plan (DCP) 2013

Control	Required	Proposed	Complies
Car parking	2 spaces/two (2) or more bedrooms dwelling	Two spaces provided with a single car garage and space forward of garage	

Control	Required	Proposed	Complies
Landscaped Area	Minimum of 35% for sites between 400m ² and 450m ²	38%	Yes
Site Coverage	Maximum of 50% for sites over 300m ²	39%	Yes

Site Description

The subject site is commonly known as 18A Cowper Avenue, Pagewood (Lot A in DP 378977). The site is rectangular in shape, an area of 367.68m², and contains a detached dwelling. The surrounding area is characterised primarily by various forms of residential accommodation, generally detached dwellings. The subject site is located to the north of Wentworth Avenue and west of Mutch Park.



Figure 4: Aerial showing subject site, marked in red (Source: Bayside IntraMaps)



Figure 5: Photo of subject site (taken 14 February 2018)

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

S.79C(1) - Matters for Consideration – General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. A298383 committing to environmental sustainable measures. The Certificate is in accordance with the SEPP.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of Part 3K - Contamination of the Botany Bay Development Control Plan 2013. The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given the following:

1. The site appears to have been continuously used for residential purposes.
2. The adjoining and adjacent properties are currently used for residential purposes.
3. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in State Environmental Planning Policy 55, in particular industrial, agricultural or defence uses.

On this basis, the site is considered suitable in its present state for the proposed residential development. No further investigations of contamination are considered necessary.

Botany Bay Local Environmental Plan 2013 (LEP)

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application and the following information is provided:

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Land-use Zone	Yes	The site is located within the R2 Low Density Residential zone.
Is the proposed use/works permitted with development consent?	Yes	The proposed development will continue the existing use of the site as a 'dwelling house', which is permissible with consent in the R2 zone. The proposed alterations and additions to the existing dwelling house, as well as the proposed swimming pool is permissible with consent.
Does the proposed use/works meet the objectives of the zones?	Yes	The proposed development is consistent with the following objectives of the R2 – Low Density Residential zone, namely to continue providing for the housing needs of the community within a low density residential environment.
What is the height of the building?	Yes	The maximum building height allowed on the subject site is 10m. The proposal has an overall height of 9.5m which is compliant with this provision.
Does the height of the building exceed the maximum building height?	No	
What is the proposed FSR?	No	The site has a maximum FSR of 0.55:1 as per Clause 4.4 of the LEP. The proposed

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Does the FSR of the building exceed the maximum FSR?		FSR is 0.58:1 which exceeds this provision. A Clause 4.6 variation has been lodged as part of this application, and is discussed further later in this report.
Is the site within land marked "Area 3" on the FSR Map?	No	N/A
6.3 – Stormwater management	Yes	The stormwater plan submitted with the application has been assessed by Council's Development Engineer and no objection was raised subject to conditions being attached to any consent granted.
6.9 – Development in areas subject to aircraft noise	N/A	The subject site is located outside the 20 ANEF contours and is therefore not subject to aircraft noise.

The objectives and provisions of the Botany Bay LEP 2013 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the Botany Bay LEP 2013.

Clause 4.6 Exceptions to development standards

The Floor Space Ratio exceeds the development standard as prescribed in the LEP. As such, the applicant has lodged a statement under Clause 4.6 of the LEP.

Under sub-clause (3), development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

Comment: The applicant states that the standard is unnecessary in this instance for the following reasons:

- The minor departure from the maximum floor space ratio standard will not give rise to any significant impacts to adjoining properties in terms of considerable loss of sunlight or loss of privacy as the exceedance occurs within the non-habitable floor area at the existing lower ground level. This is to be used as garden storage sheds and the pool pump area due to a 2.0 metre ceiling height;
- There is adequate landscaping for passive recreation and stormwater absorption;
- The proposed development is uniform with adjoining and surrounding development. Thus, the streetscape and residential amenity will be maintained;
- The building height is compliant with the LEP;

- The building observes the required DCP boundary setbacks; and
- The proposal will meet with Council's objectives for ecological sustainable development.

(b) there are sufficient environmental planning grounds to justify contravening the development standard.

Comment: The applicant has provided the following information in addressing this point:

- This exceedance in floor space would not be visibly dominant from the public place or contributes to any perceived visual dominance when viewed from adjoining properties; and
- The minor increase in floor space as proposed is minimal and thus allows for a better planning outcome in the context of the Cowper Avenue and does not contribute to any unfavourable impact to the neighbourhood with regards to bulk and scale.

Under sub-clause (4), development consent must not be granted for development that contravenes a development standard unless:

(a)(i) the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by sub-clause (3)

Comment: The applicant's written statement adequately covers matters required by sub-clause 3.

(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Comment: It is considered that the proposed development is in the public interest and is in keeping with the objectives of Clause 4.3 Height of Buildings of the LEP as:

- it ensures that that the proposed additions are compatible with the bulk and scale of the existing and desired future character of the locality;
- it maintains an appropriate visual relationship between new development and the existing character of the area;
- it will not adversely affect the streetscape when viewed from the street; and
- it will minimise adverse environmental impacts to neighbouring properties by allowing the achievement of solar access requirements as well as visual privacy.

In this regard, the variation is considered acceptable and is worthy of support.

S.79C(1)(a)(ii) - Provisions of any Draft EPI's

There are no current Draft EPIs applicable to this development.

S79C(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Botany Bay Development Control Plan 2013

The development proposal has been assessed against the controls contained in the Botany Bay Development Control Plan 2013 as follows:

Part 3A – Parking & Access

Control C2 of the Botany Bay Development Control Plan 2013 states that car parking provision shall be provided in accordance with Table 1. Table 1 identifies that dwelling houses with two or more bedrooms are to provide 2 car parking spaces per dwelling.

The subject site can accommodate two vehicles by way of a single car garage and the driveway area forward of the garage.

Part 3L- Landscaping and Tree Management

Control	Proposed	Complies
3L.1.2 Submission Requirements		
C1 Landscape Plan required	Landscape plan has been provided demonstrating the existing and proposed landscaping.	Yes
3L.5 Stormwater		
C1 Impervious surfacing is to be minimised. Permeable pavements are to be used where possible eg. Decks, pebbles, spaced pavers, specialised permeable pavers. Note: Run-off from paved areas can be minimised by directing runoff to garden beds. C2 Underground on-site stormwater detention (OSD) tanks and infiltration trenches are not to be located within soft landscaped areas.	This development includes a relatively large extension which is greater than 30m ² and requires a new infiltration system to be developed. This has been reviewed by Council's Development Engineer, with conditions provided.	Yes

Part 3N – Waste Minimisation and Management

A waste management plan prepared by ASA Architects has been provided to Council, which addresses the works involved including minor excavation and fill to the site, in addition to the construction of the works proposed.

Part 4A – Dwelling House

Control	Proposed	Complies
4A.2.4 Streetscape Presentation		
C1 New dwellings must be designed to reflect the relevant Desired Future Character Statement in Part 8 - Character Precincts and are to reinforce the architectural features and identity which contributes to its character. Applicants must address the design principles outlined in the statement.	The proposed development will maintain the existing streetscape character which consists of a mix of one and two-storey detached dwellings.	Yes
C2 Development designed to reinforce and maintain existing character of streetscape.	The proposal is generally consistent with existing development in the street	Yes
C3 Development must reflect dominant roof lines and patterns of existing streetscape.	The proposed roof form is consistent with that of neighbouring dwellings	
C4 Buildings to appropriately address street.	The proposed additions will ensure that both storeys appropriately addresses Page Street.	
C6 The entrance to a dwelling must be readily apparent from the street.	The dwelling entry is visible from the street.	Yes
C7 Dwelling houses are to have windows to the street from a habitable room to encourage passive surveillance.	The habitable room windows on each storey is visible from the street.	Yes
C10 Development must retain characteristic design features prevalent in houses in the street including: verandas, front gables, window awnings, bay windows, face brickwork or stone details.	The proposed additions demonstrates the retention of these design features.	Yes
C11 New windows must be in keeping with scale and proportion of original windows. Windows on a first floor extension are to be aligned with those on the ground floor.	The proposed windows are considered to be in keeping with the scale and proportion of the original windows.	Yes
C13 New extensions must be consistent with existing materials.	The first floor additions has timber wall cladding which is inconsistent with the existing face brick on the ground floor. However, it is considered that the mixture of colours and materials enhances the streetscape and therefore achieves design excellence.	
C15 A two storey dwelling house is not considered appropriate where the majority of surrounding dwelling houses in a street are single storey.	There are a few single storey dwellings in the street, however, the emerging character is second storeys being added to the existing housing stock or new two (2) storey dwellings being the dominant form in the area.	Yes

4.2.5 Height		
C5 Where single storey dwellings are the predominant form of housing in the street, the height and scale of the streetscape should be maintained, by undertaking second storey extensions at the rear of the property or undertaking ground floor extensions only.	A second storey addition is proposed in a predominately single storey streetscape, however, there are various examples of other two storey dwellings on the street and the proposal is setback from the street to ensure the proposed addition does not overwhelm the existing dwelling on the site.	Yes
4A.2.7 Site Coverage		
C2 For sites over 400m ² the maximum site coverage is 50%	The proposed additions will increase the footprint to 126.53m ² , which equates to 39%.	Yes
4A.2.8 Building Setbacks		
Minimum front setback – comply with the prevailing street setback or 6 metres (min)	Existing front setback retained as there are no changes	Yes
Minimum side setback - Assessed on merit based – depending on visual impact to street, pattern of adjoining development, sunlight and natural daylight access, privacy, visual amenity of adjoining residential properties and streetscape	South side setback = 1.8m West side setback = 2.7m	Yes Yes
Minimum rear setbacks – 4 metres	Rear setback = 6.3 metres	Yes
Eaves – 450mm minimum setback	Greater than 450mm on the eastern setback	Yes
C5 Side and rear setbacks should be modulated to avoid the appearance of bulky or long walls. Side and rear setbacks should be stepped or walls articulated by projecting or recessing window elements.	Modulation is provided in the proposal along both the side and rear of the proposal, through stepped walls.	Yes
4A.2.9 Landscape Area		
C2 Minimum coverage of 35% for sites between 400m ² and 450m ²	The landscaped area has been calculated to be 37% of the site area.	Yes
C3 Landscaped Area is to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes (refer to definition in Part 3L – Landscaping).	The landscaped area proposed is predominantly deep soil area.	Yes
C5 Landscape Plan identifying proposed areas of open space and landscaped areas on a site submitted with all applications.	The landscape plan identifies all areas of open space and landscaped areas.	Yes
4A.3.1 Materials and Finishes		
C1 A Schedule of Finishes and a detailed Colour Scheme for the building façade.	A Schedule of Colours and Finishes has been provided on the elevations plan.	Yes
C3 Materials, colours, architectural details and finishes must be sympathetic to the surrounding locality.	The materials, colours, architectural detail and finishes are sympathetic to the surrounding	Yes

	locality, and add interest to the façade	
4A.3.2 Roofs and Attics/Dormer		
C1 Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch.	The same roof form is maintained, which compliments the streetscape.	Yes
4A.3.5 Voids		
C1 Void spaces must be designed so as not to be reasonably capable of future infill. Voids in developments which exceed the permitted FSR will not be supported.	The void created by the stairwell is minimal in size.	Yes
4A.4.1 Visual Privacy		
C2 Visual privacy for adjoining properties must be minimised by: Using windows which are narrow or glazing Ensuring that windows do not face directly on to windows, balconies or courtyards of adjoining dwellings Screening opposing windows, balconies and courtyards; and Increasing sill heights to 1.5 metres above floor level.	The first floor windows on the southern elevation are either highlighted or contain privacy screens, both of which will maximise visual privacy to the neighbouring property.	Yes
4A.4.3 Solar Access		
C1 Buildings (including alterations/ additions/ extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pools, patios and terraces, and drying areas of both the subject site and adjoining properties.	Plans have been lodged that demonstrate that both the subject property and neighbouring properties are able to receive 2 hours of sunlight in mid-winter.	Yes
4A.4.4 Private Open Space		
C1 Each dwelling is to have a private open space that: (i) Has at least one area with a minimum area of 36m ² ; (ii) Is located at ground level with direct access to the internal living areas of the dwelling; (iii) Maximises solar access; (iv) Is visible from a living room door or window of the subject development; (v) Minimises overlooking from adjacent properties; (vi) Is generally level; (vii) Is oriented to provide for optimal year round use; (viii) Is appropriately landscaped; and (ix) Is located or screened to ensure privacy;	The proposed rear terrace has an area of 16.8m ² while the rear yard has an area of approximately 61.63m ² , providing a total area of private open space, directly accessible from the rear living area of 78.43m ² . Adequate solar access is provided to this area and minimises overlooking into adjoining properties given it is provided at ground level.	Yes

Discussion

Part 8 – Pagewood Character Precinct

It is considered that that proposed development complies with the Desired Future Character provisions in this part of the DCP, with relation to form, massing, scale and streetscape, and also setbacks, landscaping and solar access.

S.79C(1)(a)(iv) - Provisions of regulations

Clause 92 of the Regulation has been considered and there are no applicable provisions to the development.

S.79C(1)(b) - Likely Impacts of Development

Demolition

The development includes demolishing existing structures to accommodate the proposed development. The provisions of AS2601-1991 *The Demolition of Structures* have been considered as required by Clause 92 of the EPAR (Compliance Table to AS2601-1991 is attached on file). Standard conditions regarding demolition are included to the development consent.

The Regulations prescribe several matters that are addressed in the conditions recommended for this development.

S.79C(1)(c) - Suitability of the site

The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long standing use of the land for residential purposes, onsite investigation is not warranted.

The site is zoned R2 – Low Density Residential and currently accommodates an existing dwelling. Accordingly, the site is suitable to accommodate the development.

S.79C(1)(d) - Public Submissions

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period. Two submissions were received.

The submissions received as the result of the notification raised the following concerns:

- ***Privacy concerns with respect to first floor bedroom windows***

Comment: Amended plans have been provided which has amended the windows on the south eastern elevation in which every bedroom window is either high-lighted or contains a privacy screen. However, a condition will be imposed to ensure that a similar treatment is provided for the master bedroom window on the south western elevation.

- ***The suggestion of a higher fence or higher trees along the boundary with 59 Page Street***

Comment: An inspection of the Council mapping shows that there are no living areas at 59 Page Street that directly adjoin the subject property. The proposed landscaping is considered satisfactory for the proposed development, and fencing is considered to be a civil matter to be addressed between neighbouring property owners.

S.79C(1)(e) - Public interest

Granting approval to the proposed development will have no adverse impact on the public interest. The proposal will facilitate the orderly development of the land.

Section 94 Contributions

The provisions contained in Council's Section 94 Contributions Plan apply to developments involving the construction of additional residential development that creates further demand to improve or upgrade existing facilities, amenities or services. Section 94A contributions is payable for this development, at the rate of 1% of the nominated capital investment value as it is greater than \$350,000.

Conclusion

Development Application No. 2017/1255 for alterations and additions (including a first floor addition) to the existing dwelling and construction of an in-ground swimming pool at 18A Cowper Avenue, Pagewood has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval subject to conditions of consent.

Attachment

Schedule 1 – Conditions of Consent

**Premises: 19A Cowper Avenue, Pagewood
2017/1235**

DA No:

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

1. The development is to be carried in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing / Document	Author	Dated
DA04 / Site Evaluation – Landscape Plan and Area Calculations	Dickson Designs	7/3/18
DA05 / Floor Plans	Dickson Designs	26/10/17
DA06 / Elevations Sheet 1	Dickson Designs	7/3/18
DA07 / Elevations Sheet 2	Dickson Designs	26/10/17
DA08 / Sections	Dickson Designs	26/10/17
DA09 / Door Schedule	Dickson Designs	26/10/17
DA10 / Window Schedule	Dickson Designs	26/10/17
DA11 / Soil and Waste Management Plan	Dickson Designs	26/10/17
Hydraulic Details	ANAcivil Pty Ltd	24/11/17

2. This Consent relates to land in Lot 2 in DP 324282 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. The following shall be complied with:
 - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
 - i) smoke alarms must comply with AS3786 - 1993;
 - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
 - iii) be located in a position as required by Vol 2. BCA.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate (A298383) for the development are fulfilled.

Note:

- a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that:

- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-
 - i) The consent authority; or,
 - ii) An accredited certifier; and
- b) The person having the benefit of the development consent:-
 - i) Has appointed a Certifying Authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

6. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Certifying Authority for approval.

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

The plans shall incorporate measures such as:

- a) The provision for an On-site Stormwater Infiltration System designed to retain all 1 in 100 year storm events and satisfying all relevant Council and Australian Standards

Note: a Rainwater Tank may be used as an alternative, for which up to half of the capacity may contribute towards the on-site detention system / infiltration trench

- b) A minimum 3000L rainwater tank with a catchment of at least 75% of the roof area of the development must be provided. The applicant must connect the rainwater tank to:
 - All toilets in the development
 - The cold water tap that supplies each clothes washer in the development
 - At least one outdoor tap in the development (Note: NSW Health does not recommend that rainwater be used for human consumption in areas with potable water supply.)

- A tap that is located within 10 metres of the swimming pool in the development
- c) All calculations shall be submitted to Council for assessment.
7. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
8. The applicant must prior to the obtainment of the approved plans and specifications pay the following fees:-
- | | | |
|----|---------------------------|---------------------------------------|
| a) | Footpath Crossing Deposit | \$2,570.00 (Refer to Condition No.12) |
| b) | Development Control | \$875.00 |
| c) | Section 94A Contributions | \$3,750.00 |
9. Prior to the issue of the Construction Certificate, revised plans are to be provided to the Certifying Authority for approval requiring the following modifications:
- a) The windows for the bedrooms on the first floor are to have a sill height of at least 1.5m above the finished floor level.
10. Prior to the issue of any Construction Certificate, the applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Certifying Authority. All utilities within the work zone shall be protected during construction.

Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.

11. Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit of \$2,570.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
12. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

13. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in road reserve area.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK

14. Where demolition is proposed, the following shall be provided to Council at least forty-eight (48) hours prior to the commencement of demolition:

- a) Written notice, indicating the date when demolition of the building is to commence.
- b) This persons full name and address.
- c) Details of Public Liability Insurance.

15. The Certifying Authority must be satisfied that: -

- a) In the case of work to be done by a licensee under the Home Building Act: -
 - i) Has been informed in writing of the licensee name and contractor licence number, and;
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
- b) In the case of work to be done by any other person: -
 - i) Has been informed in writing of the persons name and owner-builder permit number, or;
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
- c) And is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

16. Prior to the commencement of works, the applicant must inform Council, in writing, of:

- a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
- b) The name and permit number of the owner-builder who intends to do the work;
- c) The Council also must be informed if: -
 - i) A contract is entered into for the work to be done by a different licensee; or

- ii) Arrangements for the doing of the work are otherwise changed.
17. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
 18. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
 19. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
 20. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
 21. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
 - a) The *Soil and Water Management Plan* if required under this consent;
 - b) “Do it Right On Site, Soil and Water Management for the Construction Industry” published by the Southern Sydney Regional Organization of Councils, 2001; and
 - c) “*Managing Urban Stormwater – Soils and Construction*” published by the NSW Department of Housing 4th Edition” (‘The Blue Book’).
 - d) Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The “Do it Right On Site,” can be downloaded free of charge from Council’s website at: <http://www.botanybay.nsw.gov.au/council/services/planning/factsheets.htm>, further information on sediment control can be obtained from www.ssroc.nsw.gov.au.

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning, irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where

pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

22. Prior to commencement of any works, relevant application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: -

(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
- c) Permit for roads and footways occupancy (long term/ short term),
- d) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
- f) Permit to place skip/waste bin on footpath and/or nature strip, and
- g) Permit to use any part of Council's road reserve or other Council lands.

(Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Engineering and Regulatory Services for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s)).

23. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:

- (a) Must preserve and protect the building/ fence from damage; and,
- (b) If necessary, underpin and support such building in an approved manner;
- (c) Must at least be 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 the 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;
- (d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing,

or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.

- (e) If the soil conditions required it:
 - (i) Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and
 - (ii) Adequate provision must be made for drainage.

DURING WORKS

- 24. Any demolition work shall be carried out in accordance with Australian Standards AS 2601-2001 Demolition of Structures and the requirements of the NSW WorkCover Authority.
- 25. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
 - a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;
 - d) DECC Waste Classification Guidelines 2008.
- 26. No demolition materials shall be burnt or buried on the site.
- 27. All services (Utility, Council, etc) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
- 28. The proposed development shall comply with the following:
 - a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Certifying Authority including an after hours contact the Local Environmental Plan phone number.
 - b) Any such sign is to be removed when the work has been completed.

29. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.
30.
 - a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -
 - i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
 - ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -

The additional load on the system; and

The relocation and/or adjustment of the services affected by the construction.
 - b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
31. Should the construction process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Council's road reserve must also have prior approval of Council.
32. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
33. The approved Waste Management Plan shall be complied with at all times during construction and on-going use of the site.
34. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
35. If any excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
 - a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 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 the 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;

- d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - e) If the soil conditions required it:
 - i) Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-
 - ii) Adequate provision must be made for drainage.
 - f) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property.
36. Any dewatering is not permitted on this site without NSW-EPA approval.
37. The following shall be complied with during construction and demolition:
- a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:

The L_{10} sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
 - ii) Construction period greater than 4 weeks and not exceeding 28 weeks:

The L_{10} sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - c) Time Restrictions
 - i) Monday to Friday 07:00am to 05:00pm
 - ii) Saturday 08:00am to 01:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
 - d) Silencing

All possible steps should be taken to silence construction site equipment.

38. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - to a public sewer; or
 - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - if connection to a public sewer or an accredited sewerage management facility
 - is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
39. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls as required by this consent and the Protection of the Environment Operations Act 1997.
40. The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
- 41.
- a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
 - b) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.

- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - e) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
42. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
43. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
44. Inspections must be conducted by Council's Engineer at the following occasions:
- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
 - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
 - c) Formwork inspection of Council's footpath prior to laying of concrete,
 - d) Final inspection of driveway layback and adjacent kerb and gutter,
 - e) Final inspection of Council's kerb and gutter,
 - f) Final inspection of Council's footpath.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF A OCCUPATION CERTIFICATE

45. Prior to the issue of any Occupation Certificate, satisfactory inspection reports (formwork and final) for any works on the road reserve shall be obtained from Council's engineer and submitted to the Certifying Authority.
46. A completed survey plan is required to verify that all roof eaves are fully within the subject property.
47. A report prepared by a qualified air quality/mechanical engineer certifying that any mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997. If mechanical ventilation is required, details shall be submitted to

Council within 21 days of the installation of the system and prior to the issue of any occupation certificate.

48. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
49. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.
50. Prior to the issue of any Occupation Certificate(s), documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
51. Prior to issue of any Occupation Certificate, high-level overflows from the swimming pool shall be gravity fed and connected to Sydney Water's sewer via an approved system. The connection must not directly vent the receiving sewer. Upon completion, certification from a licence plumber shall be submitted to the Principal Certifying Authority certify that the connection has been made in accordance with the Sydney Water's requirements and the current plumbing codes.
52. Prior to issue of any Occupation Certificate, Principal Certifying Authority shall confirm the deck or concourse area surrounding the swimming pool have been constructed at minimum 1.0% grade towards the pool to prevent surface water overflowing into the adjoining properties.
53. Prior to issue of any Occupation Certificate, Principal Certifying Authority shall confirm that all the safety barriers enclosing the new swimming pool are installed and satisfy AS1926.1 Swimming Pool Safety – Safety Barriers for Swimming Pools.
54. Prior to issue of any Occupation Certificate, Principal Certifying Authority shall confirm that a pool cover is installed across the entirety of the swimming pool to minimise evaporation rates.
55. Where a dividing fence, being a dividing fence that separates the lands of adjoining owners or a public place, is to form part of the safety enclosure in which the swimming pool is to be located, then such fencing must be a minimum of 1.8m in height from the finished surface level surrounding the pool, sound and in a state of good repair and condition. The boundary fencing shall be installed prior to the completion of the swimming pool.
56. The swimming pool shall be fenced in accordance with Section 7 of the Swimming Pools Act 1992 and Australian Standard AS1926 (2012), prior to the filling of water in the pool or use of the pool. Such fence shall be provided with a self-latching and self-closing gate, opening outwards, capable of being opened from the poolside only and with provision for permanent locking when not in use. The fence shall be installed to the satisfaction of the Principal Certifying Authority, prior to the filling of water in the pool/use of the pool.

57. The fence required surrounding the swimming pool and in relation to any gate that forms part of such fence shall be erected in accordance with the approved plans and specifications, together with the standards set out in AS1926 entitled "Fences and Gates for Private Swimming Pools".

Note: The definition of "swimming pool" is that given under Clause 3 of the Swimming Pools Act 1992.

58. The pool shall be provided with at least two depth markers above the water line, being of numerical figures or at least 75mm in height, and shall be located in two locations on either side of the pool, indicating the corresponding depth of the pool.
59. The Principal Certifying Authority shall confirm that a pool cover is installed across the entirety of the swimming pools to minimise evaporation.
60. The provision of a suitable poster showing the details of resuscitation techniques shall be erected. This poster should also contain the advice that "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in accordance with the relevant provisions of the document entitled "Cardio Pulmonary Resuscitation", according to the AS 1926.1 2012 and the Swimming Pool Regulation 2008.
61. An approved resuscitation poster, outlining life-saving resuscitation procedures, shall be erected and displayed in a prominent position adjacent to the pool.

Note: The above notices shall be kept in a legible condition and at a visible location on the pool side at all times.

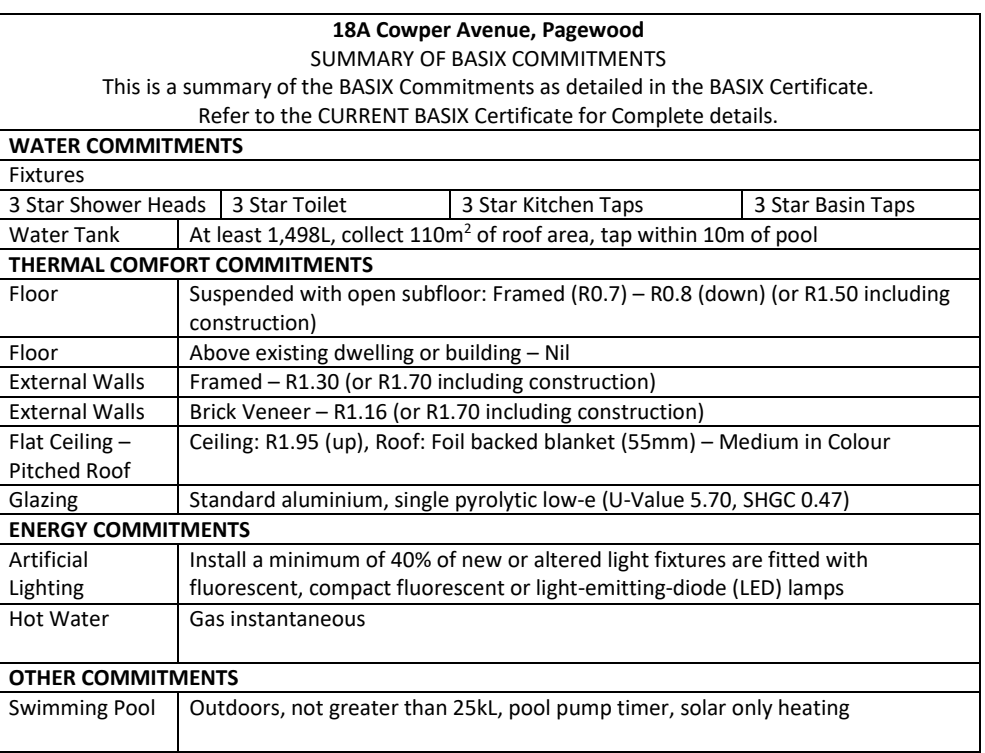
CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

62. The building is approved as a single dwelling on each site for use and occupation by a single family. It shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council.
63. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
64. Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
65. The pool must not be filled with bore water or groundwater.
66. The Protection of the Environment Operations (Noise Control) Regulation 2000, states that noise from any air-conditioning units (measured as the Laeq 15 minute) is not to exceed the background level (measured as the La90 15 minute) by more than 5dBA at any time. The measurement is to be taken at boundary of the property. If the noise

from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance with the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

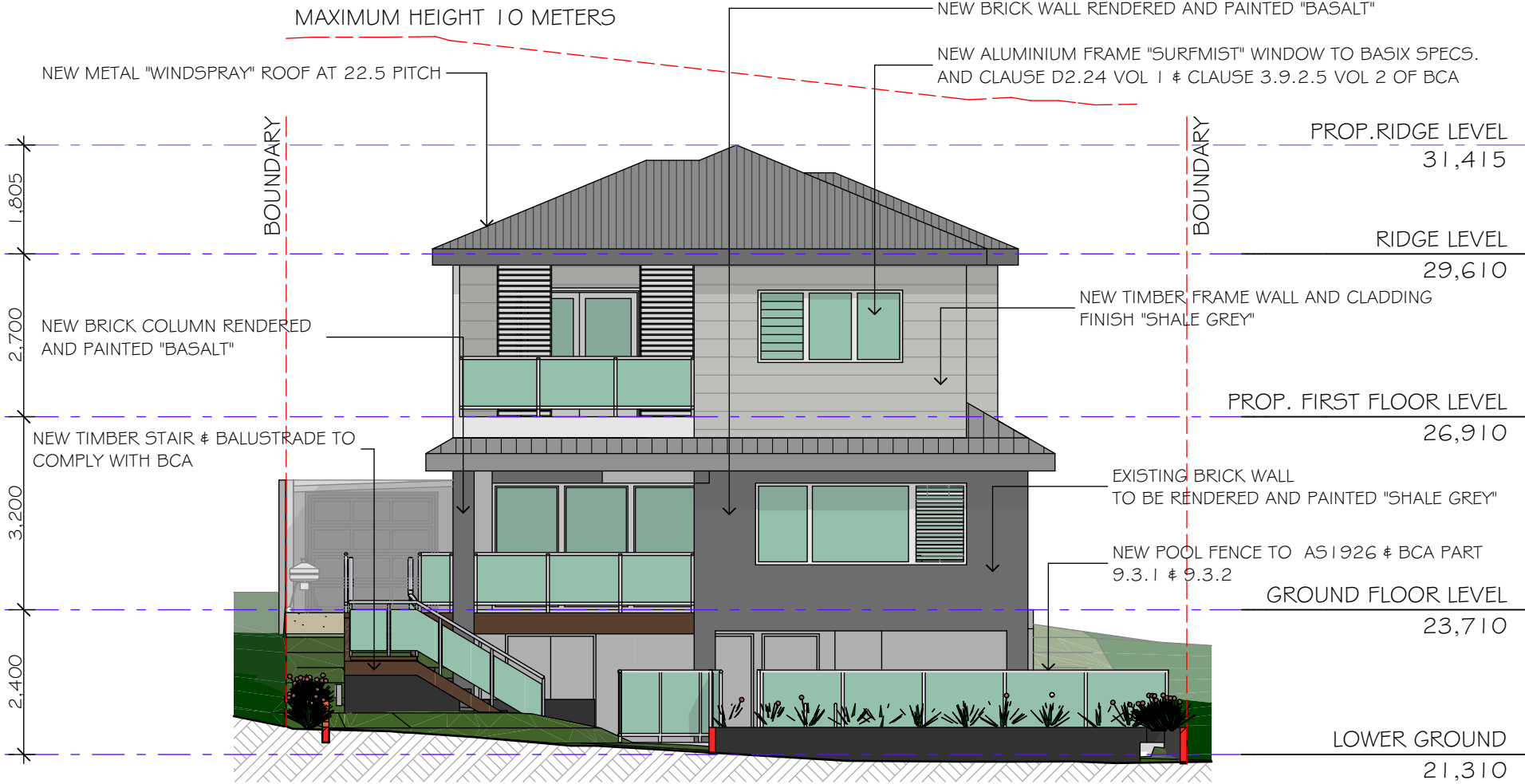
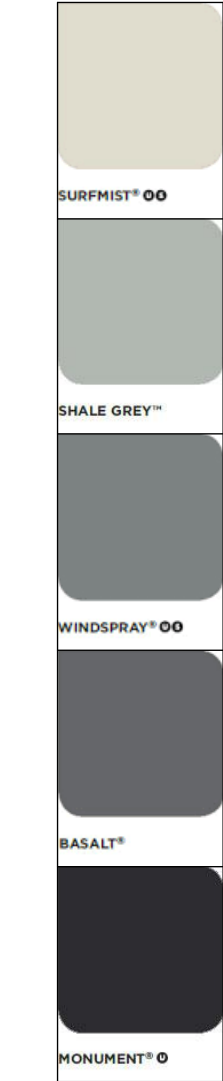
Note: in order to meet this condition the compressors and any other noise generating part of the air conditioning unit is to be located a sufficient distance from any residential boundary to permit the sound from the unit to decay sufficiently to meet the standard, or enclosed in a suitable acoustic enclosure.

67. All wastewater and the stormwater system (including all pits, pipes, absorption, detention structures, treatment devices and rainwater tanks) shall be regularly maintained (at least once per year) in order to ensure that they remain effective. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.

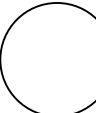


	SURFMIST® 00
	SHALE GREY™
	WINDSPRAY® 00
	BASALT®
	MONUMENT® 0

18A Cowper Avenue, Pagewood			
SUMMARY OF BASIX COMMITMENTS			
This is a summary of the BASIX Commitments as detailed in the BASIX Certificate. Refer to the CURRENT BASIX Certificate for Complete details.			
WATER COMMITMENTS			
Fixtures			
3 Star Shower Heads	3 Star Toilet	3 Star Kitchen Taps	3 Star Basin Taps
Water Tank	At least 1,498L, collect 110m ² of roof area, tap within 10m of pool		
THERMAL COMFORT COMMITMENTS			
Floor	Suspended with open subfloor: Framed (R0.7) – R0.8 (down) (or R1.50 including construction)		
Floor	Above existing dwelling or building – Nil		
External Walls	Framed – R1.30 (or R1.70 including construction)		
External Walls	Brick Veneer – R1.16 (or R1.70 including construction)		
Flat Ceiling – Pitched Roof	Ceiling: R1.95 (up), Roof: Foil backed blanket (55mm) – Medium in Colour		
Glazing	Standard aluminium, single pyrolytic low-e (U-Value 5.70, SHGC 0.47)		
ENERGY COMMITMENTS			
Artificial Lighting	Install a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent or light-emitting-diode (LED) lamps		
Hot Water	Gas instantaneous		
OTHER COMMITMENTS			
Swimming Pool	Outdoors, not greater than 25kL, pool pump timer, solar only heating		



A		ISSUED TO CLIENT FOR COMMENTS ONLY	26/07/17
ISSUE		AMENDMENTS	DATE

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All workmanship & materials are to be strictly in accordance with the relevant codes & local government regulations.

Drawing Title:
ELEVATIONS-SHEET 2

Project Description:
PROPOSED ALTERATIONS & ADDITIONS TO EXISTING DWELLING

Council:
BAYSIDE COUNCIL

Address:
18A COWPER AVENUE
PAGEWOOD
N.S.W. 2035

Client:
Ms C. CURRY

Prepared By:
D Dickinson Designs
Building Design Services.
107a Botany St, Carlton 2218
Ph: (02) 9594 5797
Email: info@dickinsondesigns.com.au
ABN 74 003 364 869

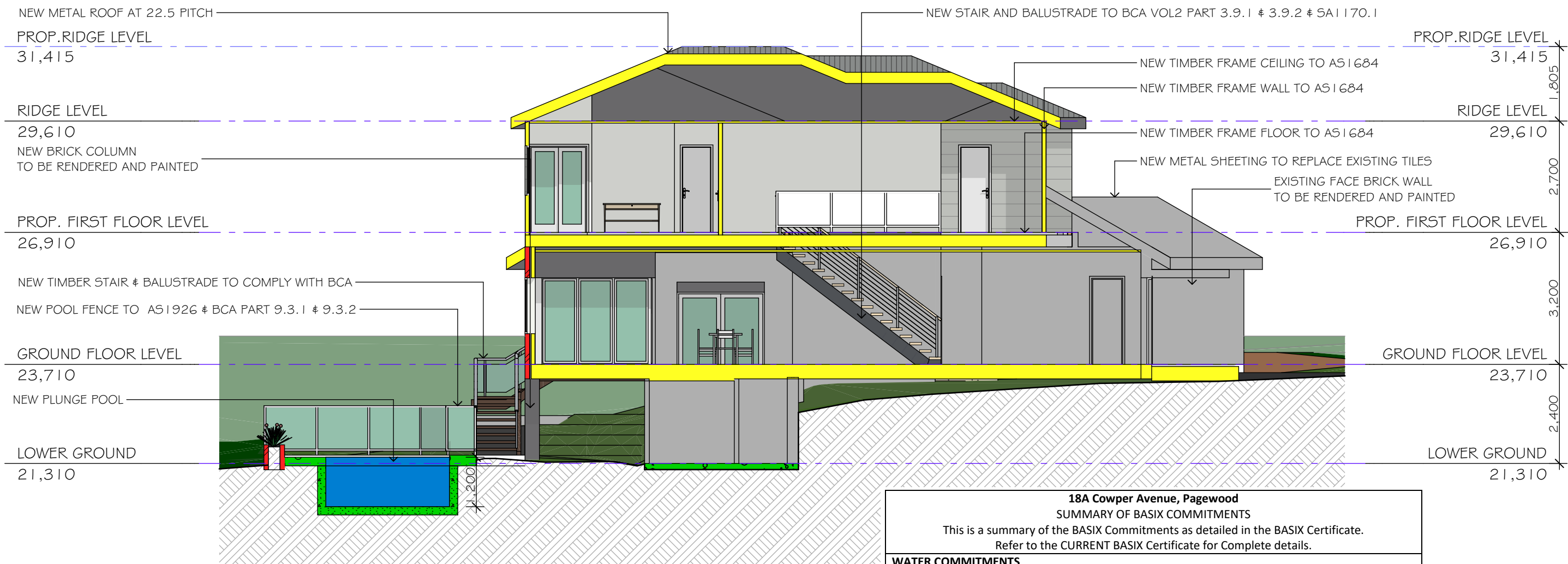
bda
BUILDING DESIGNERS AUSTRALIA
FELLOW CHARTERED MEMBER
MEMBERSHIP No. 17293

Scale: A3 = 1:100
A1 = 1:50

Date: 26/07/17

Drawn By: L.A.D.


Project No.: 2450/DA07
Drawing No.: A
Rev.: A



SECTION A - A 1:100

18A Cowper Avenue, Pagewood			
SUMMARY OF BASIX COMMITMENTS			
This is a summary of the BASIX Commitments as detailed in the BASIX Certificate. Refer to the CURRENT BASIX Certificate for Complete details.			
WATER COMMITMENTS			
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Water Tank	At least 1,498L, collect 110m ² of roof area, tap within 10m of pool		
THERMAL COMFORT COMMITMENTS			
Floor	Suspended with open subfloor: Framed (R0.7) – R0.8 (down) (or R1.50 including construction)		
Floor	Above existing dwelling or building – Nil		
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External Walls	Brick Veneer – R1.16 (or R1.70 including construction)		
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ENERGY COMMITMENTS			
Artificial Lighting	Install a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent or light-emitting-diode (LED) lamps		
Hot Water	Gas instantaneous		
OTHER COMMITMENTS			
Swimming Pool	Outdoors, not greater than 25kL, pool pump timer, solar only heating		

A	ISSUED TO COUNCIL FOR DA SUBMISSION	26/10/17
ISSUE	AMENDMENTS	DATE

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All workmanship & materials are to be strictly in accordance with the relevant codes & local government regulations.

Drawing Title:

SECTIONS

Project Description:

PROPOSED ALTERATIONS & ADDITIONS TO EXISTING DWELLING

Council:

BAYSIDE COUNCIL


Address:

18A COWPER AVENUE
PAGEWOOD
N.S.W. 2035

Client:

Ms C. CURRY

Prepared By:

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Ph: (02) 9594 5797
Email: info@dicksondesigns.com.au
ABN 74 003 364 869


Project No.: Drawing No.: Rev.:

Scale: A3 = 1:100
A1 = 1:50

Date: 26/07/17

Drawn By: L.A.D.

2450/DA08 A

 **BDA**
BUILDING DESIGNERS AUSTRALIA
FELLOW CHARTERED MEMBER
MEMBERSHIP No. 17293

**CLAUSE 4.6 FSR VARIATION REQUEST
To Accompany a Development Application
To Bayside Council**

**Proposed Alterations & Additions including inground
Swimming Pool.**

At

No. 18A Cowper Avenue, Pagewood

**Prepared for:
Consultant Town Planner:
Date:**

**Dickson Designs P/L.
Michael Buckley
Mach 2018**

EXCEPTIONS TO DEVELOPMENT STANDARD

Proposal - The proposal involves alterations and additions including inground swimming pool.

Property - No. 18A Cowper Avenue, Pagewood.

Standard - Exception relates to the development standard contained within Botany Bay Local Environmental Plan 2013 relating to;

1. Clause 4.4 - Floor Space Ratio.

1.0 POLICY AND GUIDELINES FOR ITS APPLICATION

Clause 4.6 – Exceptions to development standards under Botany Bay Local Environmental Plan 2013 (LEP), permits flexibility in the application of development standards where it can be shown that strict compliance is justified by NOT contravening the subject development standard by demonstrating, the following under Clause 4.6 (3) (a) and (b):

- a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

The relevant justification is the identification of the objective, the particular standard to be varied and whether or not the proposed development is consistent with the underlying object or purpose of that standard and with the broader planning objectives for the locality. It is not sufficient merely to demonstrate that a proposed development will have no harmful environmental effects, or that it is compatible with existing surrounding development where such development does not comply with a development standard or is inconsistent with the broader planning objectives for the locality.

2.0 DEVELOPMENT STANDARD SOUGHT TO BE VARIED

2.1 Clause 4.4 (2) – Floor Space Ratio

- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).*

Under the provisions of clause 4.4 (2) of the LEP, the subject land therefore has a maximum floor space ratio of 0.55:1. The proposed development yields a maximum floor space ratio of 0.58:1 or 236.12m², an overall increase of 14.97m² comprising 17.61m² of existing lower ground floor area.

3.0 ZONE OBJECTIVES - CONSIDERATION

Prior to the consideration of Clause 4.6, the zone objectives first need to be addressed and the permissibility of the development proposal resolved. The R2 objectives are reproduced below:

“Zone R2 - Low Density Residential

“1 Objectives of zone

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage development that promotes walking and cycling.*

Comment - The proposed alterations and additions to the existing dwelling are consistent with the objectives of both LEP 2013 and zone R2 objectives. The proposed development embellishes the current dwelling to enable the owner to improve their life style amenity, maintain residing within their locality that facilitates and services to meet the owners day-to-day needs without any detrimental impact upon neighbours.

4.0 CONSIDERATIONS under CLAUSE 4.6 of LEP 2012

4.1 What is the underlying object or purpose of the standard?

Clause 4.4 – Floor space ratio

“(1) The objectives of this clause are as follows:

- (a) to establish standards for maximum development density and intensity of land use,*

Comment - the density will not be altered by this development proposal. However, the proposed improvements will allow for increased amenity.

- (b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,,*

Comment - *From inspections of the immediate and surrounding locality, the obvious built form ranges from single to two storey detached dwellings. The intended rear first floor addition that accommodates three bedrooms, retreat and ensuites is low density and does not place any significant impost on adjoining properties by way of visual privacy. It is or view that the development proposal is consistent with the bulk and scale of existing development..*

- (c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,,*

Comment - the building design was purposeful in providing varying design elements such as a modular presentation to allow for good access to natural sunlight and ventilation. The general planning expectations are for older dwellings is to upgraded rather than demolished imposing often increased burdens on adjoining and surrounding properties. Overall, the first

floor built form is not dominated due to its setback from the front building edge thus not visually imposing the streetscape.

(d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,

Comment - *as mentioned above, the first floor addition is setback from the front of the existing building edge thus not having a domineering appearance when viewed from the street or adjoining properties. It is our opinion that the bulk and scale of the proposal is no different to surrounding new and refurbished two storey dwellings.*

(e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,

Comment - the proposed first floor addition is for bedrooms creating very little visual privacy issues or being a visually overbearing structure due to height and setback compliance. The minor increase in floor space associated with the lower ground floor area, being not habitable due to ceiling height poses no significant impact on adjoining properties. The increased 14.97m² will not be visible and does not contribute to any unwanted design features to compensate for the floor space ratio non-compliance.

(f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,

Comment - *the existing dwelling is compliant with both building height and boundary setbacks. Although the proposed first floor addition is compliant in terms of height and setbacks, the existing floor space at lower ground floor level is the unfortunate factor that makes this proposal non-compliant in floor space ratio by 14.97m², of which the increase of 17.61m² is not habitable floor space.*

(g) to facilitate development that contributes to the economic growth of Botany Bay.

Comment - this development proposal will improve the liveability of the existing dwelling thus ensuring that economic growth is sustained by utilising existing building product.

If Council insisted on strict compliance with Clause 4.4 (2) of the LEP, such a decision would hinder the attainment of the above objectives of the development standard in that;

- ❑ The proposed development is sensitively designed to integrate with the existing adjoining and surrounding development, and if refused, would discourage the proper use of the site and would not promote the social and economic welfare of the community;
- ❑ Should the consent authority not support the minor non-compliance in floor space ratio given the circumstances of the case, then such an action would discourage the promotion and co-ordination of the orderly and economic use, and development of the subject site;
- ❑ The proposed development meets with the relevant Urban Design criteria contained within the DCP;
- ❑ The proposal, overall is of high quality architectural detail and built form, and will make a positive contribution to the streetscape and locality.

Therefore, it is our view that the proposed alterations and additions are not in conflict with the public interest as it is consistent with the abovementioned plan and zone objectives.

4.2 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

In determining whether a development standard should be set aside to permit the granting of development consent, it must be demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case having regard to the stated and underlying objectives and intent of the standard and the broader planning objectives for the locality.

Clause 4.6 (3) (a) and (b) of the LEP is reproduced below;

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

1. Consideration of Clause "(a) -that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case".

Comment - The proposed floor space ratio will be 0.58:1 or a 14.97 m² increase. The minor departure from the maximum floor space ratio standard will not give rise to any significant impacts to adjoining properties in terms of considerable loss of sunlight or loss of privacy as the exceedance occurs with the non-habitable floor area at the existing lower ground level to be used as garden storage sheds and the pool pump area due to a 2.0 metre ceiling height.

It should be noted that the provision of landscaped area is compliant. As a result, the proposed development maintains adequate pervious areas to assist with stormwater runoff supplemented by a designed stormwater system therefore, minimising any risk to the environmental amenity of the immediate area. Further positive matters relating to the proposed development are;

- ☐ There is adequate landscaping for passive recreation and stormwater absorption;
- ☐ The proposed development is uniform with adjoining and surrounding development. Thus, the streetscape and residential amenity will be maintained.
- ☐ The building height is compliant with the LEP.
- ☐ The building observes the required DCP boundary setbacks.
- ☐ The proposal will meet with Council's objectives for ecological sustainable development.
- ☐ The minor variation of development standard relating to the maximum floor space ratio in the manner proposed does not give rise to any matters of significance for State or Regional environmental planning, or in relation to matters of significance for State Planning Policies or Ministerial directives and the public benefit.

2. Consideration of Clause "(b) - that there are sufficient environmental planning grounds to justify contravening the development standard".

Comment – The minor increase in non-habitable floor space is reasonable in the circumstance and is not in any way reflected in terms of a dwelling that is overwhelmingly non-compliant with other LEP or DCP provisions. As a result, this exceedance in floor space would not be visibly dominant from the public place or contributes to any perceived visual dominance when viewed from adjoining properties. When compared with the objectives of the development standard and recent development in the immediate locality, there is no significant environmental impact. To this end, we consider that there is no detrimental impact on the natural environment outside the existing building footprint or any cumulative impact on land adjoining or further afield.

Overall, the minor increase in floor space as proposed is minimal and thus allows for a better planning outcome in the context of the Cowper Avenue and does not contribute to any unfavourable impact to the neighbourhood with regards to bulk and scale.

4.3 Granting of development consent

For council to be satisfied, Clause 4.6 (4) of the LEP is to be considered against the development proposal. Clause 4.6 (4) is reproduced below:

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

(b) the concurrence of the Director-General has been obtained.

Comment - The written request to council for consideration of a variation to the floor space ratio development standard has appropriately addressed subclause (3) and has demonstrated that the proposed building is not in conflict with the public interest. The built form maintains an acceptable level of harmony with existing and the desired council residential development in the form of a refurbished dwelling consistent in bulk and scale with the immediate area. Therefore, the development proposal is not inconsistent with the intent of the development standard and the objectives within the R2 - Low Density Residential Zone or LEP 2013.

4.4 Is the exception to the development standard well founded?

For all the above reasons, the exception is well founded and supports an application for consent, which is non-compliant with the maximum floor space ratio under Clause 4.4 (2) of LEP 2013. The proposed development will provide for a positive aesthetic building, for the current owner and will not give rise to any significant environmental impact on the natural or man-made surroundings, or adjoining properties. This is largely due to building design, complying overall building height and boundary setbacks.

The flexibility provided by Clause 4.6 (1) of the LEP is appropriate under the circumstances and strict compliance with the said development standard is both unreasonable and unnecessary. Accordingly, the above non-compliance is therefore well founded.

5.0 CONCLUSION

Whilst the proposed development does not comply with the maximum floor space ratio, the overall development is seen to meet Council's relevant planning objectives for the site, environmental amenity and protection, and Council's policies on economical sustainable development. Accordingly, the overall proposal is considered consistent with the said development standard for the reasons outlined in detail above.

The proposed alterations and additions to the dwelling satisfies Clause 4.6 (3) of the LEP in that it is consistent with the proper management and conservation of the natural, man-made resources of the land in accordance with the objects of the Environmental Planning and Assessment Act 1979. Therefore, compliance with the floor space ratio development standard is therefore, unnecessary and unreasonable in the circumstances of the case, and refusal of the development application on the stated matters is not warranted.

For the reasons set out above, the proposed departure from the floor space ratio development standards is well founded.



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