

AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held on

WEDNESDAY 26 AUGUST 2020



Ashleigh Sherry
Manager Business Systems and Administration

Agenda for a Meeting of the Development Determination Panel to be held on Wednesday 26 August 2020

1.0	APOLOGIES & DECLARATIONS OF INTEREST	
2.0	MINUTES OF PREVIOUS MEETING	
2.1	Minutes of Development Determination Panel held 18 August 2020	
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2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 18 AUGUST 2020

RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 18 August 2020 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1	DA2020/0559 - 16 NAREE ROAD, FRENCHS FOREST - DEMOLITION WORKS AND CONSTRUCTION OF A BOARDING HOUSE
REPORTING MANAGER	Rodney Piggott
TRIM FILE REF	2020/480557
ATTACHMENTS	1 Assessment Report 2 Site Plan & Elevations

PURPOSE

To refer the attached application for determination by the discretion of the Executive Manager Development Assessment.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority recommend a **Deferred Commencement Approval** for Development Consent DA2020/0559 for demolition works and construction of a boarding house on land at Lot 3 DP 27562, 16 Naree Road, Frenchs Forest, subject to the conditions outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0559
Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 3 DP 27562, 16 Naree Road FRENCHS FOREST NSW 2086
Proposed Development:	Demolition works and construction of a boarding house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Shane Saba Rouhani
Applicant:	Shane Saba Rouhani
Application Lodged:	29/05/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	05/06/2020 to 26/06/2020
Advertised:	05/06/2020
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Deferred Commencement Approval
Estimated Cost of Works:	\$ 1,700,000.00

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the following works:

- Demolition of existing structures; and
- Construction of a three-storey boarding house development, comprised of:
 - Lower Ground: 1 x common room, 1 x manager's room, and 2 x boarding rooms;
 - Ground: 4 x boarding rooms, at-grade parking for 7 x cars, 3 x motorcycles, and 3 x bicycles, and bin storage;
 - First Floor: 6 x boarding rooms; and
 - Associated stormwater, driveway and landscaping works.



ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

SITE DESCRIPTION

Property Description:	Lot 3 DP 27562 , 16 Naree Road FRENCHS FOREST NSW 2086
Detailed Site Description:	<p>The subject site consists of one allotment located on the northern side of Naree Road, Frenchs Forest.</p> <p>The site is regular in shape with a frontage of 20.115m along Naree Road, and a depth of 36.575m. The site has a surveyed area of 735.8m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a single-storey detached dwelling house.</p> <p>The site slopes approximately 2m from south to north, and contains a range of vegetation, including several canopy trees.</p> <p>Detailed Description of Adjoining/Surrounding</p>



Development

Adjoining and surrounding development is characterised by detached dwelling houses. A 27-room boarding house was approved at 10 Naree Road by the NSW Land and Environment Court on 11 March 2020.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- Pre-lodgement Meeting PLM2020/0064 was held on 9 April 2020 to discuss demolition works and construction of a boarding house.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the

Section 4.15 Matters for Consideration'	Comments
	residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<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 allow Council to request additional information. No additional information was requested in this case.</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>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built	<p>(i) Environmental Impact</p> <p>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>



Section 4.15 Matters for Consideration'	Comments
environment and social and economic impacts in the locality	<p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 05/06/2020 to 26/06/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 4 submission/s from:

Name:	Address:
Mr Keith Rischmiller	19 Wareham Crescent FRENCHS FOREST NSW 2086
Withheld	CHATSWOOD NSW 2067
Nason Ataii	201/3-7 Grandview Street EAST BALLINA NSW 2478
Chih-Hsiang Chang	18 Naree Road FRENCHS FOREST NSW 2086

The proposed development received one submission in opposition to the proposal, two in support of the proposal, and one submission that raised points for and against the proposal.

The following issues were raised in opposition to the proposal:

- The proposed development lacks adequate parking.



- The proposed development may impact on the Bangalay Gum at 19 Wareham Crescent to the rear of the subject site.
- The proposed development (and other nearby approved boarding houses and higher density developments) may lead to increased noise.
- Demolition may involve asbestos.
- May lead to other nearby single residential blocks feeling obligated to develop.

The following issues were raised in support of the proposal:

- Encourages more affordable housing.
- Modern architecture will be an improvement (though not necessarily in character with existing older houses).
- The site is suitably located amongst services.
- The proposed development is well designed without unreasonable impacts.
- The plan of management suitably deals with social concerns.
- The proposal aligns with the North District Plan.

The matters raised within the submissions are addressed as follows:

Parking

Comment:

The proposed development provides parking in compliance with the requirements of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* and is therefore acceptable in this regard.

Tree Impacts

Comment:

The submitted Arboricultural Impact Assessment Report, prepared by a qualified arborist, demonstrates that the potential impact to the Bangalay is minor, and the tree is to be retained and protected. Further, Council's Landscape Officer has reviewed the proposed development and its impacts, and is supportive, subject to conditions of consent.

Noise

Comment:

The proposed development is to be managed by a boarding house manager, and is to be operated in accordance with the submitted Plan of Management, which includes noise limited measures. As such, the proposed use of the boarding house is not anticipated to result in unreasonable impacts on acoustic amenity.

Asbestos

Comment: A condition of consent has been applied requiring any asbestos material arising from the demolition process to be removed and disposed of in accordance with applicable legislation and Australian Standards.

Further Development

Comment: Each development application is assessed on its merits. Approval of development on this site does not obligate nearby landowners to develop accordingly.

Support

Comment:

Matters raised in support of the application are noted.



REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</i></p>
Environmental Health (Industrial)	<p>12 room (plus manager) boarding house in a R2 "residential" area.</p> <p><u>Noise</u></p> <p>Carpark exhaust, mechanical exhaust and any residential air conditioning units are to be designed and located in a way that minimises noise and/or air emission offences to neighbouring dwellings and rooms within the development. SEPP (Exempt and Complying Development Codes) 2008 is applicable here, no conditions recommended as exhausts and air conditioning units are not shown on the plans.</p> <p>Outdoor communal areas adjacent to the 14 Naree Road dwelling may cause noise issues if not managed appropriately. However, the applicant's request to use those areas to 10:30 pm is unlikely to cause un-regulated noise impacts on adjacent neighbours. As boarding houses are considered residential, the Noise Policy for Industry - reflecting industrial impacts on residential is not applicable as a guideline. 10 pm is considered anecdotally as a reasonable time to cut-off excessive residential noise, we consider that behavioural noise can be assessed as "offensive" if there are ongoing issues. Environmental Health are satisfied that the outdoor terrace /open space areas proposed hours can be managed through a condition - compliance with the plan of management.</p> <p>Geotech report in conjunction with master plans indicate that rock-breaking through sandstone may need to occur to achieve 1.8m deep excavations. Noise condition to be included.</p>

Internal Referral Body	Comments
	<p><u>Demolition</u></p> <p>Any asbestos demolition must be dealt with through / notified to SafeWork. No conditions required.</p> <p><u>External Lighting</u></p> <p>Any external lighting (e.g. in the outdoor communal area) should be directed away from surrounding residences -condition applies.</p> <p><u>Recommendation</u></p> <p>Approval, subject to conditions</p>
Landscape Officer	<p>The Arborist's Report and Landscape Plan submitted with the application are noted.</p> <p>The Arborist's Report indicates that six (6) Category A trees are to be removed. The trees, whilst healthy, are generally small and not significant specimens (all being 6m or less in height). Four (4) additional exempt tree species are also indicated for removal.</p> <p>The Landscape Plan indicates replanting of eighteen (18) trees over the site along with hedges, shrubs and groundcovers.</p> <p>The Arborist's Report also indicates that the proposed works are able to be carried out with an acceptable level of impact on several large trees adjoining the site, subject o Arboricultural supervision and specific construction techniques.</p> <p>In view of the above, no objections are raised with regard to landscape issues, subject to conditions as recommended.</p>
NECC (Development Engineering)	<p>The proposed development relies upon a drainage easement through the downstream properties to drain the site. The applicant has provided sufficient information to demonstrate that this easement is in the process of being created. Deferred commencement conditions have been included for this issue.</p> <p>The proposed driveway crossing needs to be widened to suit the requirements of Council's Traffic Department. This will require the relocation of an existing drainage pit and other drainage structures in the road to suit which has been conditioned. The proposed driveway grade is satisfactory.</p> <p>The subject site is located within suitable pedestrian access to the nearest bus stops in accordance with the SEPP requirements.</p> <p>No objection to approval, subject to conditions as recommended.</p>
Strategic and Place Planning	<p>The applicant has addressed satisfactorily the issues highlighted in</p>

Internal Referral Body	Comments
(Urban Design)	<p>the pre-lodgement meeting (reproduced below). The final design with the sloped wall to create the 'room in the roof' effect has make the rear of the building look less like a three storey structure. More privacy screens have been added to the windows/ balconies to the upper units to minimise overlooking issues.</p> <p><i>Urban Design comments provided at the pre-lodgement meeting:</i></p> <ol style="list-style-type: none"> <i>1. Built form control of side boundary envelope control has been breached on the East boundary. Street presentation come across as a bit bulky and institutional looking especially with the exposed carpark area. Suggestion will be to reduce number of units to increase both side boundary setbacks on the first floor. The resultant building step-back on the first floor will create a more sympathetic contextual fit with the streetscape of single and double storey detached houses. Carpark entrance could be enhanced with planters and screens to make it less obvious. Full width/height privacy screens similar to the street elevation should be applied to the windows and balconies of the rear elevation to minimise overlooking/ privacy issues into the neighbouring backyards.</i> <i>2. The 8.5m building height control calls for a built form of two storey with a roof form. On the rear elevation , the three storey look should be softened to a two storey and roof form look. The roof form could be made more distinctive with roofing material cladding with a clear step-back from the main façade line.</i> <i>3. To break the bulk of the building, the indents proposed in the western and eastern elevations could be carried through to a clear break in the roof slab to create a two pavilion look that is more sympathetic in bulk and scale of the surrounding detached houses. Consideration could also be given to let in sunlight to the centre corridor and rooms facing south using this 'break' element in the roof plane.</i> <i>4. Reduction in the top floor bulk with the side step-back will also minimise the shadow casts on to next door neighbours.</i> <i>5. Boarding house development generally will increase the residential density of the area and as such it should not be bulky in appearance to fit well contextually in the current low density neighbourhood.</i>
Traffic Engineer	<p>The application is for a 12 place boarding house with Manager's room:</p> <p>Traffic: The volume of traffic expected to be generated from the site is considered negligible on the network.</p> <p>Parking: The provision of parking spaces (0.5 per bedroom = 7 spaces) is compliant with the the requirements of the SEPP.</p> <p>Car Park <i>Original Comments:</i> Due to the high volume and nature of Naree Road, the driveway width at the kerb should be widened to 5.5m to enable smooth entry and exit into the site without impeding on traffic along Naree Road. This</p>



Internal Referral Body	Comments
	<p>will enable the applicant to provide a minimum 5.5m wide driveway for the full length of the site from the kerb to the car park. Any associated infrastructure (i.e. the storm water inlet) should be relocated accordingly.</p> <p><i>Amended Comments:</i> Based on the additional information received from the applicant, the standard width driveway is deemed acceptable.</p> <p>Pedestrian: The separation of the pedestrian path from the driveway is deemed a satisfactory outcome for the site. No concerns are raised. The applicant will be required to provide/upgrade the footpath along the frontage of the site to ensure a safe connection to existing infrastructure.</p> <p>Waste Collection: Collection on-street is deemed acceptable, subject to Waste Team comments.</p> <p>Conclusion: In accordance with the SEPP, Council's traffic raise no objection.</p>
Waste Officer	Recommended for approval subject to conditions.

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

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 (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 3: Boarding houses

Clause 25: Definition

For the purposes of this Division, the Standard Instrument defines a 'boarding house' as a building that:

- "(a) is wholly or partly let in lodgings, and*
 - (b) provides lodgers with a principal place of residence for 3 months or more, and*
 - (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
 - (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*
- but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment".*

In this Division 'communal living room' means "a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room".

Clause 26: Land to which this Division applies

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone B1 Neighbourhood Centre, or (f) Zone B2 Local Centre, or (g) Zone B4 Mixed Use.	Consistent The site is located within the R2 Low Density Residential zone and, as such, the proposed use is permissible with consent under WLEP 2011.

Clause 27: Development to which this Division applies

(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.

Requirement	Comment
(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.	Consistent The site is located within the R2 Low Density zone and is situated not more than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days)
Note: Accessible area means land that is within:	



(c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.	inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.
(3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.	Not applicable. The site is located within the Sydney region.

Clause 28: Development may be carried out with consent

Requirement	Comment
Development to which this Division applies may be carried out with consent.	The development constitutes the construction of a boarding house, as defined by the Standard Instrument. Therefore, the development may be considered under this Division of the SEPP as development which may be carried out with consent.

Clause 29: Standards that cannot be used to refuse consent

Standard	Requirement	Proposed	Compliant/Comment
(1) Density and scale A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:	(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	Floor space ratios are not applied in WLEP 2011 or WDCP.	Not applicable
	(b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or	Floor space ratios are not applied in WLEP 2011 or WDCP.	Not applicable
	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item	The subject site is zoned R2 Low Density Residential, which does not allow for residential flat building development. The land	Not applicable

	<p>that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</p> <p>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</p> <p>(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</p>	<p>does not contain a heritage item. The site is not subject to a floor space ratio control.</p>	
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:			
(a) building height	<p>if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,</p>	<p>The proposed development is 8.4m in height, being below the maximum building height of 8.5m.</p>	Compliant
(b) landscaped area	<p>if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</p>	<p>The total landscaped area of the site is 221.9sqm, equating to 30.16% of the site, where 40% is required by the WDCP 2011. However, the landscape treatment of the front setback areas is compatible with the streetscape in which the building is located, including adequate dimensions and planting to soften the visual bulk of the proposed development.</p>	Compliant
(c) solar access	<p>where the development provides for one or more communal living rooms,</p>	<p>The proposed development includes one communal living</p>	Compliant

	if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	room, which is orientated to achieve a minimum of 3 hours of direct sunlight between 9am and 3pm in midwinter.	
(d) private open space	<p>if at least the following private open space areas are provided (other than the front setback area):</p> <p>(i) one area of at least 20m² with a minimum dimension of 3.0m is provided for the use of the lodgers,</p> <p>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8.0m² with a minimum dimension of 2.5m is provided adjacent to that accommodation,</p>	<p>(i) The proposal provides a private open space of 43.2sqm area with a minimum dimension of 6.2m.</p> <p>(ii) The proposal provides accommodation for a boarding house manager, including a private open space area of 13.6sqm (2m x 6.8m).</p>	Compliant
(e) parking	<p>if:</p> <p>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(iia) in the case of development not carried out by or on behalf of a</p>	<p>(i) Not applicable.</p> <p>(ii) Not applicable.</p> <p>(iia) The proposal includes 12 boarding rooms (plus one manager's room), and provides 7 car parking spaces.</p> <p>(iii) The proposal includes one manager's room and does not allocate a parking space for that manager.</p>	Compliant

	<p>social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>		
(f) accommodation size	<p>if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16 square metres in any other case.</p>	<p>(i) Not applicable.</p> <p>(ii) The boarding rooms proposed are a minimum of 20sqm, up to 24.8sqm, with the manager's room being 20sqm.</p>	Compliant
	<p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p>	Bathroom and kitchen facilities are provided for each room.	Compliant
	<p>(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).</p>	Noted	Noted

Clause 30: Standards for boarding houses

Standard requirement	Proposed	Compliant/Comment

(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	The proposal includes 12 boarding rooms, and provides one communal living room.	Compliant
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25m ² ,	The boarding rooms proposed are a minimum of 20sqm, up to 24.8sqm.	Compliant
(c) no boarding room will be occupied by more than 2 adult lodgers,	Each boarding room will allow for a maximum of two occupants.	Compliant
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Private bathroom and kitchen facilities are provided in each boarding room.	Compliant
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	The proposal has the potential to accommodate 24 lodgers and provides for one boarding house manager.	Compliant
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	Not applicable. The subject site is zoned R2 Low Density Residential.	Compliant
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	The proposal includes 12 rooms, and provides racks for three bicycle and three motorcycles.	Compliant
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	Subclause (1) applies, as the proposal is for construction of a new boarding house.	Compliant

Clause 30AA: Boarding houses in Zone R2 Low Density Residential

A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.

Comment:

The subject site is zoned R2 Low Density Residential, and proposes 12 boarding rooms (plus one manager's room).

Clause 30A: Character of the local area

The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council* (2003) NSWLEC 268 and *Project Venture Developments v Pittwater Council* (2005) NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. The following provides an assessment against the Planning Principles established in those two cases. In the case of *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council* (2003) NSWLEC 268 Senior Commissioner Roseth developed the following Planning Principles:

The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the major reason for conservation.

Comment:

Currently, Naree Road is predominantly developed with one- and two-storey detached dwelling houses, with one 38-room boarding house approved to the west at 10 Naree Road with a two-storey presentation to Naree Road. The proposal also presents as a two-storey development to Naree Road. The proposal is compatible in this regard, and is further supported in that it provides compliant front and side setbacks to the building proper, consistent with surrounding development. Additionally, the proposal is compliant with the maximum height of buildings development standard, and with the side boundary envelope control. In this regard, it is considered that the scale of the development is compatible with the streetscape and consistent with the first principle.

The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.

Comment:

The proposed development is not of much greater size than existing and approved developments in Naree Road. Notwithstanding this, the proposal provides sufficient breaks to building bulk by setting the uppermost level in as it presents to the street, incorporating the rear portion of the upper level into the roof form, and by incorporating generous landscaped areas around the site to soften the built form. In this regard, the development is considered to be compatible with the scale of surrounding development and consistent with the second principle.

The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.

Comment:

The subject site slopes from the south to the north. The proposal takes advantage of this slope by adding floor space to the rear, where it is obscured from view from the street by the land topography, and softening the rear built form with meaningful vegetation. In this regard, it is considered that effective methods have been employed in the design of the development to reduce its visual dominance and is consistent with the third principle.

The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity.

Comment:



The proposed development includes materials and forms of a more modern style than those predominantly used in the streetscape. A more modern style can be acceptable, where bulk and scale are adequately managed to reduce visual impact. As above, the proposed built form is suitable in the context of the site, and so too are the proposed materials and forms. In this regard, the development is considered to be consistent with the fourth principle.

The above principles were further developed in *Project Venture Developments v Pittwater Council* (2005) NSWLEC 191 to include the following:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Comment:

The physical impacts of the development on surrounding properties are assessed as consisting of constraints on the development potential of surrounding sites, privacy, overshadowing and noise.

Constraints on the development potential of surrounding sites

The proposed development is generally sited to ensure reasonable development of adjoining properties, in accordance with the prt D Design requirements of the WDCP 2011.

Privacy

The proposed development does not unreasonably impact upon privacy and is developed in accordance with the requirements of Clause D8 Privacy of the WDCP 2011.

Overshadowing

The proposed development does not unreasonably overshadow the subject site or adjacent sites, as demonstrated by the submitted shadow diagrams, and is developed in accordance with the requirements of Clause D6 Access to Sunlight of the WDCP 2011.

Noise

The proposed development is not anticipated to result in unreasonable noise impacts, as supported by the submitted Plan of Management.

Conclusion to character assessment

The above character assessment has found that, in the context of the Land and Environment Court Planning Principles, the proposal is compatible with the character of the local area and surrounding wider locality. This matter does not warrant the refusal of the Development Application.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1100282M dated 1 June 2020). The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	42
Thermal Comfort	Pass	Pass
Energy	45	45

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



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 Environmental 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	8.4m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

6.2 Earthworks

The objectives of Clause 6.2 Earthworks require development:

(a) to ensure that earthworks for which development consent is required will not have a detrimental



impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and
(b) to allow earthworks of a minor nature without requiring separate development consent.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality

Comment:

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment:

The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment:

The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment:

The site is not mapped as being a potential location of Aboriginal or other relics.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment:

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

6.4 Development on sloping land

Under Clause 6.4 Development on Sloping Land, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and



Comment:

The Applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment:

The Applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment:

The Applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Council is satisfied that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall Height	7.2m	7.8m	5.5%	No
B3 Side Boundary Envelope	4m	East: Within Envelope	-	Yes
	4m	West: Within Envelope	-	Yes
B5 Side Boundary Setbacks	900mm	East: 900mm	-	Yes
	900mm	West: 2.3m	-	Yes
B7 Front Boundary Setbacks	6.5m	700mm to hydrant booster wall	89.23%	No
		6.6m to building	-	Yes
B9 Rear Boundary Setbacks	6m	4.5m to terraces	25%	No
		7.2m to building	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (294.32sqm)	30.16% (221.9sqm)	24.6%	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	No	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	No	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

The proposed development includes a maximum wall height of 7.8m, where 7.2m is allowable. 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 portion of development that includes a non-compliance with the wall height control is to the rear, due to the topography of the site. As such, the proposed non-compliance is not viewed from the street or adjoining properties to the east and west. The subject site is not adjoined by waterways or land zoned for public recreation. The non-compliance would generally be read from the adjoining property to the rear. The visual impact of the development is managed as it appears to the rear, in that the upper level (where the non-compliance arises) is set into the roof form and angled away from the rear. As such, the development does not present unreasonable visual imposition in relation to bulk and scale, despite its non-compliance with this control.

To ensure development is generally beneath the existing tree canopy level

Comment:

The proposed development is generally well below tree canopy level, and is compliant with all other applicable building height controls.

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

Comment:

The proposed development does not impact upon any significant views to or from public or private properties.

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

Comment:

The proposed development (including the non-compliance with wall height) is designed and sited so as not to unreasonably impact upon adjoining and nearby properties.

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

Comment:

The proposed development response to the topography of the site by limiting excavation, while also remaining compliant with all other applicable building height controls.

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

Comment:

The proposed development retains an innovative roof form in that habitable space is incorporated into its design in order to reduce bulk and scale.

B7 Front Boundary Setbacks

The proposed development includes a fire hydrant booster blast wall 700mm from the front boundary, where a setback of 6.5m is required. The hydrant booster is required by Australian Standard 2419 in relation to fire safety. The nearest on-street fire hydrant is between number 10 and 12 Naree Road, approximately 44m from the subject site. The Australian Standard stipulates that the maximum length a fire hydrant can be from all parts of the building is 60m. This means only 16m into the site is covered (where the building extends further than 16m) thereby triggering the requirement for a hydrant booster at the street frontage. As the hydrant booster is located within 10m of the building, a blast wall 3m in height and 4m in width is required for protection of fire fighters.

It is considered that the Australian Standard requirements prevail over the WDCP 2011 requirements. Notwithstanding this, the development is considered against the underlying objectives of the control as follows:



To create a sense of openness.

Comment:

The hydrant booster blast wall is required in order to achieve appropriate fire safety. The blast wall is for a small portion of the site frontage, and the remainder of the front setback area remains clear of structures, thereby retaining a suitable sense of openness in the front yard.

To maintain the visual continuity and pattern of buildings and landscape elements.

Comment:

The hydrant booster blast wall is required in order to achieve appropriate fire safety. The blast wall is for a small portion of the site frontage, and the building itself is compliant with front and side setback requirements. The proposal also includes landscaping to the front yard. As such, the proposed development retains the visual continuity and pattern of buildings in the streetscape.

To protect and enhance the visual quality of streetscapes and public spaces.

Comment:

While the hydrant booster is not ideal on the street frontage, it is required in order to achieve appropriate fire safety. The remainder of the development is of suitable design, supported by landscaping, in order to protect and enhance the visual quality of Naree Road.

To achieve reasonable view sharing.

Comment:

The proposed development does not impact upon any significant views to or from public or private properties.

B9 Rear Boundary Setbacks

The proposed development includes stairs and low terraces within 4.5m of the rear boundary, where a setback of 6m is required. The development is considered against the underlying objectives of the control as follows:

To ensure opportunities for deep soil landscape areas are maintained.

Comment:

The proposed development includes a minor non-compliance with the landscaped area requirement of Clause D1 Landscaped Open Space and Bushland Setting of the WDCP 2011, which is demonstrated as acceptable on merit in the section of this report relating to that clause. However, the proposed development is compliant with the landscaped area requirement of Clause the SEPP ARH, which prevails over the WDCP 2011. Notwithstanding this, the proposed development provides ample opportunity for deep soil planting, with generous areas at the front and rear yards, with no basement excavation below. The proposed development is suitable in this regard.

To create a sense of openness in rear yards.

Comment:

The proposed rear terraces are low-lying and allow ample landscaped area to the rear, thereby retaining a sense of openness in the rear yard.

To preserve the amenity of adjacent land, particularly relating to privacy between buildings.

Comment:

The proposed rear terraces are low-lying and do not allow for direct overlooking of adjoining properties to the rear.

To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.

Comment:



The proposed building proper is compliant with the rear setback requirement, with only the terraces and stairs encroaching into the rear setback area. As such, the predominant built form pattern is retained by the proposed development.

To provide opportunities to maintain privacy between dwellings.

Comment:

As above, the proposed rear terraces are low-lying and do not allow for direct overlooking of adjoining properties to the rear.

D1 Landscaped Open Space and Bushland Setting

The proposed development includes 30.16% of the site (221.9sqm) as landscaped open space, where 40% is required, resulting in a variation of 24.6% to the control. Clause 29 of the SEPP ARH provides that an application must not be refused on the basis of landscaped area, if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located.

The development is considered against the underlying objectives of the control as follows:

To enable planting to maintain and enhance the streetscape.

Comment:

The landscaped area provided is wholly deep soil, as the proposal does not include any basement area. This allows for significant and meaningful deep soil areas around the street front elevation, the side elevations as they adjoin the rear yards of the neighbouring sites to the east and west, and to the rear. The proposal includes suitable significant vegetation along the frontage, consistent with the Naree Road streetscape.

To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.

Comment:

The proposed development is supported by landscape plans that detail native species on site, and significant vegetation to support habitat for wildlife. The subject site does not contain any important topographical features.

To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.

Comment:

The proposed landscaped areas are of varying dimensions. The landscape buffers to the east and west allow for grasses and low-lying shrubs. The landscaped areas to the south (front) and north (rear) of the property are of sufficient dimensions to allow for medium to high shrubs and canopy trees. The proposed vegetation demonstrated on the landscape plans softens the visual impact of the height, bulk and scale of the development, principally in relation to the street elevation and the interface with other rear yards.

To enhance privacy between buildings.

Comment:

The proposed development is consistent with the requirements of Clause D8 Privacy of the WDCP 2011. Notwithstanding this, the proposed development provides suitable landscaping buffers to assist in providing privacy to adjoining sites.

To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.

Comment:

The proposed development includes significant outdoor areas for recreation of the residents of the boarding house, including a designated section of outdoor private open space. Additionally, the site is located within



walking distance of sporting fields, supplementing the outdoor recreational needs of the residents.

To provide space for service functions, including clothes drying.

Comment:

While no specific clothesline is identified on plans, the proposed development includes outdoor space of sufficient dimensions to allow for clothes drying. The proposed rooms are of sufficient dimensions to allow for clothes drying facilities such as a combined washer-dryer and/or a clothes hanger.

To facilitate water management, including on-site detention and infiltration of stormwater.

Comment:

The proposal is supported by adequate stormwater management measures, as supported by Council's Development Engineer subject to conditions of consent.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$17,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,700,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 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

DEFERRED COMMENCEMENT APPROVAL

A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Section 95 of the EP&A Regulation 2000 to DA2020/0559 for Demolition works and construction of a boarding house on land at Lot 3 DP 27562,16 Naree Road, FRENCHS FOREST, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

DEFERRED COMMENCEMENT CONDITIONS

1. Stormwater Drainage Easement

As the natural fall of the land is towards the rear of the site the disposal of stormwater drainage is to be in accordance with the drainage plan submitted by Martens & Associates, drawing PS02-E104 and E105 Rev B dated 16/06/2020. The easement is to be created under Sections 46 and/or 46A of the Real Property Act 1900 No.25 or under Sections 88B and/or 88K of the Conveyancing Act 1919. The applicant must provide Council with evidence of the created easement on title in order to activate the consent.

Stormwater drainage plans are to be submitted to Council for written approval detailing disposal of stormwater from the site in accordance with Council's Water Management Policy.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) 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. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

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
DA20 Demolition Plan Revision A	5 May 2020	Walsh2 Architects
DA100 Site Plan Revision A	5 May 2020	Walsh2 Architects
DA101 Lower Ground Floor Plan Revision A	5 May 2020	Walsh2 Architects
DA102 Ground Floor Plan Revision A	5 May 2020	Walsh2 Architects
DA103 Level 1 Plan Revision A	5 May 2020	Walsh2 Architects
DA104 Roof Plan Revision A	5 May 2020	Walsh2 Architects
DA201 Sections Revision A	5 May 2020	Walsh2 Architects
DA300 Elevations Revision A	5 May 2020	Walsh2 Architects
DA301 Elevations Revision A	5 May 2020	Walsh2 Architects
DA901 Material Schedule	5 May 2020	Walsh2 Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
PS01-B300 Sediment & Erosion Control Plan Revision A	20 May 2020	Martens & Associates
PS01-B310 Sediment & Erosion Control Details Revision A	20 May 2020	Martens & Associates
PS01-E100 Drainage Plan (Ground Floor) Revision B	20 May 2020	Martens & Associates
PS01-E110 Drainage Plan (Lower Ground Floor) Revision B	20 May 2020	Martens & Associates
PS01-E200 Drainage Details Revision A	20 May 2020	Martens & Associates
PS01-E600 OSD Catchment Plan Revision A	20 May 2020	Martens & Associates
PS01-E700 Water Quality Catchment Plan Revision A	20 May 2020	Martens & Associates
PS02-E104 Drainage Plan (Proposed Easement) Option 3 Revision B	12 June 2020	Martens & Associates
PS02-E105 Drainage Plan (Proposed Easement) Option 3 Revision B	12 June 2020	Martens & Associates

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Operational Plan of Management	March 2020	Applicant
Geotechnical Assessment	18 May 2020	Ascent Geotechnical



		Consulting
Accessibility Review Report	20 May 2020	ABE Consulting
Arboricultural Impact Assessment Report	19 May 2020	Hugh the Arborist
Assessment of Traffic and Parking Implications Issue B	May 2020	Transport and Traffic Planning Associates
BASIX Certificate No. 1100282M	1 June 2020	Building Sustainability Assessments

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L501.1 Surfaces Plan - Sheet 1 Issue B	20 May 2020	Plot Design Group
L502.1 Planting Plan - Sheet 1 Issue B	20 May 2020	Plot Design Group
L503.1 Landscape Details Issue B	20 May 2020	Plot Design Group

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	18 May 2020	Applicant

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.

3. Approved Land Use

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a boarding house, according to the Dictionary of the *Warringah Local Environmental Plan 2011*, as follows:

Boarding house means a building that—

- (a) is wholly or partly let in lodgings, and*
 - (b) provides lodgers with a principal place of residence for 3 months or more, and*
 - (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
 - (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*
- but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.*

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.



4. Prescribed Conditions

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.



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

Reason: Legislative requirement.

5. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths,



roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

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

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$17,000.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$1,700,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater



Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

7. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

8. **Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$20,000 as security against any damage or failure to complete the construction of stormwater drainage works in the road reserve as part of this consent.

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

Reason: Protection of Council's infrastructure.

9. **Construction, Excavation and Associated Works Security Bond (Crossing / Kerb)**

The applicant is to lodge a Bond of \$15,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

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

Reason: Protection of Council's infrastructure.

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



10. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

11. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Warringah Water Management Policy PL850 and generally in accordance with the concept drainage plans prepared by Martens & Associates Pty Ltd, drawing number PS01-A000 Rev B, E100 Rev B, E110 Rev B, E200 Rev A, E600 Rev A, dated 15/05/20 and 20/05/20 respectively. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. The OSD tank is to include an overflow pipe above the top water level connected to the outlet pipe.
- ii. The site is to be connected to the inter-allotment drainage system benefiting the site.

Detailed drainage plans, including Engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

12. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of the driveway crossing, re-instatement of the existing driveway crossing, footpath adjustments, power pole relocation and stormwater infrastructure adjustments to suit the new driveway crossing which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1 and the relevant Roads Authority's and Service Authority's requirements. The plans shall be prepared by a qualified Civil Engineer.

The design must include the following information:

1. Concurrence from the relevant Services Authority(s) for the relocation of the existing power pole for the construction of the new driveway crossing.
2. A 3 metre wide driveway crossing from the kerb to the boundary with associated adjustment to the footpath to suit.
3. Re-instatement of the old driveway crossing to kerb, footpath and turf to match the existing.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.



An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

13. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

14. Compliance with Standards

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

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

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

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website [www.hreoc.gov.au/disability rights /buildings/good.htm](http://www.hreoc.gov.au/disability%20rights%20buildings/good.htm). <www.hreoc.gov.au/disability%20rights%20buildings/good.htm>

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



Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

15. **Compliance with Standards**

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

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

Reason: To ensure the development is constructed in accordance with appropriate standards.

16. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Specify that, due to the proximity of the site adjacent to The Forest High School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- The proposed manner in which adjoining property owners will be kept advised of the time frames for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work



Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.

- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”. All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner’s property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

17. **Submission of Engineering Plans**

The submission is to include four (4) copies of civil engineering plans for the design of:

- Upgrade of the footpath (if required) along the full frontage of the site, to provide a safe connection to existing infrastructure; and
- Relocation of any services to accommodate the above.

These are to be generally in accordance with the civil design approved with the Development Application and Council’s specification for engineering works - AUS-SPEC #1 and or Council’s Minor Works Policy. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate. Section 138 and/or 139 applications are to be submitted to Council for Local Traffic Committee approval.

Reason: To ensure compliance with Council’s specification for engineering works.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

18. **Tree Trunk, Branch and Root Protection**



Existing trees which must be retained:

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) All trees located on adjoining land

Tree protection:

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by the Project Arborist on site.
- iii) All tree protection to be in accordance with the recommendations of the Arboricultural Impact Assessment Report 19 May 2020 prepared by Hugh the Arborist and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

19. **Project Arborist**

A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works. The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as outlined in the Arboricultural Impact Assessment Report 19 May 2020 prepared by Hugh the Arborist and AS4970-2009 Protection of trees on development sites. The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: To ensure protection of vegetation proposed for retention on the site.

20. **Pedestrian Sight Distance at Property Boundary**

Confirmation of a pedestrian sight triangle of 2.0 metres by 2.5 metres, in accordance with AS2890.1:2004 has been provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas. A Design Certificate shall be prepared by a suitably qualified engineer and submitted to and approved by the Certifying Authority prior to any works commencing.

Reason: To maintain pedestrian safety.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

21. **Road Reserve**

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

Reason: Public safety.

22. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;



- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

23. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

24. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

25. Civil Works Supervision

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

26. Notification of Inspections (infrastructure works to be handed over to Council)

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater gully pits
- (d) Prior to pouring of kerb and gutter, footpath and driveway crossing



NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

27. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public safety.

28. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 Normal and the Roads Act application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to kerb, footpath and grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

29. **Rock Breaking**

The activity of rock-breaking associated with the development of the site, must only occur between the hours of 9:00 AM – 5.00 PM on weekdays (Monday – Friday). Rock-breaking activities must not occur on weekends or public holidays. Adjoining properties must be notified in writing of the times and days in which rock-breaking activities will be carried out. Notices must be distributed at least seven (7) days before the activity is to occur.

Reason: To forewarn neighbours of loud works.

30. **Trees Condition**

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.



(i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

31. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

32. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling – timber – bricks – tiles – plasterboard – metal – concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

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

33. **Landscape completion certification**

a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.

b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been established and maintained in accordance with the approved landscape plan.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

34. **Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

- a) Compliance to Arborist recommendations for tree protection and excavation works.
- b) Extent of damage sustained by vegetation as a result of the construction works.
- c) Any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: To ensure compliance with the requirement to retain and protect significant planting on development sites.



35. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan) and Hydraulic Engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

36. Certification of Civil Works and Works as Executed Data on Council Land

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 138 plans. Works as Executed data certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data (details overdrawn on a copy of the approved civil plans) for Council Assets' in an approved format shall be submitted to Council for approval prior to the release of any security deposits.

Reason: To ensure compliance of works with Council's specification for engineering works.

37. Registration of Boarding House

Prior to the issuing of any interim / final occupation certificate, certification is to be provided to the principal certifying authority identifying the Boarding House has been registered with the appropriate regulatory authority as prescribed under Part 2 of the Boarding Houses Act 2012. This includes any relevant licences required under Division 2 of said Act.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.

38. Required Planting

Trees shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Minimum Pot Size
All trees	As indicated on Planting Plan Dwg No. L502.1 Issue B dated 20.05.2020 prepared by Plot Design Group	As indicated on the Landscape Plan	As indicated on the Landscape Plan



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

Reason: To maintain environmental amenity.

39. **Garbage and Recycling Facilities**

All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

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

Reason: To prevent pollution of the environment and to protect the amenity of the area.

40. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

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

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

41. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with Warringah Development Control Plan – Part C9 Waste Management

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

Reason: To ensure waste and recycling facilities are provided.

42. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

43. **Positive Covenant for Waste Services**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to provide access to the waste storage facilities prior to the issue of an Interim/Final Occupation Certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Council shall be nominated as the party to release, vary or modify such covenant.



Reason: To ensure ongoing access for servicing of waste facilities.

44. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

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

45. **Outdoor Lighting**

All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and must comply with where relevant, Australia Standard AS 1158.3:2005 Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance and design requirements and Australian Standard AS 4282:1997 Control of the obtrusive effects of outdoor lighting. All lights used to illuminate the exterior of buildings onsite must be positioned so as to prevent the emission of direct light onto adjoining roadways, adjoining land and dwellings.

Reason: To protect the amenity of adjoining properties.

46. **Compliance with the Boarding House Plan of Management**

The ongoing operation of the boarding house must be in accordance with the Plan of Management.

Reason: To maintain a reasonable level of amenity to the area.

47. **Landscape Maintenance**

Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity.

48. **Use of Communal Areas**

The use of the outdoor communal area shall be restricted to between the hours of 7:00am and 10:30pm, 7 days per week. The use of the indoor communal area shall be restricted to between the hours of 6:00am and 10:30pm, 7 days per week. No amplified music is permitted at any time within the outdoor communal area.

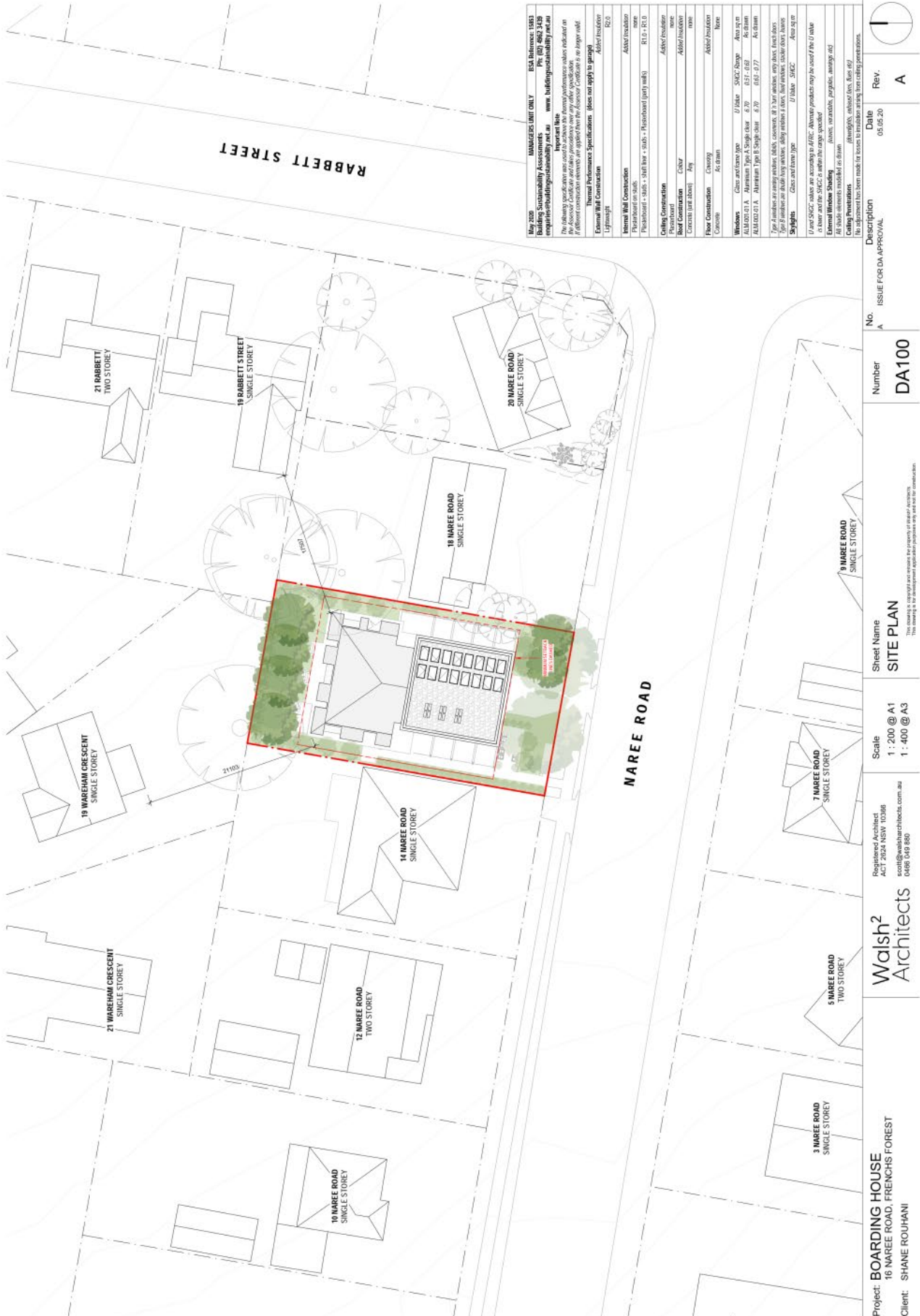
Reason: To ensure the acoustic amenity of neighbouring properties.

49. **Parking**

The proposed development shall retain 7 x car spaces, 3 x motorcycle, and 3 x bicycle spaces, for the life of the development.



Reason: To ensure consistency with this consent.





1 NORTH ELEVATION
Scale: 1:100 @ A1
1:200 @ A3



2 SOUTH ELEVATION
Scale: 1:100 @ A1
1:200 @ A3

Project: **BOARDING HOUSE**
16 NAREE ROAD, FRENCHS FOREST
Client: SHANE ROUHANI

Walsh²
Architects

Registered Architect
ACT 2024 NSW 10366
swalsh@walsh2architects.com.au
0468 049 880

Scale
1 : 100 @ A1
1 : 200 @ A3

Sheet Name
ELEVATIONS

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Number
DA300

No.
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Description
ISSUE FOR DA APPROVAL

Date
05.05.20

Rev.
A



1 EAST ELEVATION
Scale: 1:100 @ A1
1:200 @ A3



2 WEST ELEVATION
Scale: 1:100 @ A1
1:200 @ A3

Project: **BOARDING HOUSE**
16 NAREE ROAD, FRENCHS FOREST
Client: **SHANE ROUHANI**

Walsh²
Architects

Registered Architect
ACT 2024 NSW 10366
swalsh@walsh2architects.com.au
0468 048 880

Scale
1 : 100 @ A1
1 : 200 @ A3

Sheet Name
ELEVATIONS

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Number
DA301

No.
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Description
ISSUE FOR DA APPROVAL

Date
05.05.20

Rev.
A

ITEM 3.2 **DA2020/0370 - 13 LOCH STREET, FRESHWATER - DEMOLITION
WORKS AND CONSTRUCTION OF A DWELLING HOUSE
INCLUDING A SWIMMING POOL**

REPORTING MANAGER **Rodney Piggott**

TRIM FILE REF **2020/480613**

ATTACHMENTS **1 Assessment Report**
2 Site Plan & Elevations

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **approve** Development Consent to DA2020/0370 for demolition works and construction of a dwelling house including a swimming pool on land at Lot 3 DP 14040, 13 Loch Street, Freshwater, subject to the conditions outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0370
Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot 3 DP 14040, 13 Loch Street FRESHWATER NSW 2096
Proposed Development:	Demolition works and construction of a dwelling house including a swimming pool
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Natalie Fiona Fraser
Applicant:	Natalie Fiona Fraser
Application Lodged:	20/04/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	29/04/2020 to 13/05/2020
Advertised:	Not Advertised
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 2,514,875.00

Northern Beaches Council is in receipt of Development Application DA2020/0370 for the construction of a new dwelling house and swimming pool at No. 13 Loch Street, Curl Curl.

The development has an estimated cost of works of \$2,514,875 and four (4) unresolved submissions.

Therefore, the proposal is referred to the Development Determination Panel (DDP) for determination given the estimated value of the development and the number of submissions received.

The issues raised in the submissions are:

- View loss
- Streetscape and character



- Building height objectives
- Building setbacks
- Building Bulk
- Excavation
- Privacy
- Landscape
- Environmental Features
- Access to sunlight

The above issues have been addressed in this report and were found to not have determining weight in the assessment of the application. Suitable conditions have been imposed where necessary as discussed in the body of the report.

The proposal includes variations to the following clauses:

Warringah Development Control Plan 2011

- B1 - Wall Heights;
- B3 - Side Boundary Envelope; and
- D6 Access to Sunlight.

In each instance, the assessment found that the variations achieved consistency with the applicable objectives and were supportable.

The assessment of the application has found that the proposal generally satisfies the planning controls and is acceptable and can be supported subject to conditions.

Based on the detailed assessment contained in this report, it is recommended that the application be approved.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks approval to demolish the existing dwelling house and construct a new dwelling house and swimming pool with additional landscaping and ancillary works.

The proposed works include the following:

Level 1 (RL 42.6)

- Rumpus room
- Two bedrooms
- Bathroom
- W.C.
- Laundry
- Rear Terrace

Level 2 (RL 45.6)

- Kitchen / Living / Dining room
- Study



- W.C.
- Entry foyer
- Double garage
- Rear Terrace

Level 3 (RL 48.7)

- Two bedrooms, with robe and ensuites
- Rear terrace

External

- New swimming pool/spa
- Swimming pool terrace
- Landscaping, and associated access stairs and pathways.

Amended Plans were submitted by the applicant after discussion with the rear adjoining properties. The amendments to the proposal include the following:

- Amendment to the swimming pool to create a wet edge with new spa;
- Amendments to the southern elevation cladding, including widening of the pantry window with obscure glazing (opaque glazing); and
- New window to the entry void (not opaque).

The amended plans were emailed to the adjoining properties for their consultation. As a result only one additional submission from the southern adjoining site was received.

These amended plans were utilised in the assessment of the following proposal.

ASSESSMENT INTRODUCTION

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

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



proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D8 Privacy
Warringah Development Control Plan - D9 Building Bulk
Warringah Development Control Plan - D13 Front Fences and Front Walls
Warringah Development Control Plan - D15 Side and Rear Fences

SITE DESCRIPTION

Property Description:	Lot 3 DP 14040 , 13 Loch Street FRESHWATER NSW 2096
Detailed Site Description:	<p>The site is legally identified as Lot 3, DP 14040, known as 13 Loch Street Freshwater. The site is located within the R2 Low Density Residential zone as mapped in the Warringah Local Environment Plan 2011.</p> <p>The site is regular in shape with a size area of 632sqm. The western front boundary measures 12.575m to Loch Street, with northern and southern side boundaries of 50.29m, and an eastern rear boundary of 12.575m.</p> <p>The site has a steep slope from the north-western corner down to its rear boundary of approximately 11.1m, representing an average slope of 21.6%. The location of the proposed dwelling house displays a more gentle slope of approximately 10% which then transitions to a drop of over 7m to the rear.</p> <p>The site is characterised by a series of rock outcrops at the rear of the site, below an existing retaining wall. There are no significant trees existing on the site.</p> <p>Existing views of Curl Curl Beach, and Dee Why Headland are obtained from the rear of the property due to the sites location on the elevated position of the escarpment.</p> <p>The site currently contains a 2/3 storey dwelling house.</p> <p>Surrounding sites consist of one, two and three storey dwelling houses, of varying ages, within landscaped settings.</p>

Map:



SITE HISTORY

A search of Council's records has revealed the following relevant development applications:

- A Pre-lodgement Meeting **PLM2019/0250** was held on 3 December 2019 for the demolition works and construction of a dwelling house including a swimming pool. The notes concluded that greater consistency with the Warringah Local Environment Plan 2011, and the Warringah Development Control Plan controls and requirements was required, particularly in regards to the maximum building height and bulk and scale of the proposal.
- Development Application **BA5001/5791** for the alterations and additions to the existing dwelling house was approved by Council on the 17 March 1992.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions	Warringah Development Control Plan applies to this proposal.

Section 4.15 Matters for Consideration'	Comments
of any development control plan	
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<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>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case, however the applicant submitted amendments to the proposed design.</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 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 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>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact 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) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance	See discussion on "Notification & Submissions Received" in this report.



Section 4.15 Matters for Consideration'	Comments
with the EPA Act or EPA Regs	
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 29/04/2020 to 13/05/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 4 submission/s from:

Name:	Address:
Ms Susie Carol Ford	8 Ellen Street CURL CURL NSW 2096
Ms Lily Mien Lin Lim	4 Ellen Street CURL CURL NSW 2096
Glenn Edward Harrison	6 Ellen Street CURL CURL NSW 2096
Gary Rogers	11 Loch Street FRESHWATER NSW 2096

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

- **Views**
- **Character of the area**
- **Solar Access**
- **Privacy**
- **Bulk and Scale**
- **Building Height**
- **Wall Height**
- **Side Boundary Envelope**
- **Excavation**
- **Swimming Pool**

The matters raised within the submissions are addressed as follows:

- **Concern was raised from No.11 Loch Street in regards to view loss as a result of the proposal.**
Comment:
This issue has been addressed in detail under Clause 'D7 - Views' in this report where it was found that the view lines from No. 11 Loch Street, over the north-eastern side boundary are extremely vulnerable to any form of development on the subject property. Whilst it is noted that



the view impact on the adjoining property is moderate to severe, however, given that the view is obtained across a side boundary, the view is difficult to maintain. The proposed development complies with the building height control as it relates to view sharing, and the variations of to the wall height and building envelope have negligible impact on the view lines. Therefore an amendment or refusal of the application is not warranted in this particular circumstance.

This issue does not warrant the refusal or further amendment of the application.

- ***Concerns were raised with respect to the bulk and scale of the development and how it related to the streetscape and overall character of the local area as determined by the Warringah Local Environment Plan 2011.***

Comment:

The development involves the construction of a new dwelling house and swimming pool.

The local area consists of varying building forms including a mix of single and double storey detached dwellings of varying age and architectural style.

The proposal occurs over the existing footprint of the dwelling house and complies with the building height and side setbacks requirements, with modest variations to the wall height and building envelope, such that the non-compliance do not exacerbate the bulk and scale of the building through sufficient articulation and an improved street presence.

The development also involves replacing the pitched roof with a flatter roof form, and increasing the side setbacks which improves visual outlook from surrounding properties and also reduces the visual bulk and scale of the building when viewed from the street.

It is considered that the development has been sufficiently articulated to visually define the dwelling within the shape and topographical context of the site. In this sense, the building has been sufficiently articulated to respond to the detached dwelling elements in the area with the resulting design achieving an architectural consistency with the detached dwellings which collectively characterise the local area.

In this regard, it is considered that the scale of the development is compatible with the streetscape and consistent with the character of the local area and does not warrant the refusal or further amendment of the application.

- ***Concern was raised that the proposed development would have unreasonable impacts on No. 11 Loch Street solar access specifically to their terrace area located within the northern side boundary.***

Comment:

This issue has been discussed in detail under Clause D6 in this report. In summary, the assessment (which considered the rear yard and upper and lower terraces as the principle private open space for the property) found that, while the development did have additional impacts on the southern adjoining site, the additional shadow cast by the development was considered to be reasonable in the circumstances and that the proposal satisfied the objectives of the clause.

This issue does therefore not warrant the refusal of the application.

- ***Concern is raised on the impact of the development on the rear rock retaining wall of No. 11 Loch Street.***

Comment:

This issue can be addressed by way of condition to require a dilapidation report for the adjoining developments.

This issue has been addressed by way of condition.

- ***Concern was raised from three properties adjoining the rear of the subject site that the swimming pool would create unreasonable privacy impacts, and a submission from the southern adjoining property that the whole dwelling house creates unreasonable privacy impacts.***

Comment:

As a result of the submissions the applicant consulted with the objecting properties to the rear, and amended the design of the rear swimming pool by removing the trafficable areas along the eastern elevation to mitigate unreasonable overlooking. in a forward direction As a result the no further objections were received when the amended plans were presented to the properties.

The assessment found that the development has been generally designed to satisfactorily address overlooking by locating living room windows and terraces away from habitable room windows, balconies and private open space area on neighbouring properties. Areas which have been identified as creating overlooking have been appropriately addressed by conditions which require the installation of privacy screens and/or obscure glass.

It is agreed that unreasonable privacy impacts would result from the clear windows closest to the southern boundary (being the master bedroom and adjoining the stairwell). Other windows on the southern and northern elevation will not result in unreasonable impacts.

In this regard, a condition has been recommended that requires specific windows to utilise either privacy screens or opaque glazing to mitigate privacy impacts and the concern does not warrant refusal of the application.

- ***Concern is raised in regards to the non-compliance with the wall height, building envelope and the overall bulk and scale of the proposal.***

Comment:

The proposal appears as a two storey building to properties that overlook the site (from the west) and the non-compliances with the building envelope and wall height are reasonable breaches, within the context of the site. The assessment of building bulk and scale are discussed in the context of merit assessment under Part B1 Wall Height and Part B3 Side Boundary Envelope within this report.

While the dwelling, garage and driveway has a site coverage exceeding 50% of the site the landscaping area is compliant to provide 40.3% net landscaping. Comprehensive landscaping works are proposed to compliment the building and create a landscaped setting for the building with trees and shrubs that are commensurate with the building bulk and scale, but do not create unreasonable impacts on views either.

The application has been assessed against the provisions of Clause D9 Building Bulk and found to be consistent with the objectives and requirements of that clause in that:

*Side and rear setbacks have been progressively increased as wall height increases;
Large areas of continuous wall planes have been avoided by varying building setbacks and using appropriate techniques to provide visual relief.*

The height and bulk of the development has been minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope.



The appropriateness of the height and bulk of the development is considered to be consistent with the planning principle established in the Land and Environment Court case *Flashing v Randwick Council* [2007] NSWLEC 428.

Therefore, this issue has been addressed by the design and does not warrant refusal of the application.

- ***Concern is raised that the proposed height of the development will adversely impact upon views.***

Comment:

The building height is compliant with the required 8.5m Development Standard. As a result, the proposal was found to satisfy the various objectives of the Standard and the zone. The extent of view loss as a result of the non-compliance was found to be reasonable in this instance and did not warrant the refusal of the application.

- ***Concern is raised that the development does not comply with the requirements of the wall height control and that it will have a significant visual impact upon the neighbouring property (No. 11 Loch Street) and significant loss to north/north easterly views from this property.***

Comment:

This issue has been addressed in detail in this report (refer to Clause B1 - Wall Height under the WDCP 2011).

In summary, the non-compliance was found to satisfy the various objectives of the control and had negligible impact upon view loss such that the non-compliance did not warrant the refusal of the application.

- ***Concern is raised that the proposed side boundary envelopes will adversely impact upon views from No. 11 Loch Street and be visually dominant, and result in unreasonable overshadowing.***

Comment:

This issue has been addressed in detail in this report (refer to Clause B3 - Side Boundary Envelope under the WDCP 2011)

In summary, the non-compliance was found to satisfy the various objectives of the control and had negligible impact upon view loss such that the non-compliance did not warrant the refusal of the application.

- ***Concern that the excavation of the proposal is excessive and the building does not retain landscaping features.***

Comment:

The proposal includes the demolition of the existing dwelling and construction of a new contemporary dwelling house with a garage, pool and landscaping works. Re-development of the site requires some excavation work for the lower level. The excavation is considered reasonable and satisfies the objectives of the C7 Excavation and Landfill control. Appropriate areas of natural rock face will now be retained, as far as practicable. Landscaping will be provided to enhance the areas of natural rock face along the rear setback area that will be conserved in-situ.

The landscaped area will improve the visual setting of the building in the surrounding environment and reduce any unreasonable impacts on the excavation of the natural rock face and improve the landscape setting.



This issue has been addressed in further detail within the report and does not warrant refusal of the application.

- **Concern about excavation impacts of noise, vibration and dust that may affect adjacent properties.**

Comment:

Conditions are recommended to ensure appropriate site management to minimise noise, dust and potential excavation impacts. Conditions include limitation on construction / excavation hours, noise and site management to ensure no unreasonable amenity impacts. A condition for a dilapidation report is recommended to protect against dilapidation risks to adjacent land.

Standard conditions are also applied to ensure works are carried out in an appropriate manner to comply with occupational health, safety and noise amenity laws.

Therefore, this issue does not warrant refusal of the application, subject to conditions.

- **Concern that the proposal includes a swimming pool creates a bulk and scale that is unreasonable and inconsistent with the area.**

Comment:

The pool location and shape has been amended to ensure it does not create privacy impacts to the rear adjoining properties as there is no accessible area on the eastern side that would permit overlooking from a forward position. The pool satisfies the objectives of B9 Rear Setback & D16 Swimming Pools and Spa Pools control and is consistent with surrounding pools in the area, in similar sloping locations i.e No. 17 Loch Street. The pool area is integrated into sloping topography of the rear of the site and forms part of the usable open space for the subject site. Conditions will be imposed to ensure that the pool filter is enclosed in a sound proof enclosure to minimise acoustic impacts.

This issue has been addressed in detail within the report and does not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	
NECC (Bushland and Biodiversity)	<p>The following Warringah DCP Controls have been considered:</p> <ul style="list-style-type: none"> - E1 Preservation of Trees or Bushland Vegetation - E5 Native Vegetation <p>The development is considered to comply, subject to retention of protected native trees and appropriate landscaping.</p>
NECC (Development Engineering)	<p>The stormwater management for the development prepared by ITM design is not in accordance with Council's Warringah Water Management Policy PL 850" in particular the Stormwater Drainage from Low Level Properties Technical Specification. The proposed pump out drainage system to the street kerb is also not permitted. The On Site Detention basin management is required to be re-designed to</p>



Internal Referral Body	Comments
	restrict stormwater flows from the whole site for all storms event up to an including the 1 in 100 ARI storm event. No Development Engineering objection subject to conditions of approval.
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response on the 7 May 2020 stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

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

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1064274S dated 10 March 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 1064274S dated 10 March 2020).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	Pass
Thermal Comfort	Pass	Pass
Energy	50	Pass

A condition has been included in the recommendation of this report requiring compliance with the



commitments indicated in the BASIX Certificate.

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. A response was received by Council on the 7 May 2020, whereby there are no objections to the proposal subject to compliance with the relevant Ausgrid Network Standards and Safe Work NSW Codes of Practice for construction works near existing electrical assets.

Warringah Local Environmental 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	3.1m - 8.4m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	3.1m - 7.6m North 4.1m - 8.4m South	up to 5.6% up to 16.6%	No No
B3 Side Boundary Envelope	5m North	No encroachment	-	Yes
	5m South	0.4m - 0.6m in height for a length of 3.8m	up to 8%	No
B5 Side Boundary Setbacks	0.9m North	<u>Level 1</u> 1.5m Dwelling	-	Yes
		2.4m Rear Terrace (2)	-	Yes
		1.8m - 3m Swimming Pool	-	Yes
		1.1m - 2.8m Pool Terrace	-	Yes
	0.9m South	<u>Level 2</u> 0.9m Garage	-	Yes
		1.5m - 5.2m Dwelling	-	Yes
		2.3m Terrace (1)	-	Yes
		<u>Level 3</u> 2.1m - 4.2m Dwelling	-	Yes
		<u>Level 1</u> 1.5m Dwelling	-	Yes
		2.7m Rear Terrace (2)	-	Yes
B7 Front Boundary Setbacks	6.5m	2.6m - 3.9m Swimming Pool	-	Yes
		2m - 3.7m Pool Terrace	-	Yes
		<u>Level 2</u> 5.1m Garage	-	Yes
		1.5m Dwelling	-	Yes
B9 Rear Boundary Setbacks	6m	2.7m Rear Terrace (1)	-	Yes
		<u>Level 3</u> 1.5m - 5.1m Dwelling	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (252.92sqm)	<u>Level 2</u> 6.5m Garage	-	Yes
		11.1m Dwelling	-	Yes
		<u>Level 3</u> 11.7m - 13.8m	-	Yes
B7 Front Boundary Setbacks	6.5m	21.9m Dwelling	-	Yes
		4.4m - 7.1m Swimming Pool	-	Yes*
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (252.92sqm)	40.3% (255sqm)	-	Yes

*Exception for swimming pools.

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	Yes	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	No	Yes
D7 Views	No	Yes
D8 Privacy	No	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	No	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	No	N/A
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights



Description of non-compliance

The non-compliance is located at the rear section of the building as the topography falls to the east. The non-compliance forms triangular sections which reduces as the site rises towards the west.

The wall height on the northern elevation is 3.1m to a maximum of 7.6m, which represents a variation of 0.4m (5.5%), as demonstrated in Figure 1 below.

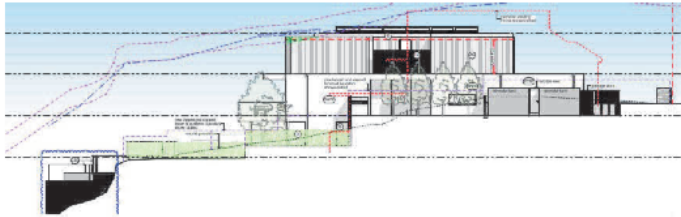


Figure 1: Northern elevation wall height non-compliance shown in green.

The wall height on the southern elevation is 4.1m to a maximum of 8.4m, which represents a variation of up to 1.2m (24%), as demonstrated in Figure 2 below.



Figure 2: Southern elevation wall height non-compliance shown in green.

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 extent of the non-compliance on the northern elevation (0.4m) is considered to be minor, and when compared to a compliant wall height, would not result in any notable improvement to the overall visual appearance of the development.

The southern elevation wall height non-compliance is 1.2m is also considered reasonable as the breach does not extend for the full length of the side wall, the non-compliance does not unreasonably offend the visual appearance of the development by resulting in an unreasonable bulk and scale when viewed from adjoining properties and streets.

The largest area of non-compliance occurs within a relatively minor area with the most notable component situated at the southern edge of the building which gradually decreases to full



compliance at 4.2m to the west. It is also noted that the side setback of the non-compliance on the southern elevation is a reasonable spatial distance of 3.5m and is sufficiently articulated through recessed walls and mixed materials. Therefore, the visual impact of the non-compliance from the street, and from the neighbouring property to the south (No. 11 Loch Street) is minimised through the combination of topography and design elements.

The development is considered to be consistent with this objective.

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

Comment:

The development is generally beneath the existing tree canopy level.

The development is considered to be consistent with this objective.

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

Comment:

The non-compliance on both the northern and southern elevation does not result in any unreasonable loss of views to and from public and private properties.

The development is considered to be consistent with this objective.

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

Comment:

The impact of the non-compliant element to the north is considered minor, and as a result does not create any unreasonable impacts to the northern adjoining site.

The non-compliant element to the south is also considered reasonable, particularly as the non-compliance displays a significant southern side setback of 3.5m and also diminishes to a compliance as you move towards the western boundary. The spatial separation (3.5m) from the southern side boundary also breaks up the wall plane providing visual relief to the adjoining property to the south. The reducing effect of the non-compliance will not have any unreasonable impact on adjoining or nearby properties. The non-compliance has no impact on established view lines from the adjacent land. Overall the proposal will not create an unreasonable impact on adjoining land.

The development is considered to be consistent with this objective.

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

Comment:

The development responds to the topography of the site by incorporating a stepped design. The



development involves minor excavation at the point of the non-compliance (approximately 0.5m to 2.5m) but this is not considered to be of detriment to the natural landform such that it would detract from the natural visual qualities of the local area.

The development is considered to be consistent with this objective.

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

Comment:

The development includes flat roof design which is considered to be appropriate for the character of the area and surrounding development. Any change to the wall height to achieve compliance would not result in a change to the pitch or design of the roof form. As a result, the development provides for an innovative roof form in the shape of a flat roof plane design to respond to the layout and contemporary design of the building.

The development is considered to be consistent with this objective.

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 s1.3 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

Clause B3 permits a side boundary envelope of 5.0m x 45°. The development proposes the following side boundary envelopes:

- Southern elevation: 0.4m - 0.6m in height for a length of 3.8m
- Northern elevation: no encroachment

The non-compliant areas occur along the top edge of the southern elevation (area adjoining the stairs/void area).

The figure below indicates (in green) the area of non-compliance.

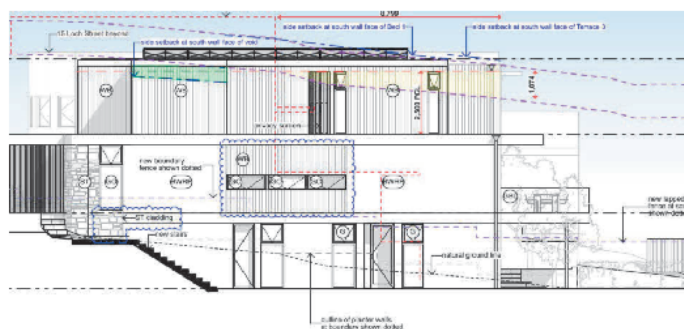


Figure 3: Southern elevation building envelope non-compliance shown in green.



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 non-compliant area is numerically minor and located in a rectangular area at the top edge of the roof parapet. It is noted that the development is similar in height and scale to that of surrounding development and, when viewed from the street, the proposal will present as a two storey dwelling commensurate to other two storey dwellings in the local area. In this regard, the non-compliance is visually indiscernible and does not noticeably add to the bulk and scale of the building such that the development becomes visually dominant when viewed from the street and surrounding properties.

In this respect, it is considered that the breach to the side boundary envelope will not result in the development becoming unreasonably visually dominant by virtue of its height and bulk.

The development is considered to satisfy this objective.

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

Comment:

The development ensures that adequate light and sunlight access is provided to neighbouring properties (as required under Clause D6 - Access to Sunlight under the WDCP 2011).

As noted above, the non-compliant elements are numerically minor and located at the top edge of the roof parapet. In this regard, the non-compliant elements do not unreasonably diminish the provision of solar access to neighbouring properties, particularly given that these elements are situated well below the compliant building height.

The non-compliant element occur at the top edge of the roof parapet to the southern side wall of the stairwell/void area and contains one window opening that will be conditioned to be of opaque glazing. As such, the non-compliance do not involve any features which would directly impact upon the privacy of neighbouring properties.

In this respect, it is considered that the breach to the side boundary envelope will not result in unreasonable impact to light, sunlight access and privacy.

The development is considered to satisfy this objective.

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

Comment:

The site is located on the lower side of Loch Street and slopes downward from the front



boundary to the rear boundary by approximately 11.1m, representing an average slope of 21.6%, with the most notable slope occurring within the rear setback area where the site slopes 7.0m.

The development has been designed to respond to this topography, and neighbouring development, by stepping back from the front boundary at the upper level. The development is consistent with surrounding development and responds appropriately to the topography of the site.

The development is considered to be consistent with this objective.

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 s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B9 Rear Boundary Setbacks

The proposed swimming pool is located 4.4m - 7.1m from the rear boundary, thereby contravening the minimum 6m setback requirement.

However, in accordance with the exceptions provision, swimming pools may encroach the rear setback area provided the area of the pool does not exceed 50% of the setback area provided that the objectives of this provision are met. In this instance, the pool encroaches a very minor area of 4.9sqm of the approximately 52.8sqm rear setback area, see figure 4 below.

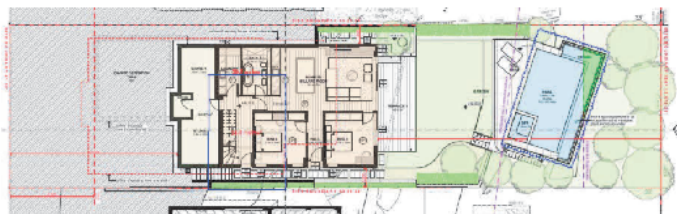


Figure 4: Non-compliance area within the rear setback shown in green.

As a result, the variation is acceptable as it satisfies objectives of the Control as follows;

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The site has a sufficient provision of landscaped open space in accordance with the requirements of Part D1 of the DCP. The proposed swimming pool has a setback of between 4.4m and 7.1m which enables the planting and establishment of landscaping that will soften the built form. Accordingly, the development satisfies this objective.

- *To create a sense of openness in rear yards.*

Comment:

The subject site does not have a traditional rear yard due to the very steep topography. The rear



yard of the site has a steep slope of approximately 7m which inhibits the practical and functional use of the space. By creating a swimming pool and associated recreational terrace areas within the sloping topography ensures the existing sense of openness will not be impacted upon by virtue of the opportunities for landscaping, and from the built form itself. The proposal will significantly enhance a sense of openness by making the space usable and accessible. Accordingly, the development satisfies this objective.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

The encroachments into the rear setback area do not impact upon the amenity of any adjoining land, given that the design of the proposed pool does not provide trafficable areas along the eastern elevation, with the main area of recreation being the associated swimming pool terrace area is located approximately 9.6m - 12m from the rear boundary. As a result, the development satisfies this objective.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

The existing streetscape has a varying level of rear boundary setback with varying structures throughout including sheds, dwelling houses and swimming pools. The development proposed has a similar setback to other surrounding developments, particularly No. 17 and No. 23 Loch Street, and thereby satisfies this objective.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

The development will not give rise to any adverse privacy impacts upon adjoining dwellings due to the design of the swimming pool which limits trafficable areas within the rear setback. The high elevation of the subject site, creates a view line towards the substantial views towards the north, east and south rather than a downward view to the adjoining sites on the lower position on the escarpment.

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.

D6 Access to Sunlight

Clause D6 requires that at least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.

Council may consider a variation to this control in the particular circumstances of a proposal, where an applicant can demonstrate, to the satisfaction of Council that:



- i) the slope or topography of the site or adjoining property makes compliance impractical; and*
ii) other design options have been investigated which would comply but would unreasonably constrain the development of an otherwise compliant building.

The property to the south (No. 11 Loch Street) is most affected by the proposed development in relation to solar access. The position of the two dwellings is such that No. 11 Loch Street is significantly constrained in this regard; meaning that complete overshadowing currently occurs from the existing structure on No.13 Loch Street.

The D2 Private Open Space control dictates that the required area of private open space is to have an area of 60m², a minimum dimension of 5 metres, and is to adjoin the living areas of the dwelling.

When assessing the private open space area for 11 Loch Street, the elevated external terrace adjoining the lounge has a minimum dimension of less than 5 metres (approximately 3.0 metres when measured from the submitted survey). However, No 11 Loch Street has additional areas of private open space along the rear elevation of the dwelling. The lower terrace area and rear yard are appropriate in size, i.e. dimensions greater than 5m, however these areas are not directly accessible from the living areas. As a result, due to the unique design of the proposal it is considered appropriate that the elevated terrace, lower terrace and rear yard will be combined and taken into consideration collectively as the private open space areas, particularly as this is where it is most likely that private outdoor activity occurs given the expansive views and that the primary living areas flow out and can readily access these areas.

The certified shadow diagrams submitted with the application indicate that the development would overshadow the southern neighbouring site at 9.00am then moving across the rear yard throughout the day.

The degree of overshadowing varies in coverage with the worst period being at noon to 3.00pm due to the development being located directly due south to the neighbouring site.

Because of the southern location of No. 11 Loch Street to the development, and the permitted (and compliant) building height in the area, it is reasonable to expect that overshadowing will occur to some extent. An examination of the plans indicates that because of the location, shape and size of the site, the relocating or redesigning of the proposed building would not provide any notable relief to the neighbouring property except to only permit the construction of a single or two storey building, or limit the building footprint via the requirement of rear setbacks that mimic the existing dwelling house setbacks (over 25m) which would be an unreasonable and onerous imposition upon the development potential of the site.

Notwithstanding, the numerical departure from the requirement is not considered to be excessive or unreasonable during the nominated morning periods (ie: 9.00am to 12.00pm) and that a reasonable level of access to sunlight is maintained.

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 reasonable access to sunlight is maintained.*

Comment:



The Certified Shadow Diagrams (refer to Plan No. DA15 - 17(G) indicate that the shadow cast to the south will completely shade the upper terrace areas located in the side setback area to the south, and partially shade the eastern terrace and rear yard area at 9.00am and 12.00pm on 21 June.

It is noted that, due to the sloping topography of the land, No. 11 Loch Street is sited lower than the subject development and immediately south of the subject site. The combination of the southern location, east-west orientation and lower position of No. 11 Loch Street renders itself to a high level of overshadowing across the north-facing elevation on 21 June.

An examination of possible alternative solutions reveals that the only relief would be provided by requiring the dwelling house to be reduced to single or two storey only. However, it should be noted that the reduction to a two storey would reduce the extent of overshadowing to only a minor extent and still overshadow the north-facing external courtyard areas and the majority of the north-facing facade at 9.00am and 3.00pm. Given this context, it would be considered to be unreasonable to require the reduction of to two storey especially given that they comply with the Objectives and Requirements of the Height of Buildings Development Standard under the WLEP 2011. The other alternate solution would be to mimic the existing setback, thereby restricting the rear setback of the built form to over 25m. Due to the orientation and susceptibility of the side setback elevated upper terrace, this is also considered unreasonable in this instance.

The development has been designed to include a 3.5m wide separation between No. 11 Loch Street and upper storey element which will assist in providing a visual break in the proposed built form and in facilitating sunlight access to No. 11 Loch Street, particularly between 9.00am and 12.00pm.

In this regard, it is considered that the development has been designed in an attempt to provide a reasonable level of access to sunlight given the constraints the site and that limited access to sunlight to the neighbouring building to the south is unavoidable.

The proposal satisfies this Objective.

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

Comment:

The development is a modern and innovative design that would reduce the visual impact of the development by reducing the overall height and scale of the building when viewed from the Loch streetscape as shown in Figure 5 & 6 below.



Figure 5: The reduction in the building height and built form along the northern elevation shown in red from the Loch Street streetview (applicant submitted photo montage)



Figure 6: The reduction in the building height and built form along the southern elevation shown in red from the Loch Street streetview (applicant submitted photo montage)

The proposal provides more than compliant set backs to the southern section of the development in order to reduce the potential overshadowing impacts over the adjoining property. Furthermore, the proposed flat roof plane design has been incorporated to reduce the impact of the proposed structure on the of solar access of No.11 Loch Street. In this regard, it is considered that innovative design solutions have been given consideration to the impacts upon the surrounding area.

It is considered that the development satisfies this objective.

- *To maximise the penetration of mid winter sunlight to windows, living rooms, and high use indoor and outdoor areas.*

Comment:

As noted above, the primary living areas of the neighbouring property at No. 11 Loch Street are to the rear (as this is where the main views of Dee Why Headland, Curl Curl Beach and the ocean are obtained). These high use areas will continue to retain the minimum of 3 hours of sunlight between 9am and 3pm on June 21.

It is considered that the development satisfies this objective.

- *To promote passive solar design and the use of solar energy.*

Comment:

The development does not include any detail with respect to the use of solar energy however, it does alter the northern and eastern elevations such that greater (passive) enjoyment of sunlight access can be achieved (i.e. through the incorporation of balconies) and cross-flow ventilation through the associated windows and sliding doors which would provide more efficient cooling than is currently available.

It is considered that the development satisfies this objective.

- *To minimise the need for artificial lighting.*

Comment:

The development is sited in an elevated position due to the topography of the land and does not require artificial lighting due to its exposure to sunlight throughout the day.



It is considered that the development satisfies this objective.

Planning Principle consideration

The 'Access to sunlight' planning principle from the *Benevolent Society v Waverley Council* [2010] NSWLEC 1082 has been considered below. Relevant parts of the planning principle include:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*
- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*
- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*
- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*
- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*

Comment:

Given the constraints of the site (listed above) this is a case where "*even at low densities there are sites and buildings that are highly vulnerable to being overshadowed*". However, even in mid-winter, direct sunlight continues to reach the terrace area and rear yard area between 9am and 12noon on the 21 June. Finally, the proposal is not a poor design. As described above, multiple design considerations have been incorporated to maximise the amount of sunlight to No.11 Loch Street.

Overall, the proposal, while not strictly complying with the requirements of the control, meets the criteria for a variation and meets the objectives of the control.

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 s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D7 Views

Merit consideration

A submission was received from the adjoining property to the south, No. 11 Loch Street which included



concerns in regards to view loss.

The figure below provides a expansive depiction of the location and view angles of all sites relative to Curl Curl Beach and Dee Why Headland, the views obtained from the properties.



Figure 7: Proximity of the subject site and neighbouring sites to the coastline and Curl Curl beach.

Following an initial site inspection a request was made to erect height poles to determine the impact of the development on views.

The height poles were erected and inspections of the No. 11 Loch Street occurred.

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:

A view sharing analysis was undertaken from the adjoining property to the south of the subject site at No.11 Loch Street. The view is one that is highly valued by the occupants. The view is achieved primarily over the eastern rear boundary, the north-eastern side boundary and the south-eastern side boundary. The views are of Curl Curl Beach, Dee Why Headland, Curl Curl Lagoon, horizon and the interface between the land and the ocean water as shown in Photo 1 below. The views are considered to be highly valuable in the context of these principles.



Photo 1: montage of the existing north-east, east and south-east views from 11 Loch Street from the rear balcony.

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:

Views are primarily obtained from the elevated ground floor of the dwelling which consists of a kitchen, dining room and living area which leads onto a terrace at the side of the property leading to a balcony at the rear of the dwelling. Views are also obtained from the lower level bedroom and rear terrace. The views to be impacted are across the side boundary (to the north-east) and are obtained from a sitting and standing position. There is no impact to the existing views to the east or south-east. The views to the main areas of significance, i.e Headland, Beach and Lagoon have partial vegetation obstruction. It is considered that views over a side boundary are more difficult to protect than those from a front and rear boundary (primary view). Additionally, the expectation to maintain sitting views are even more difficult to maintain.

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:

The proposed development will reduce views available from high use area, being rear balcony, side terrace, kitchen, dining room and lounge area. The proposed development will also reduce views from the low usage room being the lower ground bedroom.



The affected view from the lower ground bedroom is to the north-east that consists of a partial Cur Curl beach view and filtered Headland, which will be lost completely as the result of the proposed development. However, it is noted that view is obtained over a side boundary area is difficult to maintain and the location and orientation of the window makes it extremely susceptible to view loss. In this regard, the view loss is considered to be **severe**, based on the view corridors to be impacted and the loss of view of the beach area, surf zone and coastal fringe including part of the headland. The view impact is not considered "devastating" since alternative water / ocean views exist toward the east of the property and this view will not be affected. The views from the rear terrace and rear yard and rear terrace is considered **minor** due to the retention of Curl Curl Beach, Curl Curl Lagoon and the Dee Why Headland.

The views obstructed from the upper ground floor are of Curl Curl Beach, Curl Curl Lagoon and the Dee Why Headland, and become more severe as you transition from the rear balcony into the dwelling house. However, all views to the east and south-east of water views and views of and the beach / surf zone remain. The extent of the impact is as follows:

- Lounge room - **minor** (loss of ocean water and headland obstructed by vegetation)
- Dining area - **moderate** (views of the Headland and Curl Curl beach are retained)
- Kitchen – **moderate** (views of the Headland, and beach are retained. However, views of Curl Curl Beach are reduced and Curl Curl lagoon is lost)
- Upper terrace - **severe** (Views of the Head, Curl Curl Lagoon, Curl Curl Beach are lost)
- Rear balcony - **minor** (views of the Headland and Curl Curl Beach are retained)



Photo 2: Photo of north-east views from the terrace. **Photo 3:** Photo of the north-east views from the dining room

In this regard, the view loss is considered to be "**moderate to severe**", based on the view corridors to be impacted and the loss of view of the beach area, surf zone and coastal fringe



including part of the headland. The view impact is not considered "severe to devastating" since alternative water / ocean views exist toward the east of the property and this view will not be affected. Furthermore, it is noted that No.11 Loch Street has an opportunity to extend the dwelling with an additional storey, which allows for additional views.

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 question of a more skilful design has been considered in that a close analysis of the plans identifies the only opportunity to retain the existing view lines from No. 11 Loch Street is to limit the built form at the rear of the site, and mimic the current rear setbacks on the site. This is considered unreasonable in this instance as the rear setback would be required to be over 25m.

The proposed development complies with the required building height, and sits at a lower overall building height than the existing dwelling. The proposal also provides greater side setbacks than the existing dwelling. As a result, the design has allowed additional views to be obtained from the neighbouring houses that obtain views over the subject site, as shown in Figures 5 & 6.

Of relevance to view sharing, the development has been found to exhibit non-compliance with the wall height and building envelope built form control. However, the non-compliance with the wall height and building envelope have negligible view impacts to the southern neighbouring property.

Therefore, it has been assessed that the non-compliance is minor and achieves consistency with the objectives of the control, and have subsequently been supported.

Conclusion

The current view lines from No. 11 Loch Street, over the north-eastern side boundary are extremely vulnerable to any form of development on the subject property. The proposals compliance with the building height control at the maximum ridge height combined with design features such as a low roof pitch, maintains a reasonable view sharing corridor with the additional view loss considered to be reasonable and view sharing acceptable.

Whilst it is noted that the view impact on the adjoining property is moderate to severe, however, given that the view is obtained across a side boundary, the view is difficult to maintain. The proposed development complies with the building height control as it relates to view sharing, and therefore an amendment or refusal of the application is not warranted in this particular circumstances.

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



Comment:

The proposed flat roof plane roof plane, and larger side setbacks opens up the view lines for overlooking properties, improving surrounding amenity. As a result, the proposal demonstrates adequate design solutions in an attempt to develop a proposal that incorporates modern and contemporary architecture that is directly responsive to the natural topography of the land.

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

Comment:

The existing canopy trees within the vicinity will be maintained ensuring consistency with this objective.

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 s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D8 Privacy

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

Three submissions were received from properties No. 4 No. 6 and No.8 Loch Street, specifically in relation to the swimming pool and terrace area. However, amended plans were received that removed the trafficable area surrounding the swimming pool from the rear setback and created an infinity pool edge. The main terrace area for the swimming pool area is located approximately 9.6m - 12m from the rear boundary, a sufficient distance to ensure forward facing unreasonable overlooking is minimised.

A submission was also received from No. 11 Loch Street in regards to privacy.

The southern elevation includes new window openings and balcony areas. Level 1 includes windows W6, W7, W8, W9 that service bedrooms and a hallway, door W10 adjoins the stairwell. Opportunities for overlooking from W10, or the proposed window are unlikely given the use of the room and the location on the lower ground floor. No mitigation measures are required.

Level 2 includes window W16 servicing the pantry. Overlooking from this window could occur, however it is proposed that these windows are to be opaque glazing to ensure privacy levels are maintained.

Level 3 includes windows W23 and W24 that service a bedroom, window W25 that services a ensuite, with W28 servicing the stairwell. Window W25 proposed a privacy screen to reduce privacy impacts, however no privacy mitigation are proposed for windows W22, W24 or W28. As a result, due to the orientation of W28, W23 & W24 and the potential overlooking that could



occur it is recommended that these window contain opaque glazing or appropriate privacy screening.

The northern elevation proposes A new window opening, however there is no direct overlooking privacy impacts to the northern adjoining site. Level 3 proposes one window W19 adjoining the entry to the master bedroom. This window is located approximately 4.2m from the northern boundary and does not adjoin any windows neighbouring windows or private open space areas. Privacy mitigation is not required due to the spatial distance and location.

Level 2 has an addition window W11 servicing a study and glazed doors W13 that service the dinning room and are located 5.1m from the northern adjoining boundary. Consequently, the distance and usage of the room does not require additional privacy measures for these glazed elements.

Level 1 windows service bedrooms and are considered low usage rooms. The location also does not facilitate unreasonable overlooking to the northern adjoining site.

The proposal also includes two elevated balcony areas. The Level 3 balcony area is located behind the dwelling house side wall elevation. As a result, direct overlooking to the north and south adjoining sites is mitigated.

Level 2 also has a balcony area that has the potential to overlook into the northern and southern neighbouring sites. However, the general orientation of properties along the escarpment are towards the north, east and south to capture the expansive views to the Headlands and Collaroy Beach. The location of this balcony sits forward of the No. 11 Loch Street built form and private open space areas, and also provides side setbacks of 2.8m. The balcony sits alongside the wall plan elevation of No. 15 to the north and provides a setback distance of 2.3m.

The addition of a privacy screen would significantly add to the bulk and scale of the built form and would not demonstrate a skilful approach to managing the visual privacy as a result of the slope, nor preserve the scenic views lines and encourage view sharing. Therefore, additional privacy measures are not required.

Therefore, subject to conditions, the application proposes a range of amendments to the design of the dwelling that satisfy the requirements of the control.

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

Comment:

The proposal is an innovative design that responds to the steep topography site but still achieves side setbacks for bedrooms and living spaces and retains sufficient internal dimensions for liveability and other areas for essential site facilities. The design does not create unreasonable overlooking and the placement of living spaces between neighbouring properties minimises privacy impacts.

- *To provide personal and property security for occupants and visitors.*

Comment:

The site maintains security by the provision of visible pathways to the front entry area, and minimal structures for carparking so the dwelling is visible to the road. The dwelling design does



not create any unreasonable property security or personal security issues for occupants or visitors, and new front boundary fencing will maintain privacy and security to the occupants of 13 Loch Street.

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 s1.3 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

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 proposal displays a compliant building height (3.1m - 8.4m) and adequate spatial separation to surrounding properties. The proposal includes sufficient varied wall planes and change of materials along all elevations particularly within the front setback area to Loch Street with sufficient variation to building setbacks to provide visual relief and address the street.

In this regard, sufficient techniques have been used to provide visual interest, fenestration, articulate walls to reduce building mass and reduce the appearance of building bulk along all elevations. Landscape plantings are also adequate to reduce the visual bulk of the building, provide effective screening and a landscaped setting for the bulk and scale of the building.

As a result the proposal satisfies the objectives of the control.

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

Comment:

The proposed building bulk does not create an unreasonable visual impact via insufficient spatial separation on adjacent properties or the streetscape. The proposal also does not unreasonable impact the significant coastal views, or adversely affect the amenity of surrounding sites.

In this regard it is considered the development appropriately addresses the street frontage of Loch Street, and the surrounding properties by providing sufficient landscape plantings to reduce the visual bulk and adequate variation to building materials and windows to create visual interest.

As a result the proposal satisfies the objectives of the control.

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 s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.



D13 Front Fences and Front Walls

The proposal includes an open style slat front fence with a height of 1.1m - 1.4m.

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 fencing, terracing and retaining walls are compatible with the existing streetscape character while creating visual interest in the public domain.*

Comment:

A site visit and review of the plans indicates that the combination of sandstone column and slat fencing is consistent in construction and height with existing fences along the street and in the area overall.

Therefore, the proposed fence upgrades the site frontage, allows for casual surveillance to the site, and thereby increases visual interest in the streetscape overall.

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

Comment:

The proposed mixed style of sandstone column combined with incorporated landscaped zones and slatted fencing provides a design solution for safety and security for the occupants, whilst improving the overall outlook of the built environment.

- *To avoid a 'walled in' streetscape.*

Comment:

The proposed front fence is 1.2 - 1.4m in height with a mixed style of masonry wall combined with landscaped zones and slatted areas, vehicle access gate and a pedestrian access. The mixed material style, proposed vegetated areas combined with the modest overall height will not result in the "walled in" of the street.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent / consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported / is not supported, in this particular circumstance.

D15 Side and Rear Fences

The application includes a side boundary 1.8m lap and cap fence. No owners consent from No. 15 or No. 11 Loch Street was received as part of the application. This height of boundary fencing can also be undertaken via the provisions of *State Environmental Planning Policy Exempt and Complying Development*. As a result, the side boundary fencing will be removed from the proposed works via a condition.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES



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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$25,149 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,514,875.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 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

The assessment of this application has found that the proposed development is consistent with the planning controls applicable to the site and the locality and is generally reasonable and acceptable and can be supported subject to general and special conditions.

The assessment also concludes that the built form of the proposed dwelling house is acceptable within the context of the site, and would not result in any significant adverse environmental or amenity impacts.

In this regard, the main issues raised by those who made submissions was the impact on views and



privacy. The re-design of the swimming pool and the full compliance with building height, side setbacks, combined with minor variations to the wall height and envelopes is indicative of a reasonable size and scale of building relative to view impacts and view sharing as discussed in detail in this report.

It is considered that the scale of the non-compliances is minor and suitable conditions have been imposed in relation to privacy. On this basis, the proposal will not have any unreasonable amenity impacts on adjoining properties and is consistent with the character of Loch Street and the Curl Curl locality.

In summary, the application should be approved as the design is reasonable for the site by virtue of the level of non-compliance that does not create unreasonable amenity impacts on surrounding developments or the streetscape character.

As a direct result of the application and the consideration of the matters detailed within this report, it is recommended that approval be granted to the Development Application subject to the conditions detailed within the "Recommendation" section of this report.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.
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 DA2020/0370 for Demolition works and construction of a dwelling house including a swimming pool on land at Lot 3 DP 14040, 13 Loch Street, FRESHWATER, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Analysis DA02 Rev E	8/7/2020	Corben Architects
Level 1 Plan DA03 Rev G	8/7/2020	Corben Architects
Level 2 Plan DA04 Rev G	8/7/2020	Corben Architects
Level 3 Plan DA05 Rev G	8/7/2020	Corben Architects
Site and Roof Plan DA06 Rev G	8/7/2020	Corben Architects
Excavation and Demolition Plan DA07 Rev E	8/7/2020	Corben Architects
North Elevation DA09 Rev F	8/7/2020	Corben Architects
South Elevation DA10 Rev F	8/7/2020	Corben Architects
West and East Elevation DA11 Rev F	8/7/2020	Corben Architects



Section A DA12 Rev E	8/7/2020	Corben Architects
Section B DA13 Rev F	8/7/2020	Corben Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Assessment	February 2020	STS Geotechnics Pty Ltd

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

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.

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	7 May 2020

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the



work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether



the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall



- notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
 - (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$25,148.75 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$2,514,875.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as



adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

6. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

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

7. **Stormwater Disposal from Low Level Property**

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's "Warringah Water Management Policy PL 850" in particular the Stormwater Drainage from Low Level Properties Technical Specification. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's "Warringah Water Management Policy PL 850" are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

It is to be noted that a pump out drainage system will not be permitted. A revised stormwater management plan in compliance with the above policy is to be approved by an accredited certifier in Civil Engineering.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.



8. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

A) The proposed side boundary fencing, as indicated on the approved plans do not form part of this development consent. Reference to side boundary fencing is to be removed from the approved plans prior to the issue of the construction certificate.

B) Windows W16 on the southern elevation & W28 on the eastern elevation are to be of opaque glazing.

C) Windows W23 & W24 on the southern elevation are to be of opaque glazing or incorporate privacy screening with vertical louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

9. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

10. **Shoring of Council's Road Reserve (Temporary road anchors)**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

11. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.



Reason: To facilitate suitable vehicular access to private property.

12. **Compliance with Standards**

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

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

Reason: To ensure the development is constructed in accordance with appropriate standards.

13. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

14. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- o "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- o Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

15. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the adjoining properties 11 Loch Street & 15 Loch Street must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls,



ceilings, roof, structural members and other similar items.

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

17. Road Reserve

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

Reason: Public safety.

18. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

19. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with



levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

20. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 2.0 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/3 and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

21. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

22. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports for 11 Loch Street and 15 Loch Street, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

23. **Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.



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

Reason: To facilitate the preservation of on street parking spaces.

24. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

25. **Retaining wall**

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Public and Private Safety

26. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

27. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

28. **Swimming Pool Requirements**

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



(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

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

Reason: To protect human life (DACPLF09)

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

29. **Retention of Natural Features**

All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To ensure the retention of natural features.

30. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

31. **Dead or Injured Wildlife**

If construction activity associated with this development results in injury or death of a native



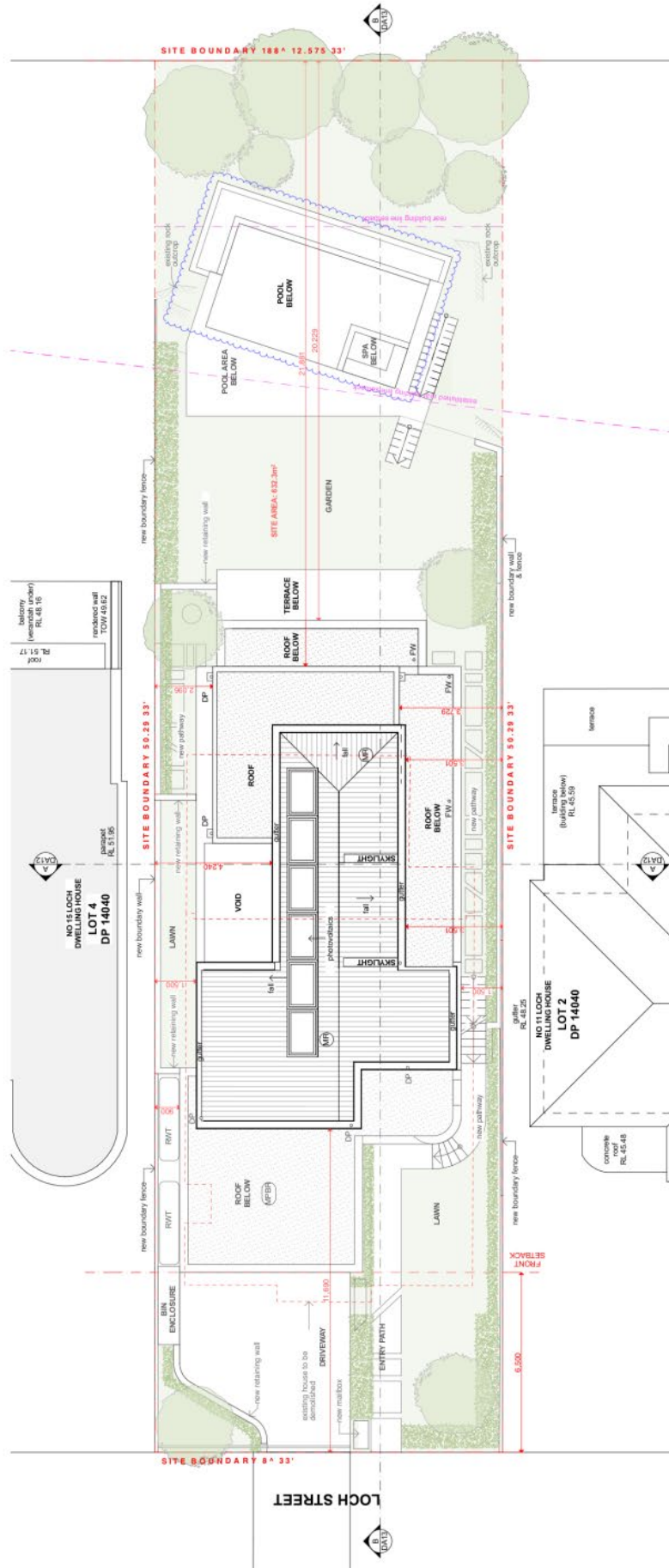
mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

32. **Swimming Pool Pump**

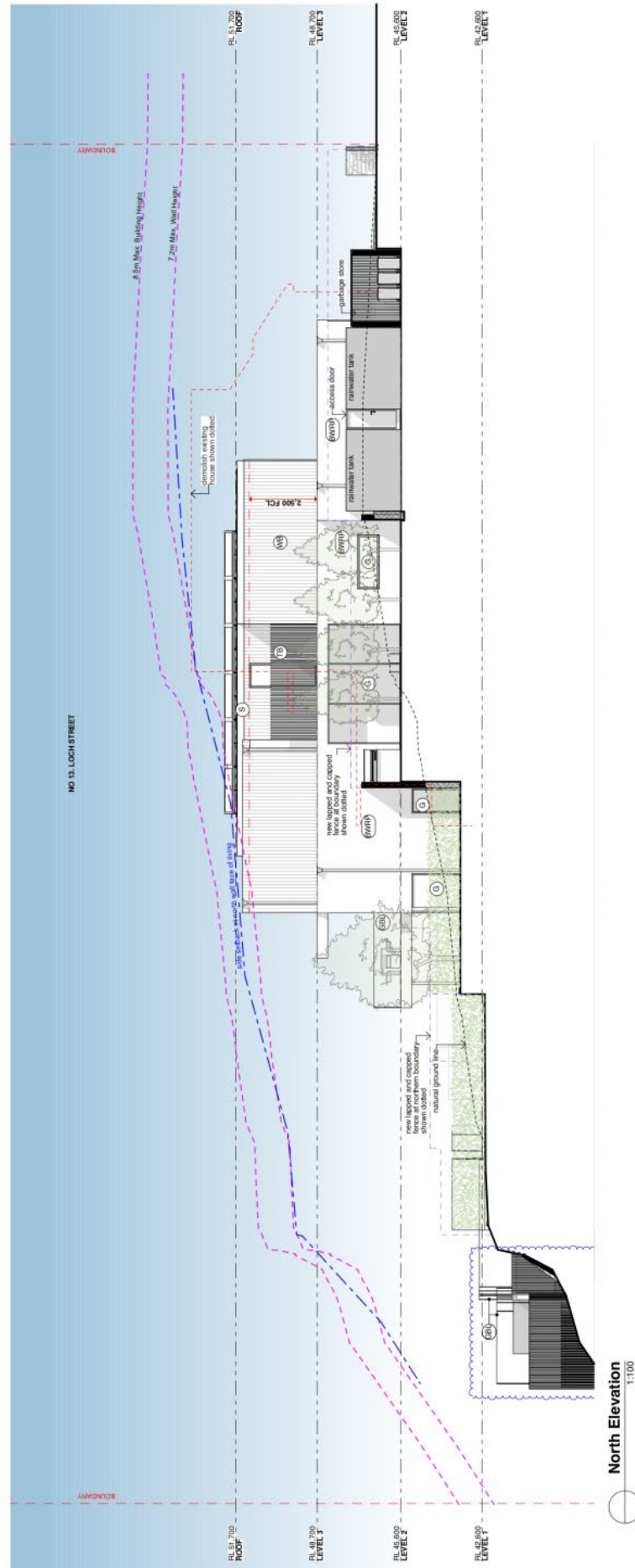
The swimming pool filter and pump is to be enclosed and remain in a sound proof enclosure and is to not emit noise over 5dba above background noise at the nearest residential boundary.

Reason: to protect the acoustic amenity of neighbouring sites.



Level 4 - Roof & Site
1:100

<p>dwg no. DA06 revision G</p>	<p>job no. AK drawn MC checked AK scale 1:100 @A2</p>	<p>Site & Roof Plan Development Application</p>	<p>project Fraser House address 13 Loch Street Freshwater NSW client Natalie & Simon Fraser</p>	<p>CORRIEN ARCHITECTS PO Box 1021 Neutral Bay NSW 2009 P 02 9904 1844 F 02 9904 1855 mail@corrien.com.au www.corrien.com.au</p>	<p>notes</p>	<p>revisions</p>	<p>Any discrepancies to be brought to Architect's attention - Only scale under direction from Architect - This drawing remains the property of the Architect - Architect reserves the right to terminate the license - Any loss or damage (including consequential damage) caused to the property or its contents, by its use or reliance on, is not the liability of the Architect. Copyright reserved by the Architect</p>
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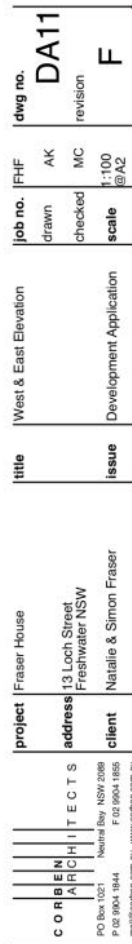


dwg no.	DA09	job no.	FH-F	project	Fraser House	title	North Elevation	issue	Development Application
revision	F	drawn	AK	address	13 Loch Street Freshwater NSW	client	Natalie & Simon Fraser		
checked	MC	scale	1:100 @A2	CORRIEN ARCHITECTS	PO Box 1021 Neutral Bay NSW 2099 P 02 9904 1844 F 02 9904 1855 mail@corrien.com.au www.corrien.com.au	notes			
scale	1:100 @A2								



CORBEN ARCHITECTS
PO Box 1021 Neutral Bay NSW 2089
P 02 9904 1844 F 02 9904 1655

Any discrepancies to be brought to Architect's attention
Use figure dimensions in preference to scaling
Use scale under direction from Architect
Builder to examine site and verify conditions and dimensions
Contractor to make the property of the Architect
Contractor to make the drawings
Transfer of the license is prohibited
Architect reserves the right to terminate the license
Electronic data transfer should be scanned for viruses before use
Any loss or damage (including consequential damage) caused to
the user's data, by the direct or indirect use, is not
the liability of the Architect
Refer to hard copies for accuracy of electronic data

[illegible]

ITEM 3.3	DA2019/1202 - 9 LOLITA AVENUE, FORESTVILLE - ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING HOUSE
REPORTING MANAGER	Steve Findlay
TRIM FILE REF	2020/480702
ATTACHMENTS	1 Assessment Report 2 Site Plan & Elevations 3 Report - Clause 4.6

PURPOSE

To refer the attached application for determination due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the building height standard.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **approve** Development Consent to DA2019/1202 for alterations and additions to an existing dwelling house on land at Lot 1 DP 1257701, 9 Lolita Avenue, Forestville, subject to the conditions outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1202
Responsible Officer:	Renee Ezzy
Land to be developed (Address):	Lot 1 DP 1257701, 9 Lolita Avenue FORESTVILLE NSW 2087
Proposed Development:	Alterations and additions to an existing dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Michael Caleb Boyd Lynnette Boyd
Applicant:	Lynnette Boyd
Application Lodged:	29/10/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	07/01/2020 to 28/01/2020
Advertised:	Not Advertised
Submissions Received:	5
Clause 4.6 Variation:	4.3 Height of buildings: 28%
Recommendation:	Approval
Estimated Cost of Works:	\$ 926,700.00

EXECUTIVE SUMMARY

This report provides an assessment of alterations and additions to an existing dwelling including a carport, second floor addition and tennis court located at No.9 Lolita Avenue, Forestville. Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that the proposal is suitable and appropriate development for the subject site.

Public notification of this development resulted in five (5) submissions from adjoining and surrounding properties raising concerns with the proposed height, bulk and scale, privacy and view loss from the development. These concerns have been addressed within this report.

The application has been assessed against the Environmental Planning and Assessment Act 1979



(EP&A Act 1979), Environmental Planning and Assessment Regulations 2000 (EP&A Regulations 2000), relevant Environmental Planning Instruments (EPIs) and Council policies. The outcome of this assessment is detailed within this report.

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for alterations and additions to the existing two (2) storey dwelling-house.

Specifically, the works involve the following:

Storage Level (FFL 82.490)

- Create a new storage area (51m²) within the existing subfloor
- Powder Room (6m²)
- Workshop (20m²)
- South-west facing balcony (44m²)

Ground Floor Level (FFL84.810)

- Extend rear deck from 1.3m to 3.3m deep (52m²)
- Increase the length of the north-western 'Rumpus' by 3.6m
- Convert Rumpus to a secondary dwelling
- New internal lift
- Indoor/outdoor fire place on rear south-west facade
- Increase the central 'Rumpus' to the north-east by 3.1m (17m²)
- Increase the 'patio' in front of the kitchen and Rumpus rooms
- New hardstand parking and carport for two (2) vehicles within the front setback

First Floor Level (FFL87.650)

- Reconfigure floor plan to create a central 'family room' (84m²)
- Increase the floor area to the front, north-east by 3.1m
- New Bedroom 1 with walk-in-robe
- Extended Bedroom 2 with walk-in-robe and ensuite



- New atrium void (7m2)

Second Floor Level (FFL87.700)

- New second floor area with kitchenette (84m2)
- Store Room (5m2)
- Powder Room
- South-west facing balcony (29m2)
- North-East (front) facing balcony (6m2)

Other works:

- Resurface tennis court and landscape lower section of site (consent for the use of the court and new resurfacing work)
- Curved Aluminium privacy screen fence to east boundary (height ranges from 1.8 to 4m)

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
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 - C3 Parking Facilities
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D17 Tennis Courts

SITE DESCRIPTION

Property Description:	Lot 1 DP 1257701 , 9 Lolita Avenue FORESTVILLE NSW 2087
Detailed Site Description:	<p>The subject site consists of two (2) allotments located on the southern side of Lolita Avenue, Forestville and adjoins the unmade Fox Road at the rear and Garigal National Park beyond.</p> <p>The site is regular in shape with a frontage of 18.49m along Lolita Avenue and a combined depth of approximately 53.4m. The site has a combined surveyed area of 1158.6m².</p> <p>The site is located within the R2 low density residential zone and accommodates an existing two storey dwelling with a swimming pool and carport within the front setback and half size tennis court at the rear of the dwelling.</p> <p>The site is currently dissected by a rock escarpment that drops approximately 5.75m. The site contains some grass and minor trees at the base of the rock escarpment and more grass on the southern side of the tennis court.</p> <p>Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by a varied range of dwelling houses most presenting 2 to 3 storeys from the rear.</p>

Map:



SITE HISTORY

C278/73 and C1263/66

The last recorded consents include C278/73 and C1263/66. These consents deal with the original dwelling (C1263/66) a brick veneer dwelling with entry and laundry at ground floor level and bedrooms, living and kitchen at first floor level. The consent C278/73 is for alterations and additions for the extension of the ground floor level (previously subfloor, entry and laundry area) to create a new Bedroom 1, 2 and 3 behind a double garage, a Rumpus Room along the southern side of the dwelling within the existing footprint of the dwelling and a south facing deck.

DA2018/1336

Development Application DA2018/1336 for alterations and additions to an existing dwelling including a new third floor level, double garage and tennis court was lodged with Council on 13 August 2018. The application sought substantial non-compliances with the building height development standards and numerous built form controls. The application was withdrawn before it was reported for determination.

DA2019/1202

Development Application DA2019/1202 for alterations and additions to the existing dwelling was rejected.

REV2019/0069

Review of Rejection REV2019/0069 application was lodged and it was deemed that the relevant information was now lodged with Council and that Development Application DA2019/1202 could proceed to assessment.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<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 allow Council to request additional information. Additional information was requested in relation to Bushfire and Aboriginal Heritage (Due Diligence Assessment).</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>

Section 4.15 Matters for Consideration'	Comments
	Clause 143A 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.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact 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) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land and the proposed development is for a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes / a special fire protection purpose under Section 100B of the Rural Fires Act 1997. As such, the proposal is integrated development and requires a bush fire safety authority from the NSW Rural Fire Service.

The application was referred to the NSW RFS as integrated development. The NSW RFS issued a bush fire safety authority, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS as part of the bush fire safety authority, have been included as part of the recommended conditions of consent. It should be noted that the Applicant had originally sought to have a secondary dwelling along the western side of the ground floor. No secondary dwellings are permitted by NSW RFS on land that is located within a Flame Zone. The applicant has subsequently removed reference to the secondary dwelling and a condition of consent will be imposed in relation to this issue.

NOTIFICATION & SUBMISSIONS RECEIVED



The subject development application has been publicly exhibited from 07/01/2020 to 28/01/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 5 submission/s from:

Name:	Address:
Ms Kristen Renee McKerihan	11 Lolita Avenue FORESTVILLE NSW 2087
Suzi Nikolovski	8 Lolita Avenue FORESTVILLE NSW 2087
Warwick Marshall Brown Michelle Nicole Cabena	7 Lolita Avenue FORESTVILLE NSW 2087
Mr Tony Nikolovski	8 Lolita Avenue FORESTVILLE NSW 2087
Mr Jeffrey John Thwaites	10 Lolita Avenue FORESTVILLE NSW 2087

The following issues were raised in the submissions:

- Carport
- Windows
- Air conditioner units
- Side stairs
- Tennis court
- Excavation
- Fencing
- Privacy
- Building Height
- View Loss

The matters raised within the submissions are addressed as follows:

- **Carport**
The new proposed carport appears to only be set back from the eastern boundary 450mm, when the building code states that this should be 900mm. As neighbours on this boundary, this directly affects the privacy in our front garden and courtyard area. We ask that the setback be applied.

Comment:
The proposed carport seeks to formalise and replace the existing unauthorised carport structure currently on the site. The existing carport provides a nil setback to the boundary with No.11. While the new carport does not provide a 900mm setback, a variation has been considered acceptable in this instance due to the limited available space for parking elsewhere within the site. As the carport retains the location of the existing parking structure, a variation of 450mm is not considered likely to be create any new issue with privacy. No objection is raised to the proposed location of the carport.
- **BBQ area**
The current covered BBQ area is shown in the existing roof plan (sheet A109). It is unclear if this is to remain or be removed. While it is not mentioned not in the Statement of Environmental



effect report it is present in the proposed roof plan (sheet A111). If it is to be retained we ask that it be made to be compliant with the building code with regards to the boundary offset. The current structure is unsightly from our side and when in use the pitched roof, latticed back funnels smoke directly into our front courtyard.

Comment:

The existing roof structure is not shown as retained on the new plans for the site. This structure is unauthorised and should be removed. Council's Compliance section are aware of the compliance issues on this site and the removal of this structure will be followed up as a compliance action.

- **Windows**

Proposed new side windows W07/W08. We are opposed to the installation of these two windows as they directly overlook our side boundary/outdoor areas and would greatly impact our privacy along this boundary. If approved, we ask that they be fully frosted and non-opening to ensure privacy.

In the document 'Plans - external - amended December 2019', the drawing of the existing east elevation (sheet A114) is inaccurate. It does not show a large window that exists on the south western side of the building. This window looks directly over our rear deck and upstairs bedroom balcony and affords us no privacy. We would be very happy if this window is to be removed, as is suggested in the proposed east elevation drawing (A115), but if it is to remain we would ask that it also be fully frosted and non-opening.

Comment:

W08 appears to be a highlight window to the ensuite of Bedroom 2, noted on sheet A108 as 'new frosted H/L window'. W07 is shown on the Eastern Elevation drawing A115 as a full height window to the walk-in-robe of Bedroom 2. On the 'Proposed First Floor Plan' sheet A108 this window is also noted as a 'new frosted H/L window'. A condition of consent is recommended to ensure that W07 is also a frosted highlight window.

- **Air conditioning units**

The proposed application states that there is to be no change to the existing air conditioning of the property. We have previously notified council of our concerns about the 2 existing air conditioning units along the western side of Number 9 Lolita (Pol2019/00217). At the time we initially contacted council we were notified that council was unable to intervene as the complaint was the subject of a mediation process. Unfortunately this mediation never eventuated. Our specific concerns are that one air conditioning unit is mounted higher than 1.8 m above ground level, is an eyesore from our back entertaining deck and in very close proximity to our upstairs main bedroom. The second large ducted air conditioning unit is positioned on the same eastern wall at ground level and generates noise that can be easily heard from inside our house with the windows and doors closed. We are concerned that if the proposed development were to be approved, this air conditioner would be required to service a now 4 storey dwelling, and likely increase the already unacceptable noise we currently endure.

Comment:

No new air conditioning units are identified on the proposed plans. The height, location and noise from the existing air-conditioning units is a matter for the Compliance section to investigate.

- **Side stairs**



The application proposes that the existing back access stairs and landing are to be demolished and replaced in the existing location. We ask that when these are being replaced, they be offset from the side boundary by the required distance to allow the fencing to be placed on the boundary line. We have been advised by fencing contractors that the position of the existing stairs as they are, would require any boundary fencing to be offset into our property.

Comment:

All works proposed are to be undertaken within the subject site. The location of the boundary fence should be on the surveyed boundary line. A condition of consent has been recommended that a Boundary Identification Survey be undertaken prior to the issue of a Construction Certificate to ensure that all setbacks and works are consistent with the approved plans.

- **Half size tennis court**

The application proposes that the existing half tennis court is to be resurfaced but remain the same size in the same location. We request that it be moved the required offset off the side boundary. The courts current location interferes with boundary fencing, requiring it to be offset into our property. There is no indication that any drainage will be added to the court. Currently during wet weather there is significant run-off into our property.

Comment:

This application seeks to regularise the use of the existing unauthorised tennis court and provide for upgrading works to resurface. The proposed resurfaced half tennis court is to be located fully within the subject site. A survey certificate has been conditioned as part of the consent to ensure that all works occur within the boundaries of the site.

In relation to stormwater, the applicant has submitted a drainage plan which connects the site to a new dispersion trench at the southern end of the site. Council's Development Engineers have reviewed this plan and raise no objection subject to conditions.

- **Excavation of Escarpment**

Excavation of rock for construction of lower ground floor - We are very concerned about the significant amount of excavation proposed for the construction of the lower ground level. Our house is constructed on a suspended slab on piling that sits on the same rock shelf as 9 Lolita Avenue. While acknowledging the geotechnical report, we have real concerns that the amount of excavation required could jeopardise the foundations of our house. Should the excavation be approved we would request that independent seismic monitoring be undertaken to ensure vibration is kept to a safe level and that any damage to our property can be documented.

Comment:

The application is accompanied by a Geotechnical Assessment which addresses the excavation and any risk areas associated with the proposed works. The report states "No hazards were identified that could potentially affect the neighbouring properties." Conditions of consent have been recommended in relation to the rock excavation. Further, the recommendations contained within the Geotechnical report are included as a condition of this assessment.

- **Fencing**

The development application states that the current west side fences will remain unchanged. We are concerned that on the current boundary the retaining wall and fences are dilapidated and are at risk of falling and damaging our property, especially if excavations occur.



Boundary fence between No 7 and No. 9 is a severely cracked retaining wall leaning into No. 7. The fence on top is a bush fence that is deteriorated and has gaps. This fence is also the pool fence. Request an appropriate fence is provided.
Rear fencing to the tennis court is damaged. Request a new tennis court fence be erected within the property of No. 9.
Thatched fence at front to remain - It is a concern to us that brushwood fencing is retained as our properties are zoned Flame Zone.

Comment:

The existing fence between no.7 and no.9 Lolita Avenue is not proposed to be replaced. As this fence serves as a swimming pool barrier and the site is within a Flame Zone, this issue has been referred to Council's Development Compliance section for investigation and inspection.

In relation to the tennis court fence, the existing fencing is considered unacceptable for its purpose and a new fence meeting current tennis court standards is required to be installed. A condition of consent has been recommended in this regard.

- **Privacy Screens**

Height of privacy screens - We would ask that the privacy screens on the balcony be extended to 1.8 - 2m to ensure adequate privacy.
The lower ground level/workshop balcony has no screen.

Comment:

A condition of consent has been recommended increasing the screen height at the Storage Level, Ground Floor Level and Second Floor level balconies.

In relation to the balcony on the Storage/Workshop level, this element currently extends to the western boundary of the site with a height to the top of the handrail 6.4m above existing ground level. The balcony extending to the boundary is not supported given the potential for overlooking in the neighbouring property rear yard. A condition of consent has been imposed deleting the stairs adjacent to the western boundary and stepping the balcony at least 1.5m off the boundary with a privacy screen.

- **Building Height**

Non-compliance with height and number of storeys.
Addition of parapet - We are opposed to the addition of the parapet as we feel, what will effectively be a 4 storey house, is not in keeping with the surrounding streetscape. If approved we feel that this will set a precedent for our street and we are strongly opposed to this. The parapet's additional height (indicated to be about 1500mm above the current roof line) will further reduce our ability to create privacy in our back yard/swimming area from the property at Number 9. The increased height also increases the shadowing of the eastern aspect of our backyard at 12pm, which we feel is a significant loss for a south facing garden. At 3pm the shadow drawings also indicate there will be an impact upon our roof on which we have solar panels installed right up to the western edge. We believe the approval of the parapet and exceedance of the height regulations will cause an economic impact on us through the shadowing of our solar panels.
When viewed from our backyard and the public reserve at the rear of the property, the dwelling will be a 4 storey dwelling with 3 open balconies and 1 enclosed balcony. The scale of the dwelling from the rear of our property will be overbearing and there are no other dwellings of this height and scale in the surrounding vicinity.



Comment:

The building height and number of storeys has been addressed within the relevant sections of this report. The development subject to conditions is considered acceptable.

- **View Loss**

View loss of valley from No. 10 Lolita Avenue.

Comment:

View loss was identified from the front of the property at No. 8 Lolita Avenue across the eastern side of the subject site. A full view loss assessment has been provided within this report. The current design has stepped the proposed 'Second Floor Level' back from the eastern boundary by about 5.5m to maintain a view corridor across the top of the roof of the lower level. The proposal is satisfactory in addressing view loss.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	<p>Supported, subject to conditions</p> <p>Proposed indoor/outdoor fireplace requires installation to Australian Standards.</p> <p>Environmental Health recommend standard conditions for solid fuel heater to be included in Consent.</p>
Landscape Officer	<p>Supported, subject to conditions</p> <p>The plans indicate that works are proposed over the existing rock outcrop at the rear of the site. The design indicates that the rock escarpment will be retained, which is supported. No significant trees are indicated for removal.</p> <p>No objections are raised to approval subject to conditions as recommended.</p>
NECC (Bushland and Biodiversity)	<p>Supported, subject to conditions</p> <p>This application was assessed against Warringah DCP:</p> <ul style="list-style-type: none"> • E2 Prescribed vegetation • E5 Native vegetation • E6 Retaining unique environmental features <p>The proposal is for the alteration and additions to the existing structure. No native trees or vegetation is proposed to be impacted, therefore the proposal complies with biodiversity controls.</p>



Internal Referral Body	Comments
NECC (Coast and Catchments)	<p>Supported, subject to conditions</p> <p>This application has been assessed against coastal considerations of the Pittwater LEP, DCP, Coastal Management Act and Coastal Management SEPP. It has not been included on the Coastal Vulnerability Area Map and the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018. Supported subject to conditions.</p>
NECC (Development Engineering)	<p>Supported, subject to conditions</p> <p>No objections are raised to the proposed development, subject to conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</p>
NSW Rural Fire Service – local branch (s4.14 EPAA)	<p>Supported, subject to condition</p> <p>The application was referred to the NSW Rural Fire Service as the site is classified as 'Flame Zone'. Subject to the removal of any secondary dwelling from the plans, the RFS raise no further objection subject to the owner and the development complying with specific conditions of consent.</p>
Aboriginal Heritage Office	<p>Supported, subject to conditions</p> <p>The application was referred to the Aboriginal Heritage Office who requested a Due Diligence Assessment be undertaken for the site. A Due Diligence Assessment was provided by the applicant on 7 April 2020, which, subject to conditions which include no excavation of the land to the south-west of the tennis court (rear of the site) raises no further objections to the proposed development.</p>

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

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.A363660 dated 2 December 2019).

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

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.

SEPP (Coastal Management) 2018

The application has been considered with regard to the relevant provisions of State Environmental Planning Policy (Coastal Management) 2018 and Council can be satisfied that the proposal is consistent with the relevant matters prescribed by this policy.

Warringah Local Environmental 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	10.9m	28%	No

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of Non-compliance

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	10.9m
Percentage variation to requirement:	28%

Assessment of request to vary a Development Standard

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to Development Standards

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the



development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this 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) 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.

(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 Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) Assessment

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

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

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ



provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

"The design has been based around maintaining the view of the Chatswood skyline from the balcony of number 8 Lolita Avenue. The shadow diagrams provided as a part of the development application provide confirmation that solar access complies with the standards and allowing sufficient solar access to the neighbouring properties.

Privacy has been maintained by using privacy screens on both sides of all balconies and high level or frosted window the eastern and western walls which face the neighbouring properties.

The proposed second floor has been moved back to towards the north to reduce the breach in height."

Comment: The proposed works while extensive, are seeking to make the existing dwelling which is in bad repair and dilapidated more suited to modern family living providing extensive space and function to service a wide range of lifestyle choices.

The site is restricted by the large sandstone cliff line that intersects the site and footprint of the existing dwelling. While some consideration has been made to maintain the existing view lines across the site from the opposite side of Lolita Avenue, restricting the new building works to generally within the existing footprint will ensure the maintenance of the natural rock formation and existing pattern of development by not extended substantially further down the site. These reasons are considered



to constitute adequate environmental planning grounds for the proposed works.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(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:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of Development Standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the WLEP 2011 are:

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

a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

The proposed additions are considered to remain compatible with surrounding development. While the development is not replicating or necessary mimicking the style of the surrounding properties, the overall height when viewed from the street will be commensurate. The finished height of the new 'second floor level' is 1.43m higher than the existing ridge line and does not extend the full width of the house as the existing roof line does.



Photograph 4 - Site as viewed from Lolita Avenue

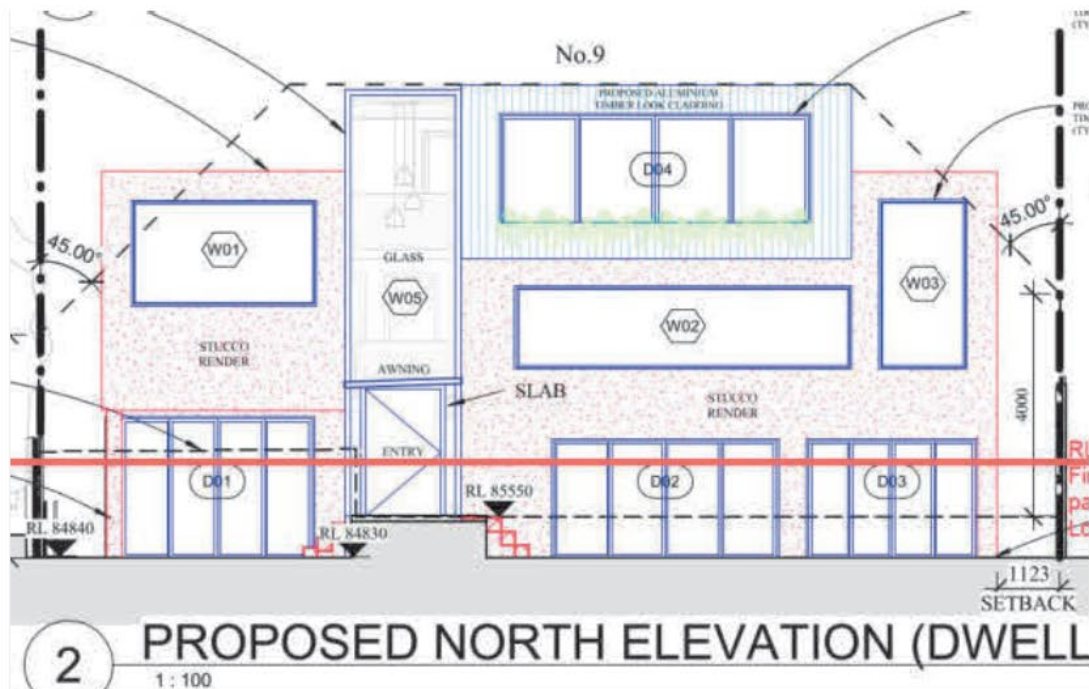


Figure 4 - Elevation of proposed dwelling with finished level of Lolita Avenue shown as red line.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

The Applicant has made a definite design decision to maintain the view corridor across the south-eastern side of the dwelling. The existing ridge in this location is at RL91.87 and the proposed new ridge is at RL91.440. Accordingly, the existing view corridor will be maintained.

In terms of privacy and solar access, these are considered acceptable in terms of the development subject to conditions of consent.

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

The development maintains an adequate separation from the adjoining National Park land with the additional land recently purchased and consolidated with the site at the rear. This land does not include any building works except some retaining walls and conditions of consent have been recommended to exclude any excavation of this area.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

Comment:



The proposed finishes of the development include natural or an aluminium timber look to the walls and soffit. As the site is in a flame zone, the use of natural timber products is greatly limited. The new combination of finishes will provide a minimised visual impact from the limited view points it will be visible from.

Zone Objectives

The underlying objectives of the R2 Low Density Residential zone are:

The underlying objectives of the R2 Low Density Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposed alterations and additions cater for the specific needs of the owner. The site remains a single dwelling house within a low density residential zone and is considered to satisfy this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

The proposal does not impact on any other land uses or services.

It is considered that the development satisfies this objective.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

As the top half of the site adjoining Lolita Avenue is currently developed with minimal landscaping, the rear section of the site recently purchased provides a necessary balance to the development on the site and should be retained as landscaped open space.

It is considered that the development satisfies this objective.

Conclusion

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, issued by the NSW Department of Planning &



Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, and in accordance with correspondence from the Deputy Secretary on 24 May 2019, Council staff under the delegation of the Development Determination Panel, may assume the concurrence of the Secretary for variations to the Height of building Development Standard associated with a single dwelling house (Class 1 building).

6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by Asset Geo Enviro dated 25 November 2019. This report concludes that the proposed development is acceptable from a geotechnical perspective and therefore, Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	8.64m	20%	No
B3 Side Boundary Envelope	South-East - 4.0m	Up to 5.3m for a length of 14m	N/A	No
	North-West - 4.0m	Up to 2.3m for a length of 12.1m	N/A	No
B5 Side Boundary Setbacks	South-East - 0.9m	Nil to elevated stairs at Storage Level	100% Nil	No Yes



		5.5m to new Second Floor		
	North-West - 0.9m	Nil to Storage Level balcony and elevated stairs 1.1m to dwelling	100% Nil	No Yes
B7 Front Boundary Setbacks	6.5m	Nil to carport and hardstand 5.6m to front entry awning	100% 13.8%	No No
B9 Rear Boundary Setbacks	6.0m	10m tennis court fence 13.6m to tennis court surface	Nil	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	38%	2%	No

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	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	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	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D17 Tennis Courts	No	Yes
D20 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of Non-compliance

The proposed development results in a wall height of 8.64m. The non-compliance occurs where the existing pitched roof form is filled in to create a parapet wall along the north-western elevation.





Figure 1 - Eastern Elevation showing wall heights (source: Architectural Plans by Dellview Designs)

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 wall height in this location is a factor of the steep change in topography directly below the existing structure. The wall element will not be perceived from the street or any waterway or land zoned for public recreation. While it will be visible from the adjoining property to the north-west, the extent of impact from the increased parapet is not considered significant.

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

Comment:

Due to the large change in level between the front of the site and the back of the site (approx. 17.0m or 31%) the tree canopy level between the two extremes are also quite different. The area of the wall height non-compliance occurs through the centre of the site where the natural sandstone cliff bisects the site. Accordingly, the location of the non-compliance is considered reasonable.

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

Comment:

As detailed within this report, the flattened roof line on the south-eastern side of the dwelling will retain the existing view corridor across the site.

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

Comment:

Issues identified in the submissions received have each been addressed within the relevant section of this report. Subject to conditions, the proposal is not considered to result in unnecessary or adverse impact on adjoining and nearby properties.

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

Comment:

The proposed works seek to excavate an area currently within the existing subfloor area in order to provide a compliant head height for the 'storage/workshop' level. Conditions are recommended that further excavation of the sandstone cliff line in front of this area and the lower garden area does not occur. Subject to conditions, the proposed development is



considered satisfactory in terms of this requirement.

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

Comment:

The design provides for a change in roof line from a traditional pitched roof to a flat roof design. No objection is raised to the proposed roof line.

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 s1.3 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

The proposed alterations and additions result in new non-compliance with the side boundary envelope on both the north-western and south-eastern building planes.

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 site contains a steep change in topography which occurs in two major sections. The first is between the street and the front of the existing dwelling where there is an approximate 2.0m change in level and then a second one toward the back of the dwelling where there is a natural rock cliff that intersects the site with a steep drop of approximately 5.5m. The areas where the new envelope breach occurs is through the main part of the house where the roof line is changed from a pitched roof to a skillion roof with a parapet.

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

Comment:

Subject to conditions removing the balcony and stair access along the western side of the site at the Storage Room level, the proposed additions are not considered to adversely impact on light, solar access or privacy with the adjoining buildings.

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

Comment:

The proposed works are extending on the existing structure built on the site. While it would be preferable for the development to step more closely with the topography, in this instance, the protection of the natural cliff line that dissects this site and extends into the adjacent properties is considered a priority over the additional height on the current structure.



Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 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 proposed alterations and additions seek a number of non-compliances with the side boundary setback requirements of this control. Along the eastern side of the site, the new works include:

- a double hardstand area with carport setback 500mm from the boundary
- new stair access on the boundary from Ground Floor Level to the the Storage Level

WDCP provides the following savings provisions in relation to ancillary structures:

"Ancillary to a dwelling house:

- *Consent may be granted to allow a single storey outbuilding, carport, pergola or the like that to a minor extent does not comply with the requirements of this clause"*

Accordingly, the elements of the development identified above along the eastern side of the dwelling are supported and a merit assessment provided.

In relation to the new balcony and stair access that is proposed at the Storage Level on the western boundary, these elements are not supported and are conditioned to be deleted.

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 quantum of the existing site with structures provide almost no suitable area for deep soil landscape areas. The new parcel of land purchased at the rear of the site to the south of the tennis court provides a balance of landscaped area which is severely lacking on the existing site layout. No structures are proposed in this area and no excavation is supported or endorsed by this assessment within that part of the site. A condition of consent has been recommended to ensure that the southern section of the site remains landscaped open space.

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

Comment:

The dwellings including the subject site along this cliff line provide a substantial presentation toward the National Park land adjoining. From Lolita Avenue, the dwellings all present a more



human scale to the street. The proposed development maintains the appearance of a house over many levels from the south and is considered acceptable.

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

Comment:

The proposed development includes balconies and a mixture of facade treatments to consolidate and unify the existing dilapidated structure with the new works. Subject to conditions, the bulk and scale of the building is considered acceptable.

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

Comment:

As detailed, the recommendations in this report include numerous conditions around maintaining privacy and amenity to adjoining properties. In terms of solar access, the additional shadow impact on adjoining properties is considered minor given the orientation of the sites and the steep change of topography on the south facing side of these lots.

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

Comment:

Existing views to Chatswood were identified from the front of the property on the opposite side of Lolita Avenue at No. 8. A detailed view loss analysis is provided under Part D7 Views within this report. The assessment has concluded that the changes to the roof line on the eastern side of the dwelling will ensure the existing sight lines across the property will be sufficiently maintained.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 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 development works include construction of a new hardstand and carport which is within the front setback. The hardstand extends to the boundary and the carport structure extends between 0.4m to 1.5m from the front boundary.

Merit Consideration

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

- *To create a sense of openness.*

Comment:

The site currently contains an unauthorised carport structure in the location of the proposed

carport and includes a 1.8m high brushwood fence along the front boundary.



Photograph 1 - The subject site from Lolita Avenue

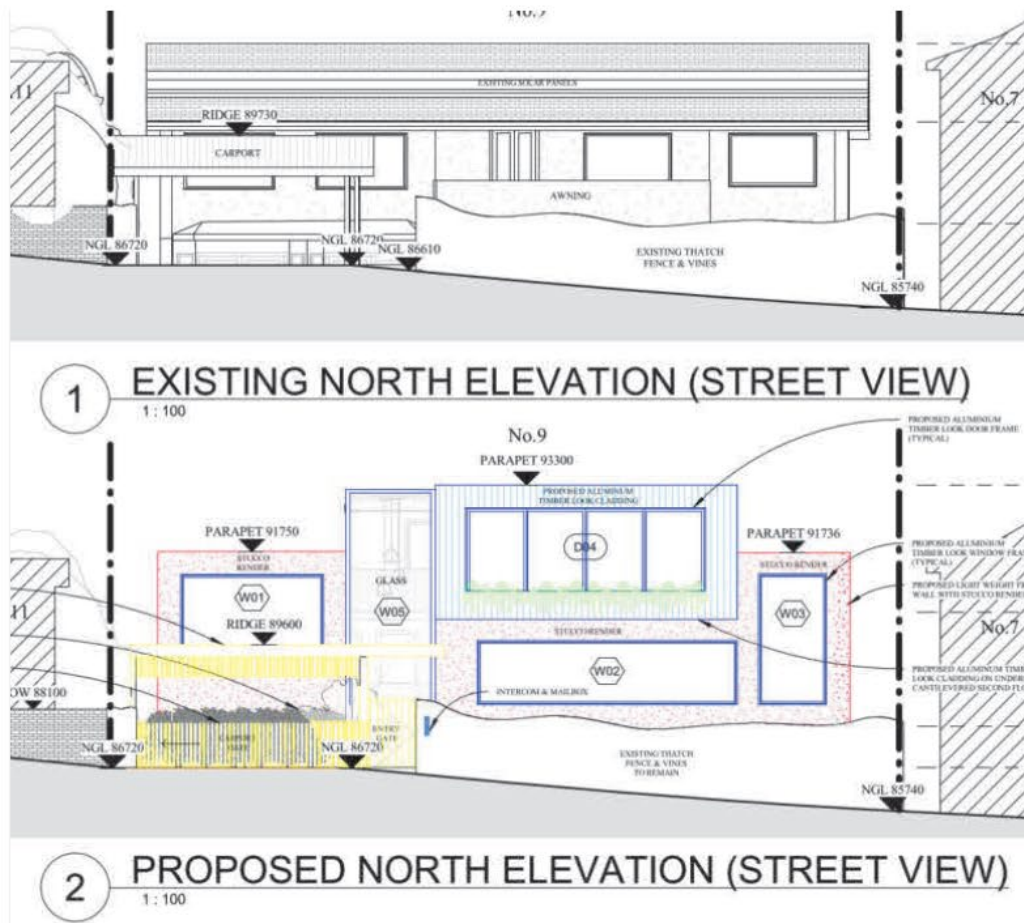


Figure 2 - The existing and proposed frontage of the development

The site is currently developed and the frontage contains a swimming pool and the carport structure. The proposed carport is in essentially the same location maintains sight lines through the front of the site to the dwelling and is considered to satisfy this requirement.

- To maintain the visual continuity and pattern of buildings and landscape elements.

Comment:

The streetscape within Lolita Avenue provides a variety of dwelling styles and sizes with a number of dwellings containing solid fence structures. The proposed development does not seek to change the existing front fence structure. The carport and low height gate, are located within the front setback due to constraints created by the location of the existing dwelling resulting in no other location to place on-site parking. The inclusion of the carport and hardstand in this location is not considered to offend this requirement of the control.

- To protect and enhance the visual quality of streetscapes and public spaces.

Comment:

The proposed works seek to provide a substantive upgrade to the existing dwelling and facilities



on this site. The proposed works are considered satisfactory in terms of enhancing the quality of this streetscape.

- *To achieve reasonable view sharing.*

Comment:

View loss has been raised as an issue by the neighbouring property on the opposite side of Lollita Avenue at No.8. A view loss analysis has been provided under Part D7 and has been assessed as satisfactory.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

Merit Consideration

The proposed development seeks consent for double hardstand and carport located within the front setback of the site. The development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The development provides for two (2) parking spaces within the site which is considered to satisfy the numerical requirements for this site.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

The proposed parking facility is to be located adjacent to the front boundary of the site. While the structure and hardstand do not comply with the front setback requirement to locate parking structures behind the front setback, the site is constrained by the location of the existing dwelling and swimming pool. Accordingly, the proposed location which is generally where the current unauthorised parking is located is considered acceptable.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The development does not seek a fully enclosed garage structure in this location, instead an open style carport with low level gates to ensure that sight lines into the site are maintained and the structure is not dominating the frontage.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning



and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Description of Non-compliance

The owners of this property have recently acquired from Crown Lands a portion of land between the southern boundary of the site and Fox Road (an unmade road reserve/fire trail). This portion of land is approximately 183m² which has been consolidated with No.9 Lolita Avenue to provide a new total site area of 976.5m². Accordingly, the 40% requirement for landscaped open space is 390.6m². As the site contains extensive coverage by the existing dwelling footprint, swimming pool and tennis court, the only areas which can technically be included are the swimming pool, rear landscaping area 1 and rear landscaping area 2. In total the site provides 372.3m² (38%) calculable landscaping, a deficit of 18.3m².

Merit Consideration

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

- *To enable planting to maintain and enhance the streetscape.*

Comment:

The front of the site addressing Lolita Avenue is established with an existing swimming pool, 1.8m high thatched fence and carport. The development seeks to formalise the parking area to provide approved hardstand and carport. The design also includes a low height gate to the carport which will allow sight lines through to the front of the dwelling.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

The site is currently devoid of any landscaping of value. The addition of land at the rear of the site adjacent to the National Park interface is considered to provide the site with some severely lacking soft landscaped open space area. In addition, the site is intersected by a rock cliff line that also extends into both adjoining sites. This rock cliff is to be retained.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

The recently acquired land at the rear of the site will provide a decent space for the inclusion of new plantings that could offer some relief to the appearance of the southern facade.

- *To enhance privacy between buildings.*

Comment:

While the proposed works include new balcony areas to the northern and southern facades, the



balconies include 1.65m high privacy screens at both the eastern and western ends. In addition, all new windows are highlight windows or contain frosted/translucent glazing to ensure no overlooking or perceived privacy impacts from window openings.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The development seeks to include a tennis court in addition to the existing swimming pool and new area of soft landscaping to the south. These spaces are considered to offer extensive options for recreational activities on the site.

- *To provide space for service functions, including clothes drying.*

Comment:

The site currently contains a clothes line attached to the western side of the dwelling accessed from the existing laundry. The new parking configuration incorporates space to accommodate the relevant domestic waste bins.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

The site drains to the rear where a new dispersion trench is proposed with a 2.5m setback from the rear boundary. Council's Development Engineers have reviewed the proposed stormwater drainage and raised no objections subject to conditions.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D7 Views

Merit Consideration

A submission was received which raises view loss as an issue. 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 currently available are partially obstructed views of the Chatswood CBD.



Photograph 2 - The current Chatswood CBD view from the front stairs of No. 8 Lolita Avenue



Photograph 3 - The current Chatswood CBD view from the front verandah of No. 8 Lolita Avenue

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 views from this dwelling are available from the front of the dwelling, primarily when standing on the front verandah and to a lesser extent from inside the entry to the lounge and dining room of the dwelling.

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:

The view is available across the eastern side of the dwelling ridge line essentially in a section aligning with the carport. The proposed additions realign the roof profile providing a parapet with a finished level of RL91.750 for a length of 4.3m. The existing ridge line is at RL91.87. The new works which change the height of the roof line are setback 5.5m from the eastern boundary. Accordingly, the existing views will remain available across the new parapet roof line and the extent of view loss is considered **negligible**.

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 not considered to create any adverse impact in terms of view loss as a result of the proposed roof line on the eastern side of the dwelling.

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

Comment:

The proposed additions incorporate articulated profiles to provide relief to the new works and reduce potential impacts on surrounding dwellings. The development is therefore considered to improve the existing urban environment.

- To ensure existing canopy trees have priority over views.

Comment:

The proposed works do not require the removal of any canopy trees.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D17 Tennis Courts

Merit Consideration

The site currently contains an unauthorised tennis court which is in a poor state of repair, has insufficient fencing and has unauthorised artificial illumination. The proposed development seeks consent for a tennis court (resurfaced) in the same position as the existing one. Due to the orientation and proportions of the site, the tennis court cannot comply with the requirement to provide a 1.5m setback from the side boundaries. The plans indicate a 0.7m setback to the west and an approximate



0.1m setback to the east where the tennis court aligns with the neighbouring cabana.

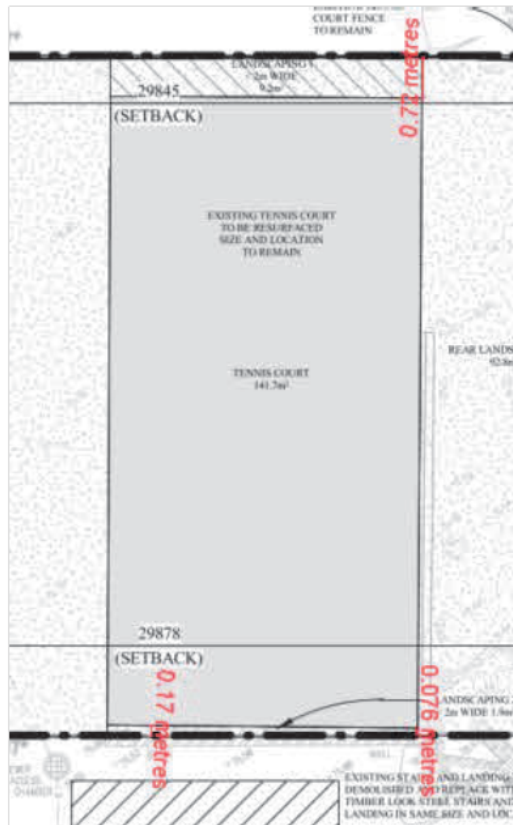


Figure 3 - Excerpt from Proposed Site Plan (source: Architectural Plans by Dellview Designs)

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

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

Comment:

The development seeks to improve the level of finish of the existing rear yard and dilapidated tennis court surface. Subject to conditions around fencing, improved landscaping and no artificial lighting of the area, the proposed tennis court may be considered acceptable in terms of the objectives of this requirement.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 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 affect threatened species, populations or ecological communities, or their habitats.



CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$9,267 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$926,700.

The site is the subject of numerous complaints in relation to unauthorised building works. Council's Compliance team are still investigating the issues raised. These matters will be dealt with under a separate process independent of this assessment.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and



b) There are sufficient environmental planning grounds to justify the contravention.

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

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 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 and all other documentation supporting the application and public submissions. In this regard, the application is not considered to be acceptable and is recommended for approval, subject to conditions.

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the EP&A Act, 1979, the provisions of relevant EPIs, including SEPP 55, SEPP Infrastructure, WLEP 2011, the relevant codes and policies of Council, and the relevant provisions of the WDCP 2011.

The application was referred to internal departments and external authorities. No issues have been identified within these referrals that cannot be addressed through relevant conditions of consent.

The development attracted 5 individual submissions. The submissions raised numerous concerns with regards to the building height, privacy and other concerns relating to impacts on the neighbouring properties. The issues raised in the submissions have been addressed in the "Public Notification Section" of this report.

Based on the assessment contained in this report, the proposed development subject to conditions addressing some of the issues raised is considered on balance, acceptable and it is recommended that the Development Determination Panel approve the application.

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

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2019/1202 for Alterations and additions to an existing dwelling house on land at Lot 1 DP 1257701, 9 Lolita Avenue,



FORESTVILLE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A102 - Proposed Site Plan - Rev E	01.04.2020	Dellview Design Pty Ltd
A104 - Proposed Storage Plan - Rec C	28.11.2019	Dellview Design Pty Ltd
A106 - Proposed Ground Floor Plan - Rev E	01.04.2020	Dellview Design Pty Ltd
A108 - Proposed First Floor Plan - Rev C	28.11.2019	Dellview Design Pty Ltd
A110 - Proposed Second Floor - Rev C	28.11.2019	Dellview Design Pty Ltd
A111 - Proposed Roof Plan - Rev C	28.11.2019	Dellview Design Pty Ltd
A112 - Existing and Proposed North Elevation (Street View) - Rev C	28.11.2019	Dellview Design Pty Ltd
A113 - Existing and Proposed North Elevation (Dwelling) - Rev C	28.11.2019	Dellview Design Pty Ltd
A115 - Proposed East Elevation - Rev C	28.11.2019	Dellview Design Pty Ltd
A117 - Proposed South Elevation - Rev C	28.11.2019	Dellview Design Pty Ltd
A119 - Proposed West Elevation - Rev C	28.11.2019	Dellview Design Pty Ltd
A121 - Proposed Long Section 2 - Rev C	28.11.2019	Dellview Design Pty Ltd
A123 - Proposed Long Section 3 - Rev C	28.11.2019	Dellview Design Pty Ltd
A124 - Proposed Short Section 1 - Rev C	28.11.2019	Dellview Design Pty Ltd
A125 - Proposed Short Section 2 - Rev C	28.11.2019	Dellview Design Pty Ltd
A126 - Proposed Short Section 3 - Rev C	28.11.2019	Dellview Design Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Aboriginal Archaeological Due Dilligence Assessment	7 April 2020	Dominic Steele Consulting Archaeology
BASIX Certificate No. A363660	2 December 2019	Dellview Design Pty Ltd
5860-G1 Preliminary Geotechnical Assessment	25 November 2019	Asset Geo Enviro
Bushfire Risk Assessment and Updated	13 December	Bushfire Planning



Assessment	2016 (original) 6 August 2018 (update) 13 December 2019 (current)	Services
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b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

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

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.

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Rural Fire Service	Referral RFS - 9 Lolita Avenue Forestville	21 April 2020

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the



work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether



the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall



notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

- (m) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$9,267.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$926,700.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.



The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

6. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

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

7. **Stormwater Disposal from Low Level Property**

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's "Warringah Water Management Policy PL 850" in particular the Stormwater Drainage from Low Level Properties Technical Specification. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's "Warringah Water Management Policy PL 850" are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

8. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- The proposed balcony to the Storage Level is to be reduced and set back from the



eastern boundary by at least 1.5m. The stairs adjacent to the western boundary connecting with the balcony is to be removed, retaining only the landing into the internal Storage area.

- A privacy screen measuring at least 1.65m from the finished level of the balcony shall be provided at the eastern end of the modified balcony setback.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

9. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

10. Compliance with Standards

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

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

Reason: To ensure the development is constructed in accordance with appropriate standards.

11. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

12. Sill Height of W07 and W08 on the First Floor Eastern Elevation

The sill height for windows W07 and W08 on the eastern elevation adjoining the ensuite and walk-in-robe of Bedroom 2 at First Floor Level must have a sill height of at least 1.6m measured from the finished floor level. These windows must also contain translucent glazing. Details



demonstrating compliance shall be provided to the Certifying Authority prior to the issue of a Construction Certificate.

Reason: To ensure adequate privacy is maintained between dwellings.

13. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. **No Access Through Adjoining Park/Reserves**

Access to the site through an adjoining park/reserve is prohibited without the written approval of the Council.

Reason: To ensure protection of council parks/reserves.

15. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Properties: No.7 and No.11 Lolita Avenue, Forestville

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

16. **Tree protection**

(a) Existing trees which must be retained

i) All trees not indicated for removal on the approved plans, unless exempt



under relevant planning instruments or legislation

ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

17. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. Road Reserve

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

Reason: Public safety.

19. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.



20. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At each level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans. At the completion of all site works including the vehicle hardstand and tennis court surface.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

21. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

22. **Trees Condition**

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees.

23. **Protection of rock and sites of significance**

a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.



b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

24. **Pollution Control**

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required in accordance to local regulations.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not leave the construction site.

25. **Pollution Control**

Any excess materials such as cleaning paintbrushes, lacquers, and any water from cleaning tools must not enter the stormwater network and/or receiving waterways.

Reason: To ensure that building associated chemicals and pollutants don't enter the surrounding environment.

26. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

27. **Installation and Maintenance of Sediment Control**

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

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

28. **No Excavation of Exposed Rock Cliff Line or Lower Garden**

No excavation is to be undertaken that affects the rock cliff line visible at the rear of the dwelling or within the lower garden area to the south of the tennis court. All excavation work on the site is to be undertaken in accordance with the recommendations contained within the Preliminary Geotechnical Assessment prepared by AssetGeoEnviro dated 25 November 2019.

Reason: To ensure the protection of existing rock formations and ensure the safety and stability of the site.



29. **Noise and Vibration**

The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations.

Reason: To ensure the amenity of the surrounding area for residents

30. **Site Management Sign**

A clearly legible Site Management Sign is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:

- The builder's name, builder's telephone contact number both during work hours and after hours
- That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
- That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections.
- During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
- That no skip bins or materials are to be stored on Council's Road Reserve.
- That the contact number for Northern Beaches Council for permits is 1300 434 434.

Reason: To ensure that contractors on site are aware of council permits that need to be obtained and contact for the builder/foreman.

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

31. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

32. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.



Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

33. **Installation of solid/fuel burning heaters**

Installation work must be carried out by an appropriately experienced and qualified person and in accordance with the relevant provisions of AS2918:2001 – Domestic Solid Fuel Burning Appliances – Installation

Reason: To ensure the installation is completed in a legislatively compliant manner.

34. **Certification of solid fuel burning heaters**

A certificate from an appropriately qualified person indicating the system is compliant with all relevant legislation, Building Code of Australia, Australian Standards, Specifications and manufacturer requirements is to be submitted to Council prior to the operation of the solid fuel heater.

Reason: To ensure the system operates in a legislatively compliant manner.

35. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management. (DACPLF01)

36. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

37. **Tennis Court Fencing**

Chain Wire Fencing to a minimum height of 3m must be installed along both the eastern and western boundaries adjoining the tennis court and extend for a further 2.5m either side of the surfaced court area. Fencing should be black to reduce the visual impact on adjoining properties outlook.

Reason: To ensure adequate fencing is installed to reduce any impact on the adjoining properties.

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

38. **Undesirable Trees**

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.



Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

39. **Environmental and priority weed control (PLEP)**

Condition: All weeds are to be removed and controlled in accordance with the Biodiversity Conservation Act 2016.

Reason: Preservation of environmental amenity.

40. **Maintenance of solid fuel heaters**

The owner/occupier shall ensure servicing of the heater is maintained according to the manufacturer's specifications.

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

41. **Operation of solid fuel burning heaters**

You are requested to take all practicable measures to prevent the likelihood of causing smoke and/or odour nuisances. Such measures should include:

- Using dry seasoned hardwood
- Storing wood in a dry well ventilated place
- Having a hot and well oxygenated fire
- Ensuring that the chimney flue is clean
- Checking the chimney at different stages of the fire to see if there is any smoke

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

42. **Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

43. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

44. **Dead or Injured Wildlife**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

45. **Domestic Animals Exclusion**

For the life of the development, cats are to be kept in a cat run and/or inside the dwelling such



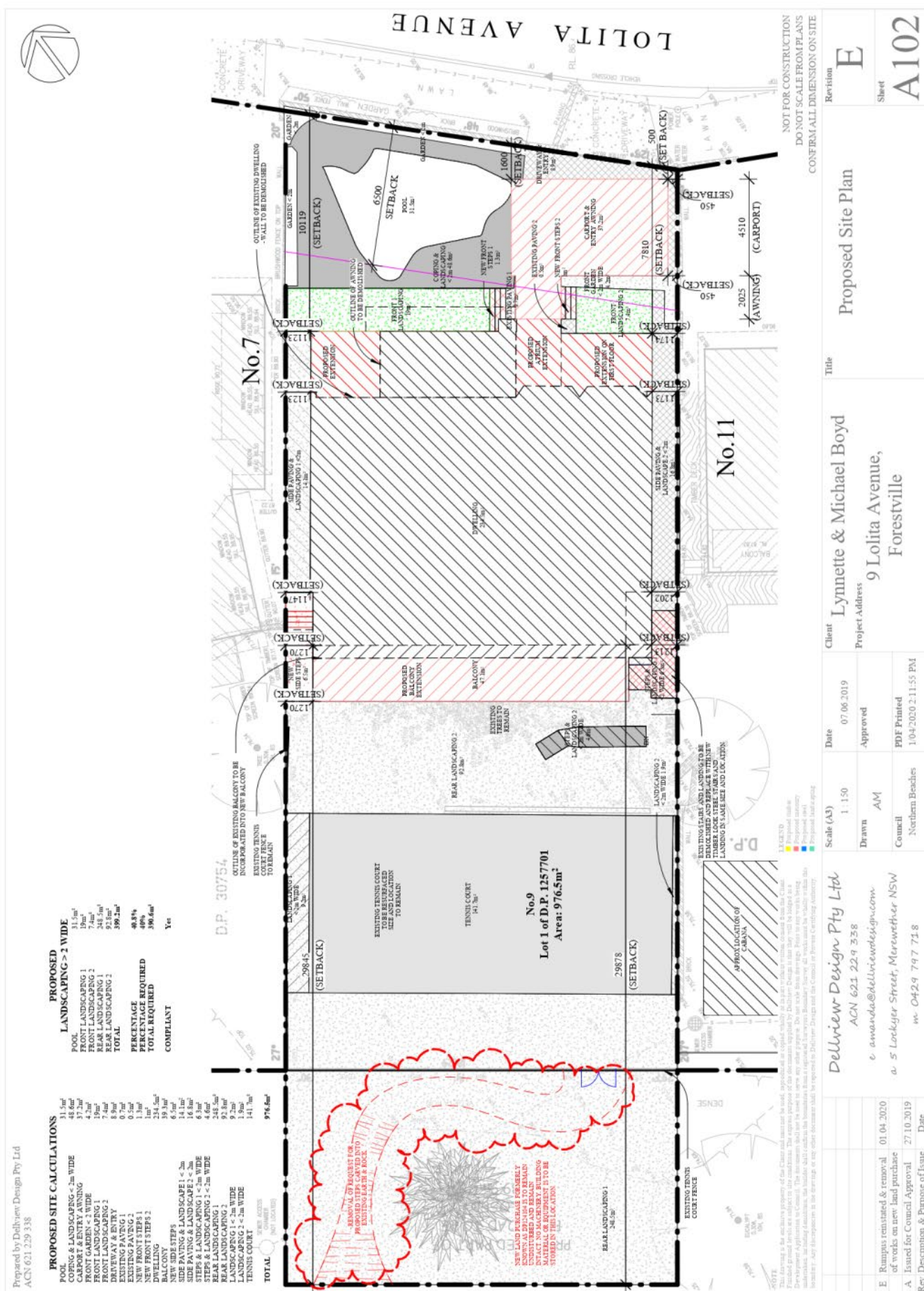
that they are prevented from entering wildlife habitat areas at all times including the adjoining National Park. Dogs are to be kept in an enclosed area such that they cannot enter areas of bushland, unrestrained, on surrounding properties.

Reason: Wildlife protection

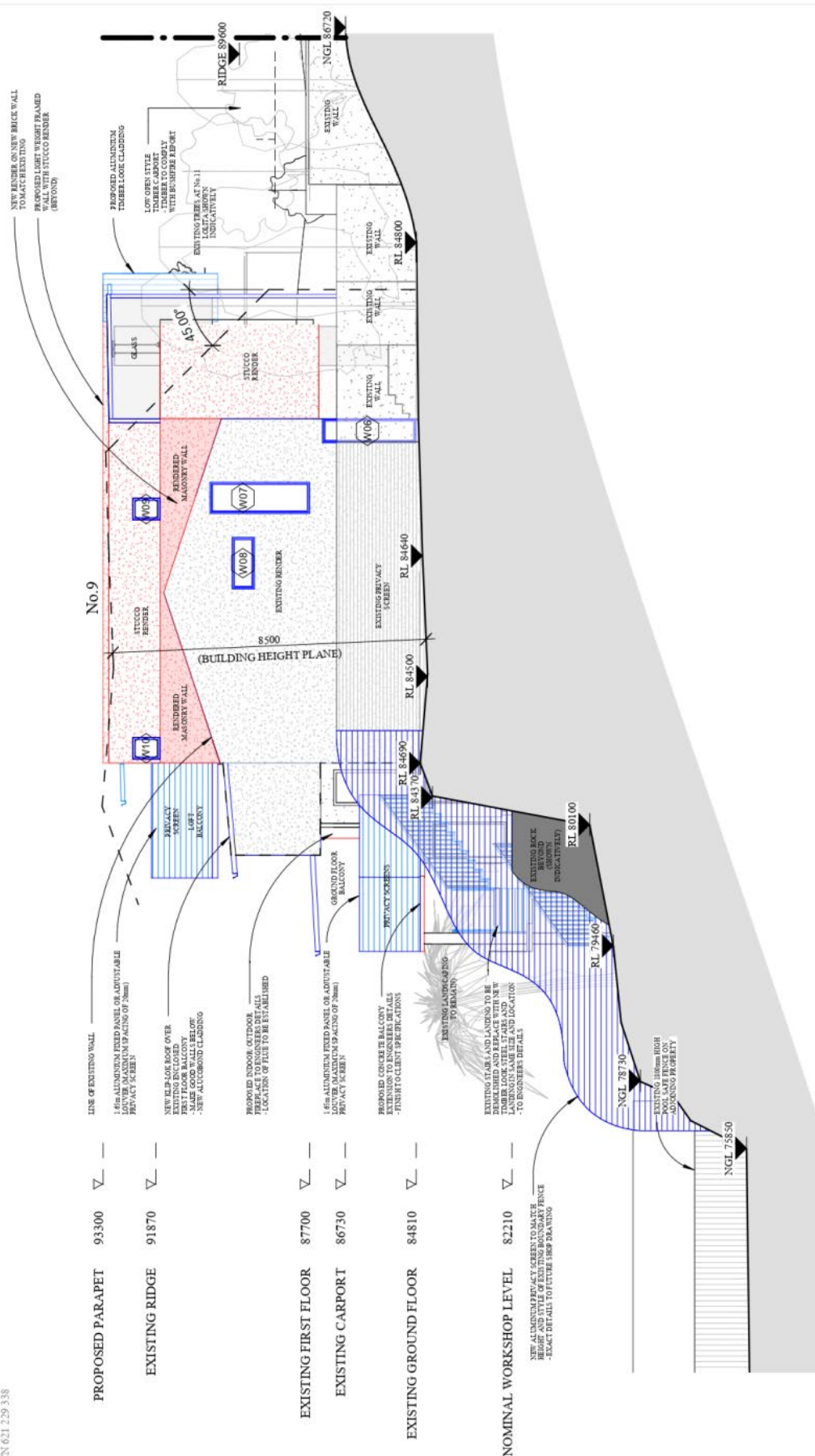
46. **No Artificial Tennis Court Lighting**

No artificial lighting is permitted to be installed to the tennis court.

Reason: To ensure the amenity of adjoining properties is maintained.



Prepared by Dellview Design Pty Ltd
ACN 621 229 338



NOT FOR CONSTRUCTION
DO NOT SCALE FROM PLANS
CONFIRM ALL DIMENSION ON SITE

LEGEND

- Proposed timber
- Proposed masonry
- Proposed steel
- Proposed landscaping

[illegible]

Client	Title
Lynnette & Michael Boyd	Proposed East Elevation

Revision

Revision
C

Sheet
A115



[illegible]

Dellview Design Pty Ltd

LEP Clause 4.6 Variation
Request – PLM2019/0104

9 Lolita Avenue, Forestville

Development Application
Additions & Alterations

October 2019

Report by Amanda Marshall
Director – Dellview Design Pty Ltd

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LEP Clause 4.6 Request – PLM2019/0104

9 Lolita Avenue, Forestville

Preamble

This Development Application requests a variation to the Building Height of LEP Clause 4.3 under LEP Clause 4.3 maximum height of 8.5m above natural ground level. The objective of LEP Clause 4.6 is to provide a degree of flexibility in applying certain development standards and to allow optimal outcomes through this flexibility. This Clause 4.6 Request will discuss how the objectives Clause 4.3 can effectively be met.

4.3 Height of buildings

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

- (a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*
- (c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*
- (d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

The proposed Development Application addresses the controls as follows.

- (a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development:*
 - The proposed development sits on a site that steeply slopes down from Lolita Avenue, from the street the proposed dwelling will be viewed as a two storey dwelling that is in keeping with the other two stored dwellings that line Lolita Avenue.
 - The proposed development is much lower than the dwellings that sit on the opposite side of Lolita Avenue and is consistent in scale with surrounding dwellings.
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access:*
 - The design has been based around maintaining the view of the Chatswood skyline from the balcony of number 8 Lolita Avenue as requesting by way of submission to council.

- The shadow diagrams provided as a part of the development application provide confirmation that solar access complies with the standards and allowing sufficient solar access to the neighbouring properties.
- Privacy has been maintained by using privacy screens on both sides of all balconies and high level or frosted window the eastern and western walls which face the neighbouring properties.
- The proposed second floor has been moved back to towards the north to reduce the breach in height.

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

- The meandering path and steps that gently follow the curve and fall of the land wrapping around an existing palm tree create a gentle connection with topography and landscaping.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

- The visual impact of the non-compliance is virtually nonexistent when viewed from the street as the steep slope and drop of the site are not viewed from the street. Similarly, when viewed from the reserved the visual impact of non-compliance is not visible as the slope at the top of the escarpment.
- The proposal responds sensitively to the topography and landscape by having a series of tiered balconies to reduce the appearance of bulk and scale and maintaining the mature palm trees.