

AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL

Notice is hereby given that the Northern Beaches Local Planning Panel will be held via teleconference on

WEDNESDAY 4 NOVEMBER 2020

Beginning at 1.30pm for the purpose of considering and determining matters included in this agenda.



Peter Robinson
Executive Manager Development Assessment

Panel Members

Peter Biscoe	Chair
Steve Kennedy	Urban Design Expert
Graham Brown	Town Planner
Ray Mathieson	Community Representative

Quorum

A quorum is three Panel members

Conflict of Interest

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.

Agenda for the Northern Beaches Local Planning Panel to be held on Wednesday 4 November 2020

1.0	APOLOGIES & DECLARATIONS OF INTEREST	
2.0	MINUTES OF PREVIOUS MEETING	
2.1	Minutes of Northern Beaches Local Planning Panel held 21 October 2020	
3.0	PUBLIC MEETING ITEMS	5
3.1	DA2019/1478 - 1 Narrabeen Park Parade, North Narrabeen - Alterations and additions to an existing restaurant	5
3.2	DA2020/0431 - 1129 Pittwater Road, Collaroy - Demolition works and construction of a Mixed Use Development comprising commercial units and a Boarding House	57
4.0	NON PUBLIC MEETING ITEMS	143
	A statutory Direction by the Minister of Planning and Public Spaces states the panel is only required to hold a public meeting where the development application has attracted 10 or more unique submissions by way of objection. These applications do not satisfy that criterion.	
4.1	DA2020/0911 - 32 Fuller Street, Collaroy Plateau - Alterations and additions to a dwelling house including a secondary dwelling	143
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2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 21 OCTOBER 2020

RECOMMENDATION

That the Panel note that the Minutes of the Northern Beaches Local Planning Panel held 21 October 2020 were adopted by the Chairperson and have been posted on Council's website.

3.0 PUBLIC MEETING ITEMS

ITEM 3.1	DA2019/1478 - 1 NARRABEEN PARK PARADE, NORTH NARRABEEN - ALTERATIONS AND ADDITIONS TO AN EXISTING RESTAURANT
AUTHORISING MANAGER	TONY COLLIER
TRIM FILE REF	2020/659202
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan and Elevations

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2019/1478 for alterations and additions to an existing restaurant at Lot 1 DP 1005148, 1 Narrabeen Park Parade, North Narrabeen subject to the conditions and for the reasons set out in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1478
Responsible Officer:	David Auster
Land to be developed (Address):	Lot 1 DP 1005148, 1 Narrabeen Park Parade NORTH NARRABEEN NSW 2101
Proposed Development:	Alterations and additions to an existing restaurant
Zoning:	R2 Low Density Residential
Development Permissible:	No - Zone R2 Low Density Residential Yes - Zone RE1 Public Recreation
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Petobi Pty Ltd
Applicant:	Petobi Pty Ltd
Application Lodged:	19/12/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	26/05/2020 to 09/06/2020
Advertised:	Not Advertised
Submissions Received:	37
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 23,000.00

Executive Summary

The proposal relates to an existing restaurant use, and proposes an increase in number of patrons, extended operating hours, the playing of live or amplified music, and works on the adjacent Crown Land to provide for an outdoor eating area.

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.

Council received 37 submissions, including four in support of the application, and a petition with over 1000 names also in support of the application. The objections to the proposal focused mainly on noise and amenity impacts, impacts to the Norfolk Pines to the south, and the encroachment and perceived



privatisation of the adjacent Crown Land.

Conditions are recommended in relation to customer numbers, trading hours, and live and amplified music, to reasonably maintain residential amenity. The condition relating to operational hours (trading and music) has also been recommended to be reviewed by Council after 12 months, and thereafter at the discretion of Council, to ensure that any unreasonable impacts can be managed by alteration of the approved operating hours.

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 applicant seeks development consent for alterations and additions to an existing food and drink premises, extending the premises' hours of operation and increasing the seating capacity within the premises.

Alterations and Additions

The proposed alterations and additions are confined to the southern exterior of the building and comprise:

- the construction of a 2.6m high pergola over an existing tiled area;
- the construction of a new 1.5m wide concrete pathway connecting the existing outdoor tiled area to an existing footpath within the Reserve;
- the construction of a stone and railway sleeper fence at a height of 1.2m around the perimeter of the outdoor area;
- the construction of railway sleeper 'deck' connecting the two tiled terrace areas; and
- associated soft landscaping (22.4m² total).

It is noted that the proposed works are located within the Lake Park Reserve and that Council as trustee, and the Department of Planning, Industry and Environment (Crown lands) have granted owner's consent for the proposed works.

Hours of Operation

The existing hours of operation, as approved by Development Consent No. 87/200 dated 17 June 1987 and subsequently modified by Modification of Development Consent No. 87/200 dated 15 November 1990, are as follows:

- Wednesday to Sunday: 12 midday - 3.00pm;
- Wednesdays, Thursdays and Sundays: 6.30pm - 10.30pm; and
- Fridays and Saturdays: 6.30pm - 11.30pm.

The proposed hours of operation are as follows:



- Monday to Saturday: 6.30am - 12.00 midnight;
- Sunday: 6.30am - 10.00pm; and
- New Year's Eve: 6.30am - 2.00am.

Seating Capacity

The existing seating capacity, as approved by Development Consent No. 87/200 dated 17 June 1987, is a maximum of 50 persons. Council has also granted an outdoor seating approval for a further 40 persons.

The application proposes to increase the seating capacity to 100 persons, spread over both the internal and external areas of the premises. It also proposes to allow for up to 180 persons for stand up cocktail functions.

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

Pittwater Local Environmental Plan 2014 - Zone R2 Low Density Residential
 Pittwater Local Environmental Plan 2014 - Zone RE1 Public Recreation
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
 Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy
 Pittwater 21 Development Control Plan - D14.8 Side and rear building line

SITE DESCRIPTION

Property Description:	Lot 1 DP 1005148 , 1 Narrabeen Park Parade NORTH NARRABEEN NSW 2101
Detailed Site Description:	The development, being the subject of this application, occurs on two properties being:

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- Lot 1 in DP 1005148, No. 1 Narrabeen Park Parade; and
- Lot 7069 in DP 1058602, No. 1A Narrabeen Park Parade (known as Lake Park Reserve).

No. 1 Narrabeen Park Parade

The site has an area of 345.3m² with a frontage to Narrabeen Park Parade of 9.82m. The southern boundary is a total of 41.15m in length, with the northern boundary being 36.11m.

The site accommodates a single storey brick, timber and metal roofed cafe which occupies approximately 208m² of the site. The cafe is constructed to the northern (side) and western (front) boundaries and partially to the southern (side) boundary. The remainder of the site (to the east) contains a detached garage building with access to the garage gained via an existing driveway from the Council public car parking area. The eastern portion of the site has a shared area with a ground level garage and awning area within the subject Lot 1 and a first floor level balcony over the garage being within the title of Lot 2 in DP 1005148.

The original building appears to have been constructed circa 1930, as a single storey structure on the front (west) and side boundaries of the site. The building is curved on its south-west corner. There have been several alterations to the original building, including new window and door openings to the west and south elevations. Constructed of brickwork, the building has a painted facade. There is a parapet surrounding a low pitched metal roof to this structure.

Extended to the rear of original building is a single storey timber weatherboard extension, which is setback from the southern boundary by about 1.15 metres. Painted to match the larger brick structure, the extension also has window and double door openings to the southern elevation. At the rear of the building is a timber lean-to element. There is pedestrian access from the rear of the building to a parking area comprising 3 garages. Access to these garages is achieved via the roadway within Lakeside Reserve. Pedestrian access is available across the garage turning area to the adjacent property, 3 Narrabeen Park Parade.

No. 1A Narrabeen Park Parade

The cafe is located adjacent to the northern edge of Lakeside Reserve at 1A Narrabeen Park Parade. The reserve includes the North Narrabeen Rock pool, Lagoon,

and public carpark. Immediately adjacent to the site of the proposed works to the south of 1 Narrabeen Park Parade are a group of Norfolk Pines with 3 being in close proximity to the proposal works.

The site is Crown Land, of which Council is the trustee under the Crown Lands Management Act 2016. Both Council and the Department of Planning, Industry and Environment have given owner's consent to the specific works proposed. Stamped plans from the Department have also been provided with the owners consent, which correspond to the plans lodged with the application. The applicable Plan of Management for the land is Pittwater's Ocean Beaches Plan of Management 7.0 North Narrabeen Rock Pool, which was adopted by Pittwater Council in June 2006. This Plan of Management expressly authorises an outdoor eating area in conjunction with the existing commercial outlet adjacent to the reserve.

Map:



SITE HISTORY

The site has been the subject of the following matters:

A1220/73

This Building Application was lodged on 25 June 1973 for renovations to the interior of the existing shop.

The application was approved on 4 September 1973.

DA87/200

This application was lodged for a change use from an existing shop (milk bar) with attached dwelling to a refreshment room (restaurant) with attached dwelling and detached garage.

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The application was approved on 17 June 1987 subject to conditions, the following of which are relevant to this application:

4. *Restaurant trading hours including any take away meals service shall be confined to 6.30pm to 10.30pm Wednesdays, Thursdays and Sundays, 6.30pm to 11.30pm Fridays and Saturdays, closed Mondays and Tuesdays. All staff and customers must vacate the restaurant premises by 12.00pm midnight.*

5. *Seating provision within the restaurant to not exceed 50 persons.*

During this occupation, paving was laid on the ground within the Reserve and outdoor seating provided in conjunction with the use of restaurant.

Granting of Trusteeship

The granting of trusteeship of the Reserve to Pittwater Council from the department of Conservation and Land Management was published in the Government Gazette No. 146 on 18 December 1992.

Access arrangements

On 29 December 1992 Council wrote to the property owner in relation to the granting of a licence over Crown land (being the Reserve) to enable the continuation of existing vehicle access to the rear of the site via the eastern end of the public car park (i.e. in the location of the proposed new landscaped area) pursuant to a decision at the Ordinary Council Meeting of 14 September 1992.

Building Approval 1038/93

This application was lodged on or around 28 May 1991 for the erection of additions (i.e. a double garage at the rear of the site).

The application was approved on 23 November 1993.

On the 4 March 1996, the Council advised the applicant that the outdoor seating was within the boundaries of the reserve. As such, use of the reserve for outdoor seating or use of the land for other activities ancillary to the restaurant was not permissible.

A meeting was held on 17 April 1996 with the relevant officers of the Council to determine the most appropriate course of action available to the applicant. A rezoning application was the outcome of that meeting.

Application to rezone the land

This application was lodged on or around 18 July 1996 and sought approval to rezone two (2) parcels of land (being Lot 1 and the Lakeside Reserve) to allow:

- use of the land occupied by Surfside Cafe, 1 Narrabeen Park Parade, Narrabeen, for restaurant refreshment room purposes;
- use of part of Lakeside Reserve, adjacent to 1 Narrabeen Park Parade, Narrabeen, for outdoor seating associated with a restaurant refreshment room.

The rezoning sought to amend the *Pittwater Local Environmental Plan 1993* in the following manner:

1. That Lot 1, DP 16625, be used for the purposes of a restaurant/ refreshment rooms; and
2. That part of the Lakeside Reserve, incorporating two areas of 4.2 metres x 9.0 metres; and 2.8



metres x 6.4 metres, adjacent to Lot 1, DP 16625, be used for outdoor seating associated with the adjacent restaurant/ refreshment rooms.

The application was rejected by Council at its meeting of 24 March 1997 for the following reasons:

1. *The rezoning would rely upon carparking within a public reserve to support a commercial use;*
2. *The proposal has potential adverse impacts upon the existing Norfolk Island Pines located within the reserve;*
3. *The rezoning would alienate public open space for commercial purposes;*
4. *The intensification of the approved restaurant within the residential 2(a) zoned land is able to be considered through the Development Application process under the existing use rights provisions of the EPA Act 1979.*

In addition to these reasons, Council also resolved in relation to the existing work in the following manner:

"That the planter boxes placed on Crown Land be moved back to the boundary of the premises so as not to alienate the public open space."

The applicant was advised of this decision by letter dated 14 April 1997.

Compliance Action for the alleged Illegal use of outdoor seating

On 3 April 1998 Council issued a Directive ('cease use') Letter with respect to the apparent illegal land use for the purposes of outdoor seating in conjunction with the restaurant at Lot 1, DP 16625 No 1 Narrabeen Park Parade, North Narrabeen (the subject site).

In response, on 22 April 1998 the tenant of the property (Surfside Cafe) requested an extension of time to enable the removal of the outdoor seating. This was rejected by Council and a further Directive Letter was issued on 13 May 1998 requiring the tenant to show cause within 28 days why Council should not proceed to take appropriate legal action.

The matter was subsequently referred to Council's solicitors on 26 June 1998 to commence legal action.

PP0001/17

This application was lodged on or around 30 March 2017 to permit a new 4-storey building comprising 8 residential units, 2 commercial units and basement carparking, by amending the *Pittwater Local Environmental Plan 2014* to:

- rezone the subject lots from R2 Low Density Residential to B1 Neighbourhood Centre; and
- increase the maximum permitted building height from 8.5m to 13m.

At its meeting on 27 June 2017, the Council resolved to reject the proposal.

Outdoor Dining Approval

On 1 September 2017 Council approved a 10m x 4.6m outdoor seating area at the south-western corner of the existing building within the Reserve. The approval expires on 1 September 2020.

The approval includes:

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- Operating hours 7.00am to 10.00pm.
- Maximum provision of 10 tables and 40 chairs.

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 commercial purposes for an extended period of time. The proposed development retains the commercial use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 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 documentation has been submitted.</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 clause is not relevant to this application.</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 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 the provisions of the Building Code of</p>

Section 4.15 Matters for Consideration'	Comments
	<p>Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>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.</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 Pittwater 21 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

- Does the existing use satisfy the definition of "existing use" under the *Environmental Planning and Assessment Act 1979* (the 'Act')?

Section 4.65 of the Act defines an existing use as:

"(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use, and

(b) the use of a building, work or land:

- (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
- (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse."*

This necessarily requires the following questions to be answered:



1. Was the use of the building, work or land a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part 4 of the Act, have the effect of prohibiting that use?

Comment

The Applicant has provided evidence in the form of the original consent (87/200) and subsequent approvals (modification to 87/200 dated 15 November 1990 and an Outdoor Dining Approval granted on 1 September 2017), which reveal that the use of the land commenced as a lawful purpose prior to the coming into force of Pittwater Local Environmental Plan 2011 on 27 June 2014.

2. Was the use of the land granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?

Comment

The use of the land was lawfully approved by Council on 17 June 1987, prior to the coming into force of Pittwater Local Environmental Plan 2011 on 27 June 2014.

3. Has the use of the land been carried out within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse?

Comment

Council records reveal through various inspections that the use of the land was carried out on 11 February 2015 which is within one year from the date on which the provision having the effect of prohibiting the use commenced.

- **What is “the land on which the existing use was carried out” for the purposes of cl 42(2) (b) of the Environmental Planning and Assessment Regulation 2000 (“the Regulation”)?**

Meagher JA in *Steedman v Baulkham Hills Shire Council* [No. 1] (1991) 87 LGERA 26 stated (at 27) the rule to be applied as follows: “if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose”.

Comment

Having regard to the above case law, it is noted that the whole of the area of the land was physically used for the purpose in question and therefore, it is considered that the land was used for that purpose and that existing use rights apply to the whole of the subject site.

- **What are the planning principles that should be adopted in dealing with an application to alter enlarge or rebuild and existing use?**

The judgement in *Fodor Investments v Hornsby Shire Council* (2005) NSWLEC 71, sets out the planning principles that should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights.

The following four principles adopted by the NSW Land and Environment Court in this case will have general application in dealing with development applications that rely on existing use rights:

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1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

Comment

The works subject to this application are incidental to the approved use and occur entirely outside the building (the majority of which is sited with the neighbouring RE1 Public Recreation zone to the south).

The development which is the subject of this proposal, and which occurs in the R2 Low Density Residential zone, is part of the pergola which crosses the property boundary into the neighbouring RE1 Public Recreation zone. The pergola therefore provides a nil side setback to the property boundary.

The pergola structure does not adversely affect the relationship to the existing and future context as it is of a lightweight construction and compliments the cafe use both aesthetically and functionally. The placement of the pergola does not unreasonably prejudice the future development of land on both zones as it of a lightweight construction which could be removed should the need arise.

2. What is the relevance of the building in which the existing use takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

Comment

The building has been used as a restaurant/cafe since 1987 and is not subject to a change of use or demolition.

The additions which form the subject of this application do not add unreasonable bulk to the existing built form given the lightweight construction of the pergola and the use of umbrellas to cover the remainder of the existing terrace.

3. What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Comment

The impacts on adjoining land have been considered in terms of bulk, scale, impact on the environment (i.e. trees), and amenity (i.e. acoustic privacy).

In each instance it is considered that the development, subject to conditions (particularly pertaining to noise generated by amplified music) will achieve a satisfactory level of impact.



4. What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Comment

The building is used as a cafe and the terrace/patio is ancillary to that use. In this respect, and because the pergola provides shade to outdoor diners, the internal amenity is considered to be maintained at a satisfactory level.

Conclusion

The use has been approved under a previous environmental planning instrument and, therefore, is a lawful use. Subsequently, the use can be retained under the current environmental planning instrument (Pittwater Local Environmental Plan 2014).

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Building Code and Bushfire Hazard Solutions, dated 30 September 2019) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 26/05/2020 to 09/06/2020 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 37 submission/s from:

Name:	Address:
Mr Michael John Morris	5 Narrabeen Park Parade NORTH NARRABEEN NSW 2101
Mrs Susanne Erica Morris	5 Narrabeen Park Parade MONA VALE NSW 2103
Mrs Betsy Ellen Faen	9 Narrabeen Park Parade NORTH NARRABEEN NSW 2101
Michael Morris	5 Narrabeen Park Parade NORTH NARRABEEN NSW 2101
Mrs Diane Munro	17 Narrabeen Park Parade NORTH NARRABEEN NSW 2101
Marjorie Colman	24 Island Parade NORTH NARRABEEN NSW 2101
Mrs Allison Bosley	24 Edwin Avenue AVALON BEACH NSW 2107
Mr Peter Muller Mrs Gwentyth Muller	PO Box 127 CHURCH POINT NSW 2105
Alan Ginns	Address Unknown
Mr Peter Gurtner	Po Box 284 MONA VALE NSW 1660



Name:	Address:
Michael Simpson	11 Narrabeen Park Parade NORTH NARRABEEN NSW 2101
Kristel Ness	7 Narrabeen Park Parade NORTH NARRABEEN NSW 2101
Mrs Elizabeth Mary Kelly	29 Collins Street NORTH NARRABEEN NSW 2101
Mr Peter Henderson	21 Narrabeen Park Parade NORTH NARRABEEN NSW 2101
Sanford Jaffe	Address Unknown
Marilyn Irons	5 Beach Parade NORTH NARRABEEN NSW 2101
Mr David Michael Holst	28 Collins Street NORTH NARRABEEN NSW 2101
Ms Janet Craig	Address Unknown
Mr Alexander Clive Morgan	19 Island Parade NORTH NARRABEEN NSW 2101
Mrs Margaret Gladys Woods	42 A Elimatta Road MONA VALE NSW 2103
Mrs Rosemary Ramage	26 Wimbledon Avenue NORTH NARRABEEN NSW 2101
Ms Janine Elizabeth Clark	16 Lake Park Road NORTH NARRABEEN NSW 2101
Monte Bruce Wilson	12 Peal Place WARRIEWOOD NSW 2102
Shannon O'Neill	220 Ocean Street NARRABEEN NSW 2101
Mrs Vicki Maree Stephenson	49 Arnott Crescent WARRIEWOOD NSW 2102
Mrs Katia Morosi	10 / 26 Wetherill Street NARRABEEN NSW 2101
Mr Nigel Bennett Bramley	3 Narrabeen Park Parade NORTH NARRABEEN NSW 2101
Mrs Robyne Dawn Coutts	19 Collins Street NORTH NARRABEEN NSW 2101
Ms Philippa Cranswick	7 Peal Place WARRIEWOOD NSW 2102
Mr Paul Stewart Whitter	7 Peal Place WARRIEWOOD NSW 2102
Ms Kim McMahon Ms Pauline Mary McMahon	31 Narrabeen Park Parade WARRIEWOOD NSW 2102
Jeffrey Gordon	5 Narrabeen Park Parade NORTH NARRABEEN NSW 2101
Mrs Dianne Mary Munro	17 Narrabeen Park Parade NORTH NARRABEEN NSW 2101
Jessica Gordon	5 Narrabeen Park Parade NORTH NARRABEEN NSW 2101
Jacqueline Marlow	154 Woorarra Avenue ELANORA HEIGHTS NSW 2101
Mr Ian George Ralph	154 Woorarra Avenue ELANORA HEIGHTS NSW 2101
BBF Town Planners	1 / 9 Narabang Way BELROSE NSW 2085

Of the 37 submissions received, four were in support of the application, and the others were objecting to the proposal. A petition was also submitted, including over 1000 names, in support of the application.

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

- Owner's consent
- Noise
- Appearance of privatisation of crown land
- Impacts on Norfolk Island Pines and wildlife
- Existing use rights extending beyond boundary
- Trading hours
- Increase in patrons beyond property boundary
- Replacement of existing path
- Service of alcohol



- Flooding
- Proposed landscaping
- Outdoor dining requirements
- Petition

The matters raised within the submissions are addressed as follows:

- **Owner's consent**

Concerns were raised that the owner's consent provided was a letter from Council granting owner's consent for works to the outside dining area and nothing more, and that owner's consent for the proposal as presented was therefore insufficient.

Comment:

In response to the concerns raised early in the assessment process, an updated owner's consent letter from Council was provided (Council ref: 2020/031245), granting owner's consent specifically for the works proposed as part of the application, subject to conditions should the proposed development application be approved. A further letter was provided from the Department of Planning Industry & Environment granting owner's consent for the development application, along with stamped plans acknowledging the owner's consent (Council ref: 2020/446146 and 2020/446155).

- **Noise**

Concerns were raised regarding noise arising from the proposal, including live and amplified music being played.

Comment:

These concerns have been extensively addressed by Council's Environmental Health department (see Referrals section of this report). Environmental Health is generally satisfied with the proposal, subject to strict conditions in relation to live or amplified music, including days and hours of operation, and the location, number, orientation, and volume of speakers. Speakers are to be confined to indoors at the premises. Further, a 12 month trial period has been recommended, at the end of which the applicant will need to demonstrate that no unreasonable impacts are caused for the proposed operating conditions to continue.

Environmental health has also recommended a condition stating that live or amplified music may only be played inside the premises of 1 Narrabeen park parade under the following circumstances; On Thursday to Saturday except new years eve and new years day between the hours of 12:00pm (midday) and 10:00pm, except new years eve to new (31 December - 1 January) where live or amplified music may be played from 12:00pm (midday) to 2:00am.

These recommendations are noted. However, given the location of the premises in or adjacent to the residential area, it is recommended that these times be more conservative. The recommended condition has been altered to state that live or amplified music may only be played inside the premises of 1 Narrabeen park parade under the following circumstances; On Thursday between 12.00pm and 8.30pm, Friday to Saturday except new years eve and new years day between the hours of 12:00pm (midday) and 10:00pm, except new years eve to new (31 December - 1 January) where live or amplified music may be played from 12:00pm (midday) to 12:00am.

Further to this, the trial period recommended by Environmental Health is not supported. Instead,



the condition relating to operational hours (trading and music), is recommended to be reviewed by Council pursuant to section 4.17(10B) of the Environmental Planning and Assessment Act 1979. This will enable Council to carry out a review of the condition at the end of 12 months from the date of issue of an occupation certificate, and thereafter at the discretion of Council should environmental impacts arising from the operating hours be found to be creating unreasonable environmental impacts. Subject to such a review in accordance with the Act and the Regulations, Council will have the ability to alter the permitted operating hours if necessary.

Subject to these comments and conditions, the concerns are considered to have been satisfactorily addressed, and will be reviewed at the end of 12 months after an occupation certificate is issued. Further, the proposed operating hours are not supported in full and will be limited by condition (see discussion under Trading hours below).

- **Appearance of privatisation of crown land**

Concerns were raised that the proposed pergola and landscaping over the crown land would appear to privatise this land, and that this is not in the public interest.

Comment:

The proposed works are consistent with the Plan of Management for the land, which expressly authorises Council to lease the land for an outdoor eating area in conjunction with the commercial outlet adjacent to the reserve. Further, both Council and the Department of Planning, Industry and Environment (Crown Lands) have provided owner's consent for the proposal. Council's Parks, Reserves, Beaches, Foreshores department has also indicated their support for the proposal in the Referrals section of this report, including the specific embellishments shown on the plans, and the proposed operating hours. The proposed works include structures such as a pergola and rail way sleepers, which will be relatively easy to remove in the future should that be required.

Given the above considerations, the proposal is considered acceptable in the circumstances with respect to the works on the crown land. The proposal is considered to be generally in the public interest, given its consistency with the Plan of Management for the site.

- **Impacts on Norfolk Island Pines and wildlife**

Concerns were raised in relation to impacts to the Norfolk Island Pines adjacent to the site to the south, and regarding impacts of lighting and noise to birdlife.

Comment:

Impacts to the Norfolk Island Pines have been assessed by Council's Landscape Officer (see Referrals section of this report). This assessment concluded that the proposed works are satisfactory, subject to conditions of consent including implementing the recommendations of the arborist report provided with the application. Council's Bushland and Biodiversity department also assessed the application, and did not identify any potential impacts or biodiversity issues. Verbally, Council's Bushland and Biodiversity team indicated they are aware of a nest in Rat Park to the north east, but are unaware of any permanent nesting sites within the Norfolk pines adjacent to the subject site.

Subject to these comments and conditions, the concerns are considered to have been satisfactorily addressed.

- **Existing use rights extending beyond boundary**

Concerns were raised that existing use rights should not apply beyond the boundary of 1



Narrabeen Park Parade, and should not extend onto the crown land to the south. Particular concerns were raised with respect to clauses 42 and 42 of the Environmental Planning and Assessment Regulation 2000.

Comment:

The proposal is considered to benefit from existing use rights (see discussion under Existing Use Rights in this report) at 1 Narrabeen Park Parade, which is zoned R2 Low density residential. However, the land to the south is zoned RE1 Public Recreation. Restaurants or cafes are a permissible use in this zone, and a reliance on existing use rights on this land is therefore unnecessary. The works proposed on the crown land are ancillary to the restaurant/cafe use, and are therefore deemed to be a permissible use on that land. Further, the Plan of Management relating to the crown land specifically allows for an outdoor eating area in conjunction with the commercial outlet.

The Environmental Planning and Assessment Regulation 2000 includes the following clauses:

42 Development consent required for enlargement, expansion and intensification of existing uses(cf clause 40 of EP&A Regulation 1994)

(1) Development consent is required for any enlargement, expansion or intensification of an existing use.

(2) The enlargement, expansion or intensification—

(a) must be for the existing use and for no other use, and

(b) must be carried out only on the land on which the existing use was carried out immediately before the relevant date.

43 Development consent required for alteration or extension of buildings and works(cf clause 41 of EP&A Regulation 1994)

(1) Development consent is required for any alteration or extension of a building or work used for an existing use.

(2) The alteration or extension—

(a) must be for the existing use of the building or work and for no other use, and

(b) must be erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant date.

As discussed above, the restaurant/cafe use on the Crown land is a permissible use in the RE1 zone, and so does not rely on existing use rights, and the Plan of Management for the site also expressly allows for this use. Further, even were that not the case, it is noted that there is existing approval for use of the Crown land for outdoor eating (where the existing umbrellas are located), and it may be considered that the 'existing use' therefore already applies to 1A Narrabeen Park Parade in any case.

The submissions are not supported in this regard.

- **Trading hours**

Concerns were raised regarding the proposed trading hours, including past 10pm and until 2am on new years eve.

Comment:

Council's Environmental Health department has detailed extensive considerations of the proposed trading hours (see Referrals section of this report), including related impacts such as noise from live and amplified music. Subject to conditions in relation to noise, trading hours of Monday – Saturday: 6.30am – 12.00 midnight, Sunday: 6.30am – 10.00pm, and New Year's



Eve – until 2.00am have been recommended for approval. Other conditions recommended include compliance with the plan of management, the keeping of a complaints register, and a twelve month trial period, at the end of which the noise impacts must be reviewed and found to be acceptable if the trading hours and conditions on music are to continue.

Despite the assessment of the Environmental Health team, it is recommended that the operating hours above be more limited. Council's standard practice with regard to operating hours of restaurants in residential areas has been to generally limit trading hours to around 10pm. It is noted that the location of this property is 'on the edge' of the residential area, and noise may generally be expected to be projected mainly to the south, across the lagoon. It is further noted that the operational plan of management submitted by the applicants states that live music will cease at 10pm.

Given these considerations, and the assessment and conditions provided by Environmental Health, it is recommended that trading hours until 11.30pm be permitted on Fridays and Saturdays, but be limited to 10.30pm Sunday to Thursday, due to the existing approved operating hours for Wednesday, Thursday and Sunday allowing for a 10.30pm closing time. It is also recommended that the proposed closing time for new years eve of 2.00am be limited to 12.30am. These opening hours will still be subject to Council review (as discussed under 'Noise' above), and will be reviewed at the end of 12 months, and thereafter at the discretion of Council.

- **Increase in patrons beyond property boundary**

Concerns were raised that any increase in numbers of diners should be confined within the property boundary of 1 Narrabeen Park Parade, and not on the crown land. Concerns were also raised that the business should not be permitted more patrons than other nearby businesses, and that no more than 40 patrons should be permitted outside.

Comment:

The Council Plan of Management (POM) relating to the property expressly authorises the future leasing of an outdoor eating area in conjunction with the existing commercial outlet adjacent to the reserve. Given that the POM specifically allows for this, the submissions are not supported with regard to patrons being allowed to use the reserve.

In relation to the number of patrons proposed, it is not considered reasonable to base on other nearby businesses, that will all have different circumstances. The number of patrons should be assessed on the expected environmental impacts associated with the proposal. In this case, the POM for the reserve specifically envisions an outdoor eating area in this location in association with the commercial tenancy, and the proposal is not considered to be unreasonable or unexpected in this regard. The proposed intensity of use has been assessed as not resulting in any unreasonable environmental impacts, including with regard to noise impacts (subject to conditions of consent). However, a condition is recommended to allow Council to review the operating hours, to ensure that no unreasonable impacts arise out of the approval. A condition has also been recommended limiting the number of patrons in the outdoor area to 50 (an increase in 10 over what has been previously approved). This number of patrons in the outdoor area will also be subject to the assessment by Council when the operator applies for a new outdoor dining approval.

The operational plan of management submitted with the application states that up to 180 patrons will be permitted for stand up cocktail events. However, no supporting information has been provided to justify such an increase in the intensity of use, and there are no details on the number of such events that are likely, or times of day that they would run. The application has not demonstrated that such an intensity of use would not result in unreasonable environmental impacts, particularly with regard to parking. As such, although the increase in patron numbers to



100 is supported, the allowance for stand up cocktail functions of up to 180 people is not supported. Further, the Plan of Management for the Crown Land states that:

*"This Plan of Management expressly authorises the future leasing of a proposed **outdoor eating area** in conjunction with the existing commercial outlet adjacent to the reserve."*

The proposed use of the area for 'stand up cocktail functions' is not necessarily considered to achieve the requirement that the area be leased for 'outdoor eating'. As such, this element of the proposal is not supported, and it is considered that the crown land area should be used for outdoor seating to enable eating.

A condition of consent is recommended to amend the operational plan of management for the proposal prior to an occupation certificate being issued. Subject to the recommended conditions of consent, the proposal is considered acceptable in the circumstances.

- **Replacement of existing path**

Concerns were raised regarding the proposed replacement of the existing path from the car park to the southern entrance, and potential damage to the Norfolk Island Pines.

Comment:

Council granted owner's consent to the development application subject to construction of a new concrete path to match the existing reserve path that it connects to. Given this was a requirement of Council's Park Assets department, and that Council's Landscape Officer is satisfied that (subject to conditions) no unreasonable impacts will occur to the Norfolk Island Pines, the submission is not supported.

- **Service of alcohol**

Concerns were raised regarding the service of alcohol and anti social behaviour impacting on surrounding residents and children who use the public reserve.

Comment:

The service of alcohol will be governed by the liquor licence for the premises. The use is primarily as a restaurant, and the service of alcohol is not considered to result in unreasonable impacts in and of itself. As discussed above, the proposal to allow stand up cocktail functions of up to 180 people is not supported, and this will limit the likelihood of alcohol related anti social behaviour occurring.

- **Flooding**

Concerns were raised that the land is flood effected.

Comment:

The land falls within the low risk flood area. The proposed works are open and will not impede the flow of flood waters. Council's Flood Engineer has previously commented that there are no flood related controls are applicable, and no flood report is required with the proposal. The submissions are not supported in this regard.

- **Proposed landscaping**

Concerns were raised that there was no need for the landscaped areas shown on the plans, and that it could result in the spread of weeds.



Comment:

Council's Landscape Officer has assessed the proposal and is satisfied subject to conditions of consent. The small landscaped areas shown on the plans either side of the new pergola are not considered to be offensive. A condition is recommended stating that environmental weeds are to be planted in the landscaped areas shown on the plans.

- **Outdoor dining requirements**

Concerns were raised that the proposal was inconsistent with Council policy for outdoor dining areas.

Comment:

Consistency with the outdoor dining policy will be assessed when the owners of the business apply for a new outdoor dining permit. However, given that Council has previously granted an outdoor dining licence in this area, and that Council's Parks and Reserves department has issued owner's consent to make the application, specifically acknowledging the proposed works, it appears unlikely that such an application would be rejected (subject to the application being properly made in accordance with the policy, and complying with the terms of the development consent). Further, Council's Property Department has also supported the application (see Referrals section of this report), and stated that the approval will allow them to properly regulate the area in accordance with the outdoor seating policy.

- **Petition**

Concerns were raised that the petition submitted in support of the application should be treated as invalid due to entries being unsigned, undated and the proposals being vaguely worded on the petition. Further concerns were raised that many of the addresses on the petition are not local to the area.

Comment:

The petition submitted includes approximately 1088 names in support of the application. These names include addresses and phone numbers. A number of these were selected at random and called to confirm they had signed, and all were genuine. The petition is considered a valid submission in support of the application. Council is obliged to consider all submissions, albeit the petition does not raise any specific issues beyond "support for operating hours of 6.30am - 12.00am Monday to Saturday, 6.30am - 10.00pm Sunday; the ability to support live music between 12.00pm and 10.00pm on Fridays, Saturdays, Sundays and public holidays; and the ability to utilise the outdoor dining area consistent with the operating parameters of the restaurant."

The fact that many (not all) of the names and addresses on the list are not local to the immediate area, and who are not therefore likely subject to the possible environmental impacts of the proposal is noted. It is also noted that the petition did not cover all aspects of the proposal, including the extended opening hours on new years eve, and the proposed number of patrons of up to 180 people. However, it must also be noted that the petition represents a significant number of people who are in general support of the use of this public area for this purpose.

- **Parking**

Concerns were raised regarding competition for parking spaces in the public car park, particularly with regard to cocktail functions of up to 180 people proposed.



Comment:

The existing use had approval for 50 patrons, plus an outdoor dining approval for another 40 patrons. The proposal therefore represents a relatively minor increase from existing approvals, from a total of 90 patrons to 100 patrons. The small increase will not have a significant impact on parking rates. An increase to 180 people for cocktail functions is however a significant increase, albeit that these functions would perhaps be more likely to take place during evening hours where the parking area was not at peak usage for recreational use of the surrounding lagoon and beach area.

However, the potential use of the site for up to 180 people for cocktail functions has not been addressed in any detail in information submitted with the application, including with regard to parking impacts, nor the likely times, days, or frequency of such events. As such, although the increase to 100 patrons is supported, permitting functions of up to 180 patrons is not supported. A condition of consent is recommended in this regard.

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>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.</p>
Environmental Health (Acid Sulphate)	<p>General Comments</p> <p>Environmental Health have been requested to provide comment on the development application. As part of this assessment the following matters were considered; Acid sulphate soils and Noise.</p> <p>Acid Sulphate soil</p> <p>Reference is made to the report "report on preliminary geotechnical investigation for proposed mixed use development at 1 – 3 Narrabeen Park Parade, North Narrabeen" dated December 2016 and referenced as 206-092.1. The report refers to demolition of existing property at 1-3 Narrabeen park parade and building a new structure with below ground carpark which was part of a previously refused development. This report is not referring to the current proposal of changing hours of operation and increased seating at 1 Narrabeen Park parade.</p> <p>Despite this the geotechnical investigation was undertaken on the property mentioned in this development application and the site</p>

Internal Referral Body	Comments
	<p>investigation found that "Potential Acid Sulphate Soils are not present within the marine sands encountered towards the front of the site whilst a water table was not intersected above the bedrock surface to 3.60m depth. Due to the clayey nature of the subsurface at the rear of the site, the presence of acid generating soils is highly improbable in this location." Based on this and no excavations being proposed for the development Environmental Health have no objections to acid sulphate soils on the above mentioned site.</p> <p>Environmental Health recommend approval.</p> <p>Recommendation</p> <p>APPROVAL</p>
Environmental Health (Industrial)	<p>General Comments</p> <p>Environmental Health have been requested to provide comment on the development application. As part of this assessment the following matters were considered; Noise.</p> <p>Noise</p> <p>Reference is made to the statement of environmental effects by Vaughan Milligan Development Consulting Pty Ltd, dated October 2019. The development proposal aims to extend the hours of operation from the current condition of consent which states;</p> <p>Restaurant trading hours including any take away meals service shall be confined to:</p> <ul style="list-style-type: none"> • 12 midday- 3.00pm, Wednesday to Sunday • 6.30pm -10.30pm, Wednesdays, Thursdays and Sundays • 6.30pm -11.30pm, Fridays and Saturdays <p>All staff and customers are to vacate the restaurant premises by 12 midnight</p> <p>The development proposes to alter the existing trading hours to the ones listed below;</p> <ul style="list-style-type: none"> • Monday – Saturday: 6.30am – 12.00 midnight • Sunday: 6.30am – 10.00pm • New Year's Eve – until 2.00am closing. <p>This proposal significantly increases the trading hours and allows</p>

Internal Referral Body	Comments
	<p>trading on Monday and Tuesday which if not properly managed or controlled can have a detrimental effect on the amenity of surrounding residence.</p> <p>The proposal also aims to increase the current seating capacity from a maximum of 50 persons to 100 persons to both indoor and outdoor areas. This increase in patronage is anticipated to increase noise generated from the premises especially if outdoor seating is used.</p> <p>The property department at Northern Beaches Council has been requested to comment on the outdoor dining at the property and they have advised that the approval mentioned in the SEE was for a previous business operator. Outdoor dining licences under section 68 of the Local Government Act are non-transferable and as such the business has no current approval for any outdoor dining. The property department state that "Any agreement going forward would be assessed under a Crown Land licence.". As there is currently no crown land licence agreement, this will need to be addressed prior to the issuing of any consent.</p> <p>As part of a request for additional information the applicant has submitted an acoustic report and a plan of management.</p> <p>The plan of management has multiple inconsistencies with the SEE i recommend conditioning that an amended plan of management be submitted prior to OC for approval from the Environmental Health Department. Below i have listed the problems i have identified;</p> <p>- The SEE list the proposed hours of operation as;</p> <p>Monday – Saturday: 6.30am – 12.00 midnight</p> <p>Sunday: 6.30am – 10.00pm</p> <p>New Year's Eve – until 2.00am closing.</p> <p>The POM list hours as;</p> <p>Monday – Saturday – 6.00am -12.00 midnight</p> <p>Sunday 6.00am -10.00pm</p> <p>New Year's Eve - - 2.00am</p> <p>This is inconsistent with the SEE's proposal, The plan of management must mirror the proposed hours in the SEE.</p> <p>- In (h) Shutdown Procedure it is stated that " All waste is removed to the rear bins and the areas tidied."</p> <p>Environmental Health would prefer if waste was enclosed and</p>

Internal Referral Body	Comments
	<p>contained within in the premise until the following day where it is disposed in the rear bins. This is due to loading commercial bins at 11:45pm-12pm is quite a noisy activity for that late at night. This can be mitigated through this practice.</p> <p>- In Live Music/ Noise Management: section there is mention to recommendations from the acoustic report.</p> <p>This should refer to the conditions of consent Environmental Health propose to impose instead of the recommendations. As such I will be recommending that the POM be reviewed to the satisfaction of EH prior to OC where these change can be made.</p> <p>- Under Patronage: there is mention of 100 seated patrons and 180 in the event of a stand up cocktail event. There is no mention of 180 patrons within the SEE and as such this number should be removed from the POM. A condition of consent also be imposed to limit the number of patrons to 100 which is still double what the existing consent allowed.</p> <p>- In the conclusion section;</p> <p>The statement below alludes that DA 2019/1478 provides consent for the outdoor dining area. This is incorrect as a separate lease from crown lands/Council would permit its use;</p> <p>"The plan forms an integral part of the operation of the restaurant and the use of the outdoor dining area for which DA 2019/1478 provides approval."</p> <p>The acoustic report has been provided by the applicant by Pulse Acoustic consultancy referenced as 2020.064 One Café – Acoustic Assessment and dated 6 April 2020.</p> <p>The Acoustic report provides a number of recommendations based on the assessment undertaken in order to preserve the amenity of receivers these have been considered and associated conditions of consent have been proposed.</p> <p>Based on the number of submissions inconsistencies in the POM and significant increased intensity in the use of the site and hours of operation. A number of conditions of consent have been imposed to review the use of the site over a period of time. such as at OC stage, 12 month's after the interim OC is issued. This way if the use is not appropriate further conditions can be imposed.</p> <p>Further comments (12/06/2020)</p>

DA2019/1478

Internal Referral Body	Comments
	<p>A Submission has been received by Northern Beaches Council giving a peer review of the acoustic report submitted by the applicant of the proposed development. The Peer review document referenced as 50.5413.R1:MSC, dated 2 June 2020 and titled Peer-review of acoustic assessment one cafe, 1 Narrabeen Park Parade, North Narrabeen by the acoustic group, provides some clarity on the deficiencies of the acoustic report submitted by Pulse Acoustic Consultancy in some but not all matters. In considering this review Environmental Health has reconsidered some of its proposed conditions of consent to limit speakers within the building of 1 Narrabeen Park Parade. This was for a number of reasons including to remove a temporary administrative control and replace it with a physical structure (the building), Placing the onus on the applicant to gain consent for the use they desire on Crown land at 1A Narrabeen park parade and to enable a simpler approach to enforcement of conditions of consent i.e. If the speakers are outside of the property it is a breach of consent. It is deemed that the effect of live music can still be enjoyed by patron when played from speakers indoors while also protecting the amenity of surrounding residents. It is also anticipated that the physical structure will provide far greater noise mitigation than a noise curtain or wall outside.</p> <p>Due to the removal of the administrative control proposed some controls have been relaxed such as days and hours of operation of live and amplified music. This is due to speakers being required to be located within the premise and not outside. The original acoustic report based their assessment for outdoor music which has lead to a lack of information on internal noise reduction fittings. As a condition of consent another acoustic report is to be submitted prior to the consent lapsing for consideration. Any additional acoustic report is to address internal noise control measures should they be needed after one year of operation.</p> <p>Environmental Health recommend approval subject to the proposed conditions of consent being imposed.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>Environmental Health have been requested to provide comment on the development application. As part of this assessment the following matters were considered; the fit out of the food premise.</p> <p>Food</p> <p>The proposal does not look at amending the kitchen. A condition should be imposed to ensure the current kitchen meets requirements of AS4674-2004 and mechanical ventilation requirements under AS1668.2-2012. This is to protect surrounding residents for any</p>

Internal Referral Body	Comments
	<p>additional noise or odours from the operation of the kitchen during the increased hours of operation.</p> <p>The proposal fails to mention any trade waste requirements based on the increased patronage as such the applicant is to contact Sydney water to determine if a trade waste licence would be required prior to OC.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Landscape Officer	<p>The development application seeks the approval for the construction of alterations and additions to an existing restaurant and amendment of the hours of operation.</p> <p>In terms of this Landscape Referral, the landscape works include a new pergola, new concrete path, new sleeper edge, post and rail fence, and new soft landscaping.</p> <p>As requested by Council a post construction (for parts of the proposed works) arborist report has been undertaken to determine the impact upon the existing Norfolk Island Pines in the vicinity of works. A Arboricultural Impact Assessment by RainTree Consulting dated 5 May 2020 reports the following: The three Norfolk Island Pine trees have been subject to minor landscape works within the tree protection zone, and impacts have been discussed with recommendations for minimising impacts to trees for additional works provided, with the methodology involved as follows: Soil probing with a steel probing tool to 250mm in depth in areas where new posts, footpath and timber edge retaining wall beams are located to detect resistance by tree root activity.</p> <p>In determining impacts within the SRZ by previous additions and alterations the assessment conducted determined a negligible impact by design, however, no detailed tree root investigation by manual (exploratory hand root mapping) or pneumatic air spade inspection was conducted.</p> <p>The assessment concluded the likelihood of negligible impact due to the following discussions:</p> <ol style="list-style-type: none"> 1. Probing along retaining wall sleepers adjacent T3 & T2, and adjacent the new concrete footpath between T1 & T2 detected no root resistance at 250mm in depth. Soil type was considered very sandy and not compacted corresponding with Grozier Geotechnical Investigation report of deep sandy soils to the SSE of the site. Being sandy soils it is likely deep descending roots occur beyond the SRZ radius. 2. The new concrete access footpath to the cafe was constructed

Internal Referral Body	Comments
	<p>to finish above ground level, matching the existing raised level of the public verge pathway. It is likely minimal excavation was required to accommodate the construction of the path with no root resistance when soil probed at the path edge detected.</p> <p>3. The four sleeper post vertical design supporting the steel table tops are cosmetic only with the exception of one (1) post located directly adjacent T3 at 0.7m (700mm) from the face of tree. It is unclear if tree roots were damaged during central post and footing placement. The remainder of the sleepers do not extend below ground level and are directly attached to existing copper log posts. Some minor alteration (straightening) and concrete footing work may have occurred, with the works occurring in the existing post footprint indicating a likely negligible impact by the design upgrade.</p> <p>4. Timber sleeper path adjacent T2 is constructed to meet existing ground levels with minimal excavation to meet grade. The grated SW drain adjacent T3 is located outside of the SRZ radius with likely negligible root impact due to minor (<10%) excavation occupancy within the TPZ.</p> <p>It is accepted by Council that the works conducted without approval have a negligible impact, with the exception of point iii. above that is inconclusive in determining the impact upon T3, and any decline in T3 shall be attributed to the works conducted without approval, and any tree rehabilitation costs within the next 12 months shall be borne by the cafe operator.</p> <p>Additional works to complete the landscape upgrade design proposal consist of an additional usage area and pergola adjacent T3 with line of stone wall cages under outdoor bar table tops. Works are located within SRZ setbacks and Conditions of Consent, as recommended in the Arboricultural Impact Assessment by RainTree Consulting dated 5 May 2020 shall be imposed.</p>
NECC (Bushland and Biodiversity)	The potential impacts of the proposed / completed works on the significant trees in the locality of the works is to be assessed by another section of Council. There are no biodiversity issues identified with respect to the application
NECC (Coast and Catchments)	This application has been assessed against coastal considerations of the Pittwater LEP, DCP, Coastal Management Act and Coastal Management SEPP. Supported subject to conditions.
NECC (Development Engineering)	<p>Council's Development Engineering & Certification Team Manager confirmed no need for updated Geotechnical Report.</p> <p>No objection to approval, subject to conditions as recommended.</p>
Parks, reserves, beaches, foreshore	The proposed development involves the extension of an outdoor dining area on Council managed Crown reserve.

Internal Referral Body	Comments
	<p>It is noted that the outdoor dining space is permissible under the Pittwater Ocean Beaches Plan of Management.</p> <p>Parks supports the proposed outdoor dining extension and specific associated embellishments, as outlined in Council's Owners Consent letter. Ref 2020/031245.</p> <p>Parks would be supportive of the hours of operation for the venue matching or being similar to other restaurant/cafe venues that are located around Narrabeen lagoon.</p> <p>No other issues with the proposal.</p>
Property Management and Commercial	<p>This is an application for alterations and additions to an existing restaurant and amendment of the hours of operation at 1 & 1A Narrabeen Park Parade, North Narrabeen.</p> <p>Currently, the premises is occupying a significant section of outdoor land on the southern side of the building for outdoor dining and access. Construction of an unauthorised balcony style railing for holding drinks and installation of planter boxes underneath this has led to this area appearing as private land with exclusive use when it is public land. This should be regularised in any grant of development consent.</p> <p>This land is Crown land, and Northern Beaches Council is the Council Crown Land Manager. This area is currently governed by the Pittwater's Ocean Beaches Plan of Management 7.0 North Narrabeen Rock Pool, which was adopted by Pittwater Council in June 2006. This Plan of Management expressly authorises an outdoor eating area in conjunction with the existing commercial outlet adjacent to the reserve.</p> <p>It is noted that the PoM references an existing Outdoor Dining Approval, however this was granted to the previous restaurant proprietor, and licences are not transferable. As such, the business currently has no outdoor dining licence, although the current proprietor has submitted an application. During assessment of this application it was discovered that the proposed hours of operation and patron numbers for the outdoor dining component differed from those in the most recent development application, a 1987 consent for use of the building and a subsequent 1990 modification to consent. Licenced area on Crown land cannot be approved where there is a variation to approved hours of operation or overall patron numbers for the restaurant.</p> <p>Property has no issue with the development application as submitted, and supports the regularisation of patron numbers and hours of operation, as this will have a positive impact on the community and allow Property to regulate the outdoor component of the development in accordance with Council's Outdoor Dining and Footpath Merchandise Policy and other relevant policies .</p>



Internal Referral Body	Comments
	A 12 month licence for the use of this land for outdoor dining by the proprietor of the adjoining restaurant/café can be issued following a grant of development consent.
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.
Aboriginal Heritage Office	<p>The application was referred to the Aboriginal Heritage Office for review.</p> <p>No objection was raised to the proposal subject to the imposition of a standard condition which requires that, should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, the Department of Planning, Industry and Environment (DPIE) and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p> <p>As there are no earthworks proposed as part of this application, the condition is not required to be imposed in this instance.</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 (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*



- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
- (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
- (c) *the carrying out of any of the following:*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,*
- (d) *any other development.*

Comment

The development is not located on land located within a coastal wetland or littoral rainforest area.

Clause 10 is not applicable.

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
 - (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment

The development is not located on land located within proximity to a coastal wetland or littoral rainforest area.

Clause 11 is not applicable.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) *if the proposed development comprises the erection of a building or works - the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
 - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
 - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures*



are in
place
to
ensure
that
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are
appropriate
responses
to, and
management
of,
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hazards.

Comment

The NSW Department of Planning, Industry and Environment website refers to a Coastal Vulnerability Area as one that is subject to coastal hazards such as coastal erosion and tidal inundation. However, Clause 12 is preceded by a note which states "*at the commencement of this Policy, no Coastal Vulnerability Area Map was adopted and therefore no coastal vulnerability area has been identified*".

Therefore, Clause 12 is not applicable at this time.

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment

The site is located within the Coastal Environment Area.



The development is situated at the southern side of the existing and approved cafe and are of a scale such that no impact will occur which would adversely affect the matters raised in Points (a) to (g).

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in sub-clause (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised - the development will be managed to mitigate that impact.

Comment

Council is satisfied that the development is designed, sited and managed (subject to condition) to avoid an adverse impact referred to in sub-clause (1).

The development satisfies Clause 13(1) and (2).

14 Development on land within the coastal use area

- (1)
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised - the development will be managed to mitigate that impact, and
 - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment

The site is not located within the Coastal Use Area.

Clause 14 is not applicable.

As such, it is considered that the application complies with the requirements of the *State Environmental Planning Policy (Coastal Management) 2018*.

15 Development in coastal zone generally - development not to increase risk of coastal hazards



Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment

The development responds to the nature of the site and utilises appropriate and existing waste and drainage to avoid any increased risk of coastal hazard.

The development satisfies Clause 15.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Zone R2 : No Zone RE1: Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Zone R2 : Yes Zone RE1: Yes

Principal Development Standards

Standard	Permitted	Proposed	% Variation	Complies
4.3 Height of Buildings	8.5m	Umbrellas: 3.5m Pergola: 2.6m	N/A N/A	Yes Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone R2 Low Density Residential

A restaurant use is prohibited within the R2 Low Density Residential zone.

Zone RE1 Public Recreation

A restaurant is a permitted use within the RE1 Public Recreation zone. Although the development proposed within the RE1 zone is not a stand-alone restaurant, it is ancillary to a restaurant use.

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Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
R2 Low Density Residential				
Front Building Line	6.5m or established building line (whichever greater)	16m (Pergola)	N/A	Yes
Rear Building Line	6.5m	17m (Pergola)	N/A	Yes
Side Building Line	2.5m - One Side 1.0m - Other Side	North: No Change South: Nil (Pergola)	N/A 100%	Yes No
Building Envelope	3.5 x 45°	Within Envelope	N/A	Yes
Landscape Open Space	40% (138.1m²)	Nil (No change)	N/A	N/A
RE1 Public Recreation				
Front Building Line	Merit Assessment	0.7m to 2.1m (Terrace)	N/A	Yes
Rear Building Line	Merit Assessment	68.6m	N/A	Yes
Side Building Line	Merit Assessment	98.5m	N/A	Yes
Building Envelope	3.5m x 45°	Within Envelope	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A4.14 Warriewood Locality	N/A	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	N/A	N/A
B3.11 Flood Prone Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes

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Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.6 Acoustic Privacy	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D14.1 Character as viewed from a public place	Yes	Yes
D14.2 Scenic protection - General	Yes	Yes
D14.3 Building colours and materials	Yes	Yes
D14.7 Front building line	Yes	Yes
D14.8 Side and rear building line	No	Yes
D14.11 Building envelope	Yes	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

Description of Non-compliance

The existing development does not include parking, and there is no new parking proposed. The application includes an increase from the current 90 customers to 100 customers for the restaurant, and up to 180 customers for stand up cocktail functions. A merit assessment against the objectives is carried out below.

Merit Assessment

- **An adequate number of parking and service spaces that meets the demands generated by the development.**

The proposal to increase the number of seated patrons by 10 is considered relatively minimal given the location adjacent to a public car park. There is also on-street parking available in the vicinity, and further, it is likely that the restaurant caters to many customers either walking to the site from the near by caravan park or surrounding residences, or to customers coming to use the beach and lagoon at the same time. Given these considerations, the increase in seated customers by 10 is not considered unreasonable.

However, the application has not provided any justification for the proposed stand up cocktail functions of up to 180 customers. No traffic report or parking surveys have been provided, and no other arguments have been put forward. As such, this element of the proposal is not supported, and a condition of consent is recommended to delete the allowance for such numbers from the Plan of Management for the premises.

- **Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety.**

The existing public carpark is safe and functional.

- **Safe and convenient parking.**

The continued use of the adjacent public carpark and in the surrounding streets is considered acceptable for an increase of up to 10 customers compared to the existing approvals.



Given the above assessment, the proposal is considered acceptable in relation to parking for an increase of 10 customers to a total of 100.

C1.6 Acoustic Privacy

Refer to comments from Council's Environmental Health department under Referrals section of this report. In summary, the proposal, subject to condition, is not considered to result in offensive noise as defined by the Protection of the Environment Operations Act 1997. Conditions have been recommended limiting the operating hours and live or amplified music. However, a condition enabling review and modification of the operating hours has also been recommended to ensure noise impacts are not unreasonable.

D14.8 Side and rear building line

Description of non-compliance

The proposed pergola will create a technical nil setback to the southern side boundary, albeit it will actually carry over the boundary onto the crown land. As such, a merit assessment against the objectives is carried out below.

Merit Assessment

- ***To achieve the desired future character of the Locality.***

The proposal is considered to be generally consistent with the desired character statement in the Pittwater DCP. Further, the proposal will be consistent with the applicable Plan of Management for the Crown land.

- ***The bulk and scale of the built form is minimised.***

The pergola is a relatively light weight and low to the ground structure, that will not create any unreasonable issues with regard to bulk and scale.

- ***Equitable preservation of views and vistas to and/or from public/private places.***

No views will be unreasonably impacted upon by the proposal.

- ***To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.***

No views will be unreasonably impacted upon by the proposal.

- ***To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.***

This issue is discussed in detail under the submissions section of this report, particularly with regard to noise. In summary, the proposal is considered (subject to conditions of consent) to be able to maintain a reasonable level of amenity to surrounding residential properties. It is not considered to result in any



unreasonable privacy or solar access impacts.

- ***Substantial landscaping, a mature tree canopy and an attractive streetscape.***

The proposal includes a small amount of new landscaped area within the side setback of 1 Narrabeen Park Parade, which like the pergola, will extend onto the Crown land.

- ***Flexibility in the siting of buildings and access.***

A degree of flexibility is considered appropriate in the circumstances, given the plan of management for the crown land specifically calls for a seated eating area in conjunction with the commercial premises. The pergola will provide some weather cover for this area.

- ***Vegetation is retained and enhanced to visually reduce the built form.***

The works within the side setback area will not affect any vegetation. The impacts of the overall development on the Norfolk Pines adjacent to the south have been assessed by Council's Landscape Officer and found to be acceptable.

- ***To preserve and enhance the rural and bushland character of the locality.***

The site is not in a rural area, and as discussed above, the proposal will not have any unreasonable impacts on existing vegetation in the area.

- ***To ensure a landscaped buffer between commercial and residential zones is established.***

The proposal is to the south of the existing building, onto the adjacent crown land. The non-compliance to the side setback will not impact on any buffer to residential neighbours.

Given the merit assessment above, the proposed non-compliance to the side setback control is considered acceptable in the circumstances.

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

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



CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater 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 proposed works and use of the area of Crown Land to the south of the subject site has been found to be generally consistent with the relevant requirements, including the applicable Plan of Management for the Crown Land.

Conditions of consent have been recommended in relation to operating hours and live and amplified music, to ensure residential amenity is reasonably maintained. These conditions are subject to review by Council, to ensure the operating hours (trading and music) do not give rise to any unreasonable impacts in the future.

Subject to the conditions below, approval is recommended.

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



RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2019/1478 for Alterations and additions to an existing restaurant on land at Lot 1 DP 1005148, 1 Narrabeen Park Parade, NORTH NARRABEEN, 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
DA-02 Rev B Site Plan	12.06.19	o2 Architecture
DA-02 Rev B Floor Plan	12.06.19	o2 Architecture
DA-03 Rev B Floor Plan	12.06.19	o2 Architecture

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Report 200278	30 September 2019	Building Code & Bushfire Hazard Solutions
One Narrabeen Park Parade North Narrabeen Plan of Management (as amended by conditions of this consent)	April 2020	Petobi Pty Ltd
Acoustic Assessment 2020.064	6 April 2020	Pulse Acoustic Consultancy

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
Planning, Industry & Environment	Letter from Crown Lands providing owner's consent	31 July 2020

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Northern Beaches Council Park Assets	Updated Owner's Consent Letter - specific works 1 Narrabeen park Parade - 20200117	17 January 2020
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(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. 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 Restaurant or cafe.

A restaurant or cafe is defined as:

"means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, takeaway meals and drinks or entertainment are also provided." (development is defined by the Pittwater Local Environment Plan (as amended) Dictionary)

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) 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 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.

6. **Outdoor Dining**

Any outdoor dining shall be the subject of a separate application to Council's Property, Commercial & Tourist Assets Department. Application forms for outdoor dining can be found at <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/outdoor-dining-area-approval-application/4066-outdoor-dining-approval-jul19.pdf>

Reason: To ensure compliance with Council's Outdoor Dining Policy.

7. **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.

8. **Adequacy of Sanitary Facilities**

The Principal Certifier is to be provided with details demonstrating compliance with the number and design of sanitary facilities for patrons, staff and persons with a disability as required by the Building Code of Australia for the Classification of the building under its approved use.

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

Reason: To ensure the provision of adequate sanitary and associated facilities for the premises.



9. **Access for People with Disabilities**

Access to and within the building and to the external seating areas is to be provided for Persons with a Disability. In particular the front entrance doorway and access to the external seating areas is to comply with the Building Code of Australia and AS 1428.1.

Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate access provision is made for Persons with a Disability.

10. **Tree Root Investigation**

A non-destructive root investigation shall be conducted complying with clause 3.3.4 (TPZ encroachment considerations) of AS 4970-2009 Protection of Trees on Development Sites within the tree protection zone of existing tree T3 (Norfolk Island Pine) as recommended in the Arboricultural Impact Assessment by RainTree Consulting dated 5 May 2020, to determine the location of pier footings for the proposed pergola.

The root investigation shall locate existing tree roots to be protected during excavation works for the proposed pier footings, and assist with structural engineering and construction design.

Reason: to investigate the location of existing tree roots as a basis for pier footing location, and protect the existing tree identified for retention.

11. **Root Mapping Plan and Pier Footing Plan**

The findings of the tree root investigation shall be documented in a Root Mapping Plan that documents 'no-go' areas that can't be excavated without supervision and guidance of a AQF Level 5 Arborist, and shall be the basis for determining the location of all pier footings for the proposed pergola.

The Root Mapping Plan shall be issued to the Certifying Authority and to the Structural Engineer as the basis for preparation of Construction Certificate structural design. The Root Mapping Plan shall provide pier footing layout recommendations.

The Arborist shall provide certification to the Certifying Authority that the Root Mapping Plan and clear distances recommended will ensure the long term survival of the existing tree T3 Norfolk Island Pine. The Certifying Authority shall approve Construction Certificate design that satisfies the recommendations of the Root Mapping Plan.

A Pier Footing Plan shall be developed in co-ordination with a AQF minimum Level 5 Arborist and a qualified Structural Engineer, and shall be issued to the Certifying Authority identifying suitable locations for all pier footing locations for the proposed pergola.

The Pier Footing Plan shall be issued to the Certifying Authority identifying a suitable locations for each pier footing. The Certifying Authority shall approve Construction Certificate design that satisfies the recommendations of the Pier Footing Plan.

Reason: to ensure protection of the existing trees identified for management and retention.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. **Venue Opening Hours Review**

DA2019/1478



Prior to any lease being formalised, the applicant in conjunction with Council need to review the proposed opening hours to ensure they are consistent with similar venues around Narrabeen lagoon.

Reason: To ensure consistency of operation and preserve locality amenity.

14. **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

15. **Working on Reserves Permit**

Works (undertaken by principal contractors working without Council supervision) on land under Council's care control and management require a "Working on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks and Recreation business unit.

Reason: Public Safety and the protection of Council infrastructure.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. **Maintenance of Road Reserve**

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

Reason: Public Safety.

17. **Tree Protection Measures**

A Project Arborist with AQF minimum Level 5 qualification in arboriculture/horticulture is to be appointed to supervise and certify tree protection measures for existing trees to be retained and protected, requiring site attendance during excavation and construction works, in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, and the recommendations of the Arboricultural Impact Assessment prepared by RainTree Consulting dated 5 May 2020, including the following:

- viii) Prior to works commencement, the trunk of trees are to be protected with timber beam trunk protection as detailed within Item 3 of Appendix-C. Timber beams should be no less than 2m in height and installed without causing injury to the tree,
- i) There is to be no excavation within SRZ radius' without prior root mapping or investigation works to determine impact on critical underlying tree roots, refer SRZ & TPZ distance column Appendix-C. The SRZ should be considered a development exclusion zone with no works occurring within the SRZ without prior arborist advice and certification,
- ii) All root investigation works are to be conducted by a minimum suitably qualified AQF Level 4 certified arborist with root mapping plan and/or certification report provided prior to obtaining a Construction Certificate (CC),
- iii) In specific detailed root mapping or exploratory root investigations should occur for pergola



pier footing locations adjacent T3,

iv) Stone cage wall proposal: construction methodology for the stone cage wall proposal should be more clearly detailed within construction drawings. In specific there should be no excavation or compaction to accommodate the wall proposal within the SRZ. Where the wall is proposed on natural ground level within the SRZ root mapping should occur to provide more information on the location, distribution and effect of works on critical underlying tree roots. Tree sensitive design such as placing the wall directly on top of or spanning the wall above ground level over the SRZ may be achievable pending the results of exploratory root investigations,

v) All tree roots at or >25mm(Ø) are to be retained. Should such roots require pruning all works are to be conducted by the site arborist, clean cutting and/or protecting encountered roots in accordance with AS4970-2009 – section 4.5.4 Root protection during works within the TPZ. Should there be any uncertainty with root management requirements a minimum AQF Level 5 project arborist is to be consulted,

vi) There is to be no compaction or additional excavation i.e. SW / hydraulics or electrical service trenching within the TPZ radius without prior arborist advice,

vii) Arborist certification: final certification is to consist of photographic evidence of excavation activities, root management (pruned & covered / protected roots from contamination), time of works and summary of activities conducted to manage tree roots within the tree protection zone.

The Project Arborist shall submit certification that the works and activities described in the above sections have been correctly installed and adhered to during the construction period.

The tree protection measures specified in this clause must:

- viii) be in place before work commences on the site, and
- ix) be maintained in good condition during the construction period, and
- x) remain in place for the duration of the construction works.

The Certifying Authority or the Project Arborist AQF Level 5 must ensure that:

- xi) the activities listed in section 4.2 of AS4970- 2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and
- xii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.

Reason: to retain and protect significant planting on development and adjoining sites.

18. **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.

19. **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.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO COMPLETION

20. **Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with AQF minimum Level 5 qualifications in arboriculture/horticulture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, and in particular T3, including the following information:

- i) compliance to any Arborist recommendations for tree protection and excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: to retain and protect significant planting on development and adjoining sites.

21. **Registration of Food Business**

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

22. **Sydney Water Trade Waste Agreement**

The applicant must contact Sydney Water to determine what trade waste provisions you are required to provide to your food premises. Should a grease trap be required by Sydney Water, it must be located in an area that is easily accessible for the removal of waste water and must not be installed in any kitchen, food preparation or food stage area. The design and location of the grease trap should also not impede on any commercial right of way or pedestrian access.

Reason: To ensure waste water generated as part of the kitchen activities is adequately treated when required and that access is not impeded by the design and installation of the grease trap.

23. **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 reserve amenity.

24. **Kitchen Design, construction and fit out of food premises certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from a person who is eligible as a 'Member' of Environmental Health Australia (EHA) that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

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

Reason: To ensure that the kitchen complies with the design requirements.

25. **Mechanical ventilation**

Where Mechanical ventilation is required to be installed in the food premises it must comply with



Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings" Prior to any Occupation Certificate (OC) being issued, certification is to be provided by a suitably qualified person that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2.

26. Plan of management review

Prior to the issuing of any interim / final occupation certificate, a completed plan of management is to be submitted to Northern Beaches Council's Environmental Health Department for review. Northern Beaches Council's Environmental Health Department are to provide approval or approval with amendment in writing to the applicant once the plan of management has been reviewed. The updated plan of management is to be consistent in all respects with these conditions of consent, including the following:

- Operational hours limited as per these conditions
- Live or amplified music hours limited as per these conditions
- The capacity of the premises is limited to 100 customers, including the Crown Land areas shown on the approved plans as 'Exist. Tiled Area, New Sleepers on Ground, New Landscaped Area and New Pergola'. Note that this capacity is subject to approval being granted for an outdoor dining licence in accordance with these conditions of consent.
- No approval is given for up to 180 customers or stand up cocktail functions on the crown land, and this element must be removed from the plan of management.

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

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity. (DACHPFPOC6)

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

27. Maintenance of Infrastructure

All embellishment within the reserve is to be maintained in good working order by the proprietor for the life of the outdoor dining area lease. If/when the lease ends and is not renewed, the embellishments need to be removed by the proprietor and the reserve reinstated to its previous state.

Reason: To ensure the amenity of the reserve.

28. Waste collection and delivery times

Waste collection and deliveries for the premise must not occur between the hours of 10:00pm and 7:00am Monday to Sunday, without prior approval of Council.

Reason: to minimise disruption to neighbouring properties. (DACHPGOG5)

29. Plan of management

The requirements of the One Narrabeen Park Parade Plan of Management North Narrabeen required by this consent is to be fully implemented in perpetuity from the issue of any interim / final occupation certificate.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity. (DACHPGOG6)



30. **Complaint management register**

A complaint management register is to be kept on-site at all times and be available for review by Council Staff or NSW Police upon request. Any complaint management register record is to be kept for a minimum period of 12 months from when the complaint was received and is to identify the following aspects of any complaint made;

- The nature of the complaint.
- How the complaint was received.
- The time and date the request was received.
- The time and date the complaint refers to, if known.
- How the complaint was addressed, responded to, rectified or process put into place to address the request.
- An action item to effectively address each complaint received and a due date for the completion of the action item.
- Any community engagement undertaken to manage repeated requests.

Reason: To assist in the management of complaints(DACHPGOG6)

31. **Hours of operation – reviewable condition**

This condition is imposed under s4.17(10B) of the Environmental Planning and Assessment Act to enable Council to review the performance of the approved development with respect to extended hours of operation. This review will take place with 14 days notice within the first 12 months of operations, or with 14 days notice at any time following the first 12 months of operations, where Council is in receipt of complaints related to hours of operation and amenity impacts.

Restaurant trading hours

Restaurant trading hours including any take away meals service shall be confined to:

- Friday – Saturday: 6.30am – 11.30pm
- Sunday - Thursday: 6.30am – 10.30pm
- New Year's Eve – until 12.30am.

All customers are to have vacated the restaurant premises by the above mentioned closing times, and staff by 30 minutes after those times.

Playing of live or amplified music

Live or amplified music may only be played inside the building premises of 1 Narrabeen Park Parade during the following operating hours:

- Thursday between 12.00pm (midday) to 8.30pm.
- Friday and Saturday except new years eve between the hours of 12:00pm (midday) and 10:00pm.
- New Years Eve (31 December - 1 January) from 12:00pm (midday) to 12:00am (midnight).

If upon a review of this condition, and following a proper investigation, Council finds that limiting the hours of operation and the playing of live or amplified music is the most efficient and effective means of reducing amenity impacts, then the hours of operation will be required, at the expiration of 14 days written notice, to revert to the following:

Restaurant trading hours

Restaurant trading hours including any take away meals service shall be confined to:

- Wednesday to Sunday: 12 midday - 3.00pm;
- Wednesdays, Thursdays and Sundays: 6.30pm - 10.30pm; and



- Fridays and Saturdays: 6.30pm - 11.30pm.

Playing of live or amplified music

No live or amplified music is permitted.

Reason: Management of noise and protection of amenity.

32. **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: Control of weeds.

33. **Number of patrons**

The capacity of the premises is limited to 100 patrons, including the Crown Land areas shown on the approved plans as 'Exist. Tiled Area, New Sleepers on Ground, New Landscaped Area and New Pergola'. The maximum number of patrons permitted in the outdoor area is limited to 50.

Note that this capacity is subject to a separate approval being granted for an outdoor dining licence in accordance with these conditions of consent.

Reason: To control patron numbers and preserve neighbouring amenity.

34. **Limitations to live or amplified music**

Live or amplified music may only be played inside the premises of 1 Narrabeen Park Parade under the following circumstances:

- From two or less speakers.
- Any speaker/s in operation are to be located solely within the premises of 1 Narrabeen Park Parade and 2 meters within the property boundary of 1 Narrabeen Park Parade.
- Each speaker is to have a maximum sound power level indicated in Table 10 of the acoustic assessment by Pulse Acoustic Consultancy referenced as 2020.064 One Café – Acoustic Assessment, dated 6 April 2020.
- Whilst in operation any speaker/s are to be westward facing.
- When played using the in-house speaker system.
- When controlled by a calibrated noise limiter, and set to a maximum of 92dB(A) when measured 5m in front of any speaker/s. The actual noise limits for the limiter (dB(A), dB(C), dB(ext filter) or dB(Lin)) appropriate for the limiter are to be determined by compliance testing which is to be completed by an appropriately qualified acoustic consultant. The limiter is to be installed in a tamper proof enclosure (or in the case of a DSP based limiter) with no access to the limiter controls by staff or management of the hotel.

Reason: Management of noise and protection of amenity.





ITEM 3.2	DA2020/0431 - 1129 PITTWATER ROAD, COLLAROY - DEMOLITION WORKS AND CONSTRUCTION OF A MIXED USE DEVELOPMENT COMPRISING COMMERCIAL UNITS AND A BOARDING HOUSE
AUTHORISING MANAGER	STEVE FINDLAY
TRIM FILE REF	2020/659215
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan and Elevations 3 ↓ Clause 4.6

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

- A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 pursuant to clause 4.6 of WLEP 2011 as the applicants 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.
- B. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2020/0431 for demolition works and construction of a Mixed Use Development comprising commercial units and a Boarding House at Lot 4 DP 7445, 1129 Pittwater Road, Collaroy subject to the conditions and for the reasons set out in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0431
Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 4 DP 7445, 1129 Pittwater Road COLLAROY NSW 2097
Proposed Development:	Demolition works and construction of a Mixed Use Development comprising commercial units and a Boarding House
Zoning:	Warringah LEP2011 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Pidaro Pty Ltd United Equity Group Pty Ltd
Applicant:	Boston Blyth Fleming Pty Ltd
Application Lodged:	04/05/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Mixed
Notified:	08/05/2020 to 07/06/2020
Advertised:	08/05/2020
Submissions Received:	43
Clause 4.6 Variation:	4.3 Height of buildings: 20%
Recommendation:	Approval
Estimated Cost of Works:	\$ 4,995,964.00

EXECUTIVE SUMMARY

The application seeks approval for a mixed use development which consists of commercial premises at the ground floor level, two levels of boarding house rooms and a top level accommodating the boarding house manager's residence.

The application is referred to the NBLPP due to the number of submissions (43) received in response to the public notification.

Submissions raised issues including; traffic (and the use of a rear access right of way), the suitability of a boarding house in the area, the amenity impacts of the proposal and the character of the

DA2020/0431



development.

The proposal involves variations to the development standard under the Warringah Local Environmental Plan 2011 for building height and the built form control for number of storeys under the Warringah Development Control Plan 2011.

Given significant compliant setbacks, the visual quality of the building, the existing character of the Collaroy Local Centre and a lack of any significant amenity impacts, the variations can be supported.

The request to vary the building height development standard under Clause 4.6 of the WLEP is supported as the applicant has demonstrated that strict adherence to the height standard is unnecessary in the circumstances, that they have demonstrated that there are sufficient environmental planning grounds and that there is no public interest matter that would render the departure unacceptable.

The proposal has been assessed in accordance with the View Loss Planning Principle established by the Land and Environment Court, and it has been determined that it would result in a minor to moderate impact on views. Given the corridors provided for views through the side setback areas, the fact that certain views are highly vulnerable as they are over side boundaries, the non-compliant height does not feature in view loss and that the existing building is very low scale, the view sharing outcome is supported.

In relation to the constraints on access to this site and its reliance upon a height and width limited right of way over an adjoining site, it is recommended that a deferred commencement condition can provide an acceptable outcome for traffic by restricting the commercial premises on the ground floor level to "offices" only, thus limiting the intensity of traffic (including the size, height and number of vehicles needing to service the site).

The assessment concludes that conditions can be imposed to control amenity impacts to a reasonable level, and that the design is appropriate given the context and character of other shop top housing development in this B2 zone.

Therefore, it is recommended that the Clause 4.6 variation be supported and the application be approved, subject to a deferred commencement condition and other special and standard conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for a mixed use development, including 2 commercial units and a 23 room boarding house with a caretakers apartment. In detail, the proposal includes:

Basement Parking

- 20 vehicle spaces (13 allocated for boarding house)
- 6 bicycle storage spaces
- 3 motorcycle spaces
- Access from right of carriageway to the rear of the property
- Storage areas for boarding house
- Stair and lift access

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Ground Floor

- Two commercial tenancies facing Pittwater Road
- Entrance foyer for Boarding house
- Bathroom facilities
- Waste storage areas
- Disabled car space
- Service vehicle bay
- Driveway access to basement

Boarding House

- 12 Boarding rooms on first floor level including 1 accessible room
- 11 boarding rooms on second floor level including 1 accessible room
- Balconies with privacy blades
- Common room with balcony

Caretakers Apartment

- Three bedrooms
- Open plan kitchen area
- living area
- Dining area
- Balcony

Amended plans

The applicant lodged amended plans on 20/10/2020 to address issues raised by Council. These plans involved the following changes:

- Reduction in the footprint of the caretakers dwelling (including increased southern setbacks)
- Redesign of stairwell located to south to provide a larger light well
- A break provided in the southern wall plane
- Separate office and boarding house waste storage areas, including a bulky waste room
- Bollards along the northern edge of right of footway (to prevent pedestrian vehicle conflict)
- Vertical fire rated windows to Units 7 and 18 and the common room
- Consistency in privacy screen detailing for eastern and western balconies
- Reconfiguration of metal pergola for caretakers flat (including reduction at northern boundary)

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 Development Control Plan - B2 Number of Storeys
 Warringah Development Control Plan - B6 Merit Assessment of Side Boundary Setbacks
 Warringah Development Control Plan - D7 Views
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - F1 Local and Neighbourhood Centres

SITE DESCRIPTION

Property Description:	Lot 4 DP 7445 , 1129 Pittwater Road COLLAROY NSW 2097
Detailed Site Description:	<p>The subject site consists of an allotment located on the western side of Pittwater Road.</p> <p>The site is irregular in shape with a frontage of 13.5m along Pittwater Road and a depth of 34.4m-40.96m. The site has a surveyed area of 814.6m².</p> <p>The site is located within the B2 Local Centre zone and accommodates ground floor commercial premises.</p> <p>The site is located on Pittwater Road within close proximity to a number of services and shops. The site is also in very close proximity to the Collaroy B-line bus station.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a variety of commercial uses and large residential buildings.</p>

Map:



SITE HISTORY

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

- CDC2018/0814 for change of use from existing restaurant to café along with associated fitout works approved on 6 September 2018

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)(iia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration'	Comments
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 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>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 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 not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 08/05/2020 to 07/06/2020 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 43 submission/s from:

Name:	Address:
Kim Hildebrand	42 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Miss Michelle Jane Haskard	100 Prahran Avenue DAVIDSON NSW 2085
Fiona Foster	6 / 1187 Pittwater Road COLLAROY NSW 2097
Ms Margaret Jean Stanley	11 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Mr Terence Victor Brady	106 Narrabeen Park Parade MONA VALE NSW 2103
Withheld Mrs Dorothea Ann Young	COLLARROY NSW 2097
Withheld Mrs Dorothea Ann Young	44 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Mr Chris Woodward	9 / 1125 - 1127 Pittwater Road COLLAROY NSW 2097
Mr Peter Gordon Jenkins	1 / 1135 - 1137 Pittwater Road COLLAROY NSW 2097
Mrs Judith Lynette Roberts	40 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Mrs Louise Clare Woolford	9 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Turnbull Planning International Pty Ltd	2301 / 4 Daydream Street WARRIEWOOD NSW 2102
Mr Stephen Lydiate	11 / 1125 - 1127 Pittwater Road COLLAROY NSW 2097
Miss Debra Marie Sellars	41 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Mrs Irene Nassibian	14 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Mrs Julia Skye Olivares	10 / 8 Fielding Street COLLAROY NSW 2097
Mr Robert Colin Cunneen	19 / 1135 - 1137 Pittwater Road COLLAROY NSW 2097
Mrs Pamela Joy Rodgers Cunneen	24 Bimbadeen Crescent FRENCHS FOREST NSW 2086
Stephan Pawelczyk	13 / 1135 - 1137 Pittwater Road COLLAROY NSW 2097
Benjamin Gillings	Address Unknown
Julie Robyn Donald	7 / 1125 - 1127 Pittwater Road COLLAROY NSW 2097
Ms Stephanie Lianos	16 Douglas Haig Street OATLEY NSW 2223
Robert Joseph Jurd	3 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Sheelyn Ann Ross	13 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Mr Glenn Allan Keith Carter	15 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Byron Joseph McDonald	38 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Miss Kelsey Jane Hunter	7 A Hillpine Place TERREY HILLS NSW 2084
Maxine Anne Armstrong	1 Tamworth Place ALLAMBIE HEIGHTS NSW 2100
Ingham Planning Pty Ltd	19/303 Pacific Highway LINDFIELD NSW 2070
Margaret Agnes Newport	1 Tiarri Avenue TERREY HILLS NSW 2084
Joanne La Torraca	Address Unknown
Nicholas Murdocca	C/- LJ Hooker Collaroy Shop 5 1030-1034 Pittwater Road COLLAROY NSW 2097
Mrs Maureen Wannell	12 / 1125 - 1127 Pittwater Road COLLAROY NSW 2097
James Steven Haslam	16 Undercliff Road FRESHWATER NSW 2096
Mr Peter Sardelic	34 / 1 - 5 Collaroy Street COLLAROY NSW 2097



Name:	Address:
Nicholas Lianos	43 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Jennifer Stephanie Mitchell	1135 - 1137 Pittwater Road COLLAROY NSW 2097
Ms Renee Eleanor Jackman	45 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Arthur Aguiar	37 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Ms Karyn Riches	20 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Christopher John Nicola	1 Parkwood Place NORTH ROCKS NSW 2151
Diana Finniss	Address Unknown
Erika Dellaretti Guimaraes	Address Unknown
Ms Karen Anne Alexanderson	67 Cowells Lane ERMINGTON NSW 2115

The matters raised within the submissions are addressed as follows:

- **Increase in traffic and associated traffic impacts as well as pedestrian safety and Right of Way easement is inadequate for the proposed use**

Comment:

A deferred commencement condition (as recommended by Council's Traffic Officer) has been provided in order to restrict the use of the ground floor units as office premises. This restriction will ensure that there is a sufficient limitation on the size and number of vehicles that are required to access the ground floor uses. This limitation will assist in reducing overall traffic impacts and providing suitable pedestrian safety.

Council's Traffic Officer has also imposed a number of conditions to reduce and/or manage the impact of traffic. This includes requirements for waste and service vehicle access, and a basement garage traffic signal system. Subject to these conditions and the restriction on the title to limit the ground floor occupancies to office premises, use of the right of way will be adequately controlled and the overall traffic impact is acceptable.

- **Impact on surrounding property values**

Comment:

Property value is not a relevant consideration under the provisions of Section 4.15 of the EP&A Act 1979.

- **Site suitability (including potential contamination) and inappropriate location for a boarding house**

Comment:

The site is located in an area that is close to a range of shops, transport options and other necessary services and the site is suitable for residential use.

- **Boarding houses and residents occupying boarding houses including 'transient' nature of residents**

Comment:

A variety of persons are likely to reside in the boarding house. Further, controls are not placed on the 'type' of person who can reside in a boarding house as this would be discriminatory and unlawful.

In addition, the boarding house would be run in accordance with a Plan of Management. This



would ensure appropriately control of boarding house residents for maintaining the amenity and safety of the local area.

In the event residents behaviour disturbs the local amenity or raises any safety concerns, the Boarding House Manager will be responsible for policing the occupants in line with the Plan of Management and their lease agreements. Should this not happen, it would then be appropriate for the Police to be notified, the same as with any similar problems for any other type of development.

Boarding houses are designed for minimum three (3) months stays and are not used as backpacker or bed and breakfast accommodation. A boarding house is therefore not designed for short-term occupancy.

- **Noise impacts, anti-social behaviour, proximity to licensed premises and bottle shops, lack of appropriate quiet times (including lack of consistency with surrounding quiet times) and amenity impacts from outdoor area including manager courtyard. Insufficient management plan and lack of opportunity for complaints outside business hours**

Comment:

Noise is discussed in detail under Part D8 Privacy, below in this report. In summary, the boarding rooms will be occupied by one or two people. The rooms include small outdoor open areas, however, these are not of sufficient size to hold a large gathering.

The common rooms and common outdoor areas are located to the north of the site in a location that is well separated from neighbouring occupancies. This will provide an appropriate buffer to minimise amenity impacts.

Given boarding houses are permitted in the zone under the WLEP 2011 and for this reason are envisaged to be located in such commercial centres, the close proximity of the boarding houses to licensed premises is not a valid reason for refusal

The Boarding House Management Plan includes a complaints process should any nearby resident(s) be impacted by noise. The managing agent can be contacted between 9.00am and 6.00pm and any issues out of this time needs to be dealt with by management within 24 hours. Given the relatively small outside areas for the boarding rooms, this is a suitable control. Furthermore, any issues that are more urgent than this can be directed to the Police.

The Managers residence is to be permanently occupied by a Boarding House Manager. As with any other unit nearby, noise issues with the manager residence can be reported to the Police. Given the relatively small open space areas, a "quiet time" of 10:30pm-7am is a reasonable control for the use and site.

Overall, the siting and design of the proposal, along with the imposition of conditions of consent, will provide a suitable level of acoustic privacy for occupants and neighbours.

- **Inconsistency with requirements under the Warringah LEP, including building height development standard and application to vary the standard under Clause 4.6**

Comment:

The non-compliance with the building height development standard is discussed in detail below. This discussion has found that the proposed non-compliance is acceptable due to the significant stepping back of the upper level from the street, the substantial side setbacks, and the lack of unreasonable amenity impacts and the compatibility of the height with adjoining and nearby development in the B2 zone within the Collaroy Commercial Centre.



- **Inconsistency with the built form controls under the Warringah DCP, including the number of storeys control**

Comment:

The built form controls table (see below in this report) shows that the only non-compliance with the built form controls is in relation to the number of storeys. The numerical requirement is 3 storeys.

The non-compliance, it being a 4 storey building, has been discussed in detail and it has been found that it does not result in any unreasonable impacts to any surrounding properties, does not result in any unreasonable visual impact and is compatible with other 4 storey development in the vicinity.

The assessment has also found under a merit assessment that the side and rear setbacks are suitable for the site given the context of the area, including similar neighbouring building setbacks.

- **Loss of views and request for height poles**

Comment:

Height poles were requested and were erected onsite to demonstrate the outline of the proposed upper level. Amendments were also provided in order to provide a greater corridor for views through the southern setback of the subject site.

An assessment in accordance with the Land and Environment Court Planning Principle in relation to View Sharing has found that the view impacts are minor to moderate, and that the proposal provides an appropriate outcome for view sharing.

- **Loss of access to light and overshadowing**

Comment:

The orientation of the site and the setbacks of the proposal will mean that all neighbouring properties private open space will retain more than three hours of sunlight between 9.00am and 3.00pm in mid winter.

Amendments to the proposal were also made to provide an additional break in the wall at the southern elevation, and to provide a light well to improve amenity for the southern neighbour.

- **Loss of Privacy**

Comment:

Privacy is discussed in detail under Part D8 Privacy, below in this report. In summary, the proposal does not result in any unreasonable privacy impacts to surrounding properties as a result of substantial physical separation, buffers (including landscaping), and the suitable location for communal space.

Conditions are also provided to minimise acoustic privacy impacts and a Boarding House Management Plan will assist in providing an appropriate outcome for acoustic privacy.

- **Inadequate justification of shortfall to 12.0sqm boarding house room size requirement**

Comment:

The WLEP 2011 does not have minimum requirements for room sizes. The SEPP ARH does



have these standards, however, it does not apply to this proposal. Notwithstanding, all proposed rooms are between 16.4sqm and 24.6sqm and can therefore cater for two lodgers each. The SEPP requires a minimum of 16sqm for double rooms and 12sqm for single rooms. The proposal meets these standards.

- **Increase to density of site and number of people in the area**

Comment:

There is no density control (such as a FSR) for a boarding house and boarding houses are permitted in the zone. In lieu of such a control, other development controls are applicable (such as height, setbacks, carparking, size of rooms, caretakers residence) and conditions are imposed to mitigate amenity impacts associated with density,

- **Overbearing bulk, lack of a break in southern setback, smaller footprint and one less storey**

Comment:

The upper level is well setback from all boundaries so as to sufficiently minimise the presentation of building bulk. Landscaping is also integrated into the built form to provide relief in the presentation of building bulk. Amended plans provided, involve a break in the southern setback and this provides an outcome which allows for a satisfactory presentation of building bulk at the southern boundary interface.

- **Inappropriate planting on terrace (Lilly Pilly and Cordyline)**

Comment:

A condition is imposed to require all planting on the terrace to be native species which have a mature height of no more than 3.0m. This will reduce amenity impacts such as loss of views.

- **Impacts during construction, hours of construction during COVID, potential for asbestos, potential for damage during construction**

Comment:

A condition is provided to require a Construction Management Plans. A condition is imposed to require a dilapidation report. A condition has been imposed to ensure appropriate protocol is adhered to if any asbestos is found. Hours of construction imposed on the consent are Council's standard hours, however, extended hours are allowed due to COVID for a limited period, which is mandated by the State Government.

- **Geotechnical concerns and structural integrity of adjoining buildings**

Comment:

A geotechnical report has been provided with the application and the recommendations are imposed as a condition of consent. Further requirements regarding structural integrity are addressed at the Construction Certificate stage and during the construction of the building.

- **Lack of landscaping**

Comment:

The DCP does not contain a control for landscaping in this zone. However, landscaping and planter boxes have been incorporated into the design and provide an appropriate relief of the built form.



- **Inappropriate caretaker dwelling including being too large and not fit for purpose**

Comment:

The proposed caretakers dwelling is suitable for a manager. It is noted that this manager is required under the ARH SEPP and that this manager is available to manage and regulate issues associated with boarder conduct such as noise generation.

- **Waste Management and Waste Collection**

Comment:

Council's Waste and Traffic officers have provided suitable conditions to ensure waste management and collection is appropriate for the development.

- **Acoustic report accuracy**

Comment:

An assessment of the acoustic report provided with the application has been reviewed by Council's Environmental Health Officer. the acoustic report is sufficient to assess the suitability of the use and its design and recommend control measures for implementation to reduce impacts on the surrounding residential properties.

- **Objection to building over Liquorland walkway**

Comment:

The building over the walkway is at a low level of the development and would not cause any unreasonable amenity impact.

- **Lack of parking, lack of visitor parking and inappropriate tandem style parking**

Comment:

The number of car spaces complies with the requirements of Part C3 Parking Facilities of the WDCP. In summary, the proposal includes 23 boarding rooms and one managers room. The WDCP requires a comparison to be made with similar developments to determine a reasonable parking rate. This comparison has found that 0.2 spaces per room is reasonable. The development is therefore required to provide 6 on-site parking spaces (i.e. five for the boarding rooms and one for the manager). The development includes the provision of 13 on-site parking spaces and therefore complies. The parking layout and access arrangements are suitable for the uses and site.

The development is also required to provide 0.5 spaces per 40m² for the ground floor office spaces. In this regard, the requirement is 6 spaces. Seven (7) spaces are provided, including 2 which are in tandem. The 2 tandem parking spaces are appropriate for an office use, given the immediate proximity to the regular bus services provided by the B-Line.

- **Character and overdevelopment**

Comment:

Character has been discussed in detail under the SEPP ARH section, below in this report. In summary, the 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 the surrounding wider locality.

Whether the proposal is of a density that is excessive for the site and the area can is determined



by how it performs against the relevant planning and related controls. The performance of the development against the controls applies will determine if the proposal is an 'overdevelopment' of the site, and based on the assessment in this report, the proposal is not considered to be an overdevelopment.

In terms of how the proposal will fit within the character of the area, it must be noted that boarding houses are a permitted use with consent in the B2 Local Centre zone.

All non-compliances are discussed in detail below, along with amenity concerns and impacts. Overall, this assessment has found that the proposal performs well against the specific controls, meets the objectives of the controls, and has no unreasonable amenity impacts on surrounding and nearby properties.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application proposes demolition of existing site buildings and construction of a mixed use development with 2 ground floor commercial tenancies and a 23 room boarding house with caretakers apartment above. There will also be car parking for 21 vehicles.</p> <p>The application does not comply with the DTS provisions of the NCC and a fire engineered solution relating to CP9, EP1.3, EP1.4, EP1.6, EP2.2 and EP3.2 (et al), will need to be determined after consultation with the NSW Fire Brigade as part of the Construction Certificate process. Building Certification and approvals raises no objections subject to conditions as the Fire Engineering solution may be possible to achieve without recourse to Consent Modification</p>
Environmental Health (Acid Sulphate)	<p>General Comments</p> <p>Geotechnical, Hydrogeological and Acid Sulfate Soil Assessment Report dated March 2020 ref number P1907336JR04V01 states:</p> <p>Laboratory analytical results indicate that none of the tested soil samples exceed the action criteria for the acid trail and sulfur trail. Therefore, the fill and marine deposits are not considered ASS and preparation of an ASSMP is not required.</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Environmental Health (Contaminated Lands)	<p>A Preliminary Site Investigation report has been prepared by Martens Consulting Engineers (saved in Trim as record number 2020/257390). The report advises that during the excavation works the premises will be rendered fit for the intended use in accordance with the development proposal.</p>

Internal Referral Body	Comments
	<p>An area of existing fill on the site potentially contains asbestos. Other materials suspected to include contaminants have also been identified. The excavated materials (included any potentially contaminated materials) are to be classified, removed and disposed of to suitably licensed waste disposal facilities. The report advises that a dry-cleaning shop is currently operating up gradient of the premises and there is a low risk of contamination however, groundwater screening is to be considered for appropriate Contaminants of Potential Concern (COPC).</p> <p>The report advises that the status of any Areas of Environmental Concern (AOEC) and Contaminants of Potential Concern (COPC) are to be considered further with groundwater screening and also where any fill material is encountered below the final bulk excavation level.</p> <p>An Acid Sulphate Soils (ASS) assessment has been carried out in a separate internal Environmental Health Referral.</p> <p>No objection is raised to the proposal. Conditions of consent have been incorporated into this referral.</p>
Environmental Health (Industrial)	<p>General Comments</p> <p>The development proposes a boarding house therefore registration requirements as well as public health requirements apply through the Boarding Houses Act 2012 (NSW).</p> <p>An assessment of the acoustic report provided with the proposal has been reviewed and discussed with the acoustic consultant. Control measures have been provided for implementation to reduce impacts on the residential tenants. Conditions apply.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>There is no mention in the application documents of the proposed occupancy of the two commercial premises on the ground level therefore a separate approval application will be required for these before occupancy can occur.</p> <p>No conditions are required for use of individual kitchenettes in rooms or common room as this is not food for sale.</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>

Internal Referral Body	Comments
Landscape Officer	<p>No landscape features are on the site at present. The landscape plan provided indicates tree and shrub and groundcover in planters across the front and in an area at the rear of the site.</p> <p>No objections are raised to the proposed landscape works subject to conditions.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Warringah LEP 2011 and Warringah DCP 2011.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</p> <p>The subject land has been included on the 'Coastal Use Area' map but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under clauses 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Warringah LEP 2011 and Warringah DCP 2011</p> <p>No coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Warringah LEP</p>

Internal Referral Body	Comments
	2011 and Warringah DCP 2011.
NECC (Development Engineering)	<p>The proposal has been assessed by Development Engineering and the following information/amendments are required:</p> <p>1) Stormwater drainage and flood mitigation.</p> <p>a) The stormwater concept plans detailing the provision are generally acceptable however in accordance with Councils On site stormwater detention technical specification the DRAINS model is to be submitted to Council for review to verify the outputs as presented in the report by Martens Consulting Engineers.</p> <p>b) The Flood Mitigation tank is supported however as currently designed the tank will be impacted by the back flow of stormwater from the adjoining box culvert. The design is to address this issue.</p> <p>2) The right of footway and right of way (vehicular access)</p> <p>a) The terms of the right of footway running along the northern boundary are to be provided to Council to establish there are no height controls that will conflict with the building envelope.</p> <p>b) Also the right of way for vehicle access that runs within SP58961 has specific height planes. The applicant is to provide evidence that the proposed building does not conflict with the height planes.</p> <p>c) The right of way width adjacent to the western site boundary is only 4.35m wide. In this location the ROW is to be widened to 5.5m to allow for the passage of two vehicles . Also a turning template is to demonstrate that two vehicles can pass safely at the corner of the existing ROW,</p> <p>Assessing officer comment</p> <p>In regard to point 1), a condition has been imposed requiring issues to be resolved prior to the issue of a Construction Certificate.</p> <p>In regard to point 2a), the applicant has provided information to show that there is not a height restriction for the right of footway.</p> <p>In regard to point 2b) and c), subject to the deferred commencement condition recommended by Council's traffic officer, the proposal will not have any unreasonable conflict with the height planes, and the right of way does not require widening. This is as a result of a control type (smaller vehicles with lower head heights) and number of vehicles through the restricting the commercial premises to be an office.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	Please see Development Engineering referral in relation to any management of overland flows and local stormwater.
Strategic and Place Planning (Urban Design)	<p>Issues identified in the previous scheme have been satisfactorily addressed in the revised scheme including;</p> <p>1. Separation of pedestrian and vehicular access</p>

Internal Referral Body	Comments
	<p>2. Addition of windows to the northern blank facade to improve solar access to Units 7 and 18</p> <p>3. Addition of windows to the northern blank facade of Common Room on Level 1</p> <p>4. Redesign of verandah parti walls to reflect better the whole scheme and provide a cohesive design outcome</p> <p>5. Pergola structure profile reduced/tapered to better reflect a less imposing awning structure to the upper level verandah</p> <p>6. Reduction in floor area by the setback increase to the southern boundary reflecting recommendations in the ADG for building separation whilst also increasing view aspects from properties to the west.</p> <p>The proposed amendments demonstrate the scheme can be supported.</p>
Traffic Engineer	<p>The proposal seeks to introduce a mixed use development comprising:</p> <ul style="list-style-type: none"> - 23 boarding rooms - 2 commercial tenancies - 21 parking spaces - 6 bicycle spaces <p>Traffic:</p> <p>The site is a 4 storey development with 1 storey of commercial tenancies and the remaining 3 storeys as boarding rooms. The site would therefore act as a 'Medium Density Unit' in accordance with the RMS Guide to Traffic Generating Developments.</p> <p>Based on the above;</p> <ul style="list-style-type: none"> - Boarding Rooms: $24 \times 0.5 = 12$ vehicles in the peak hour - Commercial: $228.2 \times (2/100) = 4.56 \sim 5$ vehicles in the peak hour <p>With the convenient access to public transport, a reduction of 20% is permissible in the calculations.</p> <p>Therefore the total vehicle generation from the site would be considered as: $17 \times 0.8 = 14$ vehicles in the peak hour.</p> <p>Whilst the report indicates 10 vehicles, the additional 4 expected vehicles in not considered to impact the network negatively. However the report will need to be amended to reflect actual numbers.</p> <p>Parking:</p> <p>The following breakdown of parking is required:</p> <ul style="list-style-type: none"> - boarding rooms: $(23 \times 0.5) + 1 = 12.5 \sim 13$ Spaces - Commercial: $228.2 \times (1/40) = 5.7 \sim 6$ Spaces <p>Total: 19 spaces.</p> <p>The applicant has provided 21 spaces in accordance with their report</p>

Internal Referral Body	Comments
	<p>which is deemed acceptable.</p> <p>Noting that 2 of the commercial spaces are in tandem, these spaces should be allocated to staff from only of the commercial units.</p> <p>Car park: The location of the waiting bay at the ground level is deemed unsuitable. A driver waiting in the proposed location would then have to reverse back into the aisle before continuing down the ramp. Visibility is poor in this location, not to mention the safety concerns with reversing given the poor visibility.</p> <p>The applicant should provide a more suitable layout for this process to occur at ground level. Noting that there is a surplus of parking, the applicant could consider removing the accessible parking space at ground level to better accommodate a more appropriate waiting bay.</p> <p>Waste Servicing / Loading: More detail is required as to where Council's Waste Vehicle is to service the site for the residential related waste bins. Council's Waste Services Team are required to comment.</p> <p>The commercial component is to be serviced by a commercial contractor. The applicant shall ensure the contractor is aware of the dimension restrictions of the site.</p> <p>Pedestrian Access: Pedestrian movements within the basement and external to the site are deemed adequate. The applicant will be required to upgrade the footpath on the frontage of the site along Pittwater Road.</p> <p>Conclusion: Based on the Car Park concerns raised above, the application cannot be supported in its current form. Amendments will be necessary to accommodate a more appropriate waiting bay and signal interface between the ground floor and basement level.</p> <p>UPDATED COMMENTS TO BE PROVIDED BASED ON MEETING HELD ON 16 SEPTEMBER</p> <p>The Traffic concerns were discussed on the 16 September and the following issues raised:</p> <ul style="list-style-type: none"> • Delivery access to the development site needs to be managed without the use of the Pittwater Road site frontage. • The commercial tenancy component needs to be fixed as to prevent it being converted into another use in the future. • As the development is a commercial development the property is to contract a suitably sized waste collection vehicle service provider. • The waiting bay configuration is less than ideal, however a suitably conditioned access signal design and operational

Internal Referral Body	Comments
	<p>management plan.</p> <p>These issues can be partially addressed as follows:</p> <ul style="list-style-type: none"> • The Commercial Tenancy component restriction is to be added to the property title through an 88E instrument drafted to the effect that Council is the party that can approve the release or variation. • The operational plan for the waiting bay management will require an additional signal installed at the head of the bay on the ground floor and priority/waiting signal will be vehicles entering from 1-5 Collaroy Street access, with the ongoing operational performance guaranteed through an 88B instrument. <p>However, the outstanding issue to address by the applicant is the service vehicle access and deliveries to the property, which can be managed through a potential right of way across an adjoining property (1125 Pittwater Road) to allow service vehicle access only. Despite assurances that the site will only be serviced by vehicles that can use the existing right of way, concerns based on the commercial reality of logistics services require Council to be satisfied that the development will not adversely impact the existing amenity of the area.</p> <p>As such the development is currently not supported until this outstanding issue has been addressed to the satisfaction of the Transport Team.</p> <p>Third Referral Response The applicant has addressed all issues raised or agreed to put measures in place to address Transport concerns. Supported subject to conditions provided.</p> <p><u>Assessing officer comment</u></p> <p>A deferred commencement condition has been drafted to resolve all previous traffic concerns. This condition requires a restriction to be placed on the title so that only offices can be provided to the ground floor. This ensures that the traffic intensity (including size and number of vehicles) is reduced to an acceptable level. The condition is also drafted in a way that allows future opportunity for changes to this restriction if an updated traffic arrangement can be provided by way of a further application.</p>
Waste Officer	<p>Waste Services Updated Referral (Proposed plans received 19/10/2020 through Tom Prosser)</p> <p>Proposal is approved with conditions.</p>

Internal Referral Body	Comments
	<p>The ROW pathway and access between the Waste Storage Area and Collection Point must be hazard free to ensure ongoing clear access for collection staff to wheel and empty the bins.</p> <p>Any doors fitted to the Waste Storage Area must be able to be latched in the open position and unobstructed by any locks and security devices to ensure ongoing clear access to empty the bins.</p> <p>The Bulky Goods room cannot be accessed via the Waste Storage Area. The Bulky Goods room and Waste Storage Area must be separate rooms with their own separate access.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response 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.
NSW Roads and Maritime Services (Traffic Generating Development)	<p>Transport for NSW provided a letter with a list of requirements to be included in the development consent. This letter is added as a reference document to the conditions of consent.</p> <p>The following comments are also provided for Council's consideration in the determination of the application:</p> <p><i>1. The proposed development will generate higher vehicle trips than the existing land uses, which results in the increased possibility of vehicle movement conflict at the Right of Way area, which not allow 2 vehicles passing simultaneously. The applicant should demonstrate how this conflict to be managed.</i></p> <p><u>Comment:</u> A deferred commencement condition is recommended to restrict the use of the commercial premises to be office premises. this will provide a greater alignment with the existing use so that the conflict can be appropriately managed. Furthermore, the conflict is managed with a condition requiring a traffic signal system for the basement.</p> <p><i>2. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2 – 2002 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.</i></p> <p><u>Comment:</u> Conditions have been imposed by Council's Traffic officer to ensure these standards are met.</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 commercial purposes for a significant period of time with no prior land uses that would have been likely to result in contamination, apart from some asbestos. 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/commercial land use.

SEPP 70 - Affordable Housing (Revised Schemes)

The applicant has not nominated to include the provisions of SEPP 70 as part of the application for "Affordable Housing". Generally this SEPP addresses financial rental mechanisms that may be implemented to limit rents applying to a building / dwelling to create affordable housing. Therefore, no further assessment pursuant to SEPP 70 is required. The proposal remains subject to SEPP (Affordable Rental Housing) 2009 which addresses the *building design* as one of a number of *cheaper styles* or *forms* of more affordable *building construction* for housing.

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 B2 Local Centre 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. 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.	Consistent The site is located within the B2 Local Centre 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 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	Not applicable. The site is located within the Sydney region.



Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.

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 the WLEP 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 the WLEP 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 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:	The B2 Local Centre zone does not permit "residential flat buildings" and no FSR applies to the land.	Not applicable.

	(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.		
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:			
(a) building height	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,	The proposed building height (13.2m) does not comply with the development standard (11.0m).	An assessment of this non-compliance is made under the Warringah LEP section of this report.
(b) landscaped area	if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	The proposal is in a Local Centre zone in which the character is formed by shop fronts at the street frontage. As such landscaping in this area is not appropriate. However, suitable landscaping is provided to the upper levels to provide relief in the presentation of building bulk and enhance residential amenity.	Consistent
(c) solar access	where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	The common room will receive more than 3 hours direct sunlight between 9.00am and 3.00pm in mid-winter.	Consistent
(d) private open space	if at least the following private open space areas are provided (other than the front setback area): (i) one area of at least 20m ² with a minimum	The boarding house includes a common room with a private open space area of 20.1m ² . Each boarding room is also provided with a private open space area.	Compliant

	<p>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>A private open space area of 114m² is provided for the Managers residence.</p>	
(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 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>	<p>The site is opposite the B-line bus stops and is on a flat section of Pittwater Road. This is a location that is a highly accessible area.</p> <p>The proposal involves 13 car parking spaces allocated to the boarding house component and this complies with the requirement.</p>	Compliant

(f) accommodation size	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:	Each room has an area of at least 12 square metres (excluding any area used for the purposes of private kitchen or bathroom facilities).	Compliant
	(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or		
	(ii) 16 square metres in any other case.		
	(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.	Each room is provided with kitchen and bathroom facilities.	Consistent
	(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).	The proposal complies with all requirements above with the exception of building height.	Supported Despite the non-compliance with the building height, support is given to the proposal due to the appropriate visual nature of the proposal, complementary nature with surrounding character, and lack of unreasonable amenity impact (subject to conditions).

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,	Two communal rooms have been provided.	Compliant
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of	The largest room is 24.6m ² .	Compliant

private kitchen or bathroom facilities) of more than 25m ² ,		
(c) no boarding room will be occupied by more than 2 adult lodgers,	A condition of consent is recommended to ensure this.	Compliant
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Bathroom and kitchen facilities are provided to each room.	Consistent
(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,	A manager dwelling is provided to the third floor level.	Consistent
(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,	The proposal is for a mixed use development in which the ground floor is for commercial purposes only.	Consistent
(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 provides 6 bicycle places and space for 5 motorcycles.	Compliant
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	The proposal is for a new boarding house.	Not applicable.

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:

Comment: Not applicable

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:

The subject site is located at a section of Pittwater Road in which there is a variable character in terms of the number of storeys. This includes a mix of buildings that are generally 2-4 storeys in height. The proposed development will be compatible with this varied character by providing stepping of the the upper levels so that the development appears as 3 storey building with a recessive and stepped-in 4th storey. This ensures that the presentation will not be visually dominant in relation to nearby development.

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 proposal provides significant setbacks to the uppermost level (4th storey). In additions to this, landscaping is provided on the decks and terraces within the setbacks so as to assist in breaking up the bulk of the building. This breakdown ensures that the development will not involve large continuous planar walls, so as to be compatible with the character of newer mixed developments in the area.

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 proposal provides significant stepping back to the upper floors (front setback to 3rd floor and front/side/rear to 4th floor) to be consistent with the character exemplified in the streetscape. This maintains a presentation for the site that is not visually dominant.

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 proposal provides a materials palette including muted tones that will complement the existing character of the area. Furthermore, the proposal provides visual interest by minimising continuous built planes and instead providing a mix of materials, colours and textures. 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 have been assessed and are satisfactory.

Constraints on the development potential of surrounding sites

The proposed development is set back from all boundaries to varying degrees, particularly at the front and rear for the main portion of the building and on all sides to the upper level. The proposal will therefore not constrain surrounding sites from developing in the future.

Privacy

Privacy is discussed in detail under Part D8 Privacy in this report. In summary, the proposal does not result in any unreasonable privacy impacts to surrounding properties as a result of substantial physical separation, buffers including landscaping, and suitable location for communal space.

Conditions are also provided to minimise acoustic privacy impacts and a Boarding House Management Plan will also assist in providing an appropriate outcome for acoustic privacy.

Overshadowing

The orientation of the site and the setbacks of the proposal will mean that the private open space of all neighbouring properties will retain more than three hours of sunlight between 9.00am and 3.00pm in mid winter.

Amendments to the plans were also made to provide a break in the wall at the southern elevation, and to provide a light well to improve amenity for the southern neighbour.

Noise

Noise is discussed in detail under Part D8 Privacy in this report. In summary, the boarding rooms will be occupied by one or two people. The rooms include small outdoor open areas, however, these are not large enough to hold a large gathering.



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.

The above assessment has found that the proposal is compliant with the requirements and standards within the SEPP ARH (subject to conditions).

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1088157M).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	35	43

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 who provided a response 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.

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	11.0m	13.2m	20%	No (see comments)

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
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.1 Acid sulfate soils	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	11m
Proposed	13.2m
Percentage variation to requirement	20%

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,

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(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

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 proposed development for mixed use (with a shop top housing style) provides a greater consistency and compatibility with nearby shop top housing developments along Pittwater Road. It is also stated that a localised depression exists at the rear of the site which contributes to the height breach.

It is agreed that the 4 storey building would provide a greater level of compatibility with the character of the area given the predominant height and scale of nearby shop top housing developments along the Collaroy strip. It is further agreed that a minor depression in the site contributes to the height breach at the rear of the site.

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, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

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 B2 Local Centre zone. An assessment against these objectives is provided below.

Objectives of the Building Height 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 proposal involves a four storey shop top housing/boarding house style development that is consistent in built form with nearby shop-top housing developments. Further, the proposed building is compatible with the varied form of buildings in the area due to the substantial setbacks of upper levels to reduce the presentation of bulk and scale.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

As discussed in this report, the proposed upper level is substantially setback from the lower floors and all boundaries. This separation provides a situation in which there are substantial open corridors through the top portion of the development to allow for minimisation of view loss, separation for privacy and spacing to allow access for sunlight.

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:



The significant setbacks of the upper level along with landscaping to surround this level, provides an outcome in which the developments visual impact is minimised. This minimises the presentation of building bulk so as to ensure there is not unreasonable impact on the scenic quality of the 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 development will appear as a two to three storey building from many public spaces, and this minimises the presentation of the development. The modulation, articulation, and provision of landscaping also assists in providing a presentation in which the built form is adequately broken in to sections so as to minimise visual impact.

Objectives of the B2 Local Centre Zone

The underlying objectives of the B2 Local Centre zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Comment:

The proposal includes both commercial premises and residential occupancies and provides opportunities for both housing and employment in the area.

- *To encourage employment opportunities in accessible locations.*

Comment:

The proposed commercial premises ("office premises" only by way of condition) are opposite the Collaroy B-line bus stops. These are future employment opportunities in an accessible location.

- *To maximise public transport patronage and encourage walking and cycling.*

Comment:

The site is within close proximity to bus stops and is located in a relatively flat area so that walking and cycling are possible. The development also provides for a bicycle storage area to encourage cycling.

- *To provide an environment for pedestrians that is safe, comfortable and interesting.*

Comment:

The restriction of the commercial premises to be an "office premises" will reduce vehicular traffic so as to provide an appropriate situation for pedestrians.

- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*



Comment:

The substantial setbacks of the upper levels and the landscaping on the terrace areas provides a situation in which the presentation of the development will integrate appropriately with the surrounding natural environment.

- *To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of any adjoining or nearby residential land uses.*

Comment:

The setback of the upper levels and break in the southern elevation ensures that the amenity of surrounding residential uses is well protected.

Conclusions on Consistency with the Objectives of the Zone

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the B2 Local Centre 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, as 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, the concurrence of the Secretary for the variation to the Height of Buildings Development Standard is assumed by the Local Planning Panel.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B2 Number of storeys	3	4	33.33%	No (see comments)
B5 Side Boundary Setbacks	Merit assessment	0m-6.335m	N/A	Yes (see comments)
B7 Front Boundary Setbacks	Ground and 1st Floor: Maintain streetfront	Streetfront setback maintained	N/A	Yes
B7 Front Boundary Setbacks	2nd floor and up:5m	5m-8m	N/A	Yes
B9 Rear Boundary Setbacks	Merit assessment	7.3m	N/A	Yes (see comments)



Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B2 Number of Storeys	No	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of 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
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	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
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
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes

Detailed Assessment

B2 Number of Storeys

Description of non-compliance

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The control permits a building that is a maximum of three (3) storeys in height. The proposed development is four (4) storeys in height.

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 development does not visually dominate its surrounds.

Comment:

The fourth storey of the building is not easily visible from the street by virtue of its substantial setback from the front boundary and from the floors below. The fourth storey has also been designed to provide substantial setbacks to the northern and southern sides of the building, which provides appropriate visual relief and interest when viewed from surrounding properties.

Further, the proposal is located next to buildings that have similar heights and also within the proximity of other examples of four storey shop top housing development.

In this regard, the development does not visually dominate its surrounds.

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

Comment:

The proposed development will appear as a three storey building from many vantage points, including public spaces, which will minimise the visual impact of the development. The modulation, articulation and provision of landscaping will also assist in providing a visual presentation that is adequately broken down to minimise visual impact.

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

Comment:

The development provides a reasonable and equitable sharing of views to and from public and private properties. The fourth storey element provides substantial setbacks from the northern and southern boundaries to ensure view corridors are maintained for the adjacent building and for residential properties to the rear of the site.

To ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties.

Comment:

Despite the non-compliance with this control, the fourth storey does not result in any unreasonable overshadowing of adjoining properties, nor does it result in any unreasonable privacy or view impacts on adjoining or nearby properties.

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

Comment:

The development provides a modern flat roof design that is consistent with that of new medium density residential developments in the area. In this regard, the development provides sufficient scope for innovative roof pitch and variation in roof design.

To complement the height of buildings control in the LEP with a number of storeys control.



Comment:

The development results in a non-compliance with the the Height of Buildings Development Standard. This non-compliance is for the upper level and is toward the rear of the site, away from the street. The assessment of this application and the variation proposed to the development standard is justified on the basis that it is well founded and is supported in the circumstances.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of the WLEP2011, the WDCP 2011 and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B6 Merit Assessment of Side Boundary Setbacks

Merit consideration:

To provide ample opportunities for deep soil landscape areas.

Comment:

Given the site is located within the B2 Local Centre zone and within a mixed-use setting and context, it is envisaged that the ground floor areas will be occupied by commercial spaces, carparking and servicing areas. Furthermore, the WDCP does not contain a landscaped area control. Finally, the proposed planter boxes and landscaping throughout the development will provide opportunities for screening and softening planting.

To ensure that development does not become visually dominant.

Comment:

The proposal has adequate articulation and modulation to ensure it does not become visually dominant.

The proposal also provides significant setbacks to the upper levels from the street and lower floors. In additions to this, landscaping is provided on the decks and terraces within these setbacks so as to assist in breaking up the bulk of the building.

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

Comment:

The building is well modulated and steeps back significantly at the upper floor levels. This results in a bulk and scale which is compatible with the varied bulk and scale in the close vicinity of the site.

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

Comment:

The proposed development provides substantial separation between the upper levels and neighbouring properties to the upper level. The development also provides a recess in the southern elevation to allow for light access for the southern neighbour. This separation and breaking up of the built form ensures a reasonable level of amenity is provided the surrounding residential properties.

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

Comment:



The proposal provides substantial view corridors through the north and south of the 4th storey of the development to provide appropriate view sharing for the nearby developments that obtain views of the side boundaries.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of 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 not supported, in this particular circumstance.

D7 Views

Merit consideration

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. This is done for two separate sites, being 1125-1127 Pittwater Road and 1-5 Collaroy Street.

1125-1127 Pittwater Road, Collaroy

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 that will be affected are ocean views toward Collaroy Beach. The views of the water are made somewhat partial by existing trees and the Collaroy Hotel building on the opposite site of the street.



Figure 1: View from Living room of Unit 11, 1125-1127 Pittwater Road



Figure 2: View from rear deck of Unit 11, 1125-1127 Pittwater Road

- 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 are obtained from living areas within the unit and also from a deck which wraps around from the front of the unit to the side and rear (Figure 1 shows the view from the rear). These views are obtained from both standing and sitting positions and are over a side boundary.



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:

Given the setback of the upper levels, there is a retention of a substantial view corridor through the southern setback of the subject site. This corridor can be obtained from the deck area as well as living areas. Given the nature of the view over a side boundary, the overall impact is assessed as being **minor**.

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 complies with the controls for side and front setbacks and in this instance these are the controls that provide the greatest benefit to maintaining views. As a result of this and the overall minor view impact, the proposal is reasonable in terms of view sharing, despite the non-compliance with the development standard.

1-5 Collaroy Street, Collaroy

• 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 that will be affected are ocean views towards Collaroy Beach. The views of the ocean are made somewhat partial by the other existing buildings. In particular, the building in front of the site (1125-1127 Pittwater Road) results in a substantial disruption to ocean views.



Figure 3: View from central unit of 1-5 Collaroy Street, Collaroy



Figure 4: View from Northern Unit of 1-5 Collaroy Street



Figure 5: View from southern unit of 1-5 Collaroy Street

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 are generally obtained from decks and living rooms associated with these decks. The views are across a side boundary and diagonally across the subdivision pattern. This diagonal nature of the view corridor results in the views being somewhat vulnerable.



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:

Given the vulnerable nature of the views and the view corridor through the southern part of the site which is retained from many angles, the overall impact is considered as being **minor-moderate**.

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 complies with the controls for side and front setbacks and in this instance these are the controls that provide the greatest benefit to maintaining views. As a result of this and the overall minor-moderate view impacts, the proposal is reasonable in terms of view sharing in this instance, despite the non-compliance with the development standard.

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

Comment:

The proposal provides a design solution that allows for corridors for views to the side and front of the proposed development. Given the vulnerable nature of surrounding views, this is an innovative and acceptable design solution.

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

Comment:

the surrounding canopy trees at the beach front maintain priority over the views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011/WDCP 2011 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:

Visual Privacy

The site does not directly adjoin any residential properties to the north. As such, the location and orientation of the decks and terraces to be generally in this direction provides a design that minimises overlooking between the site and sites toward the north. The properties to the west are also well buffered from the terrace areas at the managers area provides a screen between these areas. Furthermore, the decks are surrounded by planter boxes to provide a further buffer for overlooking between the site and adjacent properties.

Acoustic Privacy

The boarding rooms will be occupied by one or two people. All of the rooms include small terraces or decks, however, these are not large enough to hold a large gathering.

The common room and common outdoor areas are located toward the north of the site in a location that is well separated from the neighbouring residential occupancies.

Given the screen planting, the relatively large distance to the closest neighbouring dwelling, the relatively small size of the outdoor area and that it is very unlikely that the space will be used by any more than a few residents at a time, the common outdoor area will not result in unreasonable acoustic privacy impacts.

Conditions are also imposed to ensure controls are provided so noise is minimised and a plan of management for the site ensures areas prone to noisiness can only be used at appropriate times.

Overall, the siting and design of the proposal, along with the conditions of consent, will provide a satisfactory level of visual and acoustic privacy for occupants and neighbours.

To encourage innovative design solutions to improve the urban environment.

Comment:

The proposed boarding house is well designed with adequate separation and buffers to minimise impacts to neighbours.

To provide personal and property security for occupants and visitors.

Comment:

The proposal includes swipe card accessible entry and exit doors and enclosed living areas. The development will therefore provide suitable personal and property security for occupants and visitors.

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, subject to conditions, in this particular circumstance.

F1 Local and Neighbourhood Centres

The following requirement under 14. *Pittwater Road, Collaroy* applies to the site:

"Buildings greater than 2 storeys in height within the centre are to be designed so that the massing is substantially reduced on the top floors thereby reducing the visual bulk of the development and enabling views between buildings."

Comment:

The proposal provides substantial setbacks to the upper level floors from the lower level floors. This provides for an appropriate degree of stepping of the built form so that the building does not become excessive in terms of bulk and scale and negatively impact on streetscape, considering the Collaroy commercial strip is a "Local Centre". Views between the building and adjoining properties are maintained as envisaged by the controls applying to the site.

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 \$49,960 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,995,964.

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.

Conclusions on the Assessment of the Application

The assessment of the proposed development against the provisions of WLEP 2011 has found that the proposal does not comply with the 'Height of Buildings' development standard of 11.0m.

In this case, the design provides sufficient setbacks, modulation and articulation to reduce amenity impact and the visual impact is reasonable and acceptable. Furthermore, the applicant has provided sufficient justification for the departure from the development standard, which is considered to be well founded.

In addition, the assessment of the proposed development against the provisions of the Warringah DCP 2011 found that the proposal does not comply with the number of storeys control. Given the character of the area and amenity outcome, assisted by good levels of modulation at the upper levels, some flexibility in applying these controls is required. It is considered that the non-compliances will not have an unreasonable amenity impact on adjoining properties and are consistent with the streetscape character of the locality.

There were 43 submissions made in response to the public notification. A number of conditions have been imposed to alleviate the amenity impacts that were raised in the submissions.

Furthermore, a deferred commencement condition is recommended to limit the usage of the ground floor commercial premises to "offices" to ensure the use of the right of way will have a reasonable intensity of traffic usage and so that it is conducive to the limitations on the size of service vehicles, thus providing a satisfactory outcome in response to the concerns raised by residents and Council's Traffic Section.

In summary, the proposal should be approved as the design is reasonable for the site and locality by virtue of the supportable non-compliances that do not translate into any unreasonable amenity impacts.



The proposed mixed development will integrate with the existing streetscape and is likely to be consistent with future development in the local centre having regard to the predominant height and scale of development fronting Pittwater Road.

Based on the above detailed assessment, the Clause 4.6 variation to the building height is supported.

Therefore, the application is recommended for approval.

It is considered that all processes and assessments have been satisfactorily addressed and that proposed development constitutes the proper and orderly planning for the site or the locality.

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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/0431 for Demolition works and construction of a Mixed Use Development comprising commercial units and a Boarding House on land at Lot 4 DP 7445, 1129 Pittwater Road, COLLAROY, subject to the conditions printed below:

DEFERRED COMMENCEMENT CONDITIONS

1. Restriction on Title

The applicant is to submit a Section 88E instrument to be approved by Council prior to being lodged with Property NSW placing a restriction on the title to limit the use of the commercial tenancy to commercial office uses only and explicitly prohibits the conversion of the commercial space to retail uses.

This restriction should be drafted so that Council has authority to vary the restriction.

Reason: To limit the traffic impact of the approval on the surrounding area and to provide opportunity for the restriction to be lifted in the future if a further application or design is provided that addresses traffic concerns to Council's satisfaction. (DACTRADC1)

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
A02A- Basement Floor Plan	16/09/2020	Barry Rush and Associates Pty Ltd
A03A- Ground Floor Plan	16/09/2020	Barry Rush and Associates Pty Ltd
A04A- First Floor Plan	16/09/2020	Barry Rush and Associates Pty Ltd
A05A- Second Floor Plan	16/09/2020	Barry Rush and Associates Pty Ltd
A06A- Third Floor Plan	16/09/2020	Barry Rush and Associates Pty Ltd
A07- Roof Plan	16/09/2020	Barry Rush and Associates Pty Ltd
A08A- Elevations East and North	16/09/2020	Barry Rush and Associates Pty Ltd
A09A- Elevations West and South	16/09/2020	Barry Rush and Associates Pty Ltd
A10A- Sections A-A & B-B	16/09/2020	Barry Rush and Associates Pty Ltd
A11- Demolition Plan	16/09/2020	Barry Rush and Associates Pty Ltd
A12- External Colour Schedule	16/09/2020	Barry Rush and Associates Pty Ltd

Engineering Plans		
Drawing No.	Dated	Prepared By
A14- Driveway Section	19/03/2020	Barry Rush and Associates Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Boarding House Management management Plan	April 2020	Applicant
Ausgrid Letter	20/05/20	AUSGRID
Geotechnical, hydrogeological and Acid Sulfate Soil Assessment	March 2020	martens consulting engineers



Access Report	20 March 2020	Ergon Consulting
Traffic Impact Assessment	27 March 2020	Urbis
Flood Assessment and Preliminary Flood Emergency Response Plan	April 2020	martens consulting engineers
Road Traffic Noise Assessment and Environmental Noise Impact Assessment	27 March 2020	DK Acoustics

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
LPDA 20- 155 Landscape Plan	Feb 2020	Barry Rush and Associates Pty Ltd
LPDA 20- 155 Landscape Plan - 3F	Feb 2020	Barry Rush and Associates Pty Ltd
LPDA 20- 155 Specification and Detail	Feb 2020	Barry Rush and Associates Pty Ltd

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Demolition and Construction Management Plan	February 2020	Apex Engineers

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. 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 \$49,959.64 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 \$4,995,964.00.

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. **On slab landscape planting and associated works**

- a) Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing to all internal walls and slab, and drainage of the concrete slab over which soil and planting is being provided.
- b) Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil volume, soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.
- c) The following soil depths are required in order to be counted as landscaping:
-300mm for lawn



- 600mm for shrubs
- 1metre for trees

Reason: To ensure appropriate and secure waterproofing and drainage is installed to direct water flow into the drainage system and adequate soil depths for proposed planting

8. Car Parking Standards

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1:2004.

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

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

9. Vehicular Swept Paths

Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

This is to include all vehicles entering the subject site and include the demonstration of the vehicle clearances in the right of carriageway in the adjoining property 1-5 Collaroy Street. This is to ensure that two way vehicle traffic can be maintained through the site with impacting on the shared amenity.

Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the issue of the construction Certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

10. 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.

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- o The proposed phases of construction works on the site, and the expected duration of each construction phase
- o 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
- o Make provision for all construction materials to be stored on site, at all times
- o The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- o 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
- 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 timeframes 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.

11. **Waste and Service Vehicle Access**

Access to the on-site loading bay area including ramp grades, transitions and height clearance shall be designed for safe forward in and forward out access of a 6.4m SRV Service Vehicle, as



a minimum requirement. The height clearance required is 2.5m, measured from the floor level to any overhead structures such as pipes.

Plans showing the ramp grades, transitions and height clearance and swept path diagrams of 6.4m SRV Service Vehicle shall be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate. Swept path diagrams must include details of the road including, kerb line, line marking, signs, traffic devices, power poles, other structures and neighbouring driveways.

Reason: To ensure adequate service vehicle access.

12. **Amendments to the approved plans- Replacement Landscaping**

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

- o All trees marked on the landscape plans as having a mature height of over 3m are to be replaced with a native species with a mature height of no greater than 3m.

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.

13. **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.

14. **Contaminated Land Requirements**

Prior to the issue of any Construction Certificate a Contamination Management Plan is to be prepared by an appropriately qualified Environmental Consultant and provided to the satisfaction of the Certifying Authority. The plan shall detail:

- a) How all the requirements and / or recommendations contained within the Preliminary Site Investigation Report numbered P1907336JR01V01 prepared by Martens Consulting Engineers and dated April 2020 are to be implemented;
- b) A Remedial Action Plan (RAP) prepared by a suitably qualified Environmental Consultant in accordance with State Environmental Planning Policy No. 55 - Remediation of Land, and with any contaminated land planning guidelines under the Contaminated Land Management Act 1997;
- c) Stipulate reporting and processes associated with discovery of any new contamination that is revealed during excavation, demolition or development works. This process shall include the ability to contact NSW Fire and Rescue for pollution incidents, have on call (24



hours a day), a suitably qualified Environmental Consultant to undertake immediate investigations and provide recommendations for containment and rectification of contaminants or toxins and a process for notification to Northern Beaches Council and the Principal Certifying Authority.

d) A requirement to complete ongoing water and soils testing during excavation, demolition and development works as follows:

(a) During construction in order to monitor water and soil quality the following is to be implemented:

- i) Water testing is to be completed in accordance with Section 3 of the NSW RTA's Guideline for Construction Water Quality Monitoring
- ii) Soil Testing in order to detect contaminants is occur weekly with two (2) samples in accordance with the NSW EPA Contaminated Site Sampling Design Guidelines.

(b) The requirements of (i) and (ii) above are to be implemented from the commencement of works as follows:

- i) Fortnightly during excavation works
- ii) Monthly during building works

e) To ensure water quality is maintained runoff must be drained to an adequately banded central collection sump and treated, to meet NSW Department of Environment and Climate Change (formerly Environment Protection Authority) discharge criteria.

Note: Other options for the disposal of excavation pump-out water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transported for treatment/disposal to an appropriate waste treatment/processing facility.

f) All stockpiles of potentially contaminated soil must be stored in a secure area on the site (no greater than 48 hours) so as not to cause pollution or public health risk until disposed of at a waste facility.

All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines. Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Note: The following Acts and Guidelines applied at the time of determination:

- i) Protection of the Environment Operations Act 1997; and
- ii) Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).

g) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of Saework NSW and the Environment Protection Authority and the provisions of all relevant Acts, Regulations and Guidelines.

h) Stipulate protocols for the importation of any landfill material onto the site the protocols shall include:

- o 'Chain of Custody' documentation shall be kept and submitted for the transport of the validated fill material from the any site to the subject premises.
- o Requirement that any landfill material being brought to the site shall be free of contaminants or toxins and shall suitable for the use on the land.
- o Any landfill material being brought to the site shall have a validation report prepared to the satisfaction of the Principal Certifying Authority (prepared in accordance with the Department of Environment & Climate Change's guidelines).



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

Reason: Protection of the environment, SEPP 55 compliance.

15. **Prior to construction certificate - Noise from Mechanical Equipment**

An noise assessment is to be undertaken by a suitably qualified person of the mechanical plant including air-conditioning plant associated with the use of the development. This assessment is to be undertaken to assess noise emission from the mechanical plant and a report is to be submitted to the Principal Certifying Authority prior to Construction Certification.

Reason: Protect noise amenity of the area and public health.(DACHPCPCC6)

16. **Prior to construction certificate - Noise Control Building Specifications**

Within the acoustic report dated 27 March 2020 ref: 200131 prepared by DK Acoustics Pty Ltd, the following noise control measures are to be implemented to provide the required external noise reduction to comply with acceptable noise criteria.

External Walls must comply with recommendations in Section 5.1 of the above report.
Roof/ceiling must comply with recommendations in Section 5.3 of the above report.
Windows and external glazed doors must comply with recommendations in Section 5.4 of the above report.

Reason: To protect the noise amenity of the area and public health (DACHPCPCC6)

17. **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 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (m) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

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



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

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)

18. 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.

19. Certification of recommendations in reports prior to CC

All recommendations that relate to issues prior to construction certificate are to be complied with for the following reports:

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Ausgrid Letter	20/05/20	AUSGRID
Geotechnical, Hydrogeological and Acid Sulfate Soil Assessment	March 2020	martens consulting engineers
Access Report	20 March 2020	Ergon Consulting
Traffic Impact Assessment	27 March 2020	Urbis
Flood Assessment and Preliminary Flood Emergency Response Plan	April 2020	martens consulting engineers
Road Traffic Noise Assessment and Environmental Noise Impact Assessment	27 March 2020	DK Acoustics

Details are to be provided prior to the issue of a Construction Certificate.

Reasons: To ensure compliance with recommendations in expert reports.

20. DRAINS Model and Flood mitigation

The following issues are to be resolved prior to the issue of an Construction Certificate:

- o A DRAINS model is to be submitted to Council for review to verify the outputs as presented in the report by Martens Consulting Engineers.



- Details and a redesign is to be provided to show the Flood mitigation tank will not be impacted by the back flow of stormwater from the adjoining box culvert.

Reason: To ensure appropriate outcome for Stormwater and Flooding.

21. Basement Garage Traffic Signal System.

To prevent conflicting vehicle flows on the internal basement garage ramp and avoid vehicles having to reverse up/ down the ramp, a traffic signal system must be installed at each ramp entry, and be visible from the assigned waiting bays, designed to warn drivers about to enter the road of any conflicting vehicle approaching.

The signal system must;

- be clearly visible from ramp entrances,
- is to clearly indicate to an approaching driver, by way of red light or wording, that an opposing vehicle has entered the ramp,
- Incorporate linemarking to delineate traffic flow and nominate waiting bay locations to allow vehicles to overtake another.

Details of the system, including the system operation, components and placement within the development, must be specified by a practising Traffic Engineer. This engineer is to submit a compliance certificate to the Accredited Certifier that the system has been installed and operating as designed, in accordance with the requirements of this condition, prior to the issue of the Construction Certificate issued for the development.

Reason: To ensure no vehicle conflicts within the basement carpark.(DACTRCPC1)

22. Waste and Recycling Requirements

Details demonstrating compliance with Northern Beaches Development Control Plan – Part C9 Waste Management, including the required Northern Beaches Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Northern Beaches Development Control Plan – Part C9 Waste Management, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.
(DACWTC01)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

23. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of all 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.



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.

24. **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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25. **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.

26. **Demolition Works - Asbestos**

If asbestos is found:

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

27. **Requirement to Notify about New Contamination Evidence**

Any new information revealed during demolition, excavation and construction works that has the potential to alter previous conclusions and recommendations about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: To protect human health and the environment.

28. **Imported Fill**

Prior to the importation of any landfill material onto the site, a validation report prepared in accordance with the Department of Environment & Climate Change's guidelines shall state that any fill material is suitable for the proposed use within the subject premises.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the fill being imported to the site.

Reason: To ensure that imported fill is of an acceptable standard.

29. **Compliance with the Preliminary Site Investigation Report**

The requirements of the Preliminary Site Investigation Report numbered P1907336JR01V01 prepared by Martens Consulting Engineers and dated April 2020 required by this consent are to be fully implemented from commencement of any excavation, demolition or development works



until the issue of any interim / final occupation certificate.
Reason: Protection of the environment, SEPP 55 compliance.

30. **Waste Materials**

All waste materials are to be classified prior to removal of any waste materials from the premises. All wastes (including any potentially contaminated wastes) shall only be transported to and disposed of within a licensed waste facility that is suitably authorised to accept the wastes. Evidence of waste disposal shall be retained at the premises for the duration of the development.

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

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

The requirements of the Boarding House Management Plan dated April 2020 are required by this consent is to be fully implemented in perpetuity from the issue of any interim / final occupation certificate.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.
(DACHPEDW2)

32. **Contaminants of Potential Concern - Preliminary Site Investigation Report**

Any Areas of Environmental Concern (AOEC) and Contaminants of Potential Concern (COPC) are to be managed in accordance with all of the requirements and recommendations contained within the Preliminary Site Investigation Report numbered P1907336JR01V01 prepared by Martens Consulting Engineers and dated April 2020. This includes the requirement for groundwater screening to be carried out during the excavation works and further contamination assessments where any fill material is encountered below the final bulk excavation level.

Reason: For the protection of human health and environmental health

33. **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.

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan dated February 2020.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

35. **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.
(DACWTE02)

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

36. 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.

37. 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.

38. Preliminary Site Investigation Report Certification

Written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority stating that all the works/methods/procedures/control measures/recommendations approved by Council in the Preliminary Site Investigation Report numbered P1907336JR01V01 prepared by Martens Consulting Engineers and dated April 2020 have been satisfactorily implemented and completed within the premises.

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

Reason: To ensure compliance with standards.

39. Prior to Occupation Certification - Mechanical Ventilation Certification

Windows and doors in rooms facing Pittwater Road need to be closed and have acoustic seals fitted to reduce internal noise to an acceptable level therefore mechanical ventilation is to be provided in each room facing Pittwater Road and the ventilation must comply with AS1668.2-2012. Certification is to be provided to a principal certifying authority prior to Occupation certification.



Reason: To ensure that the mechanical ventilation system complies with the design requirements. (DACHPFPOC4)

40. **Prior to Occupation Certificate - 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. (DACHPFPOC7)

41. **Required Planting**

Trees, shrubs and groundcovers shall be planted in accordance Landscape Plans Dwg Nos. LPDA 20-155 C pages 1 and 2 dated 23.03.20 Prepared by Conzept

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.

42. **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)

43. **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. (DACPLF03)

44. **Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.



Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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 compliance with the statutory requirements of Sydney Water.

45. **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 Fire and Rescue NSW.

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 Fire and Rescue NSW, 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.

46. **Certification of recommendations in reports Prior to OC**

All recommendations that relate to issues prior to Occupation certificate are to be complied with for the following reports:

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Ausgrid Letter	20/05/20	AUSGRID
Geotechnical, Hydrogeological and Acid Sulfate Soil Assessment	March 2020	martens consulting engineers
Access Report	20 March 2020	Ergon Consulting
Traffic Impact Assessment	27 March 2020	Urbis
Flood Assessment and Preliminary Flood Emergency Response Plan	April 2020	martens consulting engineers
Road Traffic Noise Assessment and Environmental Noise Impact Assessment	27 March 2020	DK Acoustics

Details are to be provided prior to the issue of a Occupation Certificate.

Reasons: To ensure compliance with recommendations in expert reports.

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

DA2020/0431



The proposal shall be constructed in accordance with Northern Beaches 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. (DACWTF01)

48. **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. (DACWTF02)

49. **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 Northern Beaches Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities (DACWTF03)

50. **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. (DACWTF04)

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

51. **On going - Boarding Houses Act**

Compliance with the relevant sections of the Boarding Houses Act NSW in perpetuity from the issue of any interim/final occupation certificate.

Reason: Compliance with the Boarding House Act NSW (DACHPGOG5)

52. **Landscape maintenance**

i) 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.

ii) 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.

53. **Boarding house Requirements**

The following are on going requirements for the boarding house:

- There are to be no more than 23 boarding rooms (without further consent).
- The boarding rooms are to have no more than 2 boarders per room.
- Car parking is to be allocated as follows: 1 space for the boarding house manager, 13 spaces for the boarding house occupants and 6 spaces for the office premises.

Reason: To ensure compliance with the requirements of SEPP ARH and provide other appropriate controls for the boarding house.

54. **Boarding house units**

The boarding house units are to be used only for the purpose of a boarding house.

Reason: To ensure compliance with this consent for a boarding house.

LIST OF DRAWINGS

- | | |
|------|----------------------------|
| A01A | LOCATION DIAGRAM |
| A02A | BASEMENT FLOOR PLAN |
| A03A | GROUND FLOOR PLAN |
| A04A | FIRST FLOOR PLAN |
| A05A | SECOND FLOOR PLAN |
| A06A | THIRD FLOOR PLAN |
| A07A | ROOF PLAN |
| A08A | ELEVATIONS EAST & NORTH |
| A09A | ELEVATIONS WEST & SOUTH |
| A10A | SECTIONS A-A & B-B |
| A11 | DEMOLITION PLAN |
| A12 | EXTERNAL COLOUR SCHEDULE |
| A13 | SITE ANALYSIS PLAN |
| A14 | DRIVEWAY RAMP SECTION |
| A15 | SHADOW DIAGRAMS MID WINTER |

SURVEY

- 3120 SHEET 1 DP SURVEYING 23 MAY 2018
3120 SHEET 2 DP SURVEYING 23 MAY 2018



LOCATION DIAGRAM

LEGEND

SLIP	DATE	REVISIONS TO ADDRESS COUNCIL ISSUES LETTER (19September)	MANUSCRIPTS
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Barry Rush & Associates Pty Ltd
Architects
Suite 25A, 2 Havelock Street, Subiaco,
6008W, Australia, 2041
Perth
Telephone: (612) 9555 8026 Fax: (612) 9810 0761
Email: info@barryrush.com.au
www.barryrush.com.au

Client

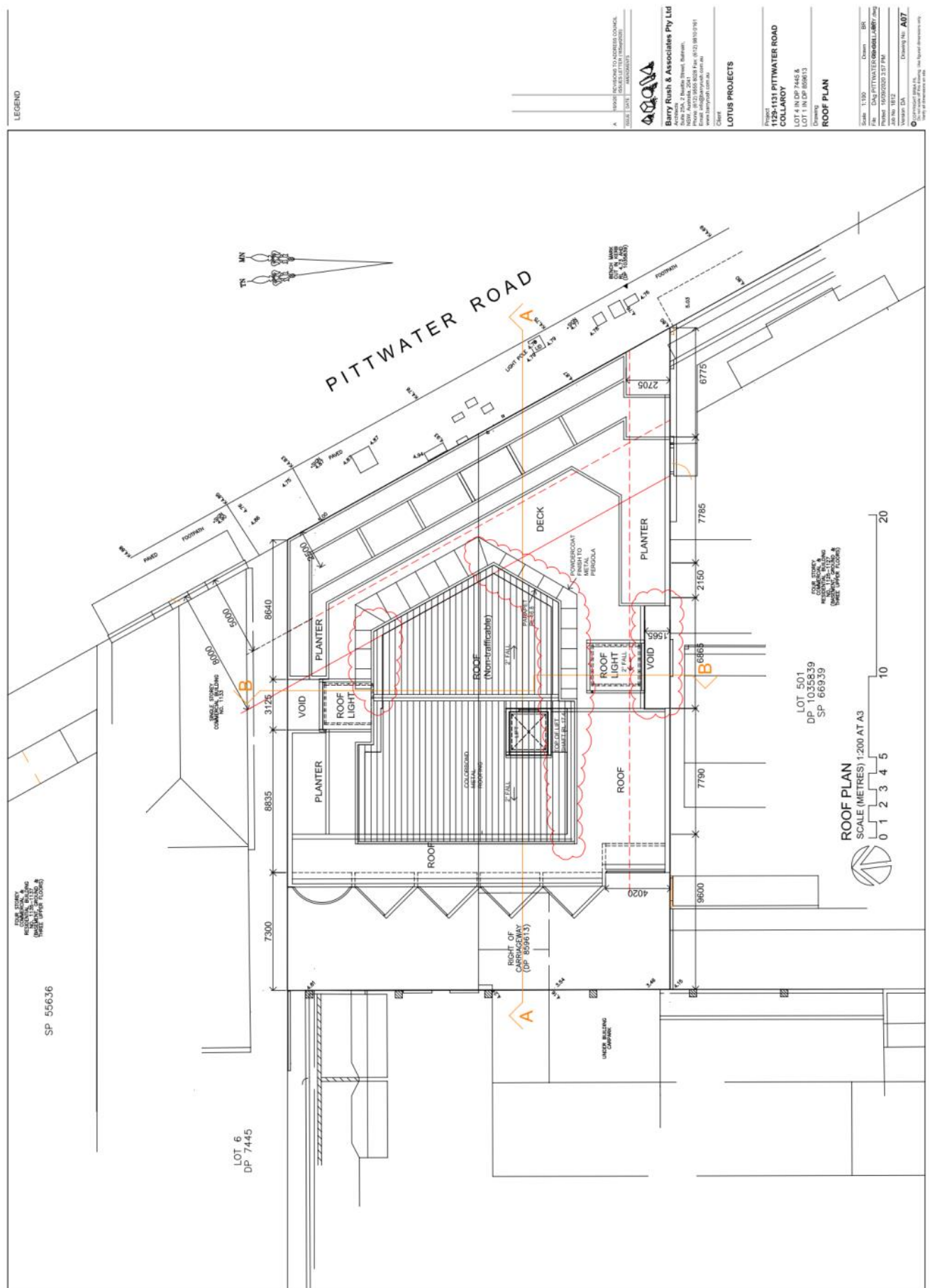
LOTUS PROJECTS

Project
1129-1131 PITTSWATER ROAD
COLLORAY
LOT 4 IN DP 7445 &
LOT 1 IN DP 850613

LOCATION DIAGRAM

Scale	1:100	Drawn	BR
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COMPAGNIE BRISA, S.A.
 (No toll outside off Pire driving. Use fixed dimensions only.)







Clause 4.6 variation request – Height of buildings
Proposed mixed use development
1129 – 1131 Pittwater Road Collaroy

Pursuant to the height of buildings map, the site has a maximum building height limit of 11 metres.

The objectives of this control 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.*

Building height is defined as follows:

building height (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like

It has been determined that the proposed development has a maximum building height along its eastern roof parapet of 12 metres with height increasing to a maximum of 13 metres where the site has a localised depression in its south western corner. This represents a building roof parapet non-compliance of between 1 and 2 metres or between 9 and 18%. The lift overrun has a maximum height of 13.2 metres above ground level representing a non-compliance of 2.2 metres or 20%. The extent of non-compliance is depicted in the following images.

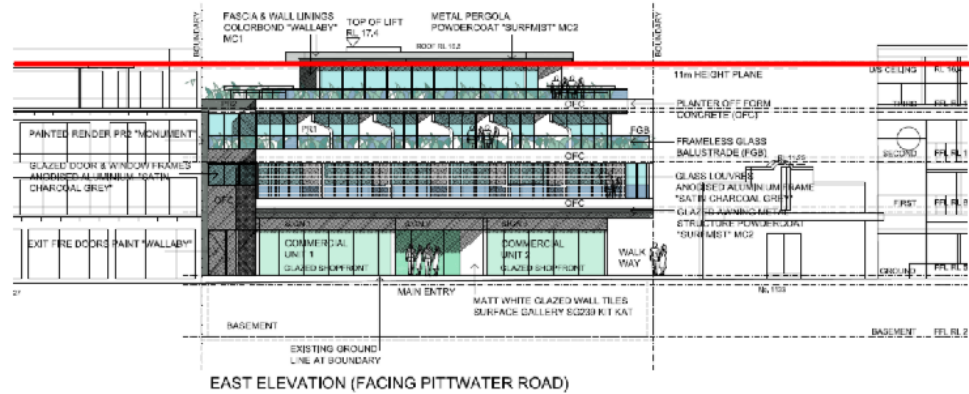


Figure 1 - Plan (east elevation) extract showing extent of 11 metre building height breach

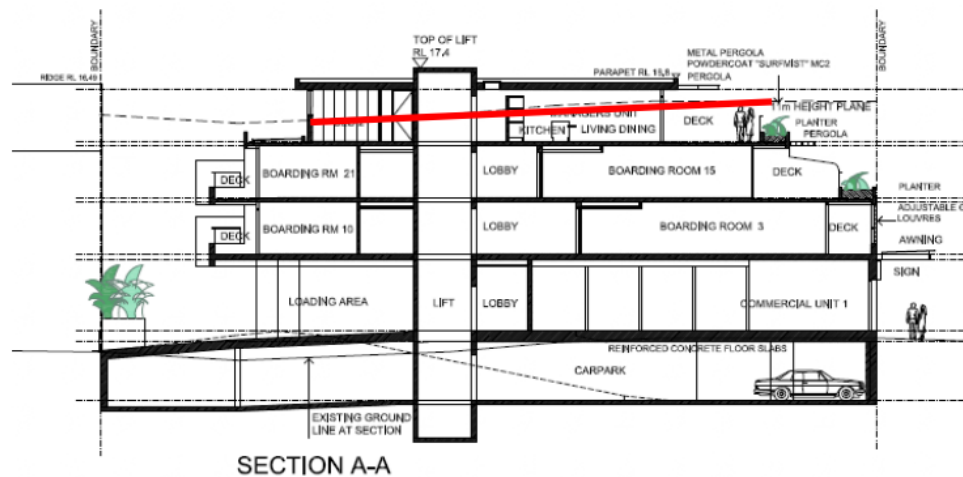


Figure 2 - Plan (section A-A) extract showing extent of 11 metre building height breach

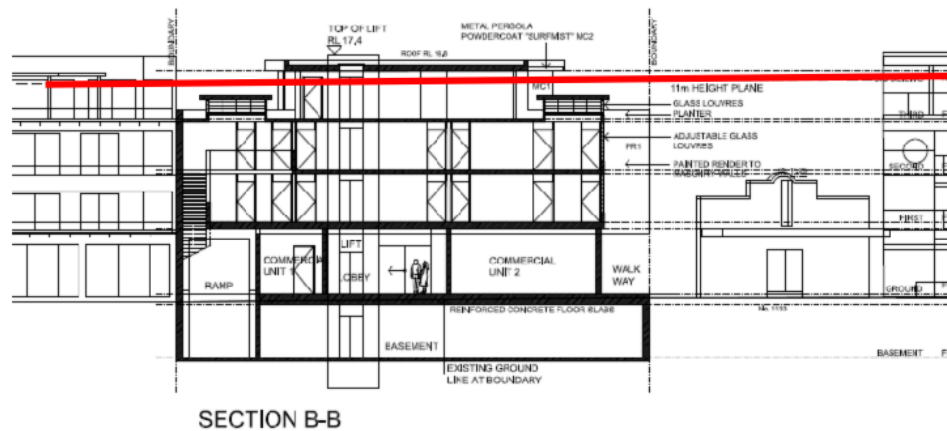


Figure 3 - Plan (section B-B) extract showing extent of 11 metre building height breach

Clause 4.6 of WLEP 2011 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

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

Pursuant to clause 4.6(2) 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.

This Clause applies to the Clause 4.3 Height of Buildings Development Standard.

Clause 4.6(3) states that 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.*

Clause 4.6(4) states consent must not be granted for development that contravenes a development standard unless:

- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Director-General has been obtained.*

Clause 4.6(5) states that in deciding whether to grant concurrence, the Director-General must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

Clause 4.6 Claim for Variation

This clause 4.6 variation has been prepared having regard to the Land and Environment Court judgements in the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe*) at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 and *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

Zone and Zone Objectives

The Warringah Local Environmental Plan (LEP) 2011 applies to the subject site and this development proposal. The subject site is located within the B2 Local Centre zone. Shop top housing is permissible in the zone with consent. The stated objectives of the B2 zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area;*

Response: The proposed development achieves this objectives in that it incorporates commercial tenancies that will facilitate uses that are able to serve the needs of people who live in, work in and/ or visit the local area.

- *To encourage employment opportunities in accessible locations;*

Response: The subject property is ideally suited to increased residential densities given its immediate proximity to the Collaroy Beach B-Line bus stop. The proposal achieves this objective.

- *To provide an environment for pedestrians that is safe, comfortable and interesting;*

Response: The the building design and streetscape enhancement works providing an environment for pedestrians that is safe, comfortable and interesting. The proposal achieves this objective.

- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment;*

Response: The urban form relates favourably in scale and in architectural and landscape treatments to that established on neighbouring properties. The proposal achieves this objective.

- *To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of any adjoining or nearby residential land uses.*

Response: The proposal, by virtue of its design and siting, will maintain reasonable residential amenity to the adjoining properties in particular the apartments located to the south and west of the site. The proposal achieves this objective.

The consent authority can be satisfied that the proposal is consistent with the zone objectives as outlined. Accordingly, there are no statutory zoning or zone objective impediment to the granting of approval to the proposed development.

Building Height Objectives

Having regard to the objectives of the height standard as previously identified strict compliance has been found to be both unreasonable and unnecessary for the following reasons:

- (a) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

Comment: Development within the site's visual catchment, and within the 11 metre height precinct, is eclectic in nature and currently in transition with a number of older one and two storey commercial and mixed use buildings being replaced with more contemporary 4 level stepped shop top housing building forms. A predominant 4 storey building presentation has been established by recently approved and constructed shop top housing development along Pittwater Road and within this particular street block.

We note that the 3rd and 4th Level building element maintains an appropriate setback to Pittwater Road such that they will be recessive in a streetscape context consistent with that of other recently approved and constructed 4 storey shop top housing development to the north and south of the site as depicted in Figures 4 and 5 below.

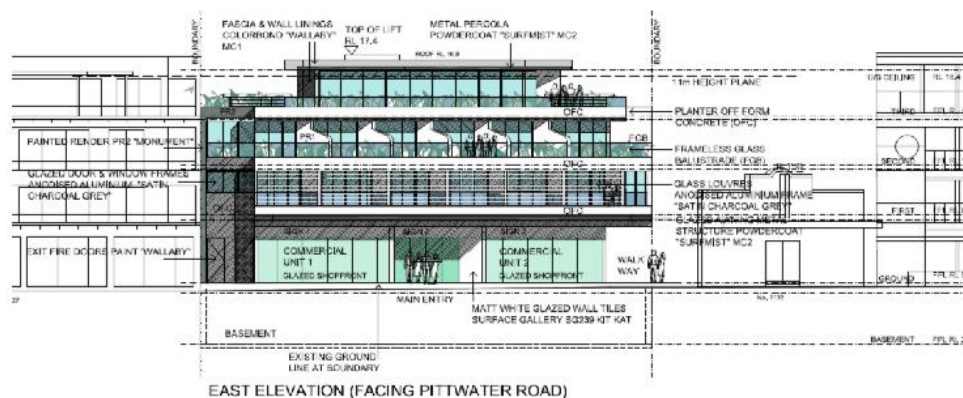


Figure 4 - Plan (east elevation) extract showing extent of 11 metre building height breach



Figure 5 – Photographic montage of proposed development and its immediate context.

In this regard, we have formed the considered opinion that the height, bulk and scale of the development including its 4 storey stepped form are entirely consistent with the height and scale of surrounding and nearby development.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the proposed development by virtue of its height offensive, jarring or unsympathetic in a streetscape and urban context. In this regard, it can be reasonably concluded that the development is compatible with surrounding and nearby development and accordingly the proposal achieves this objective.

- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*

Comment: Having undertaken a detailed site and context analysis and identified available view lines over the site we have formed the considered opinion that the height of the development, and in particular the non-compliant height components, will not give rise to any visual, view, privacy or solar access impacts with appropriate spatial separation maintained to adjoining properties.

The proposal achieves this objective.

- (c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*

Comment: The non-compliant building height elements will not be readily discernible as viewed from the street or coastal foreshore area. The proposal achieves this objective.

- (d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

Comment: The non-compliant building height will not be visually prominent as viewed from the street or any public area as depicted in Figure 5. Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the proposed development, in particular the non-compliant portions of the building, offensive, jarring or unsympathetic in a streetscape context.

We have also formed the considered opinion that the proposal will maintain appropriate amenity in terms of solar access and privacy and will not give rise to any adverse public or private view affectation. In this regard, the development satisfies the objectives of the height of buildings standard and accordingly, pursuant to the first test in Whebe, strict compliance is unreasonable and unnecessary under the circumstances. It can also be argued that the 11 metre height standard has been effectively abandoned along this particular section of Pittwater Road in favour of a consistent and cohesive streetscape and urban design outcome.

Environmental Planning Grounds

In my opinion, there are sufficient environmental planning grounds to justify the variation it being noted that the building heights proposed provide for the contextually appropriate and cohesive streetscape. A better urban design and streetscape outcome is achieved.

The additional height proposed will ensure that the development maintains a complimentary and compatible streetscape height and form consistent with the heights and form of recently approved and constructed shop top housing development along this section of Pittwater Road. We note that all floor levels are nearly identical to those established by the shop top housing developments to the north and south of the site. A localised depression towards the rear of the site appears to have been artificially created contributing to the building height breach in this location. It can also be argued that the 11 metre height standard has been effectively abandoned along this particular section of Pittwater Road in favour of a consistent and cohesive streetscape and urban design outcome.

The building is of exception design quality and represents the orderly and economic use and development of the land consistent with objectives 1.3(c) and (g) of the Act.

In accordance with Clause 4.6(5) the contravention of the development standard does not raise any matter of significance for State or Regional environmental planning with the public benefit maintained by Council's adoption of an application specific merit based assessment as it relates to building height within the 11 metre height precinct in which the site is located.

Conclusions

Having regard to the clause 4.6 variation provisions we have formed the considered opinion:

- a) that the site specific and contextually responsive development is consistent with the zone objectives, and

- b) that the site specific and contextually responsive development is consistent with the objectives of the building height standard, and
- c) that there are sufficient environmental planning grounds to justify contravening the development standard, and
- d) that having regard to (a), (b) and (c) above that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case, and
- e) that given the design quality of the development, and the developments ability to comply with the zone and building height standard objectives that approval would not be antipathetic to the public interest, and
- f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning.

As such we have formed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a height of buildings variation in this instance.

Please not hesitate to contact me to discuss any aspect of this submission.

Yours sincerely

Boston Blyth Fleming



Greg Boston
B Urb & Reg Plan (UNE) MPIA
Director

4.0 NON PUBLIC MEETING ITEMS

ITEM 4.1	DA2020/0911 - 32 FULLER STREET, COLLAROY PLATEAU - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SECONDARY DWELLING
AUTHORISING MANAGER	RODNEY PIGGOTT
TRIM FILE REF	2020/659239
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan and Elevations

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is a member of council staff who is principally involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2020/0911 for alterations and additions to a dwelling house including a secondary dwelling at Lot 29 DP 435232, 32 Fuller Street, Collaroy Plateau subject to the conditions and for the reasons set out in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0911
Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot 29 DP 435232, 32 Fuller Street COLLAROY PLATEAU NSW 2097
Proposed Development:	Alterations and additions to a dwelling house including a secondary dwelling
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Kathleen Jacinta Fuller
Applicant:	Kathleen Jacinta Fuller
Application Lodged:	14/08/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	24/08/2020 to 07/09/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 259,500.00

Executive Summary

This report contains a detailed assessment of Development Application DA2019/0911 for the alterations and additions to a dwelling house including a secondary dwelling, at 32 Fuller Street, Collaroy Plateau.

The Development Application is being referred to the Northern Beaches Local Planning Panel as the Local Planning Panels Direction, under S9.1 of the Environmental Planning and Assessment Act 1979, requires applications where the land owner is an employee of Northern Beaches Council be referred for consent.

The application involves the ground floor and first floor of the existing dwelling house is to remain but

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reconfigured with internal changes, with the inclusion of a new secondary dwelling on the first floor. External works include the removal of existing hardstand concrete strips to create a new soft landscaped area.

The proposed development was notified for a period of 14 days. During this notification period no submissions were received.

Amended plans were received during the assessment period to address privacy concerns and the deficient landscape open space area. Consistent with Northern Beaches Council Community Participation Plan, the amended plans were not re-notified as the proposed changes resulted in a reduction of environmental and amenity impacts.

The application has been assessed against the planning controls of the Warringah Local Environment Plan 2011 and the Warringah Development Control Plan 2011, and the assessment has found the proposal to be generally consistent with the relevant requirements, subject to imposed conditions.

Accordingly it is recommended that consent be granted to this application in accordance with recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

The application is for the alterations and additions to a two storey dwelling house, including the incorporation of a new secondary dwelling within the footprint of the first floor.

During the planning assessment concerns were raised in regards to the proposals inconsistency with the requirements of Clause D1 Landscape Open Space and Bushland Setting and Clause D8 Privacy of the Warringah Development Control Plan 2011.

As a result of consultation with the applicant, amended plans were received during the assessment period to address the privacy concerns from the first floor balcony through the inclusion of privacy screening, and removal of the existing concrete hardstand strips within the front setback to increase the total landscape open space area.

Consistent with Northern Beaches Council Community Participation Plan, the amended plans were not re-notified as the proposed changes resulted in a reduction of environmental and amenity impacts.

Accordingly, the works proposed are as follows:

Ground Floor

- New entry porch
- New entry
- New walk-in robe and en-suite servicing bedroom one
- Reconfiguration of the existing floor plan to provide a lounge, bathroom, dining, kitchen, sitting and store room
- New separate entry to secondary dwelling with access stairs

First Floor

- New secondary dwelling with living, bed and kitchen, shower and balcony
- New privacy screens on the north and west elevations of the existing first floor balcony



External

- New parking spaces in a tandem parking arrangement along the northern boundary of the site
- Removal of the existing hardstand concrete strips within the front setback

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 - C3 Parking Facilities
Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 29 DP 435232 , 32 Fuller Street COLLAROY PLATEAU NSW 2097
Detailed Site Description:	<p>The site is legally identified as Lot 29 within Deposited Plan 435232, and is known as 32 Fuller Street Collaroy Plateau. The site is located within the R2 Low Density Residential zone as mapped in the Warringah Local Environmental Plan 2011.</p> <p>The subject site is regular in shape and 501.7sqm in size. The eastern front boundary and western rear boundary measure 12.19m, with northern and southern side boundaries measuring 41.15m.</p> <p>The property has a slight fall over approximately 2.13m from the rear to the front of the site.</p>

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Vehicle access is from Fuller Street and stormwater currently drains to the street frontage.

The site contains environmental features at the rear of the site, including several rock outcrops.

The site is currently contains a two storey residential dwelling house, within a landscaped setting.

Surrounding sites consist of one and two storey dwelling houses, of varying ages, within landscaped settings.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant development applications for this site.

The land has been used for residential purposes for an extended period of time.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of

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Section 4.15 Matters for Consideration'	Comments
instrument	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)(iiiia) – 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.</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</p>



Section 4.15 Matters for Consideration'	Comments
	proposed land use.
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 not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 24/08/2020 to 07/09/2020 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	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.
Landscape Officer	The proposal is for alterations and additions of the existing dwelling houses, with the inclusion of a secondary dwelling within the existing footprint. No significant landscape features are indicated to be affected by the proposal. The DA is considered acceptable with regard to the relevant controls relating to landscape issues, subject to conditions. The proposal is therefore supported.
NECC (Development Engineering)	There are no objections to the proposal subject to applied 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

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External Referral Body	Comments
	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 2: Secondary dwellings

Clause 19: Definition

Development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

Note: The standard instrument defines secondary dwelling as follows:

"secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and*
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling."*



Comment:

The proposed use is defined under WLEP 2011 as a secondary dwelling.

A *secondary dwelling* means a self-contained dwelling that:

- (a) *is established in conjunction with another dwelling (the principal dwelling), and*
- (b) *is on the same lot of land as the principal dwelling, and*
- (c) *is located within, or is attached to, or is separate from, the principal dwelling.*

Note. See clause 5.4 for controls relating to the total floor area of secondary dwellings.

Secondary dwellings are a type of residential accommodation—see the definition of that term in the WLEP 2011 Dictionary.

Clause 20: 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, but <i>only if</i> development for the purposes of a dwelling house is permissible on the land:	
(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 R5 Large Lot Residential.	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 21: Development to which this Division applies

Requirement	Comment
This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling.	Consistent. The development involves the construction of a secondary dwelling as defined by the Standard Instrument. Therefore, this Division applies.

Clause 22: Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	The site contains a single dwelling house and the proposed secondary dwelling is attached to the dwelling house, siting within the existing first floor footprint of the dwelling house at the western area of the site.
(3) A consent authority must not consent to development to which this Division applies unless: (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and	The floor area is less than 60sqm for the secondary dwelling, being 48.85sqm.



(b) the total floor area of the secondary dwelling is no more than 60m ² or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	
(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds: (a) site area if: (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or (ii) the site area is at least 450 square metres. (b) parking if no additional parking is to be provided on the site.	The secondary dwelling is attached to the principal dwelling and the site exceeds 450sqm (being 501.7sqm). There is two (2) parking spaces to be provided on the site.

Note: 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 (4).

Clause 24: No subdivision

Requirement	Comment
A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.	Consistent. This application does not propose any subdivision of the existing allotment.

Conclusion

The proposal satisfies the assessment criteria and requirements for approval under SEPP ARH.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate for the Dwelling House has been submitted with the application (see Certificate No. A376718 and dated 31 July 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. A376718 and dated 31 July 2020).

A BASIX certificate for the Secondary Dwelling has been submitted with the application (see Certificate No. 1100065S dated 31 July 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 1100065S dated 31 July 2020).

The BASIX Certificates 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. 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	6.0m - 6.2m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
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	%	Complies
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			Variation*	
B1 Wall height	7.2m	North 5.5m to 5.7m South 5.6m to 5.7m	- -	Yes Yes
B3 Side Boundary Envelope	5m	No encroachment	-	Yes
	5m	No encroachment	-	Yes
B5 Side Boundary Setbacks	0.9m	North 3.0m - 4.6m Ground Floor existing 4.6m First Floor existing 3.1m Balcony	- - -	Yes Yes Yes
	0.9m	South 1.5m Ground & First Floor existing	-	Yes
B7 Front Boundary Setbacks	6.5m	7.9m First Floor	-	Yes
B9 Rear Boundary Setbacks	6m	13.2m Ground & First Floor existing	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	42% (210.7sqm)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	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	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes

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Clause	Compliance with Requirements	Consistency Aims/Objectives
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

C3 Parking Facilities

As per Appendix 1 Car Parking Requirements under Warringah Development Control Plan 2011, a dwelling house is to provide two (2) vehicle spaces per dwelling. The proposal includes a tandem parking arrangement for two car parking spaces, behind the required front setback. As a result, the proposal achieves this requirement.

The proposal does not include an additional off-street parking space for the secondary dwelling as the State Environmental Planning Policy (Affordable Rental Housing) 2009 Division 2 Secondary Dwellings (22)(4)(b) states that the consent authority must not refuse consent to development to which this Division applies if no additional parking is to be provided on the site for a Secondary Dwelling. As a result, parking spaces for the secondary dwelling can be easily provided for offsite on Fuller Street.

Therefore, the maintenance of two (2) off-street parking spaces for the Principal Dwelling is considered to be acceptable in this instance.

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

The proposed development includes a minor extension of the existing first floor balcony located on the northern elevation of the dwelling house (see Figure 1 below) and the changes to the windows and doors on the northern, southern and western elevations.



Figure 1: Existing first floor balcony orientated to the northern side setback.

As part of the proposal, the first floor balcony will service the new secondary dwelling. The first floor balcony will adjoin the lounge room and kitchen area, and will continue to extend 1.53m from the northern wall of the upper level.

Whilst the application seeks to mimic the location and setbacks of the existing first floor balcony, due to the change of use of the adjoining rooms (i.e family room to a secondary dwelling), combined with the first floor elevation and orientation directly to the northern adjoining site, greater direct overlooking to the northern properties private open space could occur through intensified usage.

As a result, privacy mitigation measures (louvered privacy screens) are proposed to satisfy the objectives of the control, and improve the privacy impacts to the northern and western surrounding sites.

The application also includes minor changes in the glazed windows and doors on the northern, southern and western elevations.

The changes on the northern and southern elevation are all located on the ground floor, with boundary fencing appropriately providing a screening mechanism to alleviate unreasonable privacy impacts.

The western elevation includes a window replacement (W12) of glazed bricks with a sill height of 1.4m. This window W12 is also located approximately 13.2m from the rear western setback. As a result, it is not anticipated that unreasonable overlooking or privacy impacts are created by this window replacement, and no privacy mitigation measures are required.

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:



As discussed above, the development includes the refurbishment of the first floor elevated balcony which is orientated to the northern side setback, and overlooks the principal private open space area of the neighbouring property at No. 34 Fuller Street and No. 27 Veterans Parade. It is noted that the rear boundary adjoining include advanced vegetation which does assist in screening overlooking to No. 27 Veterans Parade.

Although existing, the balcony is designed to be used as an primary outdoor area for the secondary dwelling in which to actively stand and/or sit on a more regular basis.

The privacy screening proposed along the western side edge, and northern side edge of the balcony to mitigate overlooking opportunity (and the perception of being overlooked) to both No. 27 Veterans Parade and No. 34 Fuller Street will ensure adequate visual and acoustic privacy.

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

Comment:

The development is refurbishing the existing side boundary balcony. The inclusion of privacy screens along the western and northern edge of the elevated balcony is considered an appropriate response to improve the existing situation and minimise the overlooking of the adjoining sites.

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

Comment:

The development, as conditioned, provides for the personal and property security for occupants and visitors.

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.

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 \$2,595 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$259,500.

CONCLUSION

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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

Detailed Conclusion Comments

The proposed alteration and additions to the existing dwelling house, including a secondary dwelling are consistent with the streetscape and the context of the area. Furthermore, with no real change to the building height, the built form continues to be complementary and compatible with the established character of Fuller Street and the Collaroy Plateau immediate area.

The proposed additions of privacy screening for the existing first floor balcony and the incorporation of an additional pervious landscaped area within the front setback result in an amenity and visual improvement that is more suitable and appropriate for the area.

On balance, the proposal should be approved as there is no impact on views, vistas or the scenic qualities of the area. The proposal is suitable for the site and Collaroy Plateau locality

Therefore, the application is recommended for approval.

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



RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/0911 for Alterations and additions to a dwelling house including a secondary dwelling on land at Lot 29 DP 435232, 32 Fuller Street, COLLAROY PLATEAU, 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
Survey Plan DA02 Rev. A	03/08/2020	LKS Design and Drafting
Site Plan DA03 Rev. B	01/10/2020	LKS Design and Drafting
Ground Floor and First Floor Demolition DA05 Rev. A	03/08/2020	LKS Design and Drafting
Proposed Ground Floor DA06 Rev. A	03/08/2020	LKS Design and Drafting
Proposed First Floor DA07 Rev. B	01/10/2020	LKS Design and Drafting
North and South Elevation DA08 Rev. B	01/10/2020	LKS Design and Drafting
East and West Elevation DA09 Rev. B	01/10/2020	LKS Design and Drafting
Sections DA10 Rev. B	01/10/2020	LKS Design and Drafting
Roof Plan DA110 Rev. A	03/08/2020	LKS Design and Drafting

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscaping Plan DA04 Rev. B	01/10/2020	LKS Design and Drafting

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. Approved Land Use

Nothing in this consent shall authorise the use of site as detailed on the approved plans for any land use of the site beyond the definition of a principal dwelling and Secondary Dwelling.

A Secondary Dwelling is defined as:

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"secondary dwelling means a self-contained dwelling that—

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling."

(development is defined by the State Environmental Planning Policy (Affordable Housing) 2009 Division 2, 19 Definition)

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.

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 \$2,595.00 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 \$259,500.00.

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 \$1,500 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. **Change of Building Class**

The proposed modifications/ additions to the existing building to include a secondary dwelling will result in a change of classification to a Class 2 building and will be required to be upgraded to comply with Parts C & F (specifically sound transmission ratings) of the Building Code of Australia.

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

Reason: To ensure adequate provision is made for fire safety and for building occupant safety

8. **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.

9. **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.

10. **Privacy Screen**

A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost western edge of the first floor balcony located off the secondary dwelling as shown on the approved plans. The privacy screen shall be of fixed panels or louver style



construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

In addition, a 1.65 metre privacy screen (measured from finished floor level) is to be erected along the northern edge of the first floor balcony located off the secondary dwelling as shown on the approved plans. The privacy screen is to start from the outermost north-western corner, and be constructed along the northern edge for a minimum length 2.0m. The privacy screen shall be of fixed panels or 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: In order to maintain privacy to the adjoining / nearby property.

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:

- 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.

12. **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

13. **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 50mm 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 50mm 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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. 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.

15. 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 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.

16. 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.



17. **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**

18. **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.

19. **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.



SITE INFORMATION:

LOT 29, D.P.435232, 32 FULLER ST., COLLAROY PLATEAU, NSW 2097

TOTAL SITE AREA:		501.7m ²
EXISTING DWELLING FOOTPRINT INCL. CARPORT & GARAGE		152.4m ²
PROPOSED DWELLING & SECONDARY DWELLING FOOTPRINT		152.4m ²
EXISTING DWELLING FLOOR AREA		128.4m ²
PROPOSED ADDITIONAL DWELLING FLOOR AREA (EX. GARAGE)		39.24m ²
PROPOSED SECONDARY DWELLING FLOOR AREA		48.85m ²
EXISTING LANDSCAPE AREA		192.97m ²
LANDSCAPE AREA TO BE REMOVED	38.46% of site	0.0m ²
ADDITIONAL LANDSCAPE AREA (Driveway tracks removed)	3.53% of site	17.76m ²
TOTAL EXISTING & PROPOSED LANDSCAPE AREA	42.00% of site	210.73m ²

SITE EVALUATION PLAN
1:200

1:200

THE BUILDER SHALL CHECK ALL DIMENSIONS AND LEVELS ON SITE PRIOR TO CONSTRUCTION. NOTIFY ANY ERRORS, DISCREPANCIES OR OMISSIONS TO THE BUILDING DESIGNER. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED FOR CONSTRUCTION. DO NOT SCALE OFF THE DRAWINGS. ALL BOUNDARIES AND CONTOURS SUBJECT TO SURVEY.

DO NOT SCALE UP THE DRAWINGS. ALL DIMENSIONS GOVERN OVER DRAWING.

bdpa
BUILDING DESIGNERS
ASSOCIATION OF AUSTRALIA
CHARTERED ACCREDITED MEMBER
SINCE 1970

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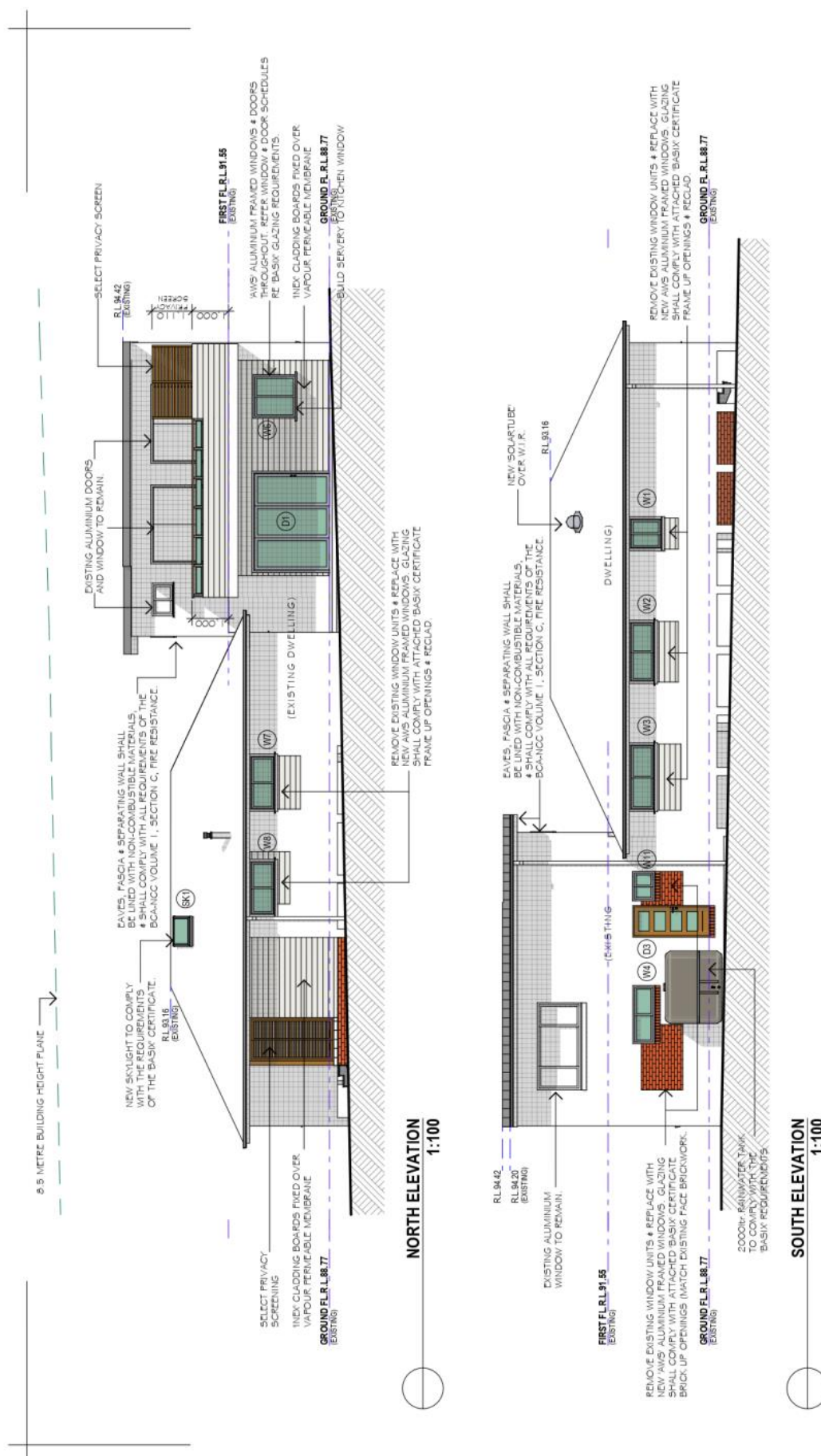
LKS
DESIGN & DRAFTING
ABN 624339321
ACCREDITED BUILDING DESIGNER

P.O. Box 4101, North Curl Curl, N.S.W. 2099
Mobile: 0418 662 771
Email: lks@bigpond.net.au

PROJECT:
PROPOSED ALTERATIONS
& ADDITIONS-SECONDARY DWELLING
32 FULLER STREET,
COLLAROY PLATEAU, N.S.W. 2097
LOT. 29. DP 435232

DEVELOPMENT APPLICATION ISSUE

DATE: 3rd August, 2020
SCALE: As Shown
DRAWN: L K S.
PROJECT REF: 1815 DA03 Rev. B



THE BUILDER SHALL CHECK ALL DIMENSIONS AND LEVELS ON SITE PRIOR TO CONSTRUCTION. NOTIFY ANY ERRORS, DISCREPANCIES OR OMISSIONS TO THE BUILDING DESIGNER. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNLESS ISSUED FOR CONSTRUCTION. DO NOT SCALE OF THE DRAWINGS. ALL BOUNDARIES AND CONTOURS SUBJECT TO SURVEY.

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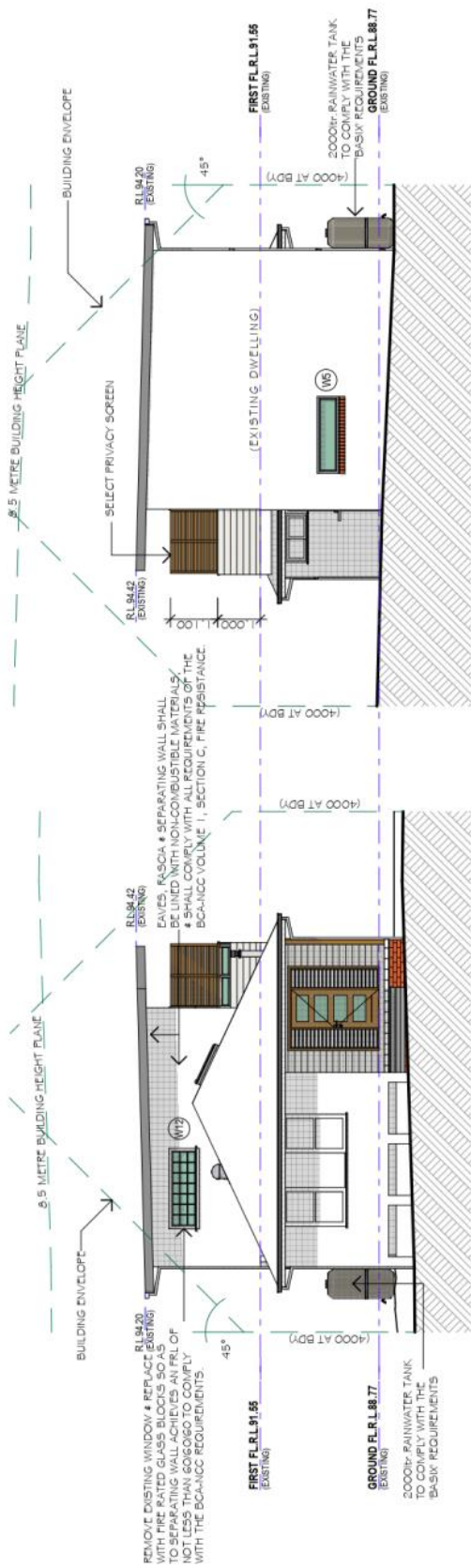
CHARTERED ACCREDITED MEMBER
MEMBERSHIP NO. 8110

[illegible]

LKS
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4811 623-4330/351
ACCREDITED BUILDING DESIGNER
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PROJECT:
PROPOSED ALTERATIONS
& ADDITIONS-SECONDARY DWELLING
32 FULLER STREET,
COLLAROY PLATEAU, N.S.W. 2097
LOT. 29. DP 435232

DEVELOPMENT APPLICATION ISSUE	CLIENT: K. Fuller	DATE: 3rd August, 2020
	DRAWING TITLE: NORTH ELEVATION and SOUTH ELEVATION	SCALE: As Shown
		DRAWN: L.K.S.
		PROJECT REF: 1815 DA08
		Rev. B



SKYLIGHT SCHEDULE					
NO.	SIZE (W x H)	Area (Frame & Glass)m ²	LOCATION	TYPE	ORIENTATION
SK1	780x980	0.764m ²	ENTRY HALL	FIXED	NORTH
				SHADING DEVICE	FRAME & GLAZING TYPE (Minimum Basic Requirements)
				NONE	ALUMINIUM MOULDED PLASTIC/SINGLE CLEAR (or U-VALUE 6.21 SHGC 0.808)
				3D Front View	

THE BUILDER SHALL CHECK ALL DIMENSIONS AND LEVELS ON SITE PRIOR TO CONSTRUCTION. NOTIFY ANY ERRORS, DISCREPANCIES OR OMISSIONS TO THE BUILDING DESIGNER. DO NOT SCALE OF THE DRAWINGS. ALL BOUNDARIES AND CONTOURS SUBJECT TO SURVEY. THESE DESIGNS REMAIN THE PROPERTY OF L.S. DESIGN & DRAFTING AND ARE SUBJECT TO THE WRITTEN CONSENT OF L.S. DESIGN & DRAFTING.

bdad
BUILDING DESIGNERS
ASSOCIATION OF AUSTRALIA
REGISTERED PROFESSIONAL MEMBER



DATE	REV	DESCRIPTION
01/10/2020	B	NOT FOR CONSTRUCTION - FOR INFORMATION ONLY
04/08/2020	A	DEVELOPMENT APPLICATION ISSUE

LKS DESIGN & DRAFTING
ACCREDITED BUILDING DESIGNER
P.O. Box 4101, North Curl Curl, N.S.W. 2099
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Email: lks1@opend.net.au

PROJECT:
ALTERATIONS
& ADDITIONS SECONDARY DWELLING
32 FULLER STREET,
COLLAROY PLATEAU, N.S.W. 2097
LOT 29 DP 435232

CLIENT:
K. Fuller
DRAWING TITLE:
EAST & WEST ELEVATIONS
and SKYLIGHT SCHEDULE
DATE: 3rd August, 2020
SCALE: As Shown
DRAWN: L.K.S.
PROJECT REF: 1815 DA09 Rev. B

DEVELOPMENT APPLICATION ISSUE

ITEM 4.2	DA2020/0539 - 69 WALLUMATTA ROAD, NEWPORT - CONSTRUCTION OF A DETACHED SECONDARY DWELLING, INTERNAL DRIVEWAY AND HARDSTAND AREA
AUTHORISING MANAGER	RODNEY PIGGOTT
TRIM FILE REF	2020/659280
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan and Elevations

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is a relative of a member of council staff who is principally involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2020/0539 for construction of a detached secondary dwelling, internal driveway and hardstand area at Lot 17 DP 25023, 69 Wallumatta Road, Newport subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0539
Responsible Officer:	Natalie Nolan – Consultant Planner
Land to be developed (Address):	Lot 17 DP 25023, 69 Wallumatta Road, NEWPORT NSW 2106
Proposed Development:	Construction of a detached secondary dwelling, internal driveway and hardstand area.
Zoning:	Pittwater LEP 2014 – Land Zoned E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Michael John Burns Elizabeth Louise Burns
Applicant:	Michael Burns
Application Lodged:	26/05/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	03/06/2020 to 17/06/2020
Advertised:	Not advertised
Submissions Received:	Nil
Clause 4.6 Variation:	No
Recommendation:	Approval
Estimated Cost of Works:	\$110,000

EXECUTIVE SUMMARY

The application seeks approval for the construction of a detached secondary dwelling, internal driveway and hardstand area. The application has been assessed by an independent planning consultant and referred to the Northern Beaches Local Planning Panel for determination as the applicant is a relative of an employee of Council's Planning Department.

The assessment has found that the proposed development is satisfactory in relation to the built form, character, streetscape, and internal and external residential amenity (subject to conditions).

Council has not received any submissions objecting to the proposal in response to the application.

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 proposal seeks approval for the construction of a new detached secondary dwelling, internal driveway and hardstand area.

The proposed secondary dwelling is proposed to be located in the rear yard and will consist of:

Covered entertaining area, entry, lounge/meals area, kitchen, two bedrooms, bathroom and laundry.

The secondary dwelling is provided with a setback of 6.15m to the rear boundary and setbacks of 0.99m and 1.68m to the sites eastern and western boundaries, respectively.

The proposal also provides for a driveway and new hardstand parking area, proposed to be accessed from the adjoining access handle of No. 71 Wallumatta Road.

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

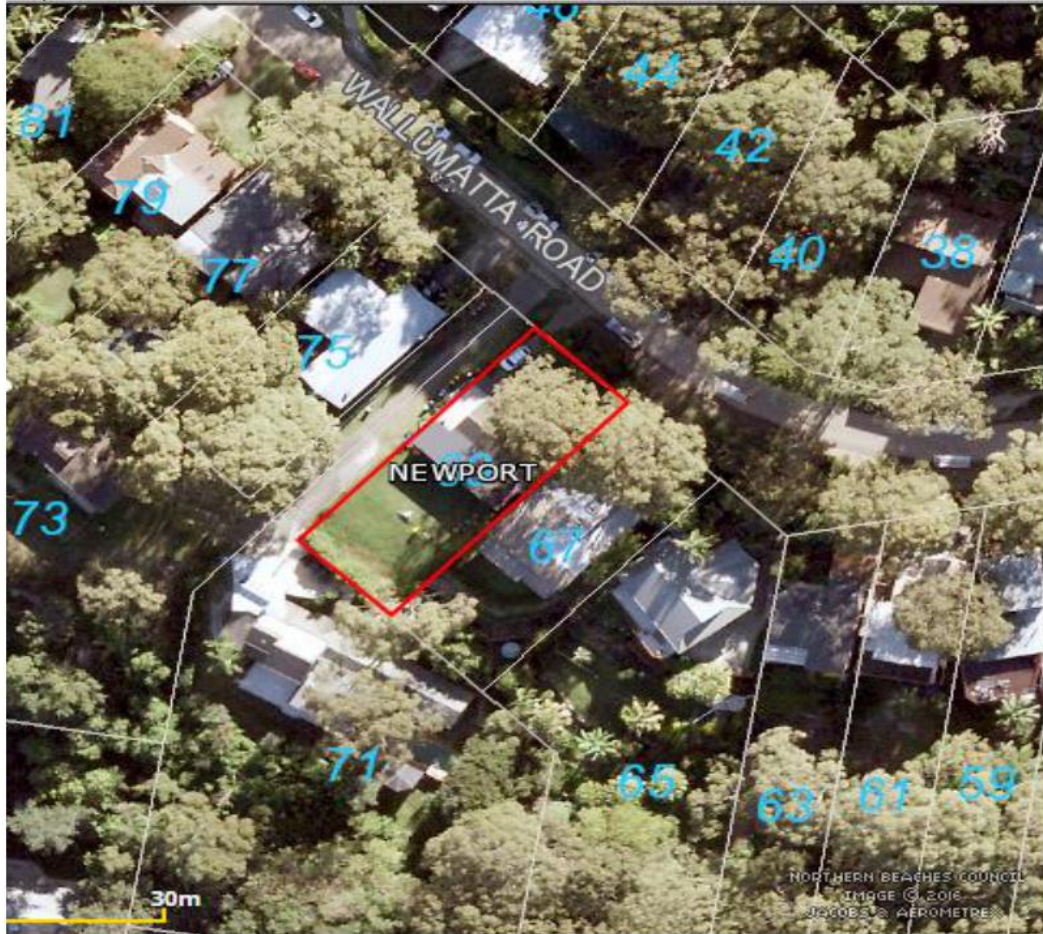
Pittwater Development Control Plan B6.2 – Internal Driveways
Pittwater Development Control Plan B6.3 – Off-street Vehicle Parking Requirements
Pittwater Development Control Plan D10.8 – Side building line
Pittwater Development Control Plan D10.13 – Landscaped Area

SITE DESCRIPTION

Property Description:	Lot 17 DP 25023, 69 Wallumatta Road, NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Wallumatta Road.</p> <p>The site is regular in shape with a frontage of 17.07m along Wallumatta Road and a depth of 45.72m. The site has a surveyed area of 780.4m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a single storey dwelling house.</p> <p>The site has a 16.1% fall from the front northern boundary to the rear southern boundary.</p> <p>The site has a mixture of native and exotic species of plants, shrubs and trees.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>

	Adjoining and surrounding development is characterised by single and two storey dwellings with associated structures and landscaping gardens.
--	---

Map:



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 applications:

DA2018/0671

Development application was lodged for the constructed of a detached secondary dwelling, driveway and hardstand parking area. This application was withdrawn by the applicant as a result of issues raised by Council in relation to stormwater, vehicular access, external colours and landscaped area.

CDC0237/13

A Complying Development Certificate was issued by a private certifier (13/2409-1) for the construction of a small addition to the rear of the existing dwelling. These works have been completed.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council did not receive any submissions.

REFERRALS

Internal Referral Body	Comments
Natural Environment - Biodiversity	<p>The proposed secondary dwelling development proposal has been assessed against the following controls - Pittwater LEP cl7.6 Biodiversity, State Environmental Planning Policy (Coastal Management) 2018 Cl.11 Development on land in proximity to coastal wetlands or littoral rainforest, and PB4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community. The development is located within a portion of the site identified as not containing the endangered ecological community PSGF and does not impact on PSGF on the site or adjoining properties. Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community). 21DCP.</p> <p>The development will not significantly impact on the environment, including the integrity of the adjacent littoral rainforest, or Pittwater Spotted Gum Forest.</p> <p>The proposal is therefore supported.</p>
Engineering	<p>The legal documentation submitted for the right of way has been reviewed and the documentation does not clearly indicate the position of the ROW. As a result, it is not clear where the access point from the adjoining lot crosses the boundary in relation to the submitted architectural drawings. Also, there are no details for the proposed parking space or turning paths to ensure a vehicle can enter and exit the space in a forward direction.</p> <p>The submitted Geotechnical letter addresses the previous issue raised and is satisfactory.</p> <p>Development Engineers cannot support the application due to insufficient information to address Clause B6 of Pittwater 21 DCP 2014.</p> <p><u>Parking Space Deleted</u> Planning has advised that the proposed parking space is to be deleted from the application.</p> <p>No objection to approval, subject to conditions as recommended.</p> <p>The proposal is therefore supported.</p>
Landscape	<p>The development application is for the construction of a secondary dwelling, new vehicular access and a hardstand parking space.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause E4 Environmental Living zone, and the following Pittwater 21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping C1.11 Secondary Dwellings and Rural Workers Dwellings D10 Newport Locality, including D10.13 Landscaped Area - Environmentally Sensitive Land</p>

Internal Referral Body	Comments
	<p>The site is located in the E4 Environmental Living Zone, requiring development to achieve a scale integrated with the landform and landscape. The existing site contains one indigenous spotted gum within the front yard and also includes other garden planting typical of residential lots. The rear yard that is the subject location of the proposed secondary dwelling does not contain existing trees and also includes screen planting along the rear and side boundary with No. 67.</p> <p>No Landscape Plan is provided with the application. The proposed Landscape Area does not meet the 60% of the site requirements to satisfy Pittwater LEP clause E4 Environmental Living Zone and D10.13 Landscaped Area - Environmentally Sensitive Land. To satisfy C1.1 additional canopy tree planting and other planting to integrate the development with the landscape will be a condition of consent.</p> <p>No Arboricultural Impact Assessment is provided with this application. As the works are not within 5 metres of existing trees the requirement for this report is not applied in this instance. Standard conditions of consent shall be imposed to protect existing trees within the road verge, within the site, and within adjoining properties.</p> <p>The landscape outcome of the proposed development is acceptable subject to conditions for additional canopy trees and planting.</p> <p>The proposal is therefore supported.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>Ausgrid has no objection to this development application, however the design submission must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.</p> <p>The "as constructed" minimum clearances to Ausgrid's infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.</p>

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

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	None applicable
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater Development Control Plan No. 21 applies to the site. See discussions in this report.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<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. Additional information was requested in relation to addressing the vehicular access and landscaped area. Amended information for the right of carriage way was received on 14 October 2020 and an amended site plan was received on 15 October 2020.</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>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</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater Development Control Plan section in this report.</p> <p>(ii) Social Impact</p> <p>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact</p> <p>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.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

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. 780115S_05 dated 15 May 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0004829149).

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

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

(1)	<i>The following may be carried out on land identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:</i>
(a)	<i>the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,</i>
(b)	<i>the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,</i>
(c)	<i>the carrying out of any of the following:</i> <i>(i) earthworks (including the depositing of material on land),</i> <i>(ii) constructing a levee,</i> <i>(iii) draining the land,</i> <i>(iv) environmental protection works,</i>
(d)	<i>any other development.</i>

Comment: The site is not identified as coastal wetlands or littoral rainforest. This clause does not apply.

11 Development on land in proximity to coastal wetlands or littoral rainforest

(1)	<i>Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:</i>
(a)	<i>the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or</i>
(b)	<i>the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.</i>

Comment: The site is identified as 'proximity area for littoral rainforest' on the Coastal Wetlands and Littoral Rainforests Area Map. The proposal will not significantly impact on nearby littoral rainforest as

the proposal does not require the removal of any vegetation and is well separated from the littoral rainforest area. Further the proposal has been supported by a Stormwater Management Plan which complies with Council's requirements in relation to stormwater discharge and water quality. Conditions of consent are recommended for the installation of soil and sedimentation protection measures prior to the commencement of work on site.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as "coastal vulnerability area" on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

(a)	<i>if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and</i>
(b)	<i>the proposed development:</i>
(i)	<i>is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i>
(ii)	<i>is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and</i>
(iii)	<i>incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i>
(c)	<i>measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i>

Comment: The site is not identified on the coastal vulnerability area map.

13 Development on land within the coastal environment area

(1)	<i>Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:</i>
(a)	<i>the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,</i>
(b)	<i>coastal environmental values and natural coastal processes,</i>
(c)	<i>the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,</i>
(d)	<i>marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</i>
(e)	<i>existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>
(f)	<i>Aboriginal cultural heritage, practices and places,</i>
(g)	<i>the use of the surf zone.</i>

Comment: The site is not identified on coastal environment map.

(2)	<i>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</i>
(a)	<i>the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or</i>
(b)	<i>if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</i>
(c)	<i>if that impact cannot be minimised—the development will be managed to mitigate that impact.</i>

Comment: Not applicable

14 Development on land within the coastal use area

(1)	
(a)	<p>has considered whether the proposed development is likely to cause an adverse impact on the following:</p> <ul style="list-style-type: none"> (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability, (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores, (iii) the visual amenity and scenic qualities of the coast, including coastal headlands, (iv) Aboriginal cultural heritage, practices and places, (v) cultural and built environment heritage, and
(b)	<p>is satisfied that:</p> <ul style="list-style-type: none"> (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
(c)	<p>has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</p>

Comment: The site is not identified on coastal use map.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment: The proposed development is not likely to cause increased risk of the coastal hazards on the site or surrounds. A Geotechnical Investigation has been submitted with the application. No further information is required in this regard.

As such, it is considered that the application does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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 from Ausgrid was received which indicates that they have no objection to the development application subject to compliance with relevant Ausgrid Network Standards and Safework NSW Codes of Practice. A condition has been included in the recommendation of this report requiring compliance with the requirements of Ausgrid.

PITTWATER LOCAL ENVIRONMENTAL PLAN 2014

Is the development permissible?	Yes
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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	5.5m	3.44m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Part 2 Permitted or Prohibited Development	Yes
Part 4 Principal Development Standards	Yes
4.3(2FA) Height of Buildings	Yes
5.4 Controls relating to Miscellaneous Permissible Uses	Yes
Part 7 Additional Local Provisions	Yes
7.1 Acid Sulfate Soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity	Yes
7.7 Geotechnical Hazards	Yes
7.10 Essential Services	Yes

Detailed Assessment

Height of Buildings

Clause 4.3 (2FA) of the LEP provides the following:

Despite subclause (2), the maximum height for a secondary dwelling or a rural worker's dwelling in Zone E4 Environmental Living or Zone RU2 Rural Landscape is 5.5 metres if the secondary dwelling or rural worker's dwelling is separate from the principal dwelling.

The proposal provides for a maximum height of 3.44m which complies with this clause.

Controls relating to Miscellaneous Permissible Uses

Clause 5.4(9) provides:

- (9) *Secondary dwellings If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater—*
- (a) 60 square metres,
 - (b) 25% of the total floor area of the principal dwelling.

The proposed secondary dwelling has a floor area of 59.52m² and therefore complies with this clause.

Biodiversity

The site is identified on Council's Terrestrial Biodiversity Map. The works are not located within 5m of any existing trees. The application has been referred to Council's Natural Environment – Biodiversity Officer who has indicated that the development is located within a portion of the site not containing the endangered ecological community PSGF and does not impact on PSGF on the site or adjoining properties. A condition of consent is recommended in relation any new planting

incorporating native vegetation of the Pittwater Spotted Gum Forest. The proposal complies with this clause.

Geotechnical Hazards

The site is identified as Geotechnical Hazard H1. A Geotechnical Investigation has been submitted with the application in accordance with this clause.

PITTWATER DEVELOPMENT CONTROL PLAN

Built Form Control	Requirement	Proposed	Variation	Compliance
Front Building Line	6.5m	Secondary dwelling located in rear yard	N/A	Yes
Rear Building Line	6.5m	6.15m	5.3%	No
Side Building Line	2.5m	1.68m	32%	No
	1.0m	0.99m	1%	No
Landscaped Area	60%	441.7m ² or 56.6%.	5.6%	No
Private Open Space	80m ² for principal dwelling and for use by secondary dwelling.	>80m ²	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - 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
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B3.1 Landslip	Yes	Yes
B3.6 Contaminated Land & Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest – Endangered Ecological Community	Yes	Yes
B5.7 Stormwater Management – On-site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management – Water Quality – Low Density Residential	Yes	Yes
B6.3 Off-street Vehicle Parking Requirements	No	Yes
B8.1 Construction and Demolition – Excavation & Landfill	Yes	Yes
B8.2 Construction and Demolition – Erosion & Sediment Management	Yes	Yes
B8.3 Construction and Demolition – Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition – Site Fencing & Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety & Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.11 Secondary Dwellings & Rural Worker's Dwelling	Yes	Yes
C1.12 Waste & Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
D10.1 Character as Viewed from a Public Place	Yes	Yes
D10.3 Scenic Protection – General	Yes	Yes
D10.4 Building Colours & Materials	Yes	Yes
D10.7 Front Building Line	Yes	Yes
D10.8 Side & Rear Building Lines	No	Yes
D10.11 Building Envelope	Yes*	Yes
D10.13 Landscaped Area – Environmentally Sensitive Land	No	Yes
D10.16 Construction, Retaining Walls, terracing & undercroft areas	Yes	Yes

*Eaves/shading devices are a permitted encroachment.

Detailed Assessment

B6.3 Off-street Vehicle Parking Requirements

This clause requires the following off street vehicle parking spaces:

Principal Dwelling (2 or more bedrooms): 2 spaces
Secondary Dwelling: 1 space in addition to the existing requirement for the principal dwelling.

The site currently provides for two spaces comprising the existing garage and a tandem space forward of the garage. This application proposed a new hardstand area in the rear yard to provide for a parking space for the secondary dwelling. This hardstand area is proposed to be accessed via the access handle of No. 71 Wallumatta Road. However, as per the Council engineers comments, consent from the neighbours has not been provided to Council in regards to the right of carriageway creation. As such the proposed hardstand area cannot be supported. A condition of consent is recommended deleting the hardstand parking area. This will result is a total of 2 parking spaces being provided on site.

This clause notes:

- *Car Parking for Secondary Dwelling or Dual Occupancy*

A reduction in the car parking requirements for a secondary dwelling or dual occupancy to a minimum of 2 spaces per allotment may be considered on merit.

It is considered that the existing two car parking spaces on site is appropriate for the development and has been assessed against the underlying objectives of the control as follows:

- *An adequate number of parking and service spaces that meets the demands generated by the development.*

Comment: The subject site provides for 2 parking spaces on site comprising one within the existing garage and one forward of the garage in a tandem arrangement. Wallumatta Road is not a main road nor is it considered to be a high traffic road. This portion of Wallumatta Road provides

for unrestricted on street parking on both sides of the road. On street parking is not in high demand in this locality. Given the existing parking provided on site for the principal dwelling and the availability of parking on the street it is considered that the proposal achieves this outcome.

- *Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety.*

Comment: The deletion of the parking space proposed in the rear yard, improves landscaping on site. The proposal complies with this outcome.

- *Safe and convenient parking.*

Comment: The existing parking spaces on site are considered safe and convenient for the primary dwelling. The on street parking in this portion of Wallumatta Road is not in high demand and is considered to be convenient and safe for the proposed development

D10.8 Side & Rear Building Lines

This clause requires a side boundary setback of 2.5m to one side and 1.0m to the other side. A setback of 6.5m is required to the rear boundary. The proposal provides for setbacks of 0.99m to the eastern side boundary and 1.68m to the western boundary. A setback of 6.15m is provided to the rear boundary. The non-compliance to the eastern boundary is negligible being only 10mm.

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

- *To achieve the desired future character of the Locality.*

Comment: The proposed secondary dwelling is located in the rear yard and will be predominantly obscured from the street or public domain by the existing dwelling. The proposal does not require the removal of any vegetation. The proposal provides for a single storey detached structure with low pitched roof which does not result in unreasonable bulk or scale. The proposed external finishes and materials complement the existing dwelling and harmonise with the natural environment. The proposal achieves this objective.

- *The bulk and scale of the built form is minimised.*

Comment: The proposal provides for a detached single storey structure located in the rear yard. The building provides for a low roof pitch and provides for some excavation to minimise bulk and scale. The proposal is compatible with the existing surrounding development, will be predominantly obscured from the public domain and will not be of unreasonable bulk or scale when viewed from the adjoining properties. The proposal achieves this objective.

- *Equitable preservation of views and vistas to and/or from public/private places.*
- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

Comment: The site and surrounding properties enjoy some views to the southeast of Pittwater. However, the proposed detached secondary dwelling is located in the rear yard and is located on the lower portion of the site. The low roof pitch and profile of the proposal will ensure that views and vistas from the habitable areas of surrounding properties and the public domain are retained. The proposal achieves this objective.

- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*

Comment: The proposal is single storey and located on the lower portion of the site. The proposal provides for only two windows on the eastern side elevations which serve a bedroom and kitchen. These windows are not located adjacent to any habitable areas on the adjoining property and any

views will be obstructed by any fencing and the change in levels. The living areas of the proposed secondary dwelling are orientated towards the western portion of the site which adjoins two adjacent access handles which provides a separation of 9.0m to No. 75 Wallumatta Road.

In relation to the adjoining rear property, it is considered that the 6.1m setback is reasonable given that the rear boundary is adjacent to the garage of the adjoining rear property (No. 71 Wallumatta Road). The main private open space for No. 71 Wallumatta Road is on the southeast side. The setback provided is considered sufficient in this instance.

The deck is located near ground level and does not provide opportunity for overlooking. The proposal is for a single storey building which in not result in any unreasonable overshadowing. The proposal achieves this objective.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape.*

Comment: The proposal does not require the removal of any vegetation and the works are located well below the existing tree canopy. The proposal will be substantially obstructed from the streetscape by the existing dwelling and the slope of the site. Only glimpses of the proposed secondary dwelling will be visible when standing on the driveway of No. 71 Wallumatta Road. The proposal will not detract from the streetscape. The proposal achieves this objective.

- *Flexibility in the siting of buildings and access.*

Comment: The proposal is located on the lower portion of the site and is well separated from the surrounding habitable buildings. The non-compliance with the side boundary setbacks does not result in any detrimental impacts in terms privacy or amenity as detailed previously. The proposal achieves this objective.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment: The proposal does not require the removal of any vegetation. There is sufficient area on site for additional plantings. Conditions of consent have been recommended in this regard. The proposal achieves this objective.

- *To ensure a landscaped buffer between commercial and residential zones is established.*

Comment: This objective is not applicable.

D10.13 Landscaped Area – Environmentally Sensitive Land

This clause requires a landscaped area of 60% of the site area. The proposal provides for a landscaped area of 404m² or 51.7%. With the stated variations included the landscaped area is 411.7m² or 52.7%. This assessment has recommended the removal of the hardstand area which will further increase the landscaped area to 441.7m² or 56.6%.

The proposal does not require the removal of any protected vegetation, with the secondary dwelling located on the lower portion of the site without any trees. The secondary dwelling will be predominantly obscured from the street by the existing dwelling and the change in levels.

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

- *Achieve the desired future character of the Locality.*

Comment: The proposed secondary dwelling is located in the rear yard and will be predominantly obscured from the street or public domain by the existing dwelling. The proposal does not require the removal of any vegetation. The proposal provides for a single storey detached structure with low pitched roof which does not result in unreasonable bulk or scale. The proposed external

finishes and materials complement the existing dwelling and harmonise with the natural environment. The proposal achieves this objective.

- *The bulk and scale of the built form is minimised.*

Comment: The proposal provides for a detached single storey structure located in the rear yard. The building provides for a low roof pitch and provides for some excavation to minimise bulk and scale. The proposal is compatible with the existing surrounding development, will be predominantly obscured from the public domain and will not be of unreasonable bulk or scale when viewed from the adjoining properties. The non-compliance with the landscaped area control will not result in a development of unreasonable bulk or scale. The proposal achieves this objective.

- *A reasonable level of amenity and solar access is provided and maintained.*

Comment: The proposal is single storey and located on the lower portion of the site. The proposal provides for only two windows on the eastern side elevations which serve a bedroom and kitchen. These windows are not located adjacent to any habitable areas on the adjoining property and any views will be obstructed by any fencing and the change in levels. The living areas are orientated towards the western portion of the site which adjoins two adjacent access handles which provides a separation of 9.0m to No. 75 Wallumatta Road. The deck is located near ground level and does not provide opportunity for overlooking. The proposal does not rely on landscaping to ensure privacy to the surrounding properties. The proposal is for a single storey building which in not result in any unreasonable overshadowing. The proposal achieves this objective.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment: The proposal does not require the removal of any vegetation. There is sufficient area on site for additional plantings. Conditions of consent have been recommended in this regard. The proposal achieves this objective.

- *Conservation of natural vegetation and biodiversity.*

Comment: The proposal does not require the removal of any vegetation. The application has been referred to Council's Biodiversity Officer who supports the application subject to conditions of consent. The proposal achieves this objective.

- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*

Comment: The proposal provides for stormwater to be discharged on site via a on site detention. A stormwater plan has been submitted with the application and is in accordance with Council controls. Appropriate sedimentation measures will be implemented prior to commencement of works on site and a condition of consent has been recommended in this regard. The proposal achieves this objective.

- *To preserve and enhance the rural and bushland character of the area.*

Comment: The proposal does not remove any existing vegetation and will not alter the bushland character of the area. The proposal achieves this objective.

- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*

Comment: The proposal provides for stormwater to be discharged on site via on site detention. A stormwater plan has been submitted with the application and is in accordance with Council controls. The proposal will not result in runoff to adjoining properties.

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 \$1,100 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$110,000.

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;
- Pittwater Local Environment Plan;
- Pittwater 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

Variations to the Pittwater DCP controls Clause B6.3 (Off Street Parking), D10.8 (Side Building Line) and D10.13 (Landscaped Area) have been considered and addressed and supported. The proposed design does not give rise to any unreasonable amenity impact or visual impact, and is consistent with the objectives of the Pittwater LEP 2014 and Pittwater DCP.

A condition is recommended requiring deletion of the hardstand parking area and driveway. The proposal has been designed and located to ensure privacy and amenity of the adjoining properties is maintained. The proposal does not require the removal of any vegetation and existing views from the adjoining properties will be retained. Stormwater will be dispersed in accordance with Council controls and will not result in runoff to adjoining properties.

On balance, the proposal should be approved (subject to standard and specific conditions) as the design is reasonable for the site and locality by virtue of a presentation which is consistent with characteristics of the area and does not result unreasonable building or scale.

Therefore, the application is recommended for approval.

It is considered that all processes and assessments have been satisfactorily addressed and that proposed development constitutes the proper and orderly planning for the site or the locality. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

Accordingly, Council as the consent authority grant Development Consent to DA2020/0539 for the construction of a detached secondary dwelling on land at Lot 17 DP 25023, 69 Wallumatta Road, Newport, 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
DRWG No. 02, Issue B (Site Plan/Site Analysis)	February 2019	Kath Ifield
DRWG No. 03, Issue B (Floor Plan)	February 2019	Kath Ifield
DRWG No. 04, Issue B (Elevations)	February 2019	Kath Ifield
DRWG No. 05, Issue B (Elevations & Section A-A)	February 2019	Kath Ifield

Engineering Plans		
Drawing No.	Dated	Prepared By
Job No. 181183, DWG No. DA01, DA02, DA03, DA04, DA05, DA06, DA07, DA08, DA09, Issue A – Stormwater Management Plan	25/1/19	NB Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. 780115S_05	15 May 2020	Design Smart Living
Geotechnical Investigation	1 November 2017 & 15 July 2020	White Geotechnical

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

c) 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	Undated

(NOTE: For a copy of the above referenced documents, 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 Department, Authority or Body's.

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 (DACPLB09)

4. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.
- (k) 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 sewerage 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. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$1,100.00 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 \$110,000.00.

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.

6. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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. Amendments to the approved plans

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

- The proposed hardstand parking area and associated driveway adjacent to the proposed secondary dwelling shall be deleted.

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.

8. 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.

9. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 15 July 2020 and 1 November 2017 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

10. 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 Water Management Policy and generally in accordance with the concept drainage plans prepared by Northern Beaches Consulting Engineers, drawing number 181183 D01 - D09 Issue A, dated 25/01/2020. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

i. The recommendations of the Geotechnical Report by White Geotechnical Group dated 1 November 2017. and their letter dated 15 July 2020.

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.

11. 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.

12. Landscaping

All plants used in the landscaping for this development must be local native species as per the species list Pittwater Spotted Gum Forest.

No Grevillea or Banksia hybrids are to be used in the landscaping for this development. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Biodiversity conservation and management

13. 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.

14. External Colours and Materials

The external colours and materials shall be dark and earthy tones, non-glare and of low reflectivity. White, light coloured, red or orange roofs and walls are not permitted. The external finish to the roof shall have a medium to dark (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted. A satisfactory specification which achieves this shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate in the form of a Schedule of Finishes.

Reason: To ensure the external colours and materials comply with Council's requirements.

15. 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.

16. 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

17. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

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

18. 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) and the Erosion and Sediment Control Plan prepared by Rawson Homes 20 June 2017, with particular attention paid to protecting the existing stormwater pit on the property.

Erosion and sediment controls 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

19. 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.

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 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.

21. Building materials, sedimentation

No building materials or other materials are to be placed on or enter areas of bushland, wetland, saltmarsh, seagrass or foreshore vegetation. Appropriate sediment fencing is to be installed.

Reason: Environmental Protection

22. Tree and vegetation protection

a) Existing trees and vegetation shall be retained and protected as follows:

- i) all trees and vegetation within the site identified on the Site Survey, as well as the Site Plan 02, excluding exempt vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation,
- iv) the clause b) iv) below must be specifically adhered to for the duration of the construction works.

b) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iii) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,

- iv) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a Project Arborist on site,
- vi) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- vii) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist,
- viii) should either or all of v), vi) and vii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- ix) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
- x) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

Reason: to retain and protect significant planting on development and adjoining sites.
Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by a AQF level 5 Arborist that determines that the tree presents an imminent risk to life or property.

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

23. 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 shall 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 lodgment 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 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.

24. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

25. Landscape works completion

Landscaping is to be implemented in accordance with the following requirements:

i) one (1) *Angophora floribunda* (Rough Barked Apple) or *Glochidion ferdinandi* (Cheese Tree), both typical of the Pittwater Spotted Gum Forest Association, shall be located between the primary residence and the secondary dwelling, planted at a minimum 75 litre container size, and planted at least .5 metres from a side boundary,

ii) one (1) small native tree to achieve a minimum of 6m in height such as *Elaeocarpus reticulatus* (Blueberry Ash) or one (1) *Livistona australis* (Cabbage Tree Palm) shall be located in the rear yard of the secondary dwelling, planted at a minimum 75 litre container size, and shall be at least 2 metres from common boundaries,

iii) existing planting along the rear and side boundaries, if damaged by construction works, shall be replaced with planting to achieve a similar height, planted at a minimum 300mm pot container size.

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.

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

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

26. 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.

27. 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.

28. Works to cease if item found

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

29. 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.

30. Landscape maintenance

Any existing landscaping including trees required to be retained together with any additional landscaping required by this consent is to be maintained for the life of the development.

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

<p>ISSUE: 1. FEBRUARY 2019 - REMOVED THE FRONT DECK & ADDED WINDOWS ONLY TO SOUTHERN WALL - INCREASED THE OPEN SPACE AREA</p>	<p>design by KATH IFIELD</p> <p>O : 120-13 Birkdale Place Magenta NSW 2261 T: 0413 892 452</p>	<p>PROJECT: BURNS RESIDENCE PROPOSED GRANNY FLAT LOT 17 DP 25023 69 WALLUMATTA ROAD, NEWPORT BEACH, NSW, 2106</p>	<p>SCALE: AS SHOWN DATE: FEBRUARY 2019</p>	<p>DRAWING: Site Plan / Site Analysis JOB No: 2016-69 DRAWING No: 02 SCALE: B</p>
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BASIX COMMITMENTS

FIXTURES:

- 3 star shower heads
- 3 star toilet flushing system in each toilet
- 3 star taps for the kitchen & bathrooms.

ALTERNATIVE WATER:

- rainwater tank - minimum capacity of 2,000 litres, collect rain runoff from at least 145m² of roof area, connect all toilets, the cold water tap that supplies each clothes washer and at least one outdoor tap.

THERMAL COMFORT COMMITMENTS:

- SIMULATION METHOD:**
1. R3.5 insulation to ceilings under roof spaces (medium coloured roof sheeting)

2. R1.3 anticondensation blanket under roof sheeting

3. R1.4 insulation under floors

4. Low e, high solar gain glazing in aluminium frames throughout. Units installed must have Uw value equal or lower than 5.4, and SHGCw: within 10% of 0.58.

5. Standard glazing to bathroom window, unit installed must have Uw value equal or lower than 6.7, and SHGCw: within 10% of 0.70.

6. R2.5 insulation plus sarking to clad external walls

7. Draft seals to all external doors and windows

8. Floor finishes as per plans (timber to kitchen, dining, living)

9. Downlight penetrations (and BCA required clearances in insulation around exhausts) have been included in the assessment. IC rated LED lights specified.

- Allocation: Bedrooms: (2), Meals, Lounge, Kitchen: (6), Laundry: (1), Bath: (2)

10. All exhaust fan installations to have dampers installed (ie, sealed units).

HOT WATER:

- gas instantaneous - 3.0 stars

COOLING AND HEATING SYSTEM:

- no active cooling or heating system

ALTERNATIVE ENERGY:

- Install a photovoltaic system (1.0kw) of electricity & connect to the developments electrical system

VENTILATION:

- bathrooms: individual fan, ducted to facade or roof: manual switch on/off

- kitchen: individual fan, ducted to facade or roof: manual switch on/off

- laundry: individual fan, ducted to facade or roof: manual switch on/off

ARTIFICIAL LIGHTING LIGHTING:

- led lights (dedicated) in bedrooms, living and dining, kitchen, hallway

NATURAL LIGHTING:

- a window is to be installed in the kitchen

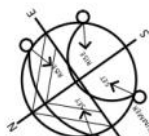
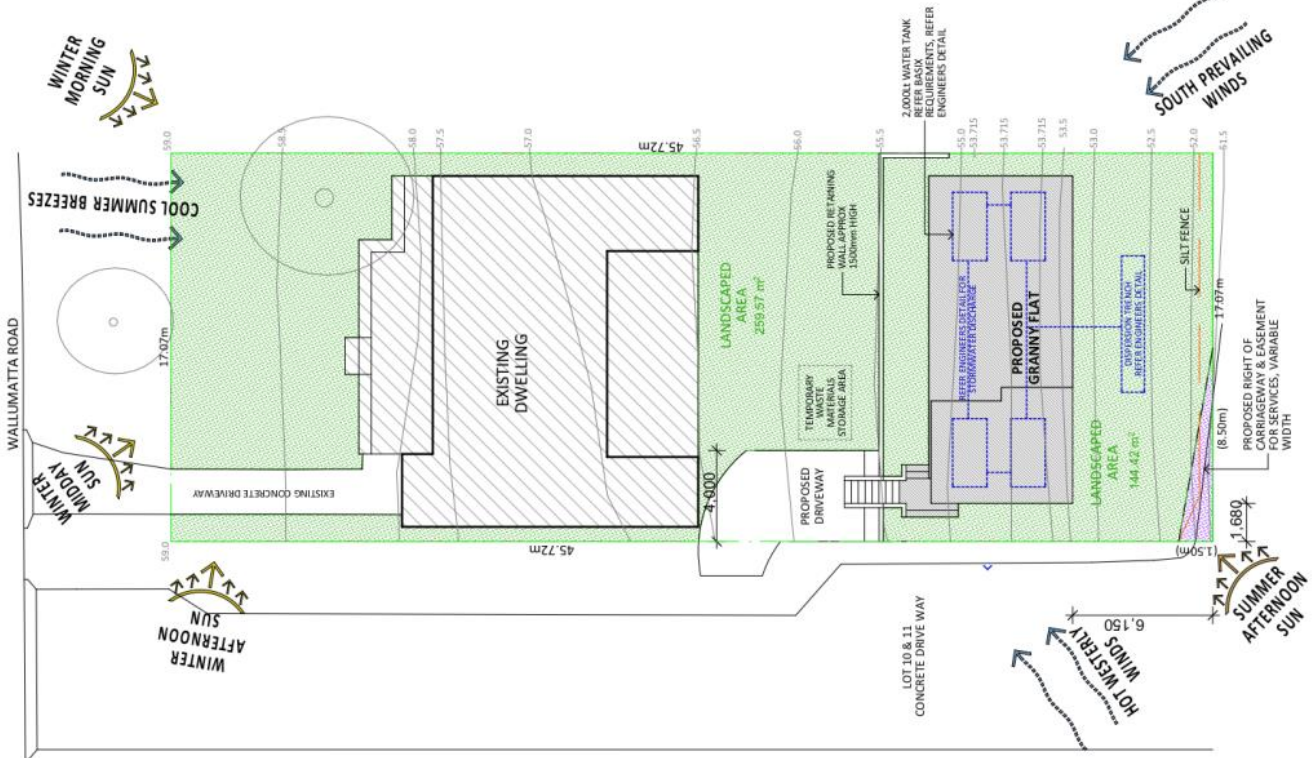
- a window is to be installed in 1 bathroom/toilets

OTHER:

- a gas cooktop and electric oven is to be installed
- install a fixed outdoor clothes drying line

SCHEDULE OF FINISHES:

1. New colorbond aluminium roof sheeting, gutters, downpipes & flashings to BCA & Aus Standards, to be connected into water tank & overflow to discharge to street.
2. New timber fascia, bargeboard, expressed rafter tails, white paint finish
3. New timber weather boards on external timber stud frame, grey painted finish.
4. Wall insulation as per BASIX requirements
5. New Australian hardwood decking boards on bearers & posts to BCA & Aus Standards
6. New timber framed roof to BCA & Aus Standards
7. New 8/12 pitch roof to BCA & Aus Standards
8. New 8/12 pitch roof to BCA & Aus Standards
9. New 8/12 pitch roof to BCA & Aus Standards
10. New treated pine timber posts to foundation to BCA & Aus Standards
11. New powder coated aluminium framed windows & glazing to comply with BCA & Aus Standards



SITE PLAN

SCALE: 1:200 @ A3

Maximum Building Height
3.44m (above EGL)

NOTES -

- RAINWATER TANK**
- MINIMUM 2000LT TO BE FILLED WITH "FIRST FLUSH" DIVERSION TO REMOVE SURFACE CONTAMINATION AND A FACILITY FOR PERIODIC DE-SLUDGING.
 - THE TANK MUST BE CONNECTED TO TOILET FLUSHING, LAUNDRY, GARDEN IRRIGATION & EXTERNAL HOSE COCKS, OVERFLOW TO DISPERSION TRENCH.

- SEWER / STORMWATER**
- SEWER TO CONNECT INTO EXISTING SYSTEM
 - STORMWATER TO DISCHARGE INTO ON SITE WATER STORAGE TANK AND OVER FLOW TO DISCHARGE TO DISPERSION TRENCH, REFER ENGINEERS DETAIL

AREA CALCULATIONS -

- SITE AREA - 780.89m²
EXISTING DWELLING - 219m²
EXISTING HARDEST AND - 23m²
PROPOSED GRANNY FLAT GFA - 55.52m²
PROPOSED GRANNY FLAT GFA - 55.52m²
LANDSCAPED AREA - 400m²

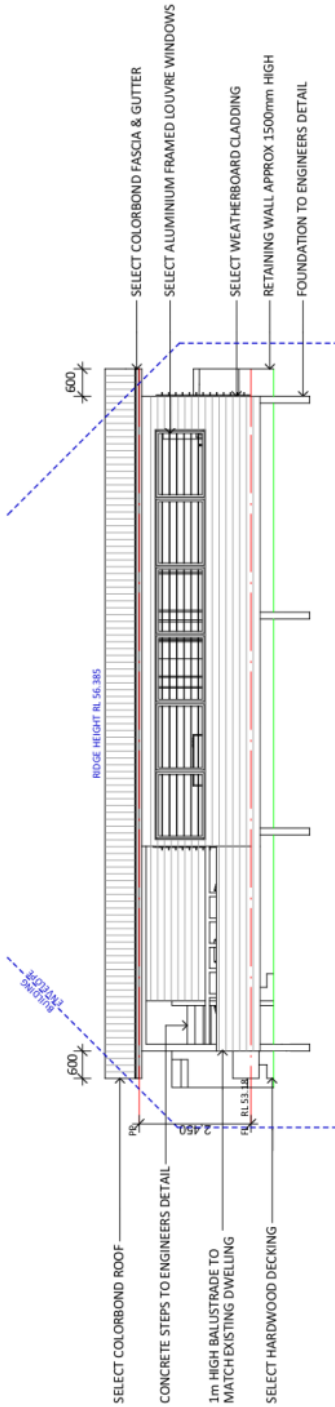
<p>B FEBRUARY 2019 - REMOVED THE FRONT DECK & ADDED WINDOWS ONLY TO SOUTHERN WALL + INCREASED THE OPEN SPACE AREA</p> <p>ISSUE: DATE: AMENDMENT:</p>	<p>design by KATH IFIELD</p> <p>O : 120-13 Birdside Place Magenta NSW 2261 T: 0413 992 452</p>	<p>PROJECT: BURNS RESIDENCE PROPOSED GRANNY FLAT LOT 17 DP 25023 69 WALLUMATTA ROAD, NEWPORT BEACH, NSW, 2106</p> <p>SCALE: AS SHOWN</p> <p>DATE: FEBRUARY 2019</p>	<p>DRAWING: Elevations</p>	<p>JOB No.: 2016-69</p> <p>DRAWING No.: 04</p> <p>ISSUE: B</p>
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Schedule of finishes

1. New colorbond aluminium roof sheeting, gutters, downpipes & flashings to BCA & Aus Standards, to be connected into water tank & overflow to discharge to street.
2. New timber fascia, bargeboard, expressed rafter tails, white paint finish
3. New timber weather boards on external timber stud frame, grey painted finish. Wall timbering per BCA & Aus requirements
4. New timber detail & balustrade to BCA & Aus Standards
5. New Australian hardwood decking boards on bearers & joists to BCA & Aus Standards
6. New timber framed roof to BCA & Aus Standards
7. New gyprock sheeting on internal stud frame wall, white painted finish
8. New rated gyprock ceiling lining
9. New plaster, white painted finish
10. New treated pine timber posts to foundation to BCA & Aus Standards
11. New powder coated aluminium framed windows & glazing to comply with BCA & Aus Standards

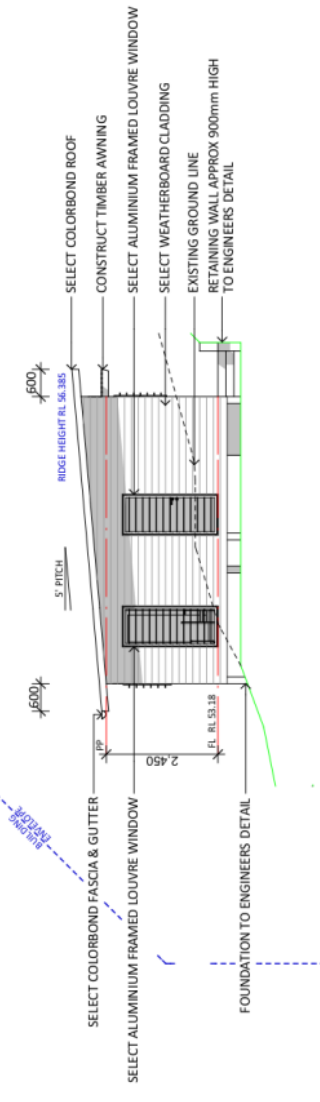
SOUTH ELEVATION

SCALE - 1:100 @ A3



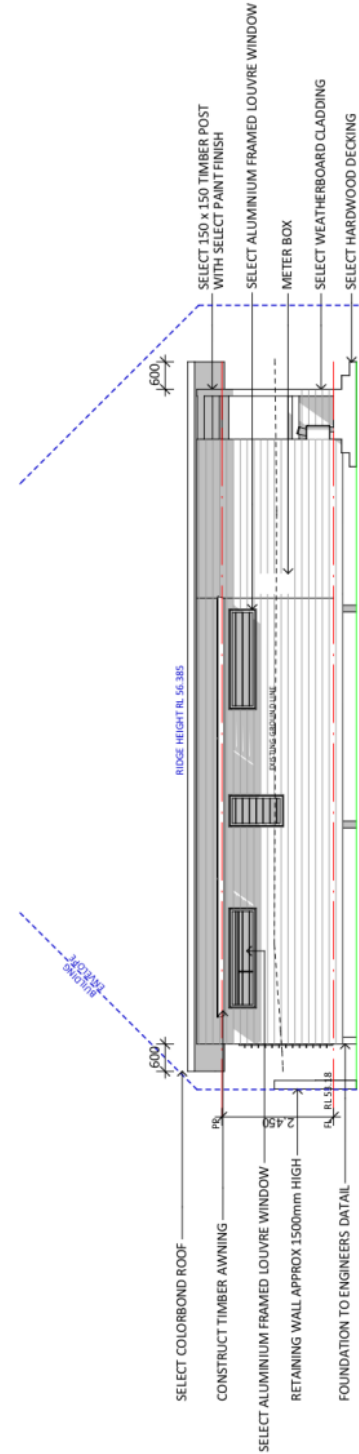
EAST ELEVATION

SCALE - 1:100 @ A3



NORTH ELEVATION

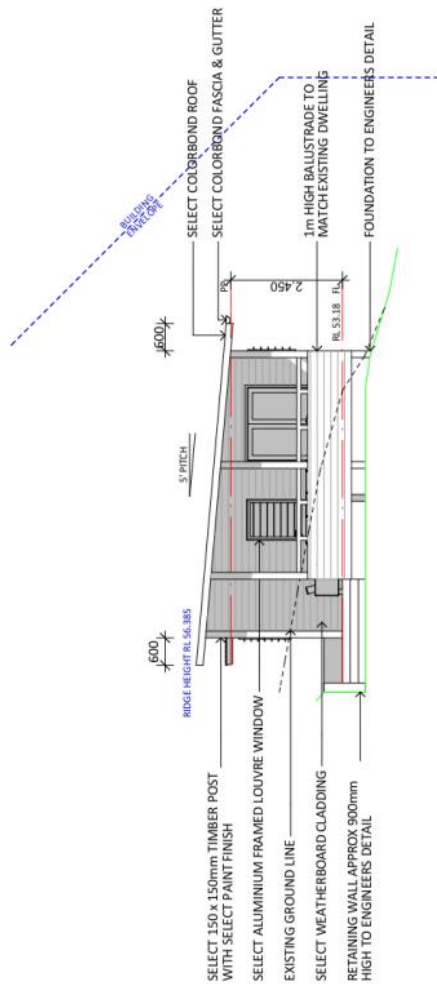
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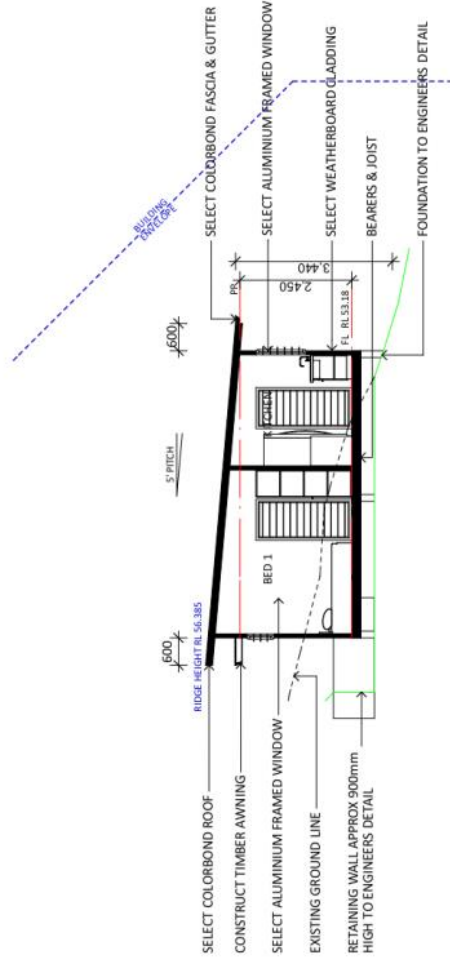
<p>ISSUE: DATE: AMENDMENT:</p> <p>B FEBRUARY 2019 - REMOVED THE FRONT DECK & ADDED WINDOWS ONLY TO SOUTHERN WALL + INCREASED THE OPEN SPACE AREA</p>	<p>design by KATH IFIELD</p> <p>O : 120-13 Birkdale Place Magenta NSW 2261 T : 0413 992 452</p>	<p>PROJECT: BURNS RESIDENCE PROPOSED GRANNY FLAT LOT 17 DP 25023 69 WALLUMATTA ROAD, NEWPORT BEACH, NSW, 2106</p> <p>SCALE: AS SHOWN</p> <p>DATE: FEBRUARY 2019</p>	<p>DRAWING: Elevation & Section A-A</p>	<p>JOB NO: 2016-69</p> <p>DRAWING NO: 05</p> <p>SCALE: B</p>
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Schedule of finishes

1. New colorbond aluminium roof sheeting, gutters, downpipes & flashings to BCA & Aus Standards, to be connected into water tank & overflow to discharge to street.
2. New timber fascia, bargeboard, expressed rafter tails, white paint finish.
3. New timber weather boards on external timber stud frame, grey painted finish. Wall insulation as per BASIX requirements.
4. New powder coated aluminium framed windows & balustrade to BCA & Aus Standards.
5. New Australian hardwood decking boards on bearers & joists to BCA & Aus Standards.
6. New timber framed roof to BCA & Aus Standards.
7. New gyprock sheeting on internal stud frame wall, white painted finish.
8. New railed gyprock ceiling lining throughout, white painted finish.
9. New timber external stairs to BCA & Aus Standards.
10. New treated pine timber posts to foundation to BCA & Aus Standards.
11. New powder coated aluminium framed windows & glazing to comply with BCA & Aus Standards.



WEST ELEVATION
SCALE: 1:100 @ A3



SECTION A-A
SCALE: 1:100 @ A3