

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0202
Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 2651 DP 752038, 6 Wearden Road BELROSE NSW 2085
Proposed Development:	Alterations and additions and use as a dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Paul Anthony Ravesteyn Renee Denise Ravesteyn
Applicant:	Paul Anthony Ravesteyn
Application Lodged:	03/03/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	13/03/2020 to 27/03/2020
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 47,908.00

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent to authorise the use of the premises for the purposes of a dwelling house and alterations and additions to the existing structure. Specifically, the proposal is as follows:

Change of use

The applicant seeks development consent to authorise the use of an existing structure as a dwelling house. The premises has previously been used for the purposes of a scout hall, which falls within the community facility use, as defined within the Warringah Local Environmental Plan 2011 (WLEP 2011). It is noted that the owner of the premises has undertaken works to convert the existing structure into a

dwelling house. It is also noted that the owner has undertaken works to construct an outbuilding with cooking and bathroom facilities to be used for the purposes of a secondary dwelling. The cooking facilities have subsequently been removed and the structure is now intended to be used as a shed, which is ancillary to the dwelling house use. This Development Application has been lodged as a result of Development Control Order No. EPA2018/0030, which was issued by Council for unauthorised works on the site and the unauthorised use of the premises for the purposes of a dwelling house and secondary dwelling.

Alterations and additions

The applicant seeks development consent to fire proof the eastern elevation of the existing structure to ensure the development satisfies relevant provisions entailed within the Building Code of Australia that pertain to fire resistance.

All other works that have unlawfully been undertaken on the subject site will be subject to assessment via way of a Building Information Certificate application.

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 - Zone R2 Low Density Residential
Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Development Control Plan - B5 Side Boundary Setbacks
Warringah Development Control Plan - C5 Erosion and Sedimentation
Warringah Development Control Plan - C8 Demolition and Construction
Warringah Development Control Plan - C9 Waste Management
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - D2 Private Open Space
Warringah Development Control Plan - D10 Building Colours and Materials
Warringah Development Control Plan - E1 Preservation of Trees or Bushland Vegetation
Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

Property Description:	Lot 2651 DP 752038 , 6 Wearden Road BELROSE NSW 2085
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Wearden Road, Belrose.</p> <p>The site is rectangular in shape with a frontage of 18.288m along Wearden Road and a depth of 38.1m. The site has a surveyed area of 696sqm.</p> <p>The site is identified within the R2 Low Density Residential zone pursuant to the Warringah Local Environmental Plan 2011 (WLEP 2011). Development present on the site comprises a single storey structure that is intended to be used as a dwelling house, in conjunction with a detached metal shed with bathroom facilities and a small metal garden shed.</p> <p>Landscaped features on the site comprise landscaped open space, numerous small shrubs and a large canopy tree over 10m in height.</p> <p>The site experiences a fall of approximately 3.2m that slopes from the northern rear boundary towards the south-eastern front corner, representing an approximate slope of 8.11%.</p> <p>The site is identified within the 'Landslip Risk Area A' precinct under the provisions of the WLEP 2011.</p> <p>The site is not bushfire or flood prone.</p> <p>The site does not contain a heritage item, is not located within a heritage conservation area and is not located within the vicinity of a heritage item.</p> <p>Detailed Description of Adjoining and Surrounding Development</p> <p>Adjoining and surrounding development primarily comprises one (1) and two (2) storey detached dwelling houses. The western adjoining property (4 Wearden Road) accommodates an Ambulance Station, whilst 1A Wearden Road (opposite the subject site) accommodates the Northgate Church.</p>

Map:



SITE HISTORY

The site has historically been used for scout hall purposes for a significant period of time. A search of Council's records has revealed the following relevant history:

- Development Consent No. **B436/63** for additions to a scout hall approved by Council on 21 May 1963;
- Development Consent No. **2590/85** for alterations to a scout hall approved by Council on 01 October 1985;
- Development Application **DA2011/0500** for alterations and additions to an existing building and use of premises as health consulting rooms withdrawn by the applicant on 18 May 2011;
- Tree Application **DA2011/1154** for the removal of one (1) tree approved by Council on 06 September 2011;
- Building Information Certificate **BC2019/0137** for unauthorised works including erection of internal walls, doors, deck/s, windows, and a change of use from assembly building (Scout Hall) to a residential use building refused by Council on 02 September 2019;
- Development Application **DA2019/0777** for alterations and additions and change of use rejected by Council on 22 August 2019; and;
- Development Application **DA2019/0986** for alterations and additions and use as a dwelling withdrawn by the applicant on 15 January 2020.

In conjunction with the above, it is noted that Building Information Certificate **BC2019/0187** for unauthorised works including erections of walls, addition of a door and two windows, residential use of building, addition to shed and retaining wall on the rear boundary is currently lodged with Council. This application is yet to be determined, as the Building Information Certificate cannot approve works to a dwelling house if no Development Consent has been granted for the use of the premises as a residential dwelling house.

Site Visits

A site visit was undertaken at the subject at 17 April 2020.

A site visit was undertaken at a nearby property on 21 April in response to a submission received during the Notification Period.

Application History

On 22 April 2020, Council requested that the applicant submit additional information to assist with the assessment and determination of the application. The additional information related to amended plans, a revised BASIX Certificate and amended Statement of Environmental Effects. The requested information was subsequently received to Council's satisfaction.

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 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans, a revised BASIX Certificate and a revised Statement of Environmental Effects.</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>

Section 4.15 Matters for Consideration'	Comments
	<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> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built 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 2011 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 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 3 submission/s from:

Name:	Address:
Withheld Withheld	BELROSE NSW 2085
Withheld Withheld	BELROSE NSW 2085
Withheld Withheld	BELROSE NSW 2085

Numerous pieces of correspondence amounting to three (3) submissions were received in relation to this application. The following issues were raised in the submissions and each have been addressed below:

BASIX Certificate

- Concern was raised that the BASIX Certificate was invalid; and
- Concern was raised that the author of the BASIX Certificate was not an Accredited Certifier on the Building Professionals Board NSW Register.

Comment

The BASIX Certificate initially submitted with this application was invalid, as it was not lodged with Council within 3 months of the issuance date. This matter was flagged with the applicant and a revised BASIX Certificate (prepared by Alexander Geokjian, dated 23 April 2020) was submitted to Council. Furthermore, it is not a legislative requirement for BASIX Certificates to be prepared by an Accredited Building Certifier.

Architectural Plans

- Concern was raised that the architectural plans are inconsistent with the Survey Plan; and
- Concern was raised that the author of the architectural plans was not a Registered Architect and does not have a registered company with ASIC.

Comment:

The RLs on the architectural plans did not correlate with the Survey Plan. This matter was raised with the applicant, who subsequently submitted revised plans that accurately referenced the RLs for the floor, ceiling and ridge height of the structure. Moreover, it is not a legislative requirement for a Registered Architect with a registered company to prepared architectural plans for a dwelling house development.

Site Survey

- Concern was raised that the site survey submitted with this application (prepared by CC Surveying, dated 07 February 2020) was not prepared by a Registered Surveyor; and
- Concern was raised that CC Surveying did not undertake the site survey prepared for a former Development Application on the site, but rather used a former survey as a template and added setback dimensions.

Comment:

Council is satisfied that the survey submitted with this application (prepared by CC Surveying, dated 07 February 2020) has been prepared by a Registered Surveyor, considering the survey is a Boundary Identification Survey. All Boundary Identification Surveys must be prepared by a Registered Surveyor pursuant to the Surveying and Spatial Information Act 2002. Discussions with the director of CC Surveying have confirmed that the Boundary Identification Survey has been prepared by a Registered Surveyor in accordance with Surveying and Spatial Information Act 2002

Statement of Environmental Effects

- Concern was raised that the Statement of Environmental Effects submitted with this application did not disclose the author of the report or their qualifications;
- Concern was raised that the Statement of Environmental Effects submitted with this application was not signed or dated; and
- Concern was raised that the Statement of Environmental Effects submitted with this application did not acknowledge works that have been undertaken without consent.

Comment

It is not a legislative requirement for the author of a Statement of Environmental Effects to disclose their name, date the report or sign the report. Furthermore, the author is not required to be a Registered Architect, Town Planner, Building Surveyor, Building Certifier or qualified in an associated field. The initial Statement of Environmental Effects noted that the application sought consent for internal alterations to the structure, comprising internal walls, renovation of bathrooms and kitchen, removal of internal non-bearing walls and creation of an open plan living area. In undertaking a site visit, the Assessment Officer identified with these internal works had already been undertaken. Accordingly, the applicant provided a revised Statement of Environmental Effects accurately reflected the works proposed, which included a change of use from a community facility to a dwelling house and reparation works to the eastern elevation of the structure.

Statement of Works Undertaken

- Concern was raised that the statement of works undertaken submitted with this application did not include the author, relevant qualifications nor was it signed or dated; and
- Concern was raised that the statement of works undertaken submitted with this application did not accurately reflect the works that had been undertaken in comparison to the works being sought for approval under this application.

Comment

It is not a legislative requirement for the author of the statement of works undertaken to disclose their name, date the report or sign the report. Furthermore, the author is not required to be a Registered Architect, Town Planner, Building Surveyor, Building Certifier or qualified in an associated field. In

undertaking a preliminary assessment of the application, the Assessment Officer identified that the documentation submitted with this application did not clearly distinguish the works that have been undertaken in comparison to the works that are being sought for approval under this application. This matter was discussed with the applicant, who subsequently submitted revised plans and an amended Statement of Environmental Effects to accurately depict the proposed works.

Application Forms

- Concern was raised that the application forms submitted with this Development Application were not completed correctly; and
- Concern was raised that the documentation submitted with this application conflicted with previous Development Applications for the proposed change of use and associated works.

Comment

The application forms submitted with this Development Application have been completed to Council's satisfaction. Furthermore, the documentation submitted with this application accurately reflects the works that seek approval.

Fire Resistance

- Concern was raised that the eastern wall of the structure is not fire rated in accordance with the Building Code of Australia.

Comment:

It is noted that the eastern wall of the structure does not meet the deem to satisfy provisions pertaining to fire resistance within the Building Code of Australia. The physical works proposed in this application seek to fire rate the eastern wall to ensure compliance with the Building Code of Australia.

Illegal Works and Occupation of the Premises

- Concern was raised of previous unauthorised works and occupation of the premises.

Comment

Development Control Order No. EPA2018/0030 was issued by Council to cease the use of the premises. This Development Application has been submitted to authorise the use of the premises for the purposes of a dwelling house. The unauthorised works will be examined via way of a Building Information Certificate.

Native Flora and Fauna Damage

- Concern was raised that native flora and fauna on the site has been damaged or removed.

Comment

This alleged matter will be examined by Council's Building Control department.

All of the concerns raised within the submissions have been appropriately addressed above. No further comment is necessary for the purposes of this assessment.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been reviewed and no objections are raised subject to the building being upgraded to comply with the requirements of the Building Code of Australia (BCA Volume 2). It is noted that the building does not meet the standards expressed within the BCA for a Class 1a structure for which Development Consent is sought.
Landscape Officer	The DA is considered acceptable with regard to the relevant controls relating to landscape issues, subject to conditions.
NECC (Development Engineering)	No objection to approval, subject to conditions as recommended.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid and a response was provided on 06 April 2020, granting consent to the application subject to conditions. The recommended conditions have been included as part of this consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for community 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 proposed residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted with the application (see Certificate No. 1040793S_02 dated

23 April 2020).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	56

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

SEPP (Infrastructure) 2007

The proposal was referred to Ausgrid and a response was provided on 06 April 2020, granting consent to the application subject to conditions. The recommended conditions have been included as part of this 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:	8.5m	4.6m (RL178.0) - existing structure	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.2 Earthworks	N/A
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R2 Low Density Residential

The proposal comprises a change of use from a community facility to a dwelling house. Dwelling houses are permitted with consent in the R2 Low Density Residential zone.

An assessment against the zone Objectives is provided below:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The application enables the residential use of the site within an area that is predominately characterised by residential development. In this regard, the change of use is considered to be appropriate for the site, considering the use will be in harmony with the local character.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

The proposal will provide a residential land use.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The existing structure that is subject to this change of use application is single storey and sited well below the established tree canopy. The modest scale of the structure ensures the development is not dominant by virtue of its height scale and therefore, is sympathetic to the natural amenity of the Warringah area.

Having regard to the above assessment, it is concluded that the proposed development satisfies the Objectives of the R2 Low Density Residential zone. Therefore, the proposal is worthy of Council support.

6.2 Earthworks

No earthworks are proposed to facilitate the works entailed within this application.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	3.3m (east)	-	Yes
B3 Side Boundary Envelope	4m	Within envelope (east)	-	Yes
	4m	Within envelope (west) - as existing	N/A	N/A
B5 Side Boundary Setbacks	0.9m	0.74m (east)	17.78%	No
	0.9m	2.73m (west) - existing	N/A	N/A
B7 Front Boundary Setbacks	6.5m	12m (south)	-	Yes
B9 Rear Boundary Setbacks	6m	17.06m (north)	-	Yes
D1 Landscaped Open Space (LOS)	40%	No change to existing	N/A	N/A

and Bushland Setting				
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***Notes:**

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

2. The works associated with this application only comprise remediation works to the eastern external wall on the existing dwelling. Therefore, this assessment will only consider the WDCP 2011 controls that are applicable to these works.

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	No	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C3 Parking Facilities	Yes	Yes
C5 Erosion and Sedimentation	N/A	N/A
C8 Demolition and Construction	No	Yes
C9 Waste Management	No	Yes
D1 Landscaped Open Space and Bushland Setting	N/A	N/A
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
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
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

Description of non-compliance

Clause B5 of the Warringah Development Control Plan 2011 (WDCP 2011) requires development to be setback at least 0.9m from side boundaries. The upgrade works to the existing eastern wall will be sited 0.74m from the eastern side boundary, which conflicts with the 0.9m requirement. It is noted that these works will not alter the existing side building line on the eastern elevation.

Merit consideration

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

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

Comment:

The physical works associated with this application will not necessitate the removal of trees or significant landscape features. The existing landscape treatments on site comprise landscaped open space, numerous small shrubs and a canopy tree over 10m in height. This assessment concludes that the existing landscaped features on site are appropriate for a residential development within a low density environment.

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

Comment:

The reparation works to the eastern wall not increase the building height of the existing structure, which is a single storey building sited 4.6m above the existing ground level. In this regard, the development will not be visually imposing when viewed from the eastern adjoining property (1 Marnoo Place).

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

Comment:

The physical works associated with the proposal will not alter the height of the existing structure, nor will it increase the gross floor area of the development. Furthermore, the proposal remains within the prescribed building envelope and adheres to the existing front, side and rear building lines. In this regard, it is considered that the bulk and scale of the proposal will be minimal, despite this non-compliance.

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

Comment:

The existing structure is single storey in height and therefore, is not likely to create any adverse overshadowing impacts. It is noted that two (2) existing windows on the eastern elevation will be fire rated and re-installed as part of this application. One (1) window adjoins a bedroom and

contains a sill height approximately 1.6m above the finished floor level. The height and location of the window (bedrooms are considered to be areas where people spend little waking time) will mitigate any unreasonable overlooking impacts. The other window adjoins a bathroom and contains a sill height approximately 0.6m above the finished floor level. No unreasonable privacy impacts will arise as a consequence of this window, as it contains frosted glazing. Having regard to the matters discussed above, this assessment concludes that no unreasonable privacy impacts will arise as a result of this non-compliance.

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

Comment:

A site inspection to the subject site confirmed that no significant vistas were obtained from the site or adjoining properties. In the circumstance that significant views were obtained from the site and adjoining properties, the proposal would allow for reasonable view sharing, given the development does not alter the height and scale of the existing structure.

Having regard to the above assessment, it is concluded that the applicable objectives of the control have been achieved. Therefore, the application is supported on merit.

C5 Erosion and Sedimentation

The proposed development will not result in soil disturbance. Therefore, sediment and erosion control measures will not be required for the development.

C8 Demolition and Construction

A detailed Waste Management Plan was not submitted with this application. Accordingly, a suitable condition has been included with this consent requiring the applicant to submit a detailed Waste Management Plan to the Certifying Authority prior to the issue of a Construction Certificate. Subject to compliance with the conditions of consent, the application will comply with the requirements of this control.

C9 Waste Management

A detailed Waste Management Plan was not submitted with this application. Accordingly, a suitable condition has been included with this consent requiring the applicant to submit a detailed Waste Management Plan to the Certifying Authority prior to the issue of a Construction Certificate. Subject to compliance with the conditions of consent, the application will comply with the requirements of this control.

D1 Landscaped Open Space and Bushland Setting

The physical works entailed within this application are confined to the existing building footprint and do not alter the landscape treatments present on site.

D2 Private Open Space

This change of use application provides over 60sqm of private open space that meets the minimum 5m x 5m dimensions, thereby complying with this control.

D10 Building Colours and Materials

The external building colours and finishes will remain as existing.

E1 Preservation of Trees or Bushland Vegetation

Council's Landscape Officer has assessed the application against the requirements of this control and raised no objections, subject to conditions pertaining to tree protection. Subject to compliance with the conditions of consent, the proposal will satisfy the requirements of this control.

E10 Landslip Risk

The site is identified within the 'Landslip Risk Area A' precinct pursuant to the WLEP 2011. Clause E10 of the WDCP 2011 stipulates that Council may decide whether a preliminary assessment of geotechnical site condition is required for development within this area. This assessment concludes that a geotechnical investigation is not necessary for this development as:

- The reparation works to the eastern wall will not disturb the natural topography of the site;
- The development will not increase stormwater discharge on the site or adjoining properties; and
- The development will not disrupt existing subsurface flow conditions.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

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;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/0202 for Alterations and additions and use as a dwelling house on land at Lot 2651 DP 752038, 6 Wearden Road, BELROSE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Outbuilding Not To Be Used For Separate Occupancy

The existing sheds on site are not permitted to be used, or adapted to be used, for separate occupancy.

Reason: Nothing in this consent authorises the use of the site or any onsite structures as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house.

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
GRD48 Page 2 - Site Analysis/Site Plan	07 May 2019	Mireality Designs
GRD48 Page 3 - Ground Floor Plan	07 May 2019	Mireality Designs
GRD48 Page 4 - Elevations	07 May 2019	Mireality Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BCA Report	27 February 2020	GRS Building Reports Pty Ltd
BASIX Certificate No. 1040793S_02	23 April 2020	Alexander Geokjian

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.

3. **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	06 April 2020

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

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

4. **Approved Land Use**

Nothing in this consent shall authorise the use of the site or any onsite structures as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house.

A dwelling house is defined by the Warringah Local Environmental Plan 2011 (as amended Dictionary) as *"a building containing only one dwelling"*.

Any variation to the approved land use and/occupancy of any structure 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.

5. **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.

6. 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 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.

7. **No Approval Granted for Unauthorised Works**

No approval is granted for the existing unauthorised works on site.

Reason: The unauthorised works are subject to a Building Information Certificate.

FEES / CHARGES / CONTRIBUTIONS

8. **Security Bond**

A bond (determined from cost of works) of \$1,000 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

9. **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.

10. **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.

11. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Warringah Development Control Plan 2011 and Northern Beaches Council's Waste Management Guidelines.

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

12. 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

13. 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.

14. Survey Certificate

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

- (a) At completion of all works to ensure perimeter walls and/or other structural elements are setback in accordance with the approved details.

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

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

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

15. Fire Safety Upgrade

The buildings eastern wall and all associated components are to be upgraded to comply with the requirements of Volume 2 of the Building Code of Australia (BCA), Part 3.7.2.4.

All works are to be independently certified by a suitably qualified Accredited Certifier or Fire Engineer as compliant with the BCA upon completion.

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

Reason: To ensure adequate provision is made for fire safety in the premises for building occupant safety, and protection from spread of fire between properties.

16. Certification of Construction Capability and Compliance

The following building components are to be certified as adequate to perform their intended function and compliant with relevant Australian Standards by an independent and suitably qualified person:

- a) All structural elements;
- b) Waterproofing to wet areas;
- c) Glazing to all windows, doors and shower screens;
- d) All electrical components;
- e) All plumbing and drainage works (note: the S/W drainage system is to be upgraded and drain via an approved S/W line to the street gutter);
- f) Termite management System.
- g) Smoke Alarm System

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

Reason: To ensure that the building complies with relevant legislation and is fit for purpose for building occupant safety.

17. Change of Use

A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a building (within the meaning of Section 6.10 of the Act) unless an Occupation Certificate has been issued in relation to the building or part.

The Certifying Authority is required to be satisfied, amongst other things, that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.

Note: The obligation to comply with the category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.

Reason: Statutory requirement under Section 6.9 of the Environmental Planning & Assessment Act 1979.

18. Building Certificate - Unauthorised Works on site

An application for a Building Certificate is to be lodged with Council and determined in relation to all unauthorised works onsite.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Occupation Certificate for the building (or part), and any use of the building (or part)

occurring.

Reason: To seek to regularise unauthorised development and ensure the unauthorised parts of the structure are fit for purpose.

19. **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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management.

20. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the 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.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Thomas Burns, Planner

The application is determined on 01/05/2020, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments