

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1206
Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 41 DP 10648, 33 Hay Street COLLAROY NSW 2097
Proposed Development:	Demolition works and construction of a dwelling house including swimming pool
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:	Anthony James Buckton Rebecca Ruth Buckton
Applicant:	Anthony James Buckton
Application lodged:	13/07/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	20/07/2018 to 07/08/2018
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval
Estimated Cost of Works:	\$ 916,755.00

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon 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 - B3 Side Boundary Envelope
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 41 DP 10648 , 33 Hay Street COLLAROY NSW 2097
Detailed Site Description:	<p>The site has an rectangular shape with a frontage to Hay Street of 15.2 metres (m), depth of 45.1m with a site area of 685 square metres (sqm). The land slopes moderately toward the rear boundary, but with a minor cross-fall to the south-east. The site currently contains a single-storey brick dwelling with carport and domestic outbuildings. There are some mature trees on the site, however no significant rock outcrops on the property.</p> <p>Surrounding residential development consists primarily of detached dwellings in landscape settings. Most houses in the vicinity of the site are two storey or single storey. Long Reef sports fields and golf course is located 100m east of the site and the site therefore has coastal views. The site is within area "D" for landslip classification and there are no local heritage items in close proximity.</p>

Map:



SITE HISTORY

Building Application No.B1071/74 for brick additions was approved by Council in 1974.

PROPOSED DEVELOPMENT IN DETAIL

The application proposes the following works in detail:

- Demolition of all existing structures and site preparation works.
- **RL24.40** Undercroft Level - Storage room, rainwater tanks, pool terrace.
- **RL26.35 to RL26.5** Ground Level - Garage, entry foyer, living room, bathroom, stair access, kitchen / family / dining area, storage, laundry, verandah, study.
- **RL29.85** First Floor Level - Bedrooms (4), bathroom (3), stair access, void space.
- Construction of a swimming pool (Coping RL24.4), pool decking and cabana
- Ancillary site works includes excavation, driveway, landscaping, onsite stormwater detention (level spreader) and drainage works.

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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any	Warringah Development Control Plan 2011 applies to this

Section 4.15 Matters for Consideration'	Comments
development control plan	proposal.
Section 4.15 (1) (a)(iii) – 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, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development subject to condition to address site constraints, including neighbours amenity.
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 1 submission/s from:

Name:	Address:
Mr Joseph Julian Hauser Mrs Mary Jane Hauser	31 Hay Street COLLAROY NSW 2097

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

- Impact on light and ventilation

The matters raised within the submissions are addressed as follows:

- *Concern that the proposal will impact on natural light and natural ventilation to adjacent dwelling at No.31 Hay Street, Collaroy*

Comment:

During the notification period of the development application, one submission was received from an adjacent property. However, the submission was subsequently withdrawn several days after being made but then followed by a new submission, dated 5 August 2018.

The proposal included shadow diagrams, drawn by *Anchor Homes*, dated 10 July 2018, that demonstrate compliance with solar access requirements for the 21 June pursuant to the Warringah DCP 2011. The proposal will not have any unreasonable impact on natural light pursuant to the DCP.

Sufficient side setbacks are provided along the side setback and side boundary envelope to allow for natural air flow and ventilation. The non-compliance with the side boundary envelope will not have any unreasonable impact on natural ventilation or natural light.

The very minor breach of the height limit required by Warringah LEP 2011 (400mm at the eastern end of the roof) will have a negligible impact (if any) on the development and does not contribute to adverse impacts in relation to light and ventilation as experienced by the residence at 31 Hay Street.

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

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The DA is considered acceptable with regard to the relevant controls relating to landscape issues, subject to conditions.
NECC (Development Engineering)	An easement refusal letter from the owner of the downstream property has been submitted. A level spreader has been designed by the consultant. In the design, the total post development discharge of the site is lower than the 5 years ARI event of the Pre development (state of nature). Development Engineer has no objection to the application subject to conditions as recommended.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard, it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the continuing residential use. Standard conditions include provision for the safe handling of asbestos and like materials if present during demolition work.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.933551S dated 14 June 2018).

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

Achievable

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

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.

Other Service Authorities

The proposal was not required to be referred to the *NSW Roads and Maritime Service* and no other infrastructure service authority referral issues are raised pursuant to the SEPP.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.9m	N/A	No

Compliance Assessment

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

Detailed Assessment

4.6 Exceptions to development standards

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard and is assessed taking into consideration the questions established in *Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46*.

Requirement:	8.5m
Proposed:	Maximum height 8.9m
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical

If numerical enter a % variation to requirement

up to 4.7%(0.4m)

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the WLEP 2011. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Height of buildings limitation pursuant to Clause 4.3 of the WLEP 2011 is a development standard.

What are the underlying objectives of the development standard?

CLAUSE 4.3 - HEIGHT OF BUILDINGS

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 dwelling design has resulted in the overall height of the dwelling to reach 8.9m, being a non-compliance up to 0.4m with the 8.5m maximum height limit of WLEP 2011. The extent of non-compliance is limited to the eastern end of the roof (at apex of the "saw tooth" section), directly above the ground floor and undercroft storage area. Accordingly, it is deemed that the area of non-compliance is a consequence of the localised slope of the site as the land falls away from the road.

The subject site is situated within an established low density residential area and is zoned as R2 Low Density Residential. One and two storey dwelling houses (with some 3rd storey elements) characterise the immediate and surrounding area of traditional and contemporary architecture. Additionally, the proposed dwelling is articulated with contemporary elements that provide visual interest and appropriately fenestration, materials and finishes.

Having regard to the above, the development is part-two storeys in height, with a minor third storey element at the back of the house. Overall the bulk and scale is commensurate and compatible with that of the existing surrounding development of the immediate and surrounding area.

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

Comment:

In summary, the proposed dwelling is articulated with varied building elements and façade fenestration, materials and finishes. Additionally, the proposed dwelling has been assessed as being consistent with the requirements of the following WDCP controls:

- D6 Access to Sunlight

- D7 Views
- D8 Privacy (subject to conditions).

Having regard to the above, the proposal will have no unreasonable impact on the amenity of adjoining properties, including visual outlook impact, disruption of views, loss of privacy and loss of solar access.

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

Comment:

The development does not propose the removal of significant vegetation or excessive site disturbance.

Based on the above, the proposal will have an acceptable impact 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,

Comment:

Having regard to the above, the visual impact of development when viewed from public places will be acceptable given the following:

- Provide a bulk and scale commensurate and compatible with that of the existing surrounding development of the immediate and surrounding area;
- Have an acceptable impact on the scenic quality of Warringah's coastal and bush environments; and
- Provide a dwelling house in a landscape setting which is acceptable development within a low density residential environment.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the zone.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the WLEP 2011?

(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.

Comment:

In summary, the areas of non-compliance are a consequence of a localised sloping topography. The non-complying building elements relate to a minor element at the centre of the roof apex due to the contemporary style of dwelling design. On this basis, an appropriate degree of flexibility

should be applied to the development standard and therefore the development satisfies this objective.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

Enforcing compliance with the numerical standard in this instance would not achieve a better planning outcome as the non-complying elements are an integral part of the overall built form design which satisfactorily present to the surrounding urban environment. On this basis, the development satisfies this objective.

(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.

(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.

Comment:

In accordance with the requirements described above, the Applicant has provided a written request to vary 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

Comment:

The Applicant has provided a written request to vary the development standard in a manner which is consistent with subclause (3).

(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:

For reasons detailed above, the proposal is considered to be consistent with the objectives

of the R2 Low Density residential zone in the WLEP 2011.

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

Comment:

Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General 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 Director-General for the variation to the Height of buildings Development Standard is assumed.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.1m	N/A	Yes
B3 Side Boundary Envelope	45 degrees at 4m (North)	Breach of envelope	6%	No*
	45 degrees at 4m (South)	Breach of envelope	11%	No*
B5 Side Boundary Setbacks	0.9m (North)	1.7m to 2.9m	N/A	Yes
	0.9m (South)	2.0m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	6.5m to 7.0m Dwelling wall	N/A	Yes
		6.5m Garage wall	N/A	Yes
		6.0m First floor level	7.6%	No*
B9 Rear Boundary Setbacks	6.0m	16.4m Dwelling wall (GL Deck & Lower level)	N/A	Yes
		23.0m	N/A	Yes

		Dwelling wall (Upper level) 7.2m Pool & cabana (50% rear yard landscaped)	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting (Site area 682sqm)	40% 273sqm	40% 274sqm	N/A	Yes

*Refer to detailed merit assessment under the heading Built Form Controls within this report.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	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
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
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
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
D16 Swimming Pools and Spa Pools	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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

B3 Side Boundary Envelope

Description of non-compliance

A maximum 400 millimetre (mm) section toward the eastern end of the northern side elevation and up to 700mm section toward the eastern end of the southern side 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 ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

The breach of the side boundary envelope is for a minor section of the eaves and toward the front half of the dwelling on the lower side of the property. The breach is partly due to the moderate slope of the site as the floor plate extends toward the rear of the lot. The breach of the building envelope is not a visibly substantial section of the building in terms of elements that exceed the wall height or are bulky elements.

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

Comment:

The non-compliance with the side boundary envelope relates to a minor section the eaves and upper edge of the wall planes on the northern and southern elevation toward the rear of the dwelling. The building maintains side setbacks of 2.0m or greater for the upper storey and only bedrooms and bathrooms are located on this floor, with no balconies or secondary living areas. Therefore, the breach to the side boundary envelope does not create any unreasonable impact on privacy. With respect to natural light and solar access the submitted shadow diagrams prepared by *Anchor Homes* demonstrate the building complies with solar access requirements under the DCP.

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

Comment:

The upper floors of the building are set back from the side boundaries by 2.0m along the southern elevation and 2.9 m for the northern elevation. Living areas are confined to the ground floor with stair access to the rear yard and pool area to take advantage of the slope. As the site has an easterly aspect for views toward the Long Reef are available from the upper levels. Habitable floor levels are between 2.4m to 2.6m (excluding raked ceiling space) and are therefore not excessive and assist to minimise overall height and bulk.

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

B7 Front Boundary Setbacks

Description of non-compliance

The control requires development to be setback 6.5m from the front boundary. Variations to the control include the front half of the upper storey that is set forward on a setback of 6.0m to the street. This is a variation of 7.6%

Merit consideration:

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

- ***To create a sense of openness.***

Comment:

The existing dwelling has a garage integrated into the existing ground floor with a compliant setback of 6.5m. However, the upper storey on the southern side of the dwelling has been stepped forward to 6.0m that is inconsistent with the setback of adjacent dwellings. This is inconsistent with the objective to create a sense of openness and step-back buildings from the street. The non-compliance relates to a secondary bedroom and no significant site constraints prevent compliance with the design control to maintain a sense of openness. Therefore, it recommended that this upper storey elements conditioned to comply with the front boundary setback control.

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

Comment:

The surrounding streetscape includes a few isolated occurrences of garage structures within the front setback for dwellings along Hay Street however front building setbacks are generally 6.5m or greater. The existing building will be demolished and the site has sufficient area and depth to maintain compliance with the built form controls. Therefore it is recommended that compliance

with the front boundary setback be maintained in accordance with the predominant visual continuity and pattern of buildings in the vicinity of the site.

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

Comment:

The stepping forward of half of the upper storey of the dwelling accentuates the building bulk toward the street. This is compounded by the non-compliance with the minimum front boundary setback. The forward bulk within the front setback is inconsistent with this objective to protect and enhance the visual quality of the streetscape. Compliance with the front setback can be easily maintained for the building, with no significant impact on the internal amenity and therefore it is recommended that the non-compliance is addressed by condition.

- ***To achieve reasonable view sharing.***

Comment:

The site is within an elevated location that has coastal views toward Long Reef Headland. The views are not gained along Hay street across the front setback therefore the non-compliance with the front setback does not have any unreasonable impact on views.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent 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 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:

The proposed design has the principal living area located on the ground level however, the rear of the house is elevated and potential overlooks neighbouring land, reducing visual privacy. A dense screening hedge provides visual privacy to the east, across the rear fence however the architectural plans do not show any privacy screens to address this issue along the side balcony where side openings face No.35 & No.31 Hay Street. Therefore, it is recommended that privacy screens be added to protect the acoustic and visual privacy of adjacent land to the south and north. This issue is addressed by conditions.

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

Comment:

The location of the living area is acceptable however the sloping topography allows the rear deck to overlook adjacent land. In this case the use of an internally lined (Perspex or glass) privacy screen is warranted to maintain acoustic privacy to adjacent land from the principal living area and balcony space that is at RL26.5. This issue is addressed by conditions.

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

Comment:

The proposal is satisfactory with regard to providing personal and property security for a detached dwelling in a low density residential area.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly 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 Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Contributions Plan 2018		
Contribution based on a total development cost of \$ 916,755		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 8,709
Section 7.12 Planning and Administration	0.05%	\$ 458
Total	1%	\$ 9,168

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 DA2018/1206 for Demolition works and construction of a dwelling house including swimming pool on land at Lot 41 DP 10648, 33 Hay Street, COLLAROY, 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
Sheet 5 Site Plan	10.7.2018	Anchor Homes
Sheet 7 Section A	10.7.2018	Anchor Homes
Sheet 10 Basement Floor Plan	10.7.2018	Anchor Homes
Sheet 11 Ground Floor Plan	10.7.2018	Anchor Homes
Sheet 12 First Floor Plan	10.7.2018	Anchor Homes

Sheet 15 North Elevation and Colour Schedule	10.7.2018	Anchor Homes
Sheet 16 East Elevation and Colour Schedule	10.7.2018	Anchor Homes
Sheet 17 South Elevation and Colour Schedule	10.7.2018	Anchor Homes
Sheet 18 West Elevation and Colour Schedule	10.7.2018	Anchor Homes
Sheet 19 Cabana East Elevation and Colour Schedule	10.7.2018	Anchor Homes

Engineering Plans		
Drawing No.	Dated	Prepared By
D01 B Site Plan	20.6.2018	NB Consulting Engineers
D02 A First Floor Plan	5.6.2018	NB Consulting Engineers
D03 B Ground Floor Plan	18.6.2018	NB Consulting Engineers
D04 A Stormwater Drainage Notes	6.6.2018	NB Consulting Engineers
D05 B Stormwater Drainage Notes	22.6.2018	NB Consulting Engineers
D06 A Stormwater Drainage Details	6.6.2018	NB Consulting Engineers
D07 A Stormwater Drainage Details	6.6.2018	NB Consulting Engineers
D08 B Stormwater Drainage Details	22.6.2018	NB Consulting Engineers
D09 B Stormwater Drainage Details	22.6.2018	NB Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Assessment J1779	24.5.2018	White Geotechnical Group
Arborist Report - 33 Hay Street	28.5.2018	Margot Blues Consulting
Basix Certificate 933551S	14.6.2018	Building Sustainability Assessments

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L-01 Rev B Landscape Plan	18.5.2018	Space Landscape Designs

Waste / Sediment Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan - 33 Hay Street	10.7.2018	A Buckton

Sheet 6 Site Access, Sediment and Stockpiles	10.7.2018	Anchor Homes
--	-----------	--------------

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. **Amendments to the approved plans**

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

(i) The upper storey of the building (bedroom 2) is to stepped back maintain a minimum front boundary setback of 6.5 metres (m) in compliance with the Warringah DCP 2011.

(ii) Fixed privacy screens are to be provided for the rear verandah (RL26.5) openings for the northern and southern elevations. The privacy screen battens are to be spaced at 5 centimetres or less and the screen is to be internally lined with solid glass / "Perspex" to minimize overlooking and maintain acoustic privacy to adjacent private open space.

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.

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) 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 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 Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Contributions Plan 2018		
Contribution based on a total development cost of \$ 916,755.00		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 8,709.17
Section 7.12 Planning and Administration	0.05%	\$ 458.38
Total	1%	\$ 9,167.55

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

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 Northern Beaches Council

Contributions Plan 2018.

6. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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. On-site Stormwater Detention Compliance

Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's WARRINGAH WATER MANAGEMENT POLICY PL850 and the concept drawing by Northern Beaches Consulting Engineers, job number 180558 dated 22/6/2018. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

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

8. Vehicle Crossings Application

An application for Driveway levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid. Approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To facilitate suitable vehicular access to private property

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. (DACPLC02)

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 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

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 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. (DACLAD01)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. **Vehicle Crossings**

The provision of a vehicle crossing 4 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/5 EL and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property

14. **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.

15. **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.

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

16. **Authorisation of Legal Documentation Required for Onsite Detention**

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

17. **Registration of Encumbrances for On-site Stormwater Detention**

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

18. **On-Site Stormwater Detention Compliance Certification**

Upon completion of the on-site stormwater detention (OSD) system, certification from a

consulting engineer and a “work as executed” (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. .

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 stormwater disposal is constructed to Council’s satisfaction. (DACENF10)

19. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council’s standard requirements at the applicant’s expense and endorsed by Northern Beaches Council’s delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council’s standard requirements 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 restriction.

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 the on-site detention and/or pump system is maintained to an appropriate operational standard

20. **Required Planting**

Trees shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Minimum Pot Size
2	Trees capable of attaining a minimum height of 5 metres at maturity	1 x front yard; 1 x rear yard	200mm

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. (DACLAF01)

21. **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)

22. **House / Building Number**

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

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

Reason: Proper identification of buildings. (DACPLF04)

23. **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.

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

Signed



Alex Keller, Principal Planner

The application is determined on 10/01/2019, under the delegated authority of:



Anna Williams, Manager Development Assessments