

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0112
Responsible Officer:	Jordan Davies
Land to be developed (Address):	Lot 7 DP 23583, 602 Warringah Road FORESTVILLE NSW 2087
Proposed Development:	Construction of a dwelling house, to be used as an exhibition home
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:	Clarendon Display Homes Pty Limited
Applicant:	Clarendon Display Homes Pty Limited
Application Lodged:	11/02/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	02/03/2020 to 16/03/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 7%
Recommendation:	Approval
Estimated Cost of Works:	\$ 765,837.00

PROPOSED DEVELOPMENT IN DETAIL

The proposed development consists of the construction of a two storey dwelling to be used as an exhibition home. Specifically, the development consists of:

- Construction of a two storey dwelling;
- Use of the dwelling as an exhibition home;
- Construction of a carpark consisting of space for two (2) staff and three (3) visitors;
- Access driveway way;
- Two signs 3m x 1.2m and one sign 1.22m x 0.3m;
- Associated landscaping around the development.
- Hours of operation are Monday to Sunday 10am - 5pm;

- Two (2) Full time staff for operation of Exhibition Home;
- Consent sought for seven (7) year operation of exhibition home*

**Note - A consent condition has been recommended for five (5) year operation of the exhibition home to remain consistent with other exhibition homes approved by Council and ensure residential character is maintained. This is explained at the end of this assessment report.*

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 - C3 Parking Facilities
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D23 Signs

SITE DESCRIPTION

Property Description:	Lot 7 DP 23583 , 602 Warringah Road FORESTVILLE NSW 2087
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Warringah Road.</p> <p>The site is irregular in shape with a frontage of 21m along Warringah Road and a depth of 37m. The site has a surveyed area of 820m².</p> <p>The site is located within the R2 Low Density Residential zone and is a vacant residential lot following the</p>

demolition of an existing dwelling house.

The site does not contain any significant vegetation or canopy trees. The site has been cleared. The site has a moderate slope from the front to the rear with an overall fall of 2m towards the rear boundary. The site contains a drainage easement running along the southern western boundary.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by detached single storey and two storey dwellings.

Map:



SITE HISTORY

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

Application **DA2019/0936** for Construction of a dwelling house, to be used as an exhibition home was withdrawn on 21/10/2019.

Application **DA2018/0182** for Construction of a Dwelling House was approved by Council on 03/08/2018 (consent not acted upon).

Application **CDC2016/0159** for Demolition of house & garage was approved on 24/03/2016 by Private Certifier.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to stormwater management.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration'	Comments
	Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.

Internal Referral Body	Comments
	<p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Landscape Officer	<p>The landscape plans submitted with the application are noted. The site is currently cleared and no significant landscape features are affected by the proposal.</p> <p>No objections to approval, subject to conditions.</p>
NECC (Development Engineering)	<p>Development engineering comments 5/05/2020</p> <p>The submitted DRAINS model/ Overland Flow Study has been reviewed and the model/study is satisfactory. No objections to the development application subject to conditions.</p> <p>Development engineering comments 27/4/2020</p> <p>1) Driveway access :</p> <p>The applicant is required to submit a driveway profile drawn at a suitable scale that refers to/uses Councils standard vehicle crossing profiles.</p> <p>Concurrence from RMS is required as to the new proposed access driveway on Warringah Road. This item has previously been mentioned.</p> <p>Development engineering comments 2/4/2020</p> <p>The Overland Flow study prepared by J&F Designs dated 16 December has been reviewed and the following further information/clarifications are required:</p> <p>1) The applicant is to submit the DRAINS model to council for review. 2) The design consultant is to confirm whether the required inlet</p>

Internal Referral Body	Comments
	<p>blockage factors have been applied to the drains model as per the requirement of Councils Auspec One design document. They are 50% for sag pits and 25% for on grade pits.</p> <p>Previous comments</p> <p>The proposed display home and carparking area is not supported for the following reasons:</p> <ol style="list-style-type: none"> 1. A overland flow study is required to determine the 1 in 100 year ARI water level in the easement/ council pipeline adjacent to the development site. Furthermore, the study is to consider the potential flooding of the site from Warringah Road stormwater drainage system. The site is adjacent to a inlet pit in Warringah road that carries a substantial amount of upstream stormwater. Cross sections detailing the 1 in 100 year ARI water surface level are to be provided at appropriate intervals. <p>Water surface profiles are to be detailed for the existing and proposed conditions for the development site as well as both upstream and downstream of the development site. DRAINS and Hec-Ras computer program is preferred for this application.</p> <p>The proposed development must comply with all requirements of Council's Section 9.3, Overland Flow of Council's PL 850 Water : Water Management Policy. Runoff from the developed site must not cause a detrimental effect on any property.</p> <ol style="list-style-type: none"> 2) The location of the vehicle crossing/driveway is the be amended to be clear of the telstra pit. The service provider will not accept vehicles driving over the pit . 3) Any proposed amended crossing/driveway location is to be submitted to the RMS for concurrence as they are the roads authority.
Traffic Engineer	The application is for construction of display home.

Internal Referral Body	Comments
	<p>Based on comparisons of similar sites, the parking provisions and traffic generation rates are deemed satisfactory.</p> <p>The swept paths demonstrate adequate ability for drivers to enter and exit in a forward direction.</p> <p>The application will still require RMS concurrence.</p>
Waste Officer	This is a single residential property or commercial premise, waste referral not required.

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.
Concurrence – NSW Roads and Maritime Services (s100 – Dev. on proposed classified road)	The proposal was referred to Transport For New South Wales (formally RMS) for comment as the development has direct vehicular access to Warringah Road. TfNSW has reviewed the proposal and support the development subject to conditions of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment

criteria of Schedule 1.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

Matters for Consideration	Comment
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The signage is consistent with other existing signage in the area and the two signs are of a similar size (one sign 1.2mx3m and one sign 1.22m x 0.6m)
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The signage simply identifies the use of the building (home) which is consistent with the theme of the Warringah Road.
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The site is not in a particularly visually sensitive area and the signage is not adverse to the surrounding environment.
3. Views and vistas Does the proposal obscure or compromise important views?	No views are compromised.
Does the proposal dominate the skyline and reduce the quality of vistas?	The maximum height of the signage at the site is below the skyline.
Does the proposal respect the viewing rights of other advertisers?	There are no adjacent signs which will interfere with the viewing rights of other advertisers.
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The signage is consistent and below the scale of the surrounding station signage across the road. The signage is in comparison to the developments to the surrounding area.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signage will be minor against the surrounding buildings and houses to be constructed.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The signage is simple and does not clutter the streetscape. The signage identifies the building use and business use. The signage is not considered to be clutter.
Does the proposal screen unsightliness?	No, the signage is stand alone and does not screen unsightliness.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No, below the tree canopy and building height.
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The building will sit well above the signage. The signage is 3m in height, well below the roof line of the building. The signage therefore relates to the scale and character of the development and does not become the focal point.
Does the proposal respect important features of the site or building, or both?	The signage will not block views towards the building or the surrounding area.

Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage is a simple scheme and consistent with the building design.
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Not relevant to the proposed signage.
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The signage is not proposed to be illuminated.
Can the intensity of the illumination be adjusted, if necessary?	N/A
Is the illumination subject to a curfew?	N/A
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	No, the signage is setback from the road boundaries. The signage is not in a location that would impact upon road safety for all users.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No, the signage is setback within the local street and would not impact pedestrian safety.

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying objectives.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1018158S_03 dated 4 January 2020).

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

Commitment	Required Target	Proposed
Water	40	43
Thermal Comfort	Pass	Pass
Energy	50	51

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.

Roads and Maritime Service (RMS)

Clause 101 - Development with frontage to classified road states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
- (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Comment:

The proposed development was referred to Transport for NSW (Formally RMS) for comment. The TfNSW have reviewed the proposal and are satisfied that the development provides safe and practical vehicular access to Warringah Road. Conditions have been recommended which will be included in the 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	7.1m - 9.1m	7%	No

Compliance Assessment

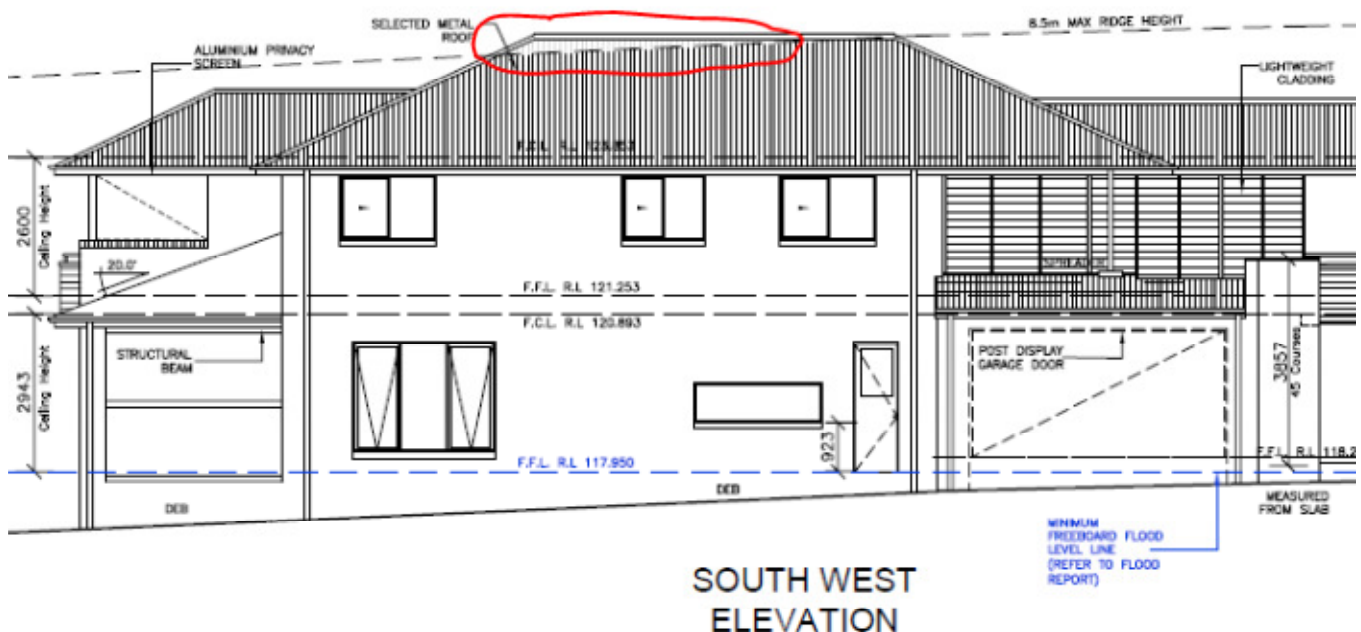
Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	9.1m maximum
Percentage variation to requirement:	7%



Assessment of request to vary a development standard:

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

Clause 4.6 Exceptions to development standards:

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

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

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

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

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

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

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

(a) the consent authority is satisfied that:

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

Clause 4.6 (4)(a)(i) (Justification) assessment:

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

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

Comment:

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

In doing so, the Applicant's written request has adequately demonstrated that compliance with the

development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

The applicants written request argues, in part:

Compliance with the objectives of the development standard

The proposed two storey dwelling has a maximum height of 9.194m, which reduces to 8.894m at the front of the dwelling, the maximum permitted height of building within Clause 4.3 of Warringah Local Environmental Plan 2011 is 8.5m. The proposed design of the roof therefore exceeds Councils requirement by 8.16% at the rear and 4.6% at the front, these variations are not anticipated to be highly noticeable from the streetscape or surrounding properties.

The proposed maximum height does not impact upon the dwelling being able to achieve the objectives of the zone or the objectives of the development standard. The proposal is considered to have a positive impact on the streetscape character of the area as the contemporary dwelling will enhance the

streetscape.

The dwelling continues to meet objectives of the building height controls as it is considered consistent with the site constraints, will not detract from the prevailing building height or desired future streetscape character of the area. The bulk and scale of the building is broken up through articulation and stepped design and no significant views are lost as a result of the height increase.

In this instance it is believed that the proposed maximum building height provision is capable of achieving the objectives of the development control despite the variation in the following manner:

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

The proposed dwelling is surrounded by development of differing scales and form. It is not anti

Whilst numerically the dwelling exceeds the maximum building height, the proposed dwelling v

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

The dwelling is capable of complying with the relevant solar access provisions as shadows will

Minimal windows are proposed to the upper floor, and where provided have been suitably treated designed, setback and offset from adjoining properties.

The proposed dwelling is suitably setback from adjoining POS areas and the increased height

Due to the topography of the area, no impact is anticipated on views and the proposed dwelling

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastline

The proposed dwelling is located within a residential area and will not impact upon the scenic v

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

The proposed dwelling is well articulated and provides a stepped design and to ensure the visi

Development is unreasonable or unnecessary in the circumstances of the case

The requested variation to the maximum building height provision is considered to be a reasonable and appropriate design outcome for the following reasons:

- The development is noted to generally achieve Council's controls. The dwelling (once converted to a residential dwelling) will provide a suitable design that is appropriate for future residents.
- The variation relates to exceedance in building height that does not have any impact upon the dwellings ability to meet with the objectives of the Height of Buildings development standard or the R2 Low Density zone.
- The proposed height is the direct result of providing a suitable floor level in the event of a flood and as such, the floor level cannot be lowered to accommodate the dwelling, however, minimum ceiling heights and a reduced roof pitch has been provided to minimize the impact of the development as much as possible.
- The increase in height will not have an excessive impact upon the streetscape or adjoining properties and is considered to result in an appropriate outcome for the residents needs. It would seem unreasonable and unnecessary to require compliance with the height of building control in this instance.

Sufficient environmental planning grounds that are particular to the circumstances of the proposed development

Variations under the provisions of Clause 4.6 are understood to be permitted in circumstances where the non-compliant development is found to be able to meet with the objectives of the zone, but does not expressly need to result in a better outcome than a compliant proposal (Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSW LEC118). In this case, the proposed dwelling is considered to meet with the objectives of the zone, and it is trusted the Clause 4.6 request has been adequately addressed in this instance.

The proposed height variation will not result in any detrimental impact beyond that of a compliant proposal and in this case, the design prepared by Clarendon Homes is considered suitable and the overall ridge height will not appear as out of place between the adjoining properties.

Council's Consideration

Council has considered the above written request as submitted by the applicant and generally agree with the assertions made with regard to the proposed development. Namely, the non-compliance is partially a result if the requirement to achieve the required floor levels to address the flood impact of the site. Further, it is agreed that the non-compliance does not result in a direct amenity impact for any adjoining properties which would warrant an amendment to the proposal.

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

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

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

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the WLEP 2011 are:

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

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

Comment:

The surrounding dwellings mostly consist of single storey dwellings, with a two storey dwelling to the south-west of the site. The appearance of the building as viewed from the street is generally consistent with the adjoining two storey dwelling, with the non-compliant portion of the building towards the rear of the site. The proposed development is a two storey dwelling which is consistent with the surrounding buildings. The development is therefore considered compatible in terms of height and scale.

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

Comment:

The proposed development will not result in a view impact for any surrounding properties. The submitted shadow diagrams have demonstrated that the adjoining property to the south-west will receive solar access to private open space and windows in accordance with the DCP controls. The building has been designed to minimise overlooking of adjoining properties through off-setting window placement, bedroom windows only upon the first floor south-west elevation and adequate spatial separation of the first floor balcony. Overall, the proposed development does not result in unreasonable amenity impacts for the surrounding dwellings.

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

Comment:

The site is not located in a particularly scenic or bushland setting, with the site directly adjoining Warringah Road. However, there is sufficient space throughout the site for the establishment of new canopy trees, as shown on the submitted landscape plan.

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

Comment:

The building as viewed from Warringah Road is consistent with what would be expected for a two storey dwelling and the non-compliant portion of the building is towards the rear of the site, not visible from the road. The development will not have any impact upon parks and reserves as it does not adjoin any of these public spaces.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

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

Comment: The proposal consists of a dwelling house, which following the use as an exhibition home, will provide residential accommodation for the community.

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

Comment: The proposed use as an exhibition home is a low impact, permissible use within the Zone which allows for employment opportunity to meet the day to day needs to residents through viewing of new dwelling designs.

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

Comment: The development provides ample opportunity around the dwelling to provide landscape planting and canopy trees to assist in blending the development into the landscape.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018 issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6.6m	N/A	Yes
B3 Side Boundary Envelope	4m - North east	Outside	N/A	No
	4m - South west	Within	N/A	Yes
B5 Side Boundary Setbacks	0.9m - North east	1.5m	N/A	Yes
	0.9m - South west	7.3m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	Dwelling - 5.1m - 6.6m Carpark - 1m	21% 84%	No

B9 Rear Boundary Setbacks	6m	6m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%/330sqm	40%/330sqm	N/A	Yes

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	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
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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

The proposed development involves a non-compliance to the building envelope upon the north-eastern elevation. The non-compliance is shown in the below figure:



The non-compliance is partially due to the requirement for the dwelling to achieve a minimum floor level due to an overland flow issue.

Merit consideration

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

- To ensure that development does not become visually dominant by virtue of its height and bulk.

Comment:

The non-compliance is towards the rear of the site and will not result in the building having excessive bulk as viewed from the street. The facade uses a mixture of building materials to break up the overall bulk and scale of the facade as viewed from the side elevations. The minor

non-compliance is not considered to render the development excessive with regards to height and scale.

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

Comment:

The proposed development, as demonstrated through the shadow diagrams, will result in the adjoining property upon 604 Warringah Road to retain solar access in accordance with the DCP controls. A minor amount of overshadowing will be presented at 3pm, however full solar access will be retained during the morning period.

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

Comment:

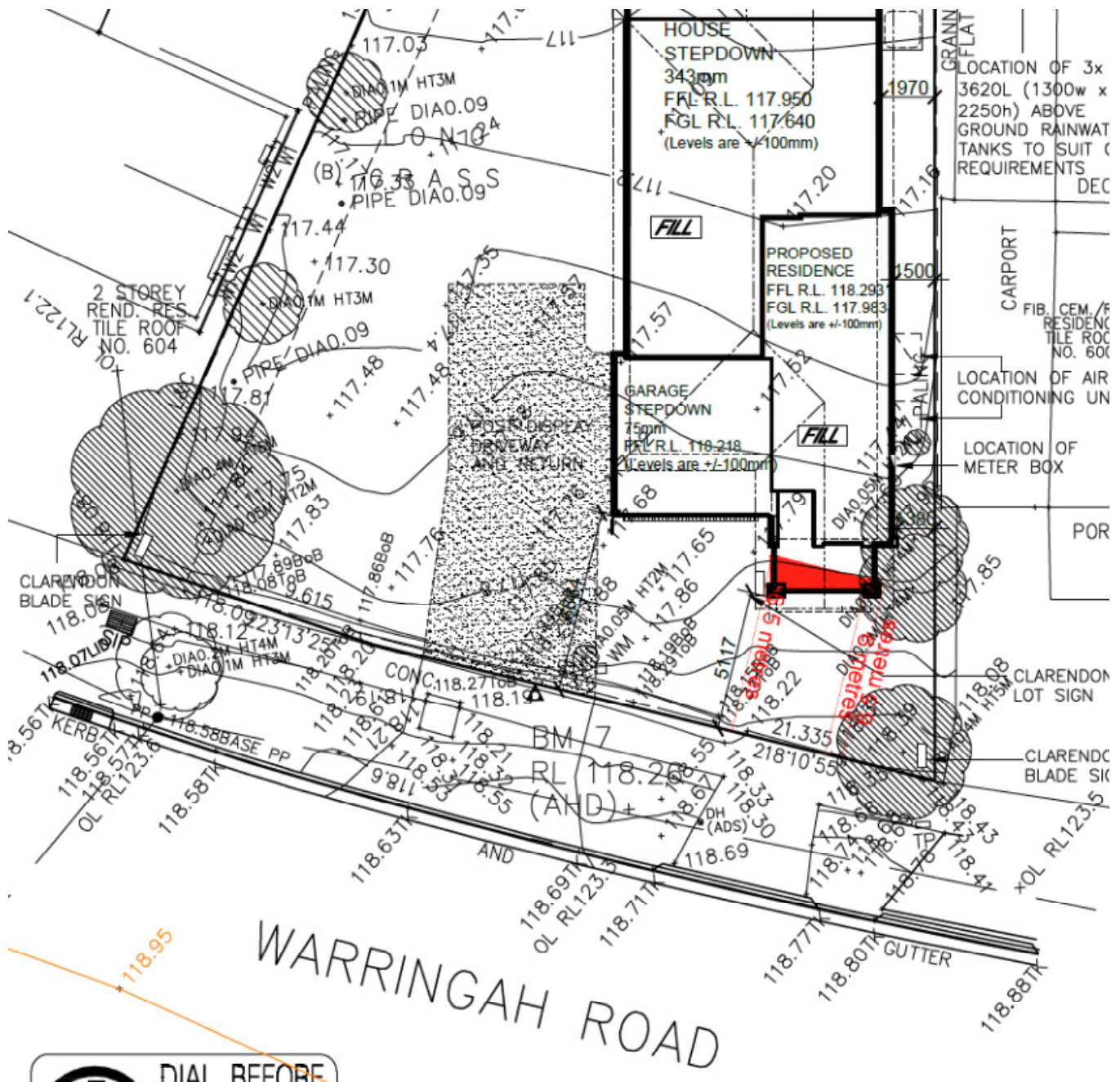
The site has an overland flow path along the south-western boundary which requires floor levels to be achieved to ensure the habitable space does not flood. In response to this site constraint, the floor levels are not able to be stepped to follow the natural slope of the land. Notwithstanding this, the minor non-compliance to the building envelope is not considered to result in a building that is inappropriate for the slope of the land.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B7 Front Boundary Setbacks

Description of non-compliance

The DCP requires that a front setback of 6.5m is provided. The proposed dwelling facade is compliant with the front setback with the exception of a minor encroachment of the porch, which is setback a minimum of 5.1m. The below figure shows the extent of encroachment as highlighted in red. The proposed exhibition home carpark (not shown below) also encroaches the front setback area, however, will be converted back to soft landscaping upon ceasing the use as an exhibition home.



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 porch is an open structure which does not attribute to noticeable bulk and scale of the development. The carpark is at-grade and is the only practical area on the site for the carpark given the easement located down the north-western boundary and the irregular shaped allotment. The site frontage is wider than usual which will ultimately allow for open areas of soft landscaping following removal of the carpark upon ceasing the exhibition home use. The benefit of a formal carpark in lieu of a fully compliant front setback for the carpark is considered

a better outcome to provide safe and practical parking off Warringah Road.

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

Comment:

The proposed development will be generally consistent with the front setback proposed for the adjoining exhibition home upon 600 Warringah Road. The curvature of the site frontage contributes to the non-compliance, however visually the dwellings will align when viewed from the street.

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

Comment:

The development provides sufficient room for soft landscaping to enhance the frontage of the site along Warringah Road.

- *To achieve reasonable view sharing.*

Comment:

The proposal will not result in a view impact.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

The Warringah DCP 2011 does not contain a parking rate for display homes and therefore the development is to be assessed on merit and take into consideration similar style developments that have been established in the area.

This display home is proposed to be used in conjunction with the adjoining site which contains a display home and car-park for five (5) vehicles upon 602 Warringah Road. A review of other display homes in the vicinity of the site reveal 2-3 spaces per dwelling are provided. For example:

- DA2017/1254 (105 Warringah Road, Narraweena) - One (1) staff space and one (1) visitor space provided.
- DA2014/0704 (653 Warringah Road, Forestville) - Two (2) visitor and one (1) staff spaces.

The proposed development is comparable with the above approvals with a total of five (5) spaces provided in a formal car park to service the two (2) display homes. A condition of development consent has been recommended upon DA2020/0012 requiring the car park located on 602 Warringah Road to remain accessible at all times during the operation of the site for the purpose of a display home for both 600 and 602 Warringah Road. A condition of consent has also been recommended that prior to the issue of any occupation certificate, the carpark associated with DA2020/0112 is constructed and operational.

Upon ceasing use as a display home, the garage will provide two (2) off-street car spaces for the dwelling use as required by the Warringah DCP. The applicant has provided a 'post display' plan for the driveway and turning area for vehicles to exit the site in a forward direction.

D8 Privacy

The proposed development has been considered with regards to visual overlooking and privacy. The proposed first floor leisure room window upon the north-east elevation is off-set from the adjoining upper floor balcony on the adjoining exhibition home. The adjoining exhibition home includes a privacy screen upon the balcony which further limit views between the two properties once they are occupied for a residential purpose in the future.

The proposed first floor balcony is setback in accordance with the rear setback controls and contains privacy screens on both side elevations. The balcony consists of a solid balustrade to prevent downward views from the internal leisure room and assist in maintaining privacy to the rear adjoining property.

Overall, the proposed development is considered to have been designed in a way that mitigates visual privacy impacts and direct overlooking.

D23 Signs

The signage consists of two (2) business identification pylon signs 3m x 1.2m which will be visible from Warringah Road. A second smaller sign is proposed 1.2m x 0.3m which will not be highly visible from Warringah Road and is used for information for visitors when visiting the site.

It is considered that two (2) pylon signs of 3m in height are excessive for the site given that the adjoining property 600 Warringah Road will also contain one (1) 3m height pylon sign to identify the use as an exhibition home. The controls contained within the DCP permits one (1) pylon sign per lot. For this reason, a condition of development consent is recommended for the plans to be amended to include a maximum one (1) 3m height pylon sign.

The remainder of the signage scheme proposed is considered to be reasonable given the site location and nature of the land use.

A detailed assessment is undertaken against SEPP No.64 Advertising and Signage earlier within this report.

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

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

A monetary contribution of \$7,658 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$765,837.

Time Period for Exhibition Home Use

A condition of development consent (condition 1) has been recommended requiring that the exhibition home use cease after 5 years following the issue of the occupation certificate. Following this period, the exhibition home use is to cease and the dwelling be reinstated for residential use, including removal of the car park, signage and implementing soft landscaping.

The applicant has indicated in the SOEE that it is intended for seven years, however, a review of surrounding consents for Exhibition Homes has revealed that Council has consistently applied a 5 year period for this use. Therefore, the condition of consent for 5 years has been recommended for consistency.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

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

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2020/0112 for Construction of a dwelling house, to be used as an exhibition home on land at Lot 7 DP 23583, 602 Warringah Road, FORESTVILLE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Consent for Exhibition Home

The use of the premises as an exhibition home is to cease five (5) from the date that an Occupation Certificate is issued.

Upon expiration of this time period, the use of the premises is to revert to a dwelling house.

Once the use for the exhibition home has ceased, all car parking and signage for the exhibition home is to be removed and re-instated as landscaped open space, consistent with the plans approved as part of this consent.

Reason: To ensure development on the site is consistent with the character of the surrounding area and Council's standards for landscaped open space.

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
Site Plan - Revision M	17 June 2020	Clarendon Homes
Site Plan Post Display - Revision M	17 June 2020	Clarendon Homes
Ground Floor Plan - Revision M	17 June 2020	Clarendon Homes

First Floor Plan - Revision M	17 June 2020	Clarendon Homes
South-West and South-East Elevation - Revision M	17 June 2020	Clarendon Homes
North-West and North-East Elevation - Revision M	17 June 2020	Clarendon Homes
Section A-A - Revision M	17 June 2020	Clarendon Homes
Signage Plan - Lot Plate	27 August 2020	Clarendon Homes
Signage Plan - Blade Sign	27 August 2020	Clarendon Homes

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Layout - SH.1, C9075-00312 - Rev B	15 April 2020	Ibrahim Stormwater Consultants
Stormwater Details - SH.1, C9075-00312 - Rev B	15 April 2020	Ibrahim Stormwater Consultants

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Overland Flow Assessment Report - Rev A	15 April 2020	J & F Designs
Traffic Control Plan, Ref 8527	25 July 2019	Adams Traffic Management Services
BASIX Certificate No.1018158S_03	14 January 2020	Energi Thermal Assessors

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
Landscape Plan - Revision A	31 January 2020	Clarendon Homes
Plant Schedule - Revision A	31 January 2020	Clarendon Homes

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	27 August 2019	Clarendon 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.

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
Transport for New South Wales	2020/381549	26 June 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. Prescribed Conditions

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the

development consent must, at the person's own expense:

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

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

Reason: Legislative requirement.

5. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is

required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

swimming pools.

- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in 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.

6. Access to car park

The car park shall remain accessible at all times for the staff and visitors of the display homes upon 600 and 602 Warringah Road for the life of the development and during the use as display homes.

Reason: To ensure adequate staff and visitor parking is provided for the proposed use and minimise conflicts with surrounding land uses.

FEES / CHARGES / CONTRIBUTIONS

7. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$7,658.37 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$765,837.00.

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

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

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

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

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

8. **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.

9. **Construction, Excavation and Associated Works Bond (Protection of Councils Drainage Infrastructure)**

The applicant is to lodge a bond of \$15000 as security against any damage to Councils stormwater drainage line which runs through the site.

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

Reason: Protection of Council's infrastructure.

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

10. **Amendments to the approved plans**

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

- The development shall consist of a maximum one (1) 3m height pylon sign.
- The landscape plan shall be amended to reflect the approved configuration of the carpark as shown in the stamped architectural plans.

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.

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

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's WARRINGAH WATER MANAGEMENT POLICY PL850, and generally in accordance with the concept drainage plans

prepared by Ibrahim and Drainage Consultants, drawing number C9075-00312 Sheets 1- 2, IssueA. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) .

The drainage plans must address the following: i. The drainage plans are to be amended to reflect the amended driveway crossing location and carparking layout as detailed on the Clarendon Homes Plans Issue K ii. Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

12. **Vehicle Crossings Application**

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

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

Reason: To facilitate suitable vehicular access to private property.

13. **Stormwater Drainage Application**

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the site stormwater connection into councils drainage line which is to be generally in accordance with the stormwater drainage concept plans approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at www.northernbeaches.nsw.gov.au > Council Forms > Stormwater Drainage Application Form.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for stormwater management.

14. **Pre-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at: <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

15. Compliance with Standards

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

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

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 – 2009* Design for access and mobility - General requirements for access – New building work**
- (m) AS 1428.2 – 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

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

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

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

16. 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.

17. External Finishes to Roof

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

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

issue of the Construction Certificate.

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

18. **RMS Requirements**

Concurrence from Roads and Maritime Services is required. Any conditions imposed by RMS must be satisfied prior to the appropriate stages.

Reason: To ensure RMS requirements are satisfied prior to any works commencing (DACTRCPC1)

19. **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

20. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

21. **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

22. **Road Reserve**

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

Reason: Public safety.

23. **Survey Certificate**

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

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

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

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

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

24. **Traffic Control During Road Works**

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

Reason: Public Safety.

25. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 5.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ Extra Low and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

26. **Waste Management During Development**

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

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

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

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

27. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

28. **Reinstatement of Kerb**

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

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

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

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

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

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

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

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

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

30. **Post-Construction Dilapidation Report (Major Development)**

The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

Reason: To ensure security against possible damage to Council property.

31. **Construction of a Dish Drain (Southern Boundary)**

A dish drain is to be constructed on the southern boundary in accordance with the Section 7 recommendations contained within the revised Overland Flow Path Assessment Report prepared by J and F Designs dated 15 April 2020.

The design engineer who prepared the report is to provide certification prior to the issue of the occupation certificate that the dish drain has been constructed in accordance with the recommendations of the report.

Reason: Management of overland flow.

32. **Required Planting**

Trees shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Pot Size
All trees, shrubs and groundcovers.	As indicated on the Landscape Plan prepared by Clarendon Homes Sheet 1 Rev Issue A, dated 31 January, 2020	As indicated on the Landscape Plan	As indicated on the Landscape Plan

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

Reason: To maintain environmental amenity.

33. **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.

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

34. **Landscape maintenance**

i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.

ii) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity.

35. Hours of Operation

The hours of operation are to be restricted to:

- Monday to Friday – 10am - 5pm
- Saturday – 10am - 5pm
- Sunday and Public Holidays – 10am - 5pm

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

36. No Illumination

No consent is given or implied for any form of illumination or floodlighting to any sign or building or other external areas other than that approved.

Reason: To ensure appropriate forms of illumination that are consistent with Council's controls, and do not interfere with amenity of nearby properties. (DACPLG13)

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

Signed



Jordan Davies, Planner

The application is determined on 01/07/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments