

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1084
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Responsible Officer:	Nick England
Land to be developed (Address):	Lot 5 DP 976580, 35 Kenneth Road MANLY VALE NSW 2093 Lot 6 DP 976580, 35 Kenneth Road MANLY VALE NSW 2093 Lot 7 DP 976580, 35 Kenneth Road MANLY VALE NSW 2093 Lot 8 DP 976580, 35 Kenneth Road MANLY VALE NSW 2093
Proposed Development:	Removal of four (4) trees and proposed construction of a vehicular crossing and concrete driveway
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:	Amanda Leith Hunt Annalise Margaret Hunt Stratton John Purnell
Applicant:	Elie Sleiman

Application Lodged:	18/07/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	03/08/2022 to 17/08/2022
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 20,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks the consent for the following works at and adjoining No.35 Kenneth Road, Manly Vale:

- erection of a concrete driveway / road reserve crossing for existing Lots 7 and 8 (No.35);
- the removal of two (2) street trees ("T8" and "T9") on the Council road reserve, adjoining Lot 7 of No.35, to facilitate the proposed road access for Lots 7 and 8; and
- removal of two (2) trees on the subject land, Lot 7 ("T6") and Lot 8 ("T5").

The proposed driveways are to access two (2) attached dual occupancy developments (numbering 4 dwellings in total, numbered on the plans as dwellings A, B, C and D), which were granted development consent issued through a Complying Development Certificate. The circumstances of this consent is discussed in further detail in the Site History section of this report.

Amended plans were received by Council on 20 December 2022, to address a number of concerns raised by Council, in correspondence dated 16 September 2022 and 29 November 2022.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B7 Front Boundary Setbacks

SITE DESCRIPTION

Property Description:	Lot 5 DP 976580 , 35 Kenneth Road MANLY VALE NSW 2093 Lot 6 DP 976580 , 35 Kenneth Road MANLY VALE NSW 2093 Lot 7 DP 976580 , 35 Kenneth Road MANLY VALE NSW 2093 Lot 8 DP 976580 , 35 Kenneth Road MANLY VALE NSW 2093
Detailed Site Description:	The subject site consists of four (4) allotments located on

the southern side of Kenneth Road, being:

- Lot 5 Sec 2 DP 976580;
- Lot 6 Sec 2 DP 976580;
- Lot 7 Sec 2 DP 976580; and
- Lot 8 Sec 2 DP 976580

The land is commonly known as No.35 Kenneth Road, Manly Vale.

The site is regular in shape with a combined frontage of 24.38m along Kenneth Road and a depth of 36.27m. The site has a surveyed area of 884.4m².

The site is located within the R2 Low Density Residential zone of Warringah LEP2011 and accommodates a single storey dwelling house, situated .

The site has a south-easterly aspect with a significant slope falling down towards the rear (southern) and eastern (side) boundaries.

The site has a number of medium sized trees and shrubs around its boundaries.

Adjoining and surrounding development is predominantly characterised by dwelling houses.

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:

CDC/1304902: Complying Development Certificate (CDC) issued for "Four Attached Dwellings and associated earthworks and retaining walls including Demolition of existing Dwelling" issued by Buildcert Certification on 14 April 2022. Each of the 4 approved dual occupancy dwellings is located on the corresponding four (4) allotments that comprise the subject site.

An examination of the approved plans demonstrate that whilst a driveway / road crossing was approved for the dwellings on Lots 5 and 6, no such facility was approved for the dwellings at Lots 7 and 8. Whilst the approved plans show a structure similar to a driveway up to the front boundary on Lots 7 and 8, no corresponding access to the road reserve was proposed. This area is notated on the plans as a "pathway".

SL2021/0631: application for Driveway Levels and Formwork Inspections made to Council's Development Engineering & Certification unit for two driveway crossings to Kenneth Road made on 29 October 2021. This application was approved (only for Lots 5 and 6) on 9 November 2021.

SL2021/0678: application for Driveway Levels and Formwork Inspections for Lots 7 and 8, lodged on 19 November 2021. This application remains undetermined, however in correspondence to the applicant on 15 February 2022, Development Engineering & Certification advised in part:

"As discussed the provision of vehicular Access serving lots 7 and 8 involves;

- *Removal of street trees,*
- *extensive fill in public road reserve*
- *Impacting neighbour property No. 33*

Extensive works in the public road reserve are assessed and approved via a Development Application.

Council cannot approve these works under a Street Level Application, you are requested to liaise with Council's planning team to proceed further."

To clarify, Development Engineering & Certification advised the applicant to lodge a development application for the proposed works.

DA2022/1084: A relevant history of the assessment of the current application involves the following:

16 September 2022 - Correspondence is sent to the applicant by Development Assessments, outlining that the application is not supported on the following grounds: a development application not required for the proposed works (consent under the Roads Act 1993 considered more appropriate); owners consent required from Council; and design of the driveway not supported by Council's Development Engineers.

29 November 2022 - Further correspondence sent to the applicant, requesting that the current CDC be surrendered (following concerns with the current approvals compliance with the Housing Code under State Environmental Planning Policy (Exempt and Complying Development Codes,) 2008 see further discussion below) and the design issues with the driveway be resolved prior to the consent for future housing development on the site.

Amended plans were received by Council on 20 December 2022, in response to these issues.

BLD2022/02075: Development Assessments makes the following request to Council's Building

Compliance team on 11 October 2022:

"We request that you investigate the PCA who issued the CDC for a dual occupancy on the subject properties Lot 7 and 8 in DP 976580 (35) Kenneth Road. The no. is CDC/1304902 issued by Buildcert Certification Pty Ltd on 14 April 2022. We suspect the application is not consistent with the following legislative requirements: Clause 1.18 of the Codes SEPP, which requires a driveway consent to be issued under the Roads Act; Clause 121(3)(g) of the EP&A Regulations, which require the provision of vehicle entry and exit points; and Clause 3B.30 of the Codes SEPP, which requires a 1 car space for each of the dwellings."

Building Compliance responded on 20 October 2022:

"The approved plans only label the OSD, not a car space. The SL is included within the approved documents and shows the OSD forming the allocated car space area. SL2021/0631 - was approved 9 November 2021 - Certifier relied on this for approval and the document is included in the supporting (sic) documents. The CDC was determined on 14 April 2022 - its been 6 months since the issue of the consent."

No further action was taken, as the statutory period for appeal had lapsed by the time of investigation.

CDC/1304902/A: The applicant has advised in correspondence dated 20 December 2022, that an application has been sought with the Certifier to amend the current CDC, to ensure that vehicular crossings and parking infrastructure is provided for the dual occupancy dwellings at Lots 7 and 8. At the time of writing this application was yet undetermined. A condition of consent is recommended that no Roads Act approval be issued until this CDC is modified.

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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a

Section 4.15 Matters for Consideration	Comments
	<p>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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to: relevance of development application; owners consent; design of driveway; and relevance of the Complying Development Certificate that apply to the subject site, in correspondence dated 16 September 2022 and 29 November 2022. These matters are discussed in greater detail in the Site History and Description of Development sections of the report.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 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 62 and/or 64</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
<p>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>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

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

A Bush Fire Report was submitted with the application that included a certificate (prepared by Sydney Bushfire Consultants, dated 19 August 2021) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 03/08/2022 to 17/08/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Adam John Booth Annette Bridget Madden-Booth	21 / 10 Ramsay Street COLLAROY NSW 2097

During the notification period, one (1) submission was received. The following issues were raised in the submission, which are summarised and addressed below:

- The Complying Development Certificate (CDC) issued for the dual occupancy dwellings is invalid, based on: no written notice issued to adjoining properties; insufficient survey detail; and non-compliance with setback controls of the Housing Code within State Environmental Planning Policy (Exempt and Complying Development Codes) 2008***

Comment: Upon initial assessment of the development application, a number of concerns were identified with the CDC and its compliance with the relevant standard of the state control, which is described in greater detail in the Site History Section of the report. As such, Development Assessments sought that Council's Building Control team investigate the actions of the PCA in the issuance of the CDC. It was subsequently advised that further action could be taken, as the statutory time limit for appeal had lapsed.

- Any consent under a development application should not be issued until all concerns***

with the CDC are resolved.

Comment: The subject application will make not make any tangible change to the CDC issued on the subject land. Hence, there is considered to be no statutory impediment to the determination of the subject development application under the circumstances.

- ***No detail on the potential tree removal on the western boundary of the site, adjoining No.39 Kenneth Road, has been provided.***

Comment: This is not relevant matter in the consideration of the subject application, as the proposed works do not relate to this part of the site.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development application is for the proposed construction of a vehicle crossover and associated concrete driveway, and removal of two street trees within the road reserve impacted by the proposed driveway.</p> <p>A Arboricultural Impact Assessment is submitted in support of the tree removal required for the construction of a vehicle crossover and associated concrete driveway. The trees required for removal are identified as tree 8 - African Olive and tree 9 - Weeping Bottlebrush. The Arboricultural Impact Assessment notes that tree 8 is an Exempt species not requiring Council consent however this is incorrect as the Exempt species provisions only applies to private land and not public land.</p> <p>It is noted that the Arboricultural Impact Assessment includes recommendations for removal of trees within the property and these are not approved for removal under this development application.</p> <p>Landscape Referral raise no objections to the construction of a vehicle crossover and associated concrete driveway, and removal of two street trees within the road reserve, subject to street tree replacement with two native trees as imposed by conditions.</p>
NECC (Development Engineering)	<p>01/08/2022: The development application is for the construction of a vehicle crossover, concrete driveway and removal of two street trees within the road reserve.</p> <p>Extensive fill in the public road reserve is proposed which will also impact the neighboring property No. 33, prior to Development Engineer assess the application, comments from Council's Roads team are requested.</p> <p>Amended plans received 20/12/2022</p>

Internal Referral Body	Comments
	<p>The amended plans are acceptable subject to conditions. The proposal has been supported by Council's Road Asset and Landscape Teams.</p> <p>Development Engineering support the proposal, subject to conditions.</p>
Road Reserve	<p>Proposal includes a standard driveway construction. There is limited impact on the road reserve. Development Engineering to resolve detailed design to ensure a positive outcome regarding finished levels of verge.</p> <p>Amended Application relates to standard driveway construction. There is no requirement for Road Assets Team to comment. Development Engineering to finalise conditions and ensure Max Low driveway profile is acceptable - would have thought extra low would be minimum acceptable at this location.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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 (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity

power line.

Comment: The proposal was referred to Ausgrid who raised no objections.

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

Compliance Assessment

Clause	Compliance with Requirements
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B7 Front Boundary Setbacks	6.5m	1.5m**	77	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	79.5m ² or 17% ***	58	No

** estimated location of 2nd car space

*** for Lots 7 and 8 (No.35)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B7 Front Boundary Setbacks	No	No
C2 Traffic, Access and Safety	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	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
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

Based on the plans provided, it is likely that a car parking space will be located within the 6.5m front setback, the approved dwellings at Lots 7 and 8.

Whilst no car spaces are delineated on the amended plans, a reference on plan number 21142 - 02 states that "two car spaces are to be added". The note does not specify if this will be either one space for each dwelling or two spaces for each dwelling.

Hence, it is assumed that in the scenario of this being two spaces for each dwelling, parking spaces could be as close as 1.5m to the front boundary, which is a 58% variation with the front setback control and inconsistent with Requirement No.2 of Part B7 which states in part:

"2. The front boundary setback area is to be . . . free of any . . . carparking"

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: Permitting any car parking in the front setback area is not consistent with this objective. The documentation provided with the application has not demonstrated that both the control and the objective can be achieved.

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

Comment: Permitting any car parking in the front setback area is not consistent with this objective. The documentation provided with the application has not demonstrated that both the control and the objective can be achieved.

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

Comment: Permitting any car parking in the front setback area is not consistent with this objective. The documentation provided with the application has not demonstrated that both the control and the objective can be achieved.

- *To achieve reasonable view sharing.*

Comment: Not relevant to the proposed development.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP 2011 and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979.

It should also be noted that under the requirements and terms of the development consent issued in CDC/1304902, specifically specifically Section 3B.30 Car parking and vehicle access requirements of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, only one (1) car space is required. As the subject application does not relate to any change or modification to this consent, two (2) car spaces are not required.

Accordingly, as currently framed the application is not supported, in this particular circumstance. However, refusal of the application on this matter is not warranted, as a recommended condition of consent would suffice to ensure that only one (1) car space is provided and in turn, the front setback control is complied with.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- 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 DA2022/1084 for Removal of four (4) trees and proposed construction of a vehicular crossing and concrete driveway on land at Lot 5 DP 976580, 35 Kenneth Road, MANLY VALE, Lot 6 DP 976580, 35 Kenneth Road, MANLY VALE, Lot 7 DP 976580, 35 Kenneth Road, MANLY VALE, Lot 8 DP 976580, 35 Kenneth Road, MANLY VALE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural / Engineering Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
21142 - 02 Issue B	14 December 2022	ES Engineering
21142 - 14 Issue B	14 December 2022	ES Engineering

Reports / Documentation – All recommendations and requirements contained within:		
Report Title / No.	Dated	Prepared By
BAL Risk Assessment Certificate BRAC - 2527	19 August 2021	Sydney Bushfire Consultants
Aboricultural Impact Assessment	6 June 2022	Horticultural Management Services
Geotechnical Assessment GR22057	22 March 2022	CEC Geotechnical

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
-	23 March 2022	ES Engineering

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. 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 Certifier 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 Certifier 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 Certifier 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.

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

- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (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.

4. **Vehicle Crossings Application - Modified CDC**

No consent for the vehicular crossing under the Roads Act 1993 is to be issued until the existing Complying Development Certificate No.CDC/1304902 is modified for compliance with parking and road access requirements of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Reason: To ensure compliance with all relevant environmental planning instruments that apply to the development consents on the subject land.

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

5. **Amendments to the approved plans**

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

- the provision of one (1) car space each for the dwellings on Lot 5, 6, 7 and 8 in Sec 2 DP 976580; and
- each car space is to be setback at a minimum distance of 6.5m from the front boundary with Kenneth Road.

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

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

6. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Certifier.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

7. **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.

8. Compliance with Standards

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

9. Tree Removal Within the Road Reserve

This consent approves the removal of the following tree(s) within the road reserve (as recommended in the Arboricultural Impact Assessment):

- i) tree 8 - African Olive, subject to street tree replacement,
- ii) tree 9 - Weeping Bottlebrush, subject to street tree replacement,
- iii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services business unit prior to removal.

Reason: Public liability.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. 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.

11. Installation and Maintenance of Sediment Control

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

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

12. Vehicle Crossings

The Applicant is to construct one vehicle crossing 5.5 metres wide in accordance with Northern Beaches Council Standard Drawing Maximum 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 kerb, 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.

13. **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 Certifier.

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

14. **Street Tree Planting**

Street tree planting shall be installed in accordance with the following:

- two (2) x Callistemon 'Hannah Ray'.

All street trees shall be a minimum pre-ordered planting size of 200 litres with a 50mm caliper, and at least 2.0m metres in height, and shall meet the requirements of Natspec - Specifying Trees. All street trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, including a four post and top and mid rail timber tree guard, and watered until established, and shall be generally located at least 2.0 metres from driveways, and shall generally be centralised within the road verge.

Reason: to maintain environmental and streetscape amenity.

15. **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 Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure bushland management.

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

Signed



Nick England, Planner

The application is determined on 19/01/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments