

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1497
Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot A DP 338618, 53 Wheeler Parade DEE WHY NSW 2099
Proposed Development:	Demolition works and Construction of a hardstand car parking area and retaining walls
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:	Brent Damien Backhouse Nerilee Kate Telford
Applicant:	Space Landscape Designs Pty Ltd
Application lodged:	10/09/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	14/09/2018 to 02/10/2018
Advertised:	Not Advertised
Submissions Received:	2
Recommendation:	Approval
Estimated Cost of Works:	\$ 86,067.00

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest

- groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D9 Building Bulk
 Warringah Development Control Plan - D10 Building Colours and Materials
 Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

Property Description:	Lot A DP 338618 , 53 Wheeler Parade DEE WHY NSW 2099
Detailed Site Description:	<p>The subject site is described as Lot A D.P. 338618 and known as 53 Wheeler Parade, Dee Why. The site is located within a R2 low density residential zone.</p> <p>The site is regular in shape with an area of 613.4m². The northern and southern side boundaries of the site measure 40.235m and the rear and front boundaries measure 15.24m.</p> <p>The site is on the high side of the road with a south-easterly aspect. The topography of the front of the site is very steep with 5m sandstone cliff face adjoining the front boundary. The slope then transitions up towards dwelling house. The site has a shared access driveway located along the southern side of the site.</p> <p>Currently onsite there is an existing one storey dwelling with a shed, and parking in the rear of the site with access from the shared driveway.</p> <p>Surrounding sites consist of one and two storey residential dwelling houses, of varying ages, within established landscaped settings.</p>

Map:



SITE HISTORY

A search of Council's records has revealed the following relevant history for this site:

- Development Application number DA2018/0733 for demolition works and construction of a carport and retaining walls was withdrawn on the 3 August 2018
- Development Application number DA2003/0109 for first floor additions and alterations, and additions to existing ground floor level was approved by Council on the 14 October 2003
- Pre-lodgement Meeting PLM2015/0002 was held on 25/02/2015 for demolition works, construction of a dwelling house and swimming pool

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks the consent for the following alterations and additions to the existing property. The proposal includes the following works;

- Demolition of part of the existing boundary retaining walls to improve the structural integrity of the retaining wall. The exact areas of the wall to be removed will depend on the structural design (as per the recommendations in the Geotechnical Investigations Report (dated 30 August 2018))
- Construct new concrete block retaining walls
- Infill of the upper front setback area
- Construct new double concrete hardstand area for car parking
- Associated landscaping and additional soft landscaping.

The concrete block retaining walls are to be finished with a stone cladding along the shared access way and northern side boundary, and the front setback retaining wall are to be rendered and painted.

The timber paling fence boundary fencing is proposed to be at a height of 1.2m - 1.5m.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any 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>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact</p> <p>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>

Section 4.15 Matters for Consideration'	Comments
	<p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Antaine Seamus Furlong	55 Wheeler Parade DEE WHY NSW 2099
Mr Jim Simon Stefan	86 Headland Road NORTH CURL CURL NSW 2099

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

- Car Parking
- Side boundary wall removal
- Description of the development
- Inadequate information
- Type of Fill
- Impact on the electricity power pole
- View loss
- Overlooking

- Privacy
- Assessment of the application

The matters raised within the submissions are addressed as follows:

- ***Concern was raised that the that the angle of the proposed hardstand will lead to the cars reversing into the electric entry gate to number No.55 Wheeler Parade***

Comment:

The application was assessed by Councils Development Engineers who concluded that there is a sufficient sweep path for a B85 vehicle. Any concerns or future damage to the neighbouring electric boundary gate is a civil matter between the occupants of the properties.

Accordingly, this matter does not warrant amendment or refusal of the application.

- ***Concern was raised in regards to the removal of the boundary wall adjoining the rear neighbouring properties boundary wall, the neighbouring property would like the wall to remain***

Comment:

The proposal includes removing a side boundary masonry wall, located wholly within the subject site, to allow for sufficient area for the new car parking hardstand area. The removal of the boundary wall will not have amenity impacts on the neighbouring property. As the masonry wall is located wholly within the subject site, it is considered that any further discussion in relation to the wall is a civil matter between the occupants of the two properties.

Accordingly, this matter does not warrant amendment or refusal of the application.

- ***Concern was raised that the description of the proposal is not accurate***

Comment:

Discussion and clarification was undertaken with the listed applicant to ensure that the description of the proposal within the assessment report is accurate. The description of the works is detailed under "*Detailed Description of Development*" within the following assessment report including specific details on the building materials and finishes proposed to be utilised as part of the development.

Accordingly, this matter does not warrant amendment or refusal of the application.

- ***Concern has been raised that there is inadequate information for an assessment to be completed***

Comment:

It is determined that there is sufficient information for the application to be assessed.

The documentation provided details that the objective of undertaking the proposal is to create additional, flatter recreational areas adjoining the dwelling house, new car parking hardstand and additional landscaped areas.

Details on the external finishes and building materials were also received as part of the application. These are detailed under "*Detailed Description of Development*" within the assessment report.

A "Geotechnical Investigation Assessment report" (No.J1736A dated 30 August 2018) by White Geotechnical Group was submitted as part of the application. The Investigations

Assessment report has addressed the appropriate areas of the proposal in regards to excavation and footings, vibration, stabilisation of retaining walls, fill, groundwater and drainage. The report concluded that *"The proposed development is suitable for the site. No geotechnical hazards will be created by the completion of the proposed development provided it is carried out in accordance with the requirements of this report and good engineering and building practice."*

Accordingly, it is considered that these issues have been addressed and do not warrant amendment or refusal of the application.

- ***Concern has been raised the geotechnical impacts of the proposal have not been adequately addressed***

Comment:

Concern has been raised regarding potential impacts upon the site and adjoining sites as a result of the works. The proposed works have been assessed by a qualified Engineering Geologist and the application has been accompanied by a Geotechnical Investigation Assessment report (White Geotechnical Group, dated 30 August 2018). The recommendation within the Geotechnical Investigation Assessment report are included as conditions of the consent.

The report has indicated that the proposed works will not result in any geo-instability and that no further report would be required at this stage for the proposed works. Furthermore, a condition has been imposed within this consent stating that any excavation is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage.

Should any concerns remain regarding the stability of the site and potential damage as a result of works, it is recommended that the objector pursue their own dilapidation survey so that any damages can be rectified accordingly.

It is therefore considered that this issue has been addressed and does not warrant amendment or refusal of the application.

- ***Concern has been raised on the type of fill to be used in the proposal***

Comment:

The Geotechnical Investigation Assessment report (White Geotechnical Group, dated 30 August 2018) has provided recommendations on the type of fill that is appropriate for the proposal. The recommendations within the Geotechnical Investigation Assessment report are included as conditions of this consent.

It is therefore considered that this issue has been addressed and does not warrant amendment or refusal of the application.

- ***Concern has been raised that the proposal will have an impact on the electricity power pole located in the road reserve.***

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.

It is therefore considered that this issue has been addressed and does not warrant amendment or refusal of the application.

- ***Concern has been raised that the retaining walls will cause view loss to No.86 Headland***

RdComment:

The adjoining dwelling house at No.86 Headland Rd is currently under construction therefore a full view loss assessment cannot be undertaken. However, it is determined that the retaining wall location and height does not unreasonably affect views from No.86 Headland Rd.

As stated in the submission, the dwelling house at No.86 Headland Rd was designed to maintain the significant Curl Curl coastal views to the south of the site. The subject site is to the north of No.86 Headland Rd.

The subject site is separated from No.86 Headland Rd via the 3m access handle. The retaining walls are located approximately 6.3m in distance to the rear external door and 11m to the first floor high-sil window of No.86 Headland Rd dwelling house (as determined by submitted plans in Council's records). The RL level for the existing retaining wall at No.53 Wheeler Pde is RL 57.43 at its lowest point, with the proposed rear terrace area at No. 86 Headland Rd being RL 56.7. Boundary fencing also exists along the rear boundary of No.86 Headland Rd with vegetation obstructing any line of site.

Therefore, any potential view lines to the north and north east from No.86 Headland Rd are currently obstructed by the topography of the sites, spatial separation, existing retaining walls, boundary fencing and existing trees and vegetation.

It is therefore considered that this issue has been addressed and does not warrant amendment or refusal of the application.

- ***Concern has been raised that the increase in the ground level will create privacy impacts via overlooking into the rear setback area of No.86 Headland Rd***

Comment:

The adjoining dwelling house at No.86 Headland Rd is currently under construction therefore a full privacy assessment cannot be undertaken. However, it is determined that the increase in the height of the ground level will not create additional privacy impacts or unreasonably impact the amenity of No.86 Headland Rd.

As previously stated, the subject site is separated from No.86 Headland Rd via the 3m access handle. The retaining walls provided a sufficient spatial separation from No.86 Headland Rd's under construction dwelling house, of approximately 6.3m in distance to the rear external door and 11m to the first floor high-sil window (as determined by submitted plans in Councils records).

It is considered that the increase in the ground level, combined with the proposed 1.2m - 1.5m boundary fencing and southern side boundary landscaped areas will ensure privacy levels are maintained.

Therefore, it is considered that the proposal will not result in any unreasonable detriment to the level of privacy enjoyed by the adjoining sites and that this issue does not warrant amendment or refusal of the application.

- ***Concern has been raised that the assessment process should include the proposal as detailed in the Pre-Lodgement meeting that was held for this site in February 2015***

Comment:

A Pre-Lodgement meeting was held at Council on 25 February 2015, for "demolition works, construction of a dwelling house and a swimming pool".

This current application is for the remediation and construction of retaining walls, infill of the front setback area, a double car parking hardstand at the rear of the site and associated landscaping. Council can only assess what is proposed within the current application and cannot assess items that are not submitted as part of the application.

The applicant has the opportunity to submit future applications and Council will assess any application on their own individual merits.

Accordingly, it is considered that this issues does not warrant amendment or refusal of the application.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The plans indicate construction of retaining walls within the site and associated landscaping.</p> <p>Existing rock outcrops and vegetation forward of the site are to be retained.</p> <p>No objections subject to conditions as recommended.</p>
NECC (Development Engineering)	Development Engineer has no objection to the application subject to the following conditions of consent.
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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 (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	up to 1.3m retaining wall	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes

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
B5 Side Boundary Setbacks	0.9m	Nil setback to retaining wall	100%	No
	0.9m	Nil setback to retaining wall	100%	No
B7 Front Boundary Setbacks	6.5m	0.0m - 3.0m setback	Up to 100%	No
B9 Rear Boundary Setbacks	6m	8.23m rear retaining wall 2.2m - 5.2m car hardstand	N/A 63%	Yes No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	48% (296.15)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D10 Building Colours and Materials	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

Description of non-compliance

The proposed retaining walls will be located directly on the northern and southern side boundaries, with a setback of 0.0 metres. This also includes a 1.2 - 1.5 metre timber paling fence on the northern and southern boundary.

This demonstrates a 100% variation to the 0.9 metre control.

It is important to note that the proposed retaining walls are located over the existing retaining walls. These existing retaining walls are essential to maintain the structural integrity of the site.

The proposed additional height of the retaining walls will provide more functional recreational areas for the occupants of the site.

Merit consideration

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

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

Comment:

The proposal includes improving the existing landscaped areas on the property, including providing additional areas within the front setback area that can be used for the purposes of deep soil landscaping.

It is therefore considered that opportunities for deep soil landscape areas will be improved as part of the proposal.

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

Comment:

The planning outcome is site responsive in that the variations to the built form relate to the constraints (steep topography) of the site. The design creates a terraced front setback area that

steps up the site, i.e proposed 1.0m in additional height for a length of 3.0m then the steps up 0.8m. This terraced design is to ensure that the increase in height does not become visually dominant.

The proposal includes the repair of the structurally unsafe areas of the existing retaining wall, ensuring the safety of the site. The proposed stone cladding and rendered finish combined with additional landscaped areas will improve the amenity for all adjoining properties and public areas.

It is therefore considered that the proposal will not become visually dominant to the adjoining properties and public areas.

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

Comment:

The proposed design creates a terraced front setback area that is an additional height of 1.0m on the side boundary for the length of 3.0m, then steps up an additional 0.8m into the site, ensuring that the bulk and scale of the proposal is reasonably minimised when viewed from the side boundary street view.

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

Comment:

There is adequate spatial separation to the adjoining properties and compliance with the required provision of solar access to the adjoining properties private open space areas.

There is an access driveway of 3.0m that separates the proposal to the adjoining properties of Numbers 86, 88, 90 and 92 Headland Rd. The proposed 1.2m - 1.5m boundary fencing combined with landscaping areas will ensure privacy levels are maintained.

There is no additional impact to the rear adjoining site of Number 55 Wheeler Parade as a result of the retaining walls. The existing boundary fencing combined with additional landscaping areas will ensure existing privacy levels are maintained.

The proposed retaining walls adjoin the front setback entry area of the property to the north, Number 51 Wheeler Parade. The proposal improves the structural integrity of the existing retaining walls, and the additional height steps up the site to ensure there is no visual dominance or amenity impacts as a result of the proposal.

Therefore, there is an adequate level of separation between all adjoining properties to maintaining privacy, amenity and solar access.

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

Comment:

The site is within an elevated location that has coastal views toward Dee Why and Curl Curl coastal areas. The retaining wall location does not unreasonably affect views from adjacent 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 proposed addition in height to the existing retaining wall is located a distance of 0.0m from the front boundary of the site, which represents a 100% variation to the minimum requirement.

It is important to note that the steep topography of the front setback of the site requires retaining walls to maintain the structural integrity of the site. The proposal is for an increase in the height of the existing retaining walls to create additional recreational areas in the front and rear setback of the property.

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 proposed works are located on a site that has an extreme slope which rises up at least 5.0m from the kerb at Wheeler Pde to the existing front boundary.

The site currently has an existing sandstone retaining wall on a 0.0m setback that is located along the entire front boundary of the property. The proposal is to construct an additional retaining wall of 1.0m in height to the existing retaining wall. This additional height will be located 5.4m - 5.7m above the current street level. Furthermore, between the sites front boundary and the retaining wall exists vegetation and rock outcrops that provides existing natural screening. Therefore the additional retaining wall height will be obscured from the street view below.

The location of the proposed retaining walls ensures the large rock outcrop in front of the front setback that is a prominent feature of the street is retained. The retaining wall will also be tiered and combined with a significant additional area of soft landscaping.

The proposed retaining wall will allow for the creation of a more functional open turfed area between the dwelling house and the proposed boundary fencing.

In this regard, an adequate sense of openness is provided and the proposal is consistent with this objective.

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

Comment:

The subdivision, and allotment pattern in the immediate vicinity of the site is substantially

irregular, based on topography and the location of the large rock outcrop in the road reserve for Wheeler Parade.

Adjoining properties to the south, Numbers 86, 88, 90 and 92 Headlands Rd, are separated by a 3m access handle and are orientated to Headland road. Therefore the subject site does not directly adjoin the rear boundary of these sites. The northern adjoining property, Number 51 Wheeler Parade, has steep topography in areas that require retaining walls to maintain the integrity of the site.

In this regard, the additional retaining wall will maintain the existing visual continuity, and the pattern of buildings and landscape elements in this section of the street will not be adversely affected by the proposed additions.

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

Comment:

As stated previously, the site is constrained by very steep topography, which forces the existing (and proposed) retaining walls to be located in close proximity to the front boundaries of the site.

The proposal is to construct additional 1.0m in height to the existing retaining wall. This additional height will be located 5.4m - 5.7m above the current street level. Furthermore, between the sites front boundary and the retaining wall exists vegetation and rock outcrops that provides existing natural screening.

Therefore the additional retaining wall height will be obscured protecting the visual quality of the streetscape and public spaces.

- *To achieve reasonable view sharing.*

Comment:

The site is within an elevated location that has coastal views toward Dee Why and Curl Curl coastal areas. The retaining wall location and height does not unreasonably affect views from adjacent 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.

B9 Rear Boundary Setbacks

Description of non-compliance

The proposed car parking hardstand includes a rear boundary setback of between 2.2 metres to 5.2 metres. This demonstrates a variation up to 63% to the 6 metre control.

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 opportunities for deep soil landscape areas are maintained.*

Comment:

The steep gradient of the property makes it unsuitable to provide off street car parking in the front setback of the property. Therefore, the proposal includes improving the existing arrangement for car parking at the rear the property.

The proposal includes providing additional areas within the front, rear and side setback areas that can be used for the purposes of deep soil landscaping.

It is therefore considered that opportunities for deep soil landscape areas will be improved as part of the proposal.

- *To create a sense of openness in rear yards.*

Comment:

The hardstand proposal is at ground level. The proposal includes the removal of the existing shed and incorporates additional of soft landscaping and level turfed areas. There is no built form structures proposed between the dwelling house and the rear boundary. Therefore, it is considered that the site will retain a sufficient a sense of openness within the rear yard.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

As a result of the sloping topography of the property, the rear setback area is the only viable option for off street car parking.

Sufficient spatial separation between adjoining properties combined with additional rear and side boundary landscaping to screen the proposal will ensure there are no unreasonable impacts upon the level of privacy or amenity of the adjoining properties.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

As a result of the subdivision pattern and the topography of the site, there is no established visual continuity in regards to rear gardens and landscape elements.

The predominant area in the rear boundary setback for the purposes of recreational and landscaping, will be provided as a result of the development. Therefore, it is considered satisfactory in retaining similar visual consistency as to what is currently established.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

The proposed works are an improvement to the existing ground level car parking hardstand area. Therefore, the car parking hardstand combined with additional landscaping along the rear, and side boundaries will ensure privacy levels are maintained to all adjoining properties.

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 section 5(a) 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 proposal provides two (2) car as per the requirements of the control.

Therefore, the application complies with the objectives.

D8 Privacy

A degree of overlooking between adjoining and surrounding properties currently exists. Having regard to this localised situation, the assessment of privacy is to be based on the principle of not creating unreasonable additional impacts on the existing level of privacy between neighbouring sites.

Privacy between neighbours will be satisfactorily maintained by the following;

- The proposed car hardstand is at ground level
- Sufficient spatial separation between adjoining properties
- The increase landscaped areas within the front, rear and side setbacks
- The intervening 1.2 - 1.5m proposed side and existing rear boundary fencing

D9 Building Bulk

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

The planning outcome is site responsive in that the variations to the built form relate to the constraints (steep topography) of the site. The retaining wall design steps up the site, and when combined with upgraded building materials and additional landscaped areas provides an improvement in the amenity for adjoining properties.

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

Comment:

The proposed retaining walls relate to the topography and site conditions by stepping up the site to minimise the visual impact of the proposal when viewed from adjoining properties and the street level. The proposal improves the visual amenity of the existing retaining walls, as well as creating additional areas for additional deep soil landscaping along the street frontage to reduce the visual impact of the structures on the streetscape.

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.

D10 Building Colours and Materials

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 the colours and materials of new or altered buildings and structures are synpathetic to the surrounding natural and built environment.*

Comment:

The proposal includes retaining walls consisting of stone cladding along the side boundary areas and rendered and painted along the front boundary. The proposal allows for more deep soil landscaping along the street frontage to reduce the visual impact of the structures on the streetscape.

Therefore, the colours and material of the proposal will improve and complement the existing dwelling improve the visual amenity to the surrounding properties.

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.

E10 Landslip Risk

The site is within a Landslip Risk 'Area B' and a "Geotechnical Investigation Assessment report" (No.J1736A) has been completed for the development by White Geotechnical Group on the 30 August, 2018.

Development construction recommendations in the Geotechnical Investigation Assessment report have addressed the proposed development in regards to excavation and footings, vibration, stabilisation of retaining walls, groundwater and drainage.

The Geotechnical Investigation Report has concluded that the *"The proposed development is suitable for the site. No geotechnical hazards will be created by the completion of the proposed development provided it is carried out in accordance with the requirements of this report and good engineering and building practice."*

Therefore, this issue has been suitably addressed by the Geotechnical Investigation Assessment Report to ensure no unreasonable risk to the site or surrounding property.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Council Contributions Plan 2018

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

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1497 for Demolition works and Construction of a hardstand car parking area and retaining walls on land at Lot A DP 338618, 53 Wheeler Parade, DEE WHY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan	15/08/2018	Space Landscaping Designs
Demolition Plan	15/08/2018	Space Landscaping Designs
Elevations	18/04/2018	Space Landscaping designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Investigation Report	30 August 2018	White Geotechnical Group

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape Plan	18/4/2018	Space Landscaping Designs

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

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)

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) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished

- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

4. **Encroachment of Works**

All works to be completed under this consent are to occur within the property boundaries and are not to encroach into the adjacent land.

Reason: To ensure that all works are located within the properties boundaries

FEES / CHARGES / CONTRIBUTIONS

5. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a

result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

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

6. Stormwater Disposal

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's WARRINGAH WATER MANAGEMENT POLICY PL850.

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

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

7. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

8. Compliance with Standards

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

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

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

9. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

10. 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

11. Tree protection

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

12. Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at

all times during the course of the work.

Reason: Public Safety.

13. **Maintenance of Sediment**

Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Reason: To ensure sediment controls are effective

14. **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.

15. **Protection of rock and sites of significance**

a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

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

16. **Approved Landscape works**

a) Planting is to be implemented in accordance with the approved Landscape Plans.

b) The new landscape works are to be approved as completed by the Certifying Authority upon the issue of the Occupation Certificate.

Reason: Local environmental amenity.

17. **Retaining wall**

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Public and Private Safety

18. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management. (DACPLF01)

19. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

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

Signed



Catriona Shirley, Planner

The application is determined on 21/12/2018, under the delegated authority of:



Daniel Milliken, Acting Development Assessment Manager