

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/1430
Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 22 DP 5118, 38 Undercliff Road FRESHWATER NSW 2096
Proposed Development:	Demolition works and construction of a dual occupancy (attached) and strata subdivision
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes, under Part 12 Dual occupancies and semi-detached dwellings in Zone R2 of the <i>State Environmental Planning Policy (Housing) 2021</i>
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	MHN Design Union Pty Ltd

Application Lodged:	24/10/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	01/11/2024 to 15/11/2024
Advertised:	Not Advertised
Submissions Received:	6
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,769,344.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent to demolish the existing principal dwelling house and ancillary structures, and construct an attached dual occupancy. Each of the two proposed dwellings in the dual occupancy is comprised as follows:

- Lower ground level garage containing two car spaces, storage, mechanical plant area, rainwater/onsite detention tank, stairs,
- Ground floor open plan living room, dining room and kitchen, laundry and pantry, powder room, and rumpus room,
- First floor main bedroom suite with robe and ensuite, bathroom, and three bedrooms (one with an ensuite),

- Second floor home office with terrace,
- Flat roof with skylights and solar panels,
- Swimming pool in the rear yard,
- Landscaping works, and
- New driveway.

The proposal also includes subdivision of the lot into two strata lots.

The above description is in accordance with the amended plans received on 20 December 2024. In accordance with Council's Community Participation Plan, the amended plans did not require public notification, as they result in lesser environmental impact than the original notified plans.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Part 1 Preliminary
Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential
Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - C7 Excavation and Landfill
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - D3 Noise
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D8 Privacy

Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 22 DP 5118 , 38 Undercliff Road FRESHWATER NSW 2096
Detailed Site Description:	<p>The subject site consists of one allotment located on the northern side of Undercliff Road, Freshwater.</p> <p>The site is irregular in shape with a frontage of 15.825 metres along Undercliff Road, and a maximum depth of 38.705 metres. The site also presents to a vehicular access laneway to the north (known as Moore Lane). The site has a surveyed area of 576.7m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a single-storey detached dwelling house with attached garage.</p> <p>The site slopes down approximately 5 metres from south (front) to north (rear) and contains some vegetation.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a mix of residential development types, including detached dwelling houses and residential flat buildings of varying scales.</p>

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:

- DA2020/1501 for demolition works and construction of a dwelling house including secondary dwelling and swimming pool was approved by Council's Development Determination Panel on 7 May 2021.
- Mod2021/0620 for Modification of Development Consent DA2020/1501 was approved by Council's Development Determination Panel on 20 October 2021.

APPLICATION HISTORY

- 24 October 2024: The development application was lodged with Council.
- 26 November 2024: Council issued the Applicant a request for information, raising concern with the proposed non-compliance with the wall height, side boundary envelope, front boundary setback, and landscaped open space controls. It is noted that the proposed development was also not compliant with the secondary front setback control, though this is acceptable as detailed in the relevant section of this report. The proposal was also not support by Council's Landscape Officer or Development Engineer. Information in response to the request was to be provided by 10 December 2024.
- 5 December 2024: The Applicant provided draft amended plans intending to resolve the concerns raised by Council in the recent request for information, and requested to meet with Council to discuss the proposed amendments.
- 12 December 2025: Council met with the Applicant to discuss the proposed amendments. It was noted a wall height breach remained, which was acceptable given the topography of the site and the otherwise compliant nature of the development.
- 20 December 2024: The Applicant formally lodged the amended plans to the Portal. The amended plans demonstrated compliance with the side boundary envelope, front boundary setback, and landscaped open space controls (noting the wall height and secondary front setback non-compliances are acceptable).
- 2 January 2025: The Applicant formally lodged amended stormwater plans intending to resolve the concerns raised by Council's Development Engineer.
- 8 January 2025: The amended application was referred back to Council's Landscape Engineer and Development Engineer.
- 9 January 2025: Council's Landscape Officer provided updated comments in support of the amended proposal.
- 30 January 2025: Council's Development Engineer provided updated comments in support of the amended proposal.

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	There are no current draft environmental planning instruments.

Section 4.15 Matters for Consideration	Comments
environmental planning instrument	
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)(iia) – 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)	<p>Part 4, <u>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.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to bulk and scale and landscaping. Sufficient information was received in December 2024 and January 2025.</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 matter has been addressed via a condition of consent.</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>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact</p>

Section 4.15 Matters for Consideration	Comments
	on the locality considering the nature of the existing and proposed land use.
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 application has been publicly exhibited from 01/11/2024 to 15/11/2024 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 6 submission/s from:

Name:	Address:
Mrs Gabrielle Joy Dobson	5 Graham Avenue FRESHWATER NSW 2096
Mrs Marie Olive Howison Mr Paul Douglas Howison	1 / 13 Moore Road FRESHWATER NSW 2096
Ms Jade Ilsa Thornton	41 Wyuna Avenue FRESHWATER NSW 2096
Ms Judith Helene Therese Orr	2 / 46 Undercliff Road FRESHWATER NSW 2096
Robert Richard Strahorn Cristian Strahorn	440 Gundong Road TOMINGLEY NSW 2869
Miss Alexandra May Hoile	1 / 15 Moore Road FRESHWATER NSW 2096

Two submissions in support of the development application were received and are acknowledged. Four submissions in objection were received. The following issues were raised in the objecting submissions:

- Concern about increased traffic generation, vehicular movements, loss of parking (including during construction), and pedestrian safety in Moore Lane.
- Concern about stormwater management and drainage problems.
- The proposed development has inadequate landscaped area.

- The proposed development will result in unreasonable loss of solar access to Unit 1, 46 Undercliff Road.
- The noise and dust impacts from construction will unreasonably disturb neighbouring residents.
- The proposed development may cause structural damage to adjoining properties.

The above issues are addressed as follows:

Traffic, Parking, and Safety

The submissions raised concern about increased traffic generation, vehicular movements, loss of parking (including during construction), and pedestrian safety in Moore Lane.

Comment:

The proposed development is for a lawful land use (dual occupancy) for the site per the *State Environmental Planning Policy (Housing) 2021*, and will consist of two dwellings total. As such, the proposed development is not beyond the level of traffic generation and vehicular movements anticipated for the site by State legislation, and is not anticipated to result in unreasonable risk to pedestrian safety.

It is noted that the proposed development seeks to benefit from vehicular access via Moore Lane. The proposed development is designed in accordance with the requirements of C3 Traffic and Parking of the Warringah Development Control Plan 2011, which encourages use of laneways for rear access where possible. However, given the characteristics of Moore Lane and Undercliff Road, a condition of consent has been included in the recommendation requiring preparation of (and adherence to) demolition and construction traffic management plans to suitably manage demolition and construction traffic and parking.

The proposed development will result in increased availability of on-street parking. The proposed development includes construction of two driveways along Moore Lane, though in a section of the lane sign-marked for no parking. In this way, no loss of on-street parking occurs as a result of the two new driveways. The proposed development also involves demolition of the existing driveway on Undercliff Road, which will result in an increase of one on-street parking space. The development will not rely on on-street parking, as it is compliant with the requirements for car parking set by Appendix 1 of the Warringah Development Control Plan 2011. As such, the development results in an improved parking outcome for the site and locality.

Stormwater Management

The submissions raised concern about stormwater management and drainage problems.

Comment:

The proposed development is supported by stormwater plans prepared by a suitably qualified professional that demonstrate compliant stormwater management measures. The stormwater plans have been reviewed by Council's Development Engineer, who is supportive of the proposed development, subject to conditions of consent, which have been included in the recommendation of this report. The proposed development will therefore suitably manage stormwater runoff and drainage, and the resulting outcome will be an improvement on the existing scenario.

Landscaped Area

The submissions raised concern that the proposed development has inadequate landscaped area.

Comment:

The amended plans received on 20 December 2024 provide compliant landscaped open space in accordance with the requirements of D1 Landscaped Open Space of the Warringah Development Control Plan 2011.

Amenity - Solar Access, Noise, Dust

The submissions raised concern that the proposed development will result in unreasonable loss of solar access to Unit 1, 46 Undercliff Road, and that the noise and dust impacts from construction will unreasonably disturb neighbouring residents.

Comment:

The proposed development is compliant with the requirements of D6 Solar Access of the Warringah Development Control Plan 2011, and therefore provides reasonable solar access to adjoining sites and the subject site itself.

Provisions of the *Protection of Environmental Operations Act 1997* ensure that the proposed development will not be unreasonable with respect to noise, vibration, dust during demolition and construction.

Structural Damage

The submissions raised concern that the proposed development may cause structural damage to adjoining properties.

Comment:

The proposed development is supported by a geotechnical investigation prepared by a suitably qualified professional that demonstrates the development is of acceptably low risk with respect to excavation and construction. The proposal and supporting documentation has been reviewed by Council's Development Engineer, who is supportive of the proposed development, subject to conditions of consent, which have been included in the recommendation of this report. Additionally, conditions of consent have been included in the recommendation of the report requiring preparation of pre-commencement and post-construction dilapidation reports for adjoining properties, which will ascertain whether any damage is caused by the development. Rectification of any such damage is a civil matter to be negotiated by the relevant landowning parties.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal is supported with regard to landscape issues.</p> <p><u>Updated Comments (9 January 2025):</u> The amended reports and plans are noted.</p> <p>Concerns regarding the landscaped area are mainly satisfied. The landscape proposal is generally supported and all proposed planting shall be installed in accordance with the requirements outlined in the conditions of consent. All on slab landscape planters shall meet Council's minimum soil depth requirements.</p> <p>A Project Arborist shall be engaged to supervise the works within the tree protection zones of trees 1 and 2, as recommended in the Arboricultural Impact Assessment. Tree 3 is exempt by height and may be managed or removed at the discretion of the applicant without consent.</p> <p><u>Original Comments (25 November 2025):</u> Landscape referral notes there is opportunity for compliance to the relevant controls when a new dwelling is proposed. Concern is raised that compliant landscaped area (or landscaped open space) does not achieve the 40% requirement. Each proposed lot must be able to satisfy the landscaped area requirement individually. The requirements under WDCP D1 state "...roofed areas...and any open space areas with a dimension of less than 2 metres are excluded from the calculation", and "Landscaped open space must be at ground level (finished)". Furthermore, WLEP defines landscaped area as "means a</p>

Internal Referral Body	Comments
	<p><i>part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area". Areas of gravel are not considered of being in accordance with this definition.</i></p> <p>Concern is also raised that some landscaped areas have a low likelihood of long term success due to the normal functioning of outdoor space (e.g. the lawn around the BBQ area). Furthermore, the lawn areas off the ground floor living spaces are covered by the level 1 footprint above which will likely create ongoing maintenance issues ultimately resulting in failure of these areas.</p> <p>Compliance with the landscaped area requirements should be achieved as a new dwelling is proposed and at this stage the proposal cannot be supported.</p>
NECC (Development Engineering)	<p><u>Final Comments (30 January 2025):</u> Amended stormwater management plans have been provided. Development engineering raises no further objections to the proposed development, subject to conditions.</p> <p><u>Updated Comments(13 January 2025):</u> The proposed development is in Region 2. On-site detention is required. Vehicle crossing construction is proposed. A geotechnical report has been provided. The proposed on-site detention volumes are undersized. On-site detention for each dwelling is to be designed in accordance with Sections 9.3.2, 9.3.2.1, 9.3.2.3, 9.4, Appendix 9 and all relevant sections of the Northern Beaches Council Water Management for Development Policy.</p> <p><u>Original Comments (28 December 2024):</u> The proposed development is in Region 2. On-site detention is required. Vehicle crossing construction is proposed. A geotechnical report has been provided. The proposed on-site detention volumes are undersized. On-site detention for each dwelling is to be designed in accordance with Sections 9.3.2, 9.3.2.1, 9.3.2.3, 9.4, Appendix 9 and all relevant sections of the Northern Beaches Council Water Management for Development Policy.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>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. These recommendations will be included as a condition of consent.</p>

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)

Housing and Productivity Contribution

Part 2 Development for which contribution is require and determination of contribution, Division 2 Housing and productivity contribution amounts, Clause 7 Base component.

This Clause details the base component amounts that apply to the calculation of the housing and productivity contribution, as set out in the following table:

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	\$12,000	new dwelling lot
	Residential strata subdivision	\$10,000	new strata dwelling lot
	Non-strata multi-dwelling development	\$10,000	new non-strata dwelling
	Commercial development	\$30	square metre of new GFA
	Industrial development	\$15	square metre of new GFA

Comment:

The subject site is sited within the Greater Sydney region. The proposed development is for demolition of the existing principal dwelling and secondary dwelling, and construction of a dual occupancy (attached), and strata subdivision. As such, the contribution payable is \$10,000.00.

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1768406M_02 dated 18 December 2024). A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Housing) 2021

Part 12 Dual occupancies and semi-detached dwellings in Zone R2

Clause 141C of Part 12 of the SEPP provides that development for the purposes of dual occupancies and semi-detached dwellings is permitted with development consent in Zone R2 Low Density Residential on land to which this part applies.

Comment:

The proposed development is for the purpose of a dual occupancy in the R2 Low Density Residential Zone of the WLEP 2011. As such, clause 141C above applies.

It is noted that this land use is prohibited within the R2 zone per the Land Use Table of the WLEP 2011. Clause 8(1) of the SEPP provides that, if there is an inconsistency between the SEPP and another environmental planning instrument (such as the WLEP 2011 in this case), the SEPP prevails.

As such, the development is permissible via clause 141C of the SEPP. An assessment of the proposed

development against the Aims of the WLEP 2011 and the objectives of the R2 Low Density Residential zone is provided in the relevant sections of this report.

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 provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - b) *coastal environmental values and natural coastal processes,*
 - c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - f) *Aboriginal cultural heritage, practices and places,*
 - g) *the use of the surf zone.*

Comment:

The proposed development is supported by a geotechnical risk assessment report and plans that

demonstrate the proposed development is of acceptably low risk in relation to the above matters. As such, the proposed development is not anticipated to result in adverse impact.

- 2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or*
 - b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

The development is designed, sited and will be managed to avoid an adverse impact, in accordance with the above at (1).

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

Given the above, the consent authority can be satisfied that the proposed development is designed such that it will not result in increased risk of coastal hazards on the subject site or surrounding land.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Warringah Local Environmental Plan 2011

Is the development permissible?	No
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum Subdivision Lot Size:	450m ²	NA*	-	NA
Height of Buildings:	Max. 8.5m	Max. 8.5m	-	Yes

* Pursuant to Clause 4.1 Minimum Subdivision Lot Size, Subclause (4)(a), minimum subdivision lot size does not apply in relation to the subdivision of any land by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015.

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
2.6 Subdivision - consent requirements	Yes
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Part 1 Preliminary

1.2 Aims

The proposed development is consistent with the Aims of the WLEP 2011 as follows:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*

Comment:

Not applicable. The proposed development retains the residential use of the site.

- (a) *to create a land use framework for controlling development in Warringah that allows detailed provisions to be made in any development control plan made by the Council,*

Comment:

The proposed dual occupancy use is prohibited within the R2 Low Density Residential zone, so is not within the existing land use framework applying to the site under the WLEP 2011. However, the development is made permissible via Clause 141C of the *State Environmental Planning Policy (Housing) 2021*, as detailed in the relevant section of this report.

There are no built form controls within the WLEP 2011 or WDCP 2011 to guide dual occupancy development in the R2 zone. As such, the built form controls for detached dwelling houses were applied to the proposed development, to ensure the development is of an appropriate scale it's the low-density context. As such, the proposed development is suitably controlled.

- (b) *to recognise the role of Dee Why and Brookvale as the major centres and employment areas for the sub-region,*

Comment:

Not applicable. The subject site is not located in Dee Why.

- (c) *to maintain and enhance the existing amenity and quality of life of the local community by providing for a balance of development that caters for the housing, employment, entertainment, cultural, welfare and*

recreational needs of residents and visitors,

Comment:

The proposed development maintains and enhances the existing amenity and quality of life in the Freshwater locality by complying with applicable planning controls (or by being acceptable on merit for the reasons detailed in this report). The proposed development supports the housing needs for the community by providing two principal dwellings on the subject site in place of the single principal dwelling.

(d) *in relation to residential development, to—*

- (i) protect and enhance the residential use and amenity of existing residential environments, and*
- (ii) promote development that is compatible with neighbouring development in terms of bulk, scale and appearance, and*
- (iii) increase the availability and variety of dwellings to enable population growth without having adverse effects on the character and amenity of Warringah,*

Comment:

The proposed development is designed and sited to protect and maintain the amenity of adjoining properties and their occupants, is of appropriate bulk and scale in consideration of the applicable planning controls and the surrounding built form character and provides housing stock to support the needs of the community.

(e) *in relation to non-residential development, to—*

- (i) ensure that non-residential development does not have an adverse effect on the amenity of residential properties and public places, and*
- (ii) maintain a diversity of employment, services, cultural and recreational facilities,*

Comment:

Not applicable. The proposed development retains the residential use of the site.

(f) *in relation to environmental quality, to—*

- (i) achieve development outcomes of quality urban design, and*
- (ii) encourage development that demonstrates efficient and sustainable use of energy and resources, and*
- (iii) achieve land use relationships that promote the efficient use of infrastructure, and*
- (iv) ensure that development does not have an adverse effect on streetscapes and vistas, public places, areas visible from navigable waters or the natural environment, and*
- (v) protect, conserve and manage biodiversity and the natural environment, and*
- (vi) manage environmental constraints to development including acid sulfate soils, land slip risk, flood and tidal inundation, coastal erosion and biodiversity,*

Comment:

The proposed development is of high-quality urban design, as demonstrated by its compliance with planning controls and protection of amenity. The proposed development is efficient and sustainable, as demonstrated by the supporting BASIX Certificate. The proposed development suitably protects and maintains the streetscape quality along Undercliff Road by its compatibility with existing surrounding developments. The subject site is not in an area of significance with respect to biodiversity or the natural environment. The subject site is not classified as acid sulfate soils, and is not flood-prone, subject to tidal inundation, coastal erosion, or biodiversity significance, though is located within Area B under the Landslip Risk Map (being low to moderate-grade and low-risk). The proposed development is not expected to result in any unreasonable adverse impact, as demonstrated by the supporting geotechnical assessment.

- (g) *in relation to environmental heritage, to recognise, protect and conserve items and areas of natural, indigenous and built heritage that contribute to the environmental and cultural heritage of Warringah,*

Comment:

Not applicable. The subject site and surrounding area are not heritage-listed, within a heritage conservation area, or of indigenous heritage significance.

- (h) *in relation to community well-being, to—*

(i) ensure good management of public assets and promote opportunities for social, cultural and community activities, and

(ii) ensure that the social and economic effects of development are appropriate.

Comment:

Not applicable. The proposed development is wholly on private land.

Zone R2 Low Density Residential

The proposed development is addressed in relation to the objectives of the zone as follows:

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

Comment:

The subject site is currently developed with a single detached dwelling house. The proposed development, being for a dual occupancy, increases the available housing stock from one principal dwelling to two principal dwellings, to support the needs of the community. The proposed development is demonstrably of low impact and is well-designed with respect to amenity, given its compliance with applicable built form controls.

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

Comment:

Not applicable. The proposed development retains the residential use of the site.

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

Comment:

The proposed development provides compliant landscaped open space and is to be well-planted with a suitable variety of vegetation types and sizes. The proposed development is consistent with the landscape character of the Freshwater locality and is demonstrably in harmony with the natural environment of the area, as detailed in this report.

4.3 Height of buildings

The proposed development includes solar panels above the 8.5 metre height of buildings development standard, to a maximum height of 8.8 metres (RL 30.100). However, solar panels are considered an exclusion as 'and the like' per the definition of building height within the Dictionary of the *Warringah Local Environmental Plan 2011*, which reads as follows:

Building height (or height of building) means—

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts,

flagpoles, chimneys, flues and the like.

6.2 Earthworks

The objectives of Clause 6.2 Earthworks require development:

(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and

(b) to allow earthworks of a minor nature without requiring separate development consent.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality

Comment:

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment:

The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment:

The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment:

The site is not mapped as being a potential location of Aboriginal or other relics.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment:

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment:

The Applicant has submitted a geotechnical report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective and therefore, the development has been assessed for the risk associated with landslides in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment:

The Applicant has submitted a geotechnical report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment:

The Applicant has submitted a geotechnical report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall Height	Max. 7.2m	E: Max. 9m	25%	No
		W: Max. 7.6m	5.56%	No
B3 Side Boundary Envelope	E: 5m	Within envelope	-	Yes
	W: 5m	Within envelope	-	Yes
B5 Side Boundary Setbacks	E: Min. 900mm	900mm	-	Yes
	W: Min. 900mm	900mm	-	Yes
B7 Front Boundary Setbacks (Primary - Undercliff Road)	Min. 6.5m	Min. 6.5m	-	Yes
B7 Front Boundary Setbacks (Secondary - Moore Lane)	Min. 3.5m	Garages: Min. 1m	71.43%	No
		Dwellings: Min. 9.27m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	Min. 40% (230.68m ²)	40.22% (232m ²)	-	Yes

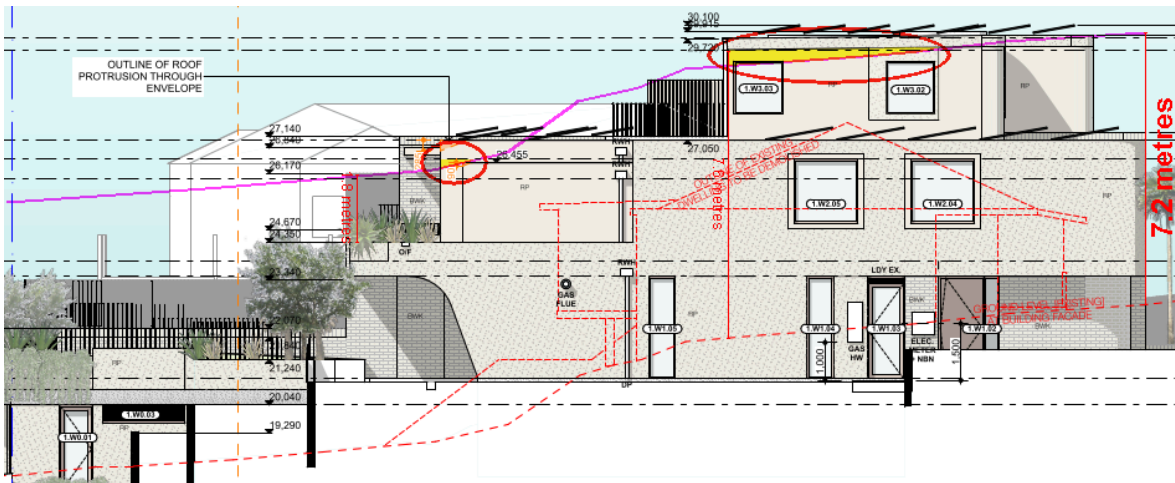
Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
C1 Subdivision	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

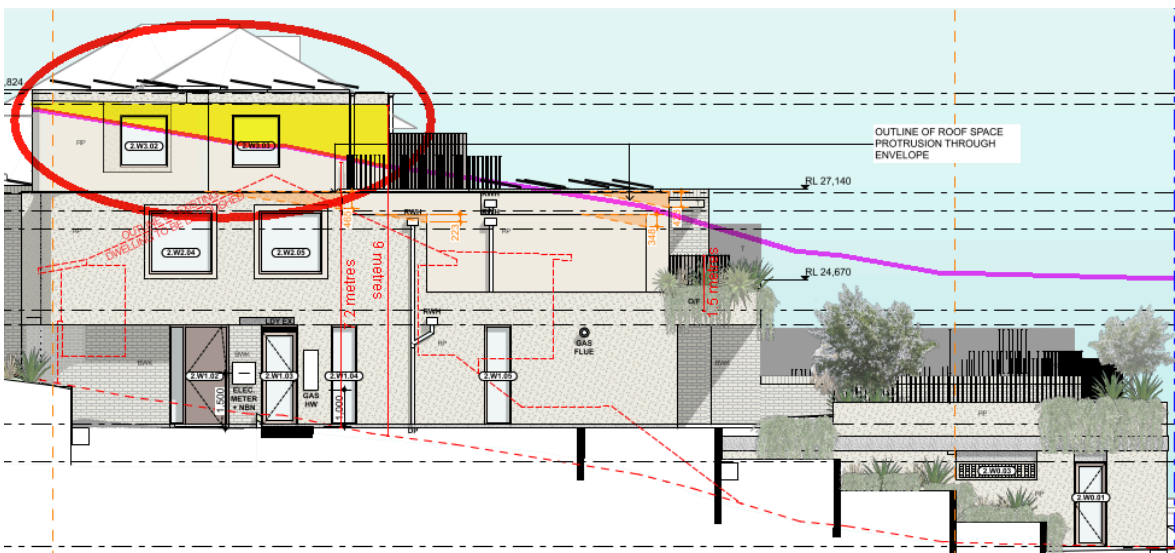
Detailed Assessment

B1 Wall Heights

The proposed development includes maximum wall heights of 9 metres to the eastern elevation and 7.6 metres to the western elevation, where the control allows for a maximum of 7.2 metres.



Above: The portions of the development breaching the wall height control on the western elevation, highlighted in yellow and circled in red.



Above: The portions of the development breaching the wall height control on the eastern elevation, highlighted in yellow and circled in red.

The development is considered against the underlying objectives of the control as follows:

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

Comment:

The portions of the proposed development that are not-compliant with the wall height are at the uppermost level, due to the topography of the site. The walls in question step in towards the centre of the site as the height increases, so as to reduce its visual imposition from the street and adjoining properties. The proposed development will appear compliant with the wall height control due to the architectural design used.

To ensure development is generally beneath the existing tree canopy level

Comment:

The proposed development is compliant with the maximum building height development standard, and is set below the general height of canopy trees.

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

Comment:

The proposed development is designed and sited so as to provide for reasonable sharing of views. The portion of the development that is not compliant with this control does not result in any unreasonable view loss.

To minimise the impact of development on adjoining or nearby properties.

Comment:

The portions of the development that are not compliant with wall height are set into the centre of the site, so as not to result in unreasonable amenity or visual bulk impacts to the adjoining properties or streetscape.

To ensure that development responds to site topography and to discourage excavation of the natural landform.

Comment:

The proposed development relies on excavation for the purpose of the lower ground level and a small portion of the ground level, though replicates existing ground levels to the boundaries of the site so as to make that excavation less perceptible. Additionally, the proposed dwelling steps down with the slope of the site to reduce overall height and bulk. As such, the development suitably responds to the site's topography.

To provide sufficient scope for innovative roof pitch and variation in roof design.

Comment:

The proposed development employs a flat roof design so as to suitably reduce bulk and scale, and respond well to views from adjoining properties.

B3 Side Boundary Envelope

The proposed development is compliant with this clause, given the only portions protruding through the building envelope are portions of side-facing fascia forming the roof structures. As per the exceptions of this clause, fascias may encroach beyond the side boundary envelope.

B7 Front Boundary Setbacks

The proposed development includes garages within the secondary street frontage setback area fronting Moore Lane, 1 metre from the boundary, where a minimum of 3.5 metres is required by this control. 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.

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

Comment:

The majority of properties along Moore Lane include garages or parking areas immediately or closely abutting the boundary, as the lane is typically used for vehicular access. The proposed development makes use of Moore Lane (rather than Undercliff Road) for partially underground vehicular access and garage parking, thereby not dominating the primary street frontage, and continuing the predominant built form pattern. Given this, a contextually appropriate level of openness is retained to the north of the site fronting Moore Lane, and the proposed development is consistent with the existing established character along this laneway. Despite the non-compliance, the proposed development provides suitable areas in the southern and northern yards to support landscaping and deep soil planting. The proposal provides compliant landscaped area on site, as described in this report.

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

Comment:

As above, the proposed garages fronting Moore Lane are consistent with the predominant form of development along the lane. The proposed development provides an enhancement with respect to the visual quality of the lane by way of high quality design incorporating landscaped elements.

To achieve reasonable view sharing.

Comment:

Despite the secondary street frontage boundary setback non-compliance, the proposed development does not result in any unreasonable obstruction of views to or from public or private places, and therefore provides reasonable view sharing.

C3 Parking Facilities

The proposed development includes two double garage structures (one per dwelling in the dual occupancy), each with an opening 4.8 metres in width, which equates to 71.64% of the building width. This control provides that where garages and carports face the street, garage openings are not to exceed 6 metres or 50% of the building width, whichever is the lesser. Consideration of the proposed garages is provided with reference to the objectives of the control as follows:

To provide adequate off street carparking.

Comment:

The proposed development provides two car parking spaces of compliant dimensions per dwelling in the dual occupancy development, in accordance with the requirements of Appendix 1 Car Parking Requirements of the WDCP 2011.

To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.

To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.

Comment:

The proposed development makes use of the northern rear laneway (rather than Undercliff Road) for partially underground vehicular access and parking, thereby not dominating the primary street frontage. The rear laneway is predominantly used for rear-loading of vehicles for sites that adjoin it, which means the proposed development is consistent with the existing established character along this laneway.

The proposed development is compliant with all other requirements of this control.

C7 Excavation and Landfill

The objectives of the control are addressed as follows:

To ensure any land excavation or fill work will not have an adverse effect upon the visual and natural environment or adjoining and adjacent properties.

Comment:

The proposed development includes an excavated lower ground floor for the purpose of car parking, storage, stairs, plant, and rainwater/onsite detention tanks. The proposed development is supported by a geotechnical assessment prepared by a suitably qualified professional. The geotechnical assessment demonstrates the proposed development (including its level of excavation) is of acceptably low risk with respect to stability and hazard to adjoining land. The excavated area will not give rise to unreasonable visual impact, as the lower ground level is set down into the site.

To require that excavation and landfill does not create airborne pollution.

Comment:

The proposed development is not classified as contaminated lands. The existing development will be

demolished in accordance with applicable Australian Standards, including in relation to asbestos handling. Conditions of consent have been applied to ensure any landfill is of suitable quality. As such, the proposed excavation will not create airborne pollution.

To preserve the integrity of the physical environment.

Comment:

As above, the proposed development is supported by a geotechnical assessment prepared by a suitably qualified professional, that demonstrates the works are of acceptably low risk, subject to recommendations. As such, the proposed development does not unreasonably impact upon the integrity of the land.

To maintain and enhance visual and scenic quality.

Comment:

As above, the lower ground level requiring excavation will be partially below ground, so will not be visually intrusive. In conjunction with its compliance with built form controls, the proposed development therefore maintains a high level of visual and scenic quality.

D1 Landscaped Open Space and Bushland Setting

The proposed development includes 40.22% (232m²) of the site as landscaped open space, being compliant with the minimum 40% requirement of this control. Given the increased density proposed under this development, the objectives of the control are addressed as follows:

To enable planting to maintain and enhance the streetscape.

Comment:

The submitted landscape plan demonstrates an improved and updated landscape response to the whole of the site compared to the existing treatment. As such, the streetscape is enhanced with respect to vegetation and planting.

To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.

Comment:

The proposed development does not rely on unreasonable disturbance to the natural topography of the site, as detailed in the section of this report relating to C7 Excavation and Landfill of the WDCP 2011. The works do not impact upon any topographical features of significance. The submitted landscape plan indicates numerous vegetation species suitable for supporting habitat for wildlife.

To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.

Comment:

The proposed development retains multiple areas of ample dimensions for supporting a variety of vegetation types and sizes. The proposal includes improved landscaping to the front, rear and sides of the site. The submitted landscape plan indicates grasses, shrubs and trees, to assist with mitigation of the proposed built form. Of particular note is the layout of the landscaped areas in the front yard, which increase in vegetation density towards the front boundary, thereby reducing the visible built form.

To enhance privacy between buildings.

Comment:

The proposed development is suitably designed to provide reasonable privacy for occupants of the subject site and adjoining sites by way of privacy treatments to windows and strategic building layout (as described in the section of this report relating to D8 Privacy of the WDCP 2011). This is bolstered by planting in suitable locations.

To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.

Comment:

The proposed development includes suitable areas of outdoor recreation to serve the needs of the occupants, being the front and rear yards and the upper floor terrace spaces. The site is also in close proximity to public open space, with Freshwater Reserve and Freshwater Beach short walking distance to the south-east.

To provide space for service functions, including clothes drying.

Comment:

The plans demonstrate clothes drying areas and bin storage areas along the side boundaries of the site.

To facilitate water management, including on-site detention and infiltration of stormwater.

Comment:

The proposed development is supported by stormwater plans that demonstrate the works (in conjunction with the compliant landscaped open space) will facilitate sufficient water management and infiltration.

D3 Noise

The proposed development includes demolition of the existing principal dwelling, and construction of a new dual occupancy. In that way, two dwellings are proposed on site, where one exists, being an increase in density.

The overarching layout of the proposed development is suitable with respect to noise impacts, in that it locates the two proposed dwellings side-by-side. In this way, the neighbours to each side adjoin only one dwelling. The effect of this to the side neighbours is equivalent to adjoining a single dwelling house. At the rear (north), a setback of double the minimum 6 metres is provided to the habitable spaces of the dwellings (in addition to the width of Moore Lane), which provides more than sufficient separation to offset the two-dwelling presentation to the properties to the north.

As such, the proposed development is not anticipated to result in unreasonable increased noise generation in the residential context of the area.

D6 Access to Sunlight

The proposed development retains more than 3 hours of sunlight between 9am and 3pm in midwinter to more than 50% of the required area of private open space of adjoining dwellings (60m²) and is therefore compliant with this control.

D7 Views

The proposed development is designed and sited so as to provide for the reasonable sharing of views. The works do not obscure any significant or valuable views to or from public or private places. This is bolstered by the lack of public objection on the basis of views.

D8 Privacy

Given the increased density proposed, a detailed assessment of the proposed development with reference to privacy is provided as follows.

The requirements of D8 Privacy are:

1. Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.

Comment:

The proposed development is well-designed with respect to layout so as to optimise privacy for occupants of the subject site and adjoining sites.

The overarching layout of the proposed development is suitable with respect to privacy, in that it locates the two proposed dwellings side-by-side. In this way, the neighbours to each side adjoin only one dwelling. The effect of this to the side neighbours is equivalent to adjoining a single dwelling house. At the rear, a setback of double the minimum 6 metres is provided to the habitable spaces of the dwellings (in addition to the width of Moore Lane, which provides more than sufficient separation to offset the two-dwelling presentation to the properties to the north.

The development locates all heavily used rooms (kitchens, dining rooms, and living rooms) on the ground floor, to reduce opportunities for overlooking. The first floor is dedicated to bedrooms and bathrooms. The windows of the development are designed in accordance with reasonable privacy as detailed below.

The northern backyard areas are proposed to be raised to a maximum of RL 21.240, where the existing ground level varies between RL 17.39 and RL 18.68. Whilst this is a substantial level difference, the resultant privacy outcome is acceptable, given the design employed in this instance and the surrounding developments.

The proposed lawn areas are surrounded by vertical screening elements and planter boxes to both sides, thereby assisting to obscure view to Nos. 36 and 46 Undercliff Road. Further, it should be noted that, given the existing layout of dwellings and yards, little privacy concern exists in this location as it stands.

At 46 Undercliff Road to the east, the northern portion of the ground level is used for vehicular access and garages, rather than outdoor recreation. The upper levels currently enjoy balconies to the north, though these are exposed by way of location and design, wrapping around the side facing the subject site.

At 36 Undercliff Road to the west, the northern portion of the ground level is used for garages. A terrace exists upon the garage structure, at a level of RL 21.79, being slightly higher than the proposed lawn level at the subject site. As such, the proposed development effectively matches the existing outcome.

As such, the proposed development is designed in accordance with this requirement.

2. Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.

Comment:

The proposed development is well-designed and orientated to reduce overlooking.

At the ground floor, the proposed windows facing the side boundaries are floor-to-ceiling in height, though are narrow. In this way, the windows allow for appropriate natural light to the internal spaces of each dwelling, without resulting in unreasonable overlooking.

At Level 1, the development includes two windows to each of the eastern and western elevations, for Bedrooms 3 and 4. Given these rooms are not places of indoor recreation, and given the windows do not align with windows or private open spaces of adjoining dwellings, they retain suitable privacy for the neighbouring dwellings.

At Level 2, the windows are set a minimum of 3.17 metres from the side boundaries, providing suitable building separation, and are for the purpose of the proposed home offices, so are not places of indoor recreation.

The proposed private open spaces of each dwelling are located at the ground floor, orientated to the rear (north).

As such, the proposed development is designed in accordance with this requirement.

3. The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass

Comment:

The proposed development includes a modest balcony to the northern elevation of the main bedrooms at Level 1 of each dwelling, and a roof terrace space at Level 2 of each dwelling.

The balconies at Level 1 and the roof terraces at Level 2 are set a minimum of 2.63 metres and 4.1 metres (respectively) from the side boundaries, thereby providing generous separation to the properties to the east and west. The balconies and terraces do not adjoin rooms used for indoor recreation (such as living rooms), so do not form an extension of those spaces. In this way, the spaces are effectively located, rather than relying on design elements to offset overlooking.

The proposed entry doors facing the side boundaries are solid, so do not allow view through, and are located at the ground floor, so do not allow for overlooking. The other doors facing the side boundary (also at the ground floor) are for the purpose of the laundries, being not habitable rooms, so would not result in unreasonable overlooking.

All windows are well-designed with respect to privacy, as detailed above.

As such, the proposed development is designed in accordance with this requirement.

4. The windows of one dwelling are to be located so they do not provide direct or close views (i.e. from less than 9 metres away) into the windows of other dwellings.

Comment:

All windows are well-designed with respect to privacy, as detailed above.

As such, the proposed development is designed in accordance with this requirement.

5. Planter boxes, louvre screens, pergolas, balcony design and the like are to be used to screen a minimum of 50% of the principal private open space of a lower apartment from overlooking from an upper apartment.

Comment:

Not applicable. The proposed development does not include upper and lower apartments.

D9 Building Bulk

The proposed development complies with the majority of the built form controls applying to the site, other than with respect to the wall heights, and the secondary front setback. These matters are addressed as acceptable for the reasons detailed in the sections of this report relating to B1 Wall Heights and B7 Front Boundary Setbacks of the WDCP 2011. As such, the development is of a bulk and scale anticipated for a single detached dwelling house on the site, despite it being a dual occupancy (which are typically larger developments).

The subject site is surrounded by appropriate character and context that makes the dual occupancy compatible in the streetscape. For example, the two adjoining properties to the east and west are developed with dual occupancy developments, and Nos. 26 and 32 Undercliff Road to the west of the

site and Nos. 15 and 17 Moore Road to the north-west across the laneway are developed with residential flat buildings.

As such, the character in this area is varied, the bulk and scale of the proposed dual occupancy is contextually appropriate, and the subject site is suitable for a dual occupancy development.

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 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$27,693 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,769,344.

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 DA2024/1430 for Demolition works and construction of a dual occupancy (attached) and strata subdivision on land at Lot 22 DP 5118, 38 Undercliff Road, FRESHWATER, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans			
Plan Number	Revision Number	Plan Title	Drawn By
DA1002	DA02	Site, Waste Management & Roof Plan	MHND Union
DA1003	DA02	Demolition Plan	MHND Union
DA2000	DA02	Garage Plan	MHND Union
DA2001	DA02	Ground Floor Plan	MHND Union
DA2002	DA02	Level 1 Floor Plan	MHND Union
DA2003	DA02	Level 2 Floor Plan	MHND Union
DA2004	DA02	Roof Plan	MHND Union
DA3000	DA02	North Elevation	MHND Union
DA3001	DA02	South Elevation	MHND Union
DA3002	DA02	West Elevation	MHND Union
DA3003	DA02	East Elevation	MHND Union
DA4000	DA02	Cross Section 1	MHND Union
DA4001	DA02	Cross Section 2	MHND Union
DA4002	DA02	Cross Section 3	MHND Union
DA4010	DA02	Long Section A	MHND Union
DA4011	DA02	Long Section B	MHND Union
DA6000	DA02	External Finishes	MHND Union
-	1	Plan of Subdivision of Lot 24 DP 5118 Sheet 1 of 2 Sheets	Karl Robertson

-	1	Plan of Subdivision of Lot 24 DP 5118 Sheet 2 of 2 Sheets	Karl Robertson
DA_00	03	Cover Page	Wyer & Co
DA_01	03	Master Plan	Wyer & Co
DA_02	03	Front Garden	Wyer & Co
DA_03	03	Rear Garden	Wyer & Co
DA_04	03	First Floor	Wyer & Co
SW000	04	Cover Sheet	Integrated Group Services
SW001	02	Cover Sheet	Integrated Group Services
SW100	04	Garage Level	Integrated Group Services
SW101	04	Ground Floor	Integrated Group Services
SW102	03	First Floor	Integrated Group Services
SW103	04	Second Floor	Integrated Group Services
SW104	03	Roof	Integrated Group Services
SW201	03	Rainwater Tank & Pit Details Detail Sheet	Integrated Group Services

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Arboricultural Impact Assessment Report	-	Hugh the Arborist	17 October 2024
BASIX Certificate 1768406M_02	-	IGS	18 December 2024
Geotechnical Investigation Report P3371_01	2	Morrow Geotechnics	19 December 2024
Waste Management Plan	-	Applicant	Undated

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
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Ausgrid	Referral - Ausgrid	14 November 2024
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(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

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

3. **No Approval for Secondary Dwelling**

No approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area of each of the two approved dwellings.

Reason: To ensure compliance with the terms of this consent.

4. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dual occupancy (attached), in accordance with the Dictionary of the Warringah Local Environmental Plan 2011, as follows:

Dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

5. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal 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.

6. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.

- (d) At all times after the submission of 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.
- (e) 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.
- (f) 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.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% 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.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) 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.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) 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.

- (m) 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.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) 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.

FEES / CHARGES / CONTRIBUTIONS

7. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$27,693.44 is payable to Northern Beaches Council for the provision

of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$2,769,344.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

8. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required 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, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

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

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

9. **Housing and productivity contribution - Development consents**

1. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition 2, is required to be made:

Contribution Type	Amount
Housing and Productivity Contribution	\$10,000.00
Strategic Biodiversity Component and/or Transport Project Component	\$0
Total:	\$10,000.00

2. The amount payable at the time of payment is the amount shown in condition 1 as the total housing and productivity contribution adjusted by multiplying it by:

highest PPI number

consent PPI number

where—

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made.

consent PPI number is the PPI number last used to adjust HPC rates when consent was granted.

June quarter 2023 and PPI have the meanings given in clause 22 (4) of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

3. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:

Development	Time by which HPC must be paid
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
Manufactured home estate for which no construction certificate is required	Manufactured home estate for which no construction certificate is required

4. The HPC must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).
5. If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of

as a monetary contribution, in the following ways:

- a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
- b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 2 at the time of payment.

6. Despite condition 1, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023 exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Reason: Statutory requirement.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

10. On Slab Landscape Works

a) details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided. Landscape treatment details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, and services connections.

b) The following soil depths are required to support planting: 300mm for groundcovers, succulents, and grasses; 600mm for shrubs; and 1m for small trees.

c) design certification shall be submitted to the Certifier by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and ensure waterproofing and drainage is installed.

11. On-Site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by IGS, project number EN-N24_XX, dated 22.01.25. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. Provision of a minimum of three thousand and five hundred (3,500) litres of on-site detention storage for each unit. (Total OSD of 7,000 litres for the site)

ii. Design of orifice for each on-site detention tank to limit total discharge from the site to 23 litres per second.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

13. Vehicle Crossings Application

The Applicant is to submit an application with Council for driveway levels to construct two vehicle crossings 5.0 metres wide in accordance with Northern Beaches Council Standard Drawing A4 3330/1 N in accordance with Section 138 of the Roads Act 1993.

Note, driveways are to be in plain concrete only.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

A Council approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

14. Off Street Parking Design

The Applicant shall submit a design for the parking facility in accordance with the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

15. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, shall be provided in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of any

Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

16. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

1. Council's relevant development control plan,
2. The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and
3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

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 ensure no substance other than rainwater enters the stormwater system and waterways.

17. 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.

18. External Finishes to Roof

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

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

19. 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 Certifier 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.

20. **Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
 - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
 - No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
 - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
 - If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.

- A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
- A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

21. **Project Arborist**

- a) a Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.
- b) the Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:
 - i) tree protection measures and works under sections 10 AMS and Tree Protection Requirements, 11 Hold Points, and Appendix 1A - Proposed Site Plan and Tree Protection Plan.
- c) All tree protection measures specified must:
 - i) be in place before work commences on the site, and
 - ii) be maintained in good condition during the construction period, and
 - iii) remain in place for the duration of the construction works.
- d) the Project Arborist shall provide certification to the Certifier that all tree protection measures under AS 4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

22. **Utilities Services**

Prior to the commencement of demolition works, written evidence of the following service provider requirements must be provided to the Principal Certifier:

- a) a letter from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity,
- b) a response from Sydney Water as to whether the proposed works subject to this consent would affect any Sydney Water infrastructure, and whether further requirements need to be met, and

- c) other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of demolition works.

Reason: To ensure relevant utility and service providers' requirements are provided to the Principal Certifier.

23. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation):

- 36 (including both 36A and 36B) Undercliff Road, Freshwater
- Units 1 and 2, 46 Undercliff Road, Freshwater

The reports must detail the physical condition of those properties listed, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

The dilapidation reports are to be prepared by a suitably qualified person. Copies of the reports must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking a dilapidation report is denied by an adjoining owner, the Applicant must demonstrate in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

24. **Demolition Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

Due to heavy traffic congestion throughout the area, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.

- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Specify that, due to the proximity of the site adjacent to ##### School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by an TfNSW accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", RMS' Manual – "Traffic Control at Work Sites".

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

DURING BUILDING WORK

25. **Tree and Vegetation Protection**

- a) existing trees and vegetation shall be retained and protected, including:
 - i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all trees and vegetation within the road reserve.
- b) tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,

- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS 4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS 4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) the Principal Certifier must ensure that:

- i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

26. 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.

27. Demolition Works - Asbestos

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

28. Survey Certificate

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

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier.

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

29. Property Boundary Levels

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To maintain the existing profile of the nature strip/road reserve.

30. 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.

31. Implementation of Demolition Traffic Management Plan

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

32. Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved

Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

33. Landscape Completion

- a) landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawings DA_00, DA_01, DA_02, DA_03, DA_04 by Wyer and Co dated 19/12/24 revision 03), and inclusive of the following conditions:
 - i) landscape works are to be contained within the legal property boundaries,
 - ii) planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
 - iii) substitute all *Rhaphiolepis* species with a suitable alternative (although a cultivar is proposed, Council deems this species an environmental threat),
 - iv) substitute the 2 x *Cupaniopsis anacardioides* with a suitable native tree alternative of a similar size,
 - v) all native tree planting (not including *Waterhousea floribunda*) shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of AS2303 – Tree Stock for Landscape Use; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3.0 metres from buildings or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
 - vi) mass planting shall be installed at minimum 200mm container size at planting for shrubs or as otherwise scheduled if greater in size, and at minimum 140mm container size at planting for groundcovers or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
 - vii) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,
 - viii) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone.
- b) prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

34. Condition of Retained Vegetation

- a) prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:
 - i) compliance to any Arborist recommendations for tree protection generally and during excavation works,

- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

35. Stormwater Disposal

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

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

36. Reinstatement of Kerb

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

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

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

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

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

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

38. Certification of Off Street Parking Works

The Applicant shall submit a certificate from a suitably qualified person certifying that the parking facility was constructed in accordance within this development consent and the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

39. House Numbers

House numbers are to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: Proper identification of buildings.

40. Waste Management Confirmation

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier 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.

41. Swimming Pool Requirements

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating 'YOUNG CHILDREN SHOULD BE ACTIVELY SUPERVISED WHEN USING THIS POOL' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To protect human life.

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

42. Landscape Maintenance

- a) if any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components.
- b) trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.
- c) if any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan(s) and any conditions of consent.
- d) a maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.
- e) the approved landscape planted areas, whether containing lawn, gardens or planters shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

43. Swimming Pool/Spa Motor Noise

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

44. Sydney Water Compliance Certification

The Applicant shall submit a Section 73 Compliance Certificate under the Sydney Water Act 1994 issued by Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and fees to be paid. Please make early contact with the coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

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

45. Subdivision Certificate Application

The Applicant shall submit a Subdivision Certificate Application to Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919, the final plan of subdivision and all relevant documents including electronic copies. This documentation is to be submitted to

Council prior to the issue of the Subdivision Certificate. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919.

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

Signed



Claire Ryan, Principal Planner

The application is determined on 31/01/2025, under the delegated authority of:



Rodney Piggott, Manager Development Assessments