

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/0006
<b>Responsible Officer:</b>	Anne-Marie Young
<b>Land to be developed (Address):</b>	Lot 14 DP 12012, 10 Jamieson Parade COLLAROY NSW 2097
<b>Proposed Development:</b>	Demolition works and construction of a dwelling house including swimming pool and spa
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Andrew Peter Lutze Shae Eliza Lutze
<b>Applicant:</b>	Andrew Peter Lutze

<b>Application Lodged:</b>	15/01/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	28/01/2021 to 11/02/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	15
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 1,872,000.00
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### EXECUTIVE SUMMARY

The Development Application (DA) seeks approval for the demolition of the existing dwelling and the construction of a part two (2) part three (3) storey four (4) bedroom dwelling with pool. The application is being referred to the NBLPP as more than ten (10) submissions have been received.

A total of fourteen (14) unique submissions have been registered following notification of the application which raised issues in respect of the bulk, scale, and height of the dwelling and impacts on amenity including view loss, privacy and over shadowing.

With the exception of minor breaches of the wall height, building envelope and landscape open space controls the application has been amended to reduce the height, bulk and scale and generally comply with the built form controls.

Notwithstanding the amendments that the applicant has made since lodgement of the application, conditions are recommended to further increase the side setbacks of parts of the upper storey (level 1) to address the breach of the building envelope, reduce the visual dominance of the side walls from neighbouring properties and overshadowing to the south. Conditions require the front door to the gym located on the lower ground level to be deleted and earthworks and landscaping to the southern front garden to reduce the visual impact of the dwelling from the streetscape. In addition, conditions are recommended to ensure privacy is maintained with high level windows, obscure glazing and privacy screens. Subject to these conditions the proposal, as amended, will not result in unreasonable impacts on the amenity of neighbouring properties. The front elevation is articulated to reduce the visual dominance of the dwelling in the streetscape and a condition requires a canopy tree to be planted in the front setback which will soften the perceived bulk of the dwelling.

On balance, the proposal is recommended for approval having considered relevant issues and the assessment of the design plans submitted.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposal seeks consent for the demolition of the existing dwelling and the construction of a new part two (2) / part three (3) storey dwelling with pool and spa. In detail, the application seeks consent for:

### **Garage level RL +24.520**

- Excavation to a depth of 1.5m;
- Double garage;
- Under-croft, cellar, gym and storage, and
- Stair.

### **Ground Floor RL +27,220**

- Open plan kitchen (and pantry), dining and living with adjoining rear covered terrace and central courtyard;
- Media room;
- Guest bedroom with ensuite;
- Office;
- Laundry and storage, and
- Foyer and raised deck to the front.

### **First Floor +30,220**

- Three bedrooms, the master bed has an ensuite, a walk in robe and deck;
- Bathroom;
- Balcony overlooking the central courtyard below, and
- Study and stairs.

### **External**

- Pool and spa;
- New driveway;

- Stairs;
- Front fence;
- Removal of three (3) trees, and
- Replacement planting.

### **Materials**

Colour bond roof, weatherboard cladding, timber windows and doors.

## **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 - 6.2 Earthworks  
 Warringah Development Control Plan - B1 Wall Heights  
 Warringah Development Control Plan - B3 Side Boundary Envelope  
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting  
 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**

<b>Property Description:</b>	Lot 14 DP 12012 , 10 Jamieson Parade COLLAROY NSW 2097
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the western side of Jamieson Parade.</p> <p>The site is regular in shape with a frontage of 15.2m along</p>

Jamieson Parade a depth of 45.6m and a surveyed area of 696.7m<sup>2</sup>. The site is located within the R2 (Low Density Residential) zone from WLEP 2011 and accommodates a detached part one / two storey brick and rendered dwelling with a hipped tiled roof. A stone and concrete driveway provided access to the site.

The site has a slope of approximately 3.5m (5 degrees) from front (east) to rear (west) and a number of trees are located within the rear garden including two (2) bottle brush trees and a date palm. The rear boundaries are defined with hedging and a timber fence, there is no boundary treatment to the frontage.

#### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by detached one, two and part two / three storey dwellings.

Map:



#### **SITE HISTORY**

On 16 February 2021 a letter was sent to the applicant raising concerns in relation to the height, building envelope, front setback, building bulk and impacts on neighbouring amenity including privacy and solar access. In addition, height poles were requested to be installed to make a detailed assessment of view loss.

On 1 March 2021 amended plans were submitted which included the following modifications:

- Building height reduced;
- Increase in landscape open space.
- Increased in the first floor side setbacks and front setbacks;

- Planting added to the north courtyard for privacy, and
- Garage repositioned to minimise excavation.

The plans were notified to all those who made a submission.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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) <b>Environmental Impact</b> 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) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	Subject to conditions, no matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 28/01/2021 to 11/02/2021 in

accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 15 submission/s from:

Name:	Address:
Bradley Mark Tattersall	12 Jamieson Parade COLLAROY NSW 2097
Craig Anthony Bathie	9 Jamieson Parade COLLAROY NSW 2097
Mr James Michael Luscombe	18 Bakers Road CHURCH POINT NSW 2105
Mr Andrew John White	33 Anzac Avenue COLLAROY NSW 2097
Ann Stewart	7 Jamieson Parade COLLAROY NSW 2097
Mark Ronald Stewart	6 Wabash Avenue CROMER NSW 2099
BBF Town Planners	1 / 9 Narabang Way BELROSE NSW 2085
Mr Andrew Paul Spitzer Mrs Sara Jacqueline Spitzer	8 Jamieson Parade COLLAROY NSW 2097
DM Planning	1 / 9 Narabang Way BELROSE NSW 2085
Mr Craig Maurice Formosa Mrs Sarah Marcella Formosa	57 Carawa Road CROMER NSW 2099
Mr Edward James Feltham	14 Jamieson Parade COLLAROY NSW 2097
Mrs Emma Jane Dose	C/- Freestyle Pools 43/7 Sefton Road THORNLEIGH NSW 2120
Brigitte Tattersall	12 Jamieson Parade COLLAROY NSW 2097
Stephen John Walliss	31 Anzac Avenue COLLAROY NSW 2097
Janine Mary Wallis	150 Killarney Drive KILLARNEY HEIGHTS NSW 2087

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

- **Non compliance with planning controls**
- **Overdevelopment and out of character**
- **Excessive bulk, height and scale**
- **Amenity impacts; privacy and overshadowing**
- **Insufficient landscape open space**
- **View loss**
- **Deficiencies with application**

The matters raised within the submissions are addressed as follows:

- **The proposal does not comply with the built form controls including height, wall height, side boundary envelope, side setbacks and front setback. The bulk and scale of the dwelling is overbearing and out of character with the streetscape and represents overdevelopment. The walls are excessive in height with continuous wall planes and minimum relief to break up the mass.**

Comment:

The proposal has been amended to reduce the bulk, scale and height of the dwelling and increase its set back from the street frontage so that it generally complies with the built form

controls. The front balcony has been reduced in size so that it is located 4.5m from the north and south side boundaries and the front facade is well articulated to reflect the character of the streetscape. A condition requires a canopy tree to be planted in the front set back to further soften the bulk and scale of the dwelling in the streetscape.

The upper floor is now stepped along the side elevations to break up the wall plane, however, there remains to be a minor breach of the wall height and side envelope controls to the north and south elevations. A condition requires bedroom 2 and 3 on the upper floor to be setback further to address the envelope breach which in turn will help reduce the visual impact of the side walls as viewed from neighbouring properties and help minimise solar access and view loss impacts. In addition, a condition requires the rear terrace and associated roof to be reduced in size which will help address issues with respect of bulk to the side boundaries.

In order to ensure that the bulk and scale of the dwelling is reduced to be consistent with the streetscape a condition requires the front door to the gym to be deleted and earthwork and landscaping to be completed to the front garden (the area to the southern side of the stair), similar to the treatment of No. 4 and 8 Jamieson Parade.

- **Overshadowing impacts on the neighbouring property to the south including issues with the shadow falling on solar panels on roof at No. 8 Jamieson Parade.**

Comment:

As noted above, the proposal has been amended to reduce the height, bulk and scale of the dwelling. Shadow diagrams have been submitted which confirm that the proposal complies with clause D6 which requires 50% of sunlight to be retained to the private open space of neighbouring dwellings for 3 hours between 9am and 3pm on 21 June. Notwithstanding this, a condition requiring an increased set back of bedroom 3 from the southern boundary will help reduce the amount of shadow cast to the area of private open space to No. 8 Jamieson Parade. A condition also requires the rear roofed terrace to be setback an additional 1.5m which will help minimise solar access impacts.

The shadow diagrams show that the existing shadow falls on part of the roof to No. 8 Jamieson Parade between at 9am and 3pm June 21 to which the solar panels are located. It is accepted that the proposal will increase the shadow falling on the roof, however, the solar access assessment presents the worst case scenario being mid winter.

- **The proposal will result in a loss of ocean views as a result of the bulk, scale and height. The proposed screen planting to the rear will add to impacts on view loss and conditions are required to ensure the species selection minimises the height of trees at maturity. Height poles are required to assess view loss impacts.**

Comment:

Height poles have been installed and a view loss assessment has been carried out to the property to the south and south-west which confirm that the proposal will have moderate view loss impacts. Refer to discussion under clause D7 of this report.

Conditions are included in the recommendation for the screen planting to reach a maximum height of 3m at maturity to ensure view loss is minimised. The condition requiring the increased set back of bedroom 2 and 3 from the side boundaries will also help retain the view corridor along the side of the dwelling to the benefit of the properties to the rear.



- **Insufficient information including details of survey levels on the DA drawings which impact on the calculation of building and wall height. Incorrect / insufficient SEE and Clause 4.6 variation.**

Comment:

The applicant has submitted additional drawings which are annotated to include the correct survey levels to enable accurate height calculations. The SEE is acceptable and the clause 4.6 variation is no longer relevant as the proposal has been amended to reduce the height below the 8.5m maximum building height limit.

- **The internal courtyard cannot be included in the calculation as it is enclosed on three side and covered with a roof.**

Comment:

Agreed, the internal courtyard is not included in Council's calculation of landscape open space. The proposal will result in a minor 4.3% breach of the control and a condition is recommended requiring a reduction in the size of the roofed terrace to the rear which will help address this issue. Refer to discussion under clause D1.

- **Insufficient building separation between neighbouring properties and insufficient light and solar access between buildings.**

Comment:

The proposal complies with the side setback and solar access controls has been amended to step back the upper floor to improve the separation between adjoining dwellings. A condition requires elements of the upper floor to be further setback to further reduce the bulk and scale of the side walls.

- **Non-compliant front setback, the dwelling does not maintain the visual continuity and pattern of buildings in the streetscape.**

Comment:

With the exception of the ancillary stair access to the entry deck the eastern (front) wall and decks of the dwelling, as amended, fully comply with the 6.5m set-back control. The siting of the dwelling generally complies with the pattern of buildings in the streetscape and is consistent with the setback of the dwellings to the south.

- **Visual and acoustic privacy impacts resulting in overlooking and a loss of privacy as a result of the following. The elevated front entrance decks and insufficient front setback, the elevated windows on side boundary do not have 1.7m high sills. The raised ramp on the northern side and raised terrace enables direct overlooking due to the elements being located approximately 1.8m above ground level.**

Comment:

Conditions are included in the recommendation requiring privacy screens, sill heights of 1.6m and obscure glazing to windows and courtyards / terraces. The dwelling is set back 18.4m to the rear boundary which exceeds the minimum 6m rear setback requirement and sufficient screen planting is proposed to ensure privacy is maintained to the dwellings to the west. It is not

expected that the elevated deck to the front entrance will be used as a principle area private open space. Despite this, a condition requires a privacy screen to be installed along the northern and southern edge to address concerns from neighbours. Refer to discussion under Clause D8.

- **The roof does not complement the local skyline and is over bearing.**

Comment:

The roof design is similar to other properties in the area and as a result of the reduction on the mass, height and scale of the dwelling is assessed as acceptable.

- **The front fence does not comply with the 1.2m height limit.**

Comment:

The proposed front fence is generally 1.2m in height and comprises a low wall with timber fence in between which is consistent with the design of the fence to the neighbouring property to the south.

- **Should the DA be approved conditions are required relating to dilapidation reports, privacy, noise etc. to protect residential amenity and the structural stability of neighbouring properties.**

Comments

As noted above, conditions are included in the recommendation to address concerns from neighbours. The excavation is relatively minor and set back from the side boundaries. As such, it is not considered reasonable, necessary or relevant to impose a condition requiring dilapidation reports to neighbouring properties.

The amended plans were notified to all those that made a submission. As a result of the re-notification three additional submissions were received which reiterated issues raised above.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p><b>Supported with conditions</b></p> <p>This application is for the demolition of an existing residential dwelling, and the construction of a new residential dwelling including a new double garage and swimming pool.</p> <p>Councils Landscape Referral section has considered the application against the Warringah Local Environment Plan, and the following Warringah DCP 2011 controls:</p> <ul style="list-style-type: none"> <li>• D1 Landscaped Open Space and Bushland Setting</li> <li>• E1 Preservation of Trees or Bushland Vegetation</li> </ul>

Internal Referral Body	Comments
	<p data-bbox="520 383 943 416"><u>Original Comments - 24/02/2021</u></p> <p data-bbox="520 456 1422 837">The Statement of Environmental Effects provided with the application provides little information regarding the impacts of the proposed development on existing vegetation. An Arboricultural Impact Assessment has also been provided, which has identified three trees impacted by the development, all located towards the rear of the property. The Architectural and Landscape Plans indicate that four trees are located within the site and impacted by the development, with three of those to be removed. The fourth tree, not addressed in the Arboricultural Impact Assessment, appears to be below 5m in height, and is therefore exempt and does not require Council's approval for removal.</p> <p data-bbox="520 878 1434 1294">Of the three trees identified at the rear of the dwelling, Trees No. 1, 2 and 3, all have been identified as either exempt species, or exempt due to heights being below 5m. It is noted that this Arboricultural Impact Assessment is a pre-development consultation review, and does not provide sufficient and accurate information regarding the existing trees, particularly in relation to tree heights. Trees No. 1 and 2 have been identified as <i>Callistemon viminalis</i> however the heights of these two trees have been estimated, and this pre-development consultation review has noted these existing tree heights shall be confirmed by an Arborist prior to any work being undertaken. Upon further review, these trees appear to be at least 5m tall, and will therefore require an updated Arborist report to confirm this.</p> <p data-bbox="520 1335 1426 1608">If these trees are confirmed to be 5m or above in height, design alternatives should be explored in order to protect these trees from removal. If justification can be provided for their removal, new native tree planting shall be proposed in order to compensate this loss, as well as to provide screening between neighbouring properties which these existing trees currently provide. The protection of existing trees, and the amenity and screening they provide, is vital to satisfy control E1.</p> <p data-bbox="520 1648 1426 2029">In addition, there is insufficient information regarding planting at the front of the property. Planting at the front of the property is vital to satisfy control D1, as a key objective of this control is for landscaped areas 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". There is currently a small tree/shrub located at the front of the property that has not been shown on plans, and is therefore assumed to be removed as a result of the proposed stairway location. With the removal of this tree and associated vegetation, control D1 is not satisfied as minimal softening of the built form has been provided.</p> <p data-bbox="520 2069 1434 2139">At this stage Landscape Referral do not support the application as insufficient information has been provided regarding the justification of</p>

Internal Referral Body	Comments
	<p>proposed existing tree removal, and the addition of new planting at the front of the site to mitigate the bulk and scale of the built form. An updated Arboricultural Impact Assessment and Landscape Plan is required.</p> <p><u>Updated Comments - 12/05/2021</u></p> <p>Following previous comments, amended Architectural and Landscape Plans have been provided with the application. A significant change within these amended plans is the increase in the front setback which is supported. This increase in area provides a larger area at the front of the site which is capable of supporting native tree planting.</p> <p>Concerns were originally raised regarding the limited planting within the front of the site, and the potential impacts of the proposed increase in built form, particularly in relation to the surrounding streetscape. As amendments have been made to increase the front setback, it is recommended that a native canopy tree be planted to ensure the proposed built form is softened, as well as to further enhance the overall streetscape of the area. The implementation of this tree planting is vital to satisfy control D1, as key objectives of this control include "to enable planting to maintain and enhance the streetscape", as well as "to provide for landscape 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".</p> <p>No concerns are raised regarding proposed tree removal as these have since been identified as below 5m in height, and are therefore exempt and may be removed without Council's approval. It is noted that Tree No. 3 has been proposed for retention and forms a key landscape element of the proposal as it is integrated into the backyard with a garden seat surrounding its trunk. It is therefore required to be protected during development to ensure its survival. The retention of this tree is key to satisfying control E1, which seeks to "protect and enhance the scenic value and character that trees and/or bushland vegetation provide".</p> <p>The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, as well as the completion of landscape works as proposed on the Landscape Plans, inclusive of an additional native canopy tree within the front setback to help mitigate and soften the proposed built form.</p>
NECC (Development Engineering)	<p><b>Supported with conditions</b></p> <p>Development Engineering has no objection to the application subject to the following conditions of consent.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p><b>Supported with conditions</b></p> <p>The proposal was referred to Ausgrid who provided a response</p>

External Referral Body	Comments
	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.

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

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

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

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

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

### **SEPP 55 - Remediation of Land**

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

### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. 1165524S dated 23 December 2020).

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

Commitment	Required Target	Proposed
<b>Water</b>	40	40
<b>Thermal Comfort</b>	Pass	Target Pass
<b>Energy</b>	50	50

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

### **SEPP (Infrastructure) 2007**

## Ausgrid

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

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

## Comment:

The proposal was referred to Ausgrid who offered no objections subject to conditions.

## **Warringah Local Environmental Plan 2011**

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

## Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.3m	N/A	Yes

## Compliance Assessment

Clause	Compliance with Requirements
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

### **6.2 Earthworks**

The excavation is limited to a small area to the east (front) up to 1.5m associated with the garage and the pool (max depth 1.9m). No fill is proposed.

Subject to conditions the earthworks is unlikely to cause disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality or the amenity of adjoining properties.

## Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.4m to the north-east corner	2.7%	No
B3 Side Boundary Envelope	North 4m	Two (2) areas breach the envelope which vary in height between 1m -1.3m	N/A	No
	South 4m	Three (3) areas breach the envelope which vary between 0.6m - 0.9m in height	N/A	No
B5 Side Boundary Setbacks	North 0.9m	Ground 1.2m First Floor 1.7m, 2.4m 7.34m	N/A	Yes
	South 0.9m	Ground 1.2m First Floor 1.2m, 1.8m and 2.4m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	9m to the eastern wall 6.5m to the cover elevated deck 3.1m to the stairs which provide access to the front deck	N/A N/A 52.4%	Yes Yes No (Assessed as acceptable)
B9 Rear Boundary Setbacks	6m	18.3m to the western (rear) wall of the dwelling 9.7m to the rear terrace 4.8m to the spa  6.5m to the pool	N/A N/A 20%  N/A	Yes Yes No (Assessed as acceptable) Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	35.7%	4.3%	No

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C4 Stormwater	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	No	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
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	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
E10 Landslip Risk	Yes	Yes

### Detailed Assessment

#### **B1 Wall Heights**

Clause B1 requires a maximum wall height of 7.2m.

#### Description of non-compliance

With the exception of a minor breach of the wall height at the north-eastern corner of the side wall (northern elevation) the proposal complies with the wall height. The wall height reaches a maximum of 7.4m (0.2m / 4% breach) at the corner.





North elevation wall height breach (source sketchArc)

### Merit consideration:

With regard to the consideration for a variation, 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 minor breach of the wall height at the north-eastern corner will not in itself result in unreasonable visual impacts when viewed from No. 12 Jamieson Parade.

- *To ensure development is generally beneath the existing tree canopy level*

### Comment:

The dwelling generally sits below the tree canopy.

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

### Comment:

The minor breach in the wall height will not in itself add to unreasonable impacts on view sharing along the existing view corridor.

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

### Comment:

The minor breach in the wall height will not give rise to unreasonable amenity impacts on neighbouring properties in terms of solar access.

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

Comment:

Excavation has been minimised.

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

Comment:

The roof pitch provides variation in its design.

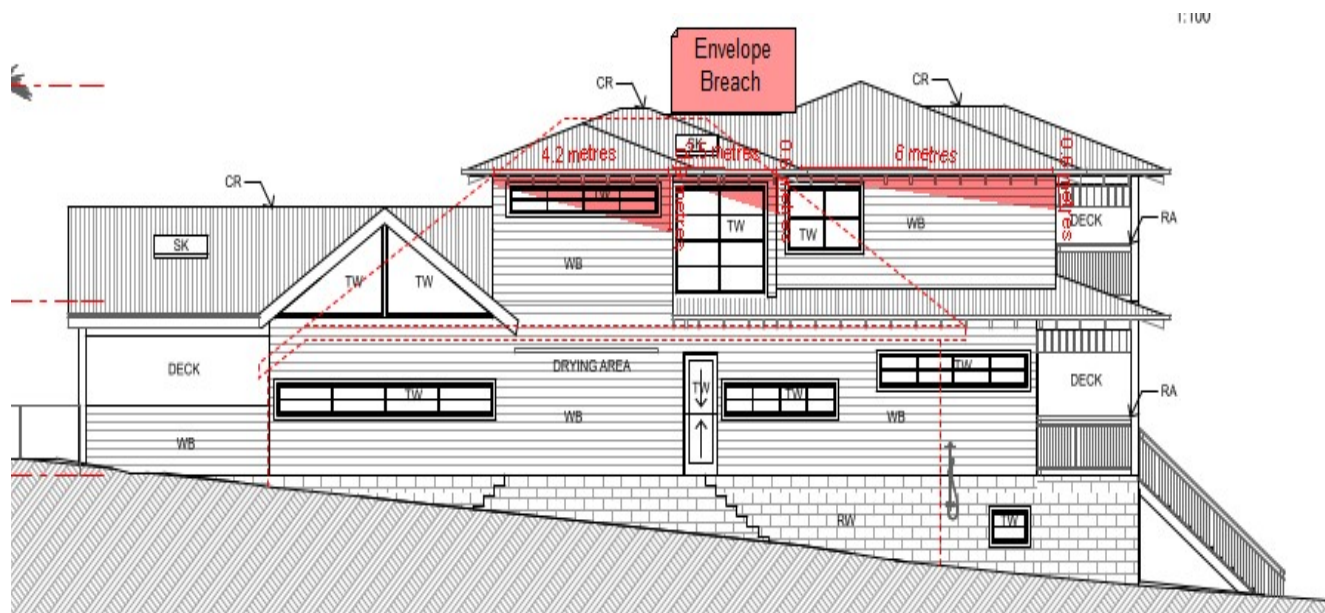
Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported,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

### **B3 Side Boundary Envelope**

Description of non-compliance

*Southern elevation*

There are three areas of non-compliances, as detailed below:



*Southern Elevation - envelope breach (source sktechArc)*

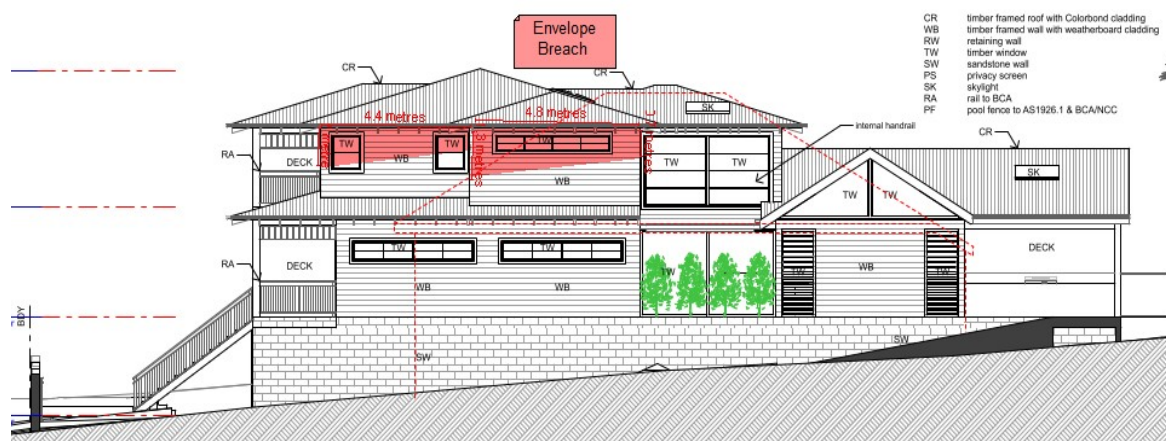
Area 1 - 0.6m - 0m in height x 6m in length relates to the master-bedroom

Area 2 - 0.6m - 0m in height x 2.5m in length relates to the stairs

Area 3 - 0.9m - 0m in height x 4.2m in length relates to bedroom 3

*Northern elevation*

There are two areas of non-compliances, as detailed below:



Northern Elevation (source sktechArc)

Area 1 - 1m - 0.6m in height x 4.4m in length relates to the master-bedroom

Area 2 - 1.3m - 0.7m in height x 4.8m in length relates to the bedroom 2.

### Merit consideration

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

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

#### Comment:

Concerns have been raised from neighbours regarding the bulk and massing of the dwelling. The proposal has been amended to increase the level 1 setbacks from the side boundaries and reduce the height to sit below the maximum 8.5m height limit. In order to further minimise the bulk and scale of the side walls as viewed from the adjoining properties a condition requires that bedroom 2 and 3 are setback a further 0.5m from the boundaries. This is particularly relevant given that the under-croft area adds to the bulk and scale of the side elevations.

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

#### Comment:

As noted above, the upper floor has been amended to increase the setback from the side boundaries and the overall height has been reduced. While the proposal complies with the numerical solar access provisions the reduction in the bulk of part of the upper floor, by way of a condition, will help minimise shadow impacts to the private open space of No. 8 Jamieson Parade to the south. Conditions are also recommended to ensure that privacy impacts are minimised. Refer to discussion under Clause D8.

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

#### Comment:

There is an approximate 3.5m level difference from the front (east) to the rear (west). The

height of the proposal dwelling is reduced to the rear consistent with other developments along the street.

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

## **D1 Landscaped Open Space and Bushland Setting**

Clause D1 requires

40% of the site to be retained as landscape open space the control notes:

- a) Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation;*
- b) The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation;*
- c) Landscaped open space must be at ground level (finished); and*
- d) The minimum soil depth of land that can be included as landscaped open space is 1 metre.*

### Description of non-compliance

The applicant calculates that the development retains 278.68sqm (40%) of landscaped open space in compliance with the control. However, the internal courtyard cannot be included in the calculation as it is paved, covered and above ground. The landscape open space is therefore calculated to be 249.32sqm (35.7%).

### Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*

#### Comment:

Sufficient deep soil is available to allow for effective planting to enhance the streetscape and soften the built form, refer to comments from Council's Landscape Officer.

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

#### Comment:

There is no indigenous vegetation on the site or topographical features. The trees proposed to be removed are exempt species.

- *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 dimension of the landscape open space allows for planting of a mixture of species including a canopy tree in the frontage to mitigate the height, bulk and scale of the building.

- *To enhance privacy between buildings.*

Comment:

Screen planting is proposed around the perimeter of the rear garden to enhance privacy. A condition requires screen planting to the rear garden to have a maximum height at maturity of 3m to address concerns about view loss as a result of proposed planting.

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

Comment:

The proposal benefits from appropriate recreational opportunities including a pool, terrace and internal courtyard. A condition requires the size of the cover rear terrace to be reduced in area to increase the area of landscape open space. The modified covered terrace will have a width of 3m which is assessed as sufficient to allow for the recreational opportunities of the occupants. Subject to this condition the landscape open space will equate to 267.6sqm (38.4%). It is also noted that the reduction in the size of the covered terrace will help address concerns about building bulk and solar access.

- *To provide space for service functions, including clothes drying.*

Comment:

Sufficient space is provided for service functions.

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

Comment:

The reduction in the size of the covered terrace will increase the area available for water infiltration.

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

## **D6 Access to Sunlight**

Clause D.6 requires:

*At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.*

Comment

Shadow diagrams have been submitted which show that the amended proposal will cast additional shadow to the rear principle area of principle area of open space to the rear of No. 8 Jamieson Parade at 9am. At 12 noon the line of shadow shifts to fall primarily over the roof and by 3pm the additional shadow is cast over the roof, the front garden of the southern neighbour and the street. The proposal retains a minimum 50% of sunlight to the rear principle area of private open space for at least 3 hours between 9am and 3pm in compliance with the control.

Notwithstanding this, it is recommended that a condition be imposed requiring bedroom 3 to be set back an additional 0.5m to minimise the bulk and scale of the development when viewed from No. 8 Jamieson Parade which will help reduce the shadow impact between 9am to 12 noon to the adjoining rear garden.

## **D7 Views**

### Merit consideration

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

- *To allow for the reasonable sharing of views.*

#### Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

#### **1. Nature of the views affected**

*"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".*

#### Comment to Principle 1:

View loss issues have been raised in written submissions from the following properties; No. 31 and No. 33 Anzac Avenue and No. 1 Worcheser Street which are located to the rear (west) at a higher level and No. 8 Jamieson Parade which is located at the same level to the immediate south. Following the submission of amended plans and the installation of height poles all those that made a submission were re-notified of the amended plans and offered the option to have Council Officers conduct a view loss assessment from their respective properties. The invitation for a view loss assessment was accepted from the owner of two properties, No. 8 Jamieson Parade and 31 Anzac Avenue.

The view loss assessment confirmed that north-eastern views towards the ocean and treetops along the ocean front can be observed across the side of the site from No. 8 Jamieson Parade and from an oblique angle along the view corridors either side of the existing dwelling from No. 31 Anzac Avenue.

#### **2. What part of the affected property are the views obtained**

*“The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.*

#### Comment to Principle 2:

##### *No. 8 Jamieson Parade*

No. 8 Jamieson Parade is located directly to the south of the subject site. Views are enjoyed from a sitting and standing position towards the ocean and the interface of the treetops and ocean looking to the east and north-east from the first floor front balcony and from the side (northern) windows to the master bedroom.

##### *No 31 Anzac Parade*

No. 31 Anzac Parade is located to the rear (west) of the subject site at an elevated position. Views can be observed of the tree top and ocean interface and ocean looking to the east and north-east from a standing and sitting position from the first floor deck and adjoining open plan living, dining and kitchen. It is noted that the views are partially obscured by the existing vegetation, some of which is proposed to be removed.

View loss assessments were not conducted from No. 33 Anzac Parade and No 1 Worchester Avenue, however, it is expected that the view loss will be similar to that observed at No. 31 Anzac Parade (refer to assessment below). The three properties are located to the rear (west) of the subject site at elevated positions, approximately 2m-4m higher than the subject site.

### **3. Extent of impact**

*“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.*

#### Comment to Principle 3:

##### *No. 8 Jamieson Parade*

The north-eastern view towards the tree top interface with the ocean enjoyed from the northern side windows of the first floor master bedroom and the view from the first floor deck will be partially affected by the proposal. The view loss is assessed as moderate (from the bedroom window) to minor (deck).





*North facing bedroom window standing position looking to the north-east.*

*\*It is noted that the height pole in the photo depicts the highest point of the south-west corner of the dwelling. The roof of the balcony will extend a further 2.5m beyond this being set back 4.5m from the southern boundary.*





*North facing bedroom window siting position looking to the north-east.*



*View from front balcony looking to the north-east.*

#### *No 31 Anzac Anzac Parade*

The north-eastern oblique view towards the tree top interface with the ocean and a small area of ocean view will be affected by the proposal which is currently enjoyed from the first floor rear deck and open plan living room from a standing and sitting position. The view along the southern view corridor is currently compromised with existing vegetation including the large tree observed in the left of the photo. The proposal includes the removal of this tree which has the potential to improve the wider ocean view. Due to the elevated position of this property the view loss is assessed as moderate (from the deck) to negligible (from the open plan living, kitchen and dining room). A condition requires future planting to be limited in height to minimise impacts.



*Eastern view from rear first floor balcony looking towards the southern view corridor along the side of the existing dwelling.*





*Eastern view from rear first floor balcony looking towards the northern view corridor along the side of the existing dwelling.*



*Eastern view from the open plan living, kitchen and dining room, the height poles are not visible from this view.*

#### **4. Reasonableness of the proposal that is causing the impact**

*“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”*

##### Comment to Principle 4:

With the exception of the minor breach of the side envelope and wall height controls the proposal, as amended, is fully compliant with the built form controls, including the 8.5m height limit.

In order to further minimise the bulk and scale of the side walls of the dwelling a condition is recommended requiring the side setback of bedroom 2 and 3 on level 1 to be increased an additional 0.5m. This in turn will help address the envelope breach and help minimise view loss

along the view corridors either side of the dwelling.

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

Comment:

Subject to conditions the design, as amended, is assessed as being responsive to the existing environment and will help minimise unreasonable view loss.

- *To ensure existing canopy trees have priority over views.*

Comment:

There will be some minor impact on the distant view of treetops along the ocean front as a result of the proposal, however, the proposal will sit below the height of street trees within the immediate area.

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

## **D8 Privacy**

Clause D 8 requires:

- 1. Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.*
- 2. Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.*
- 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.*
- 4. The windows of one dwelling are to be located so they do not provide direct or close views (ie from less than 9 metres away) into the windows of other dwellings.*

### *Southern elevation*

Level 1 - The window to bedroom 3 is a high level window. The window to the study is set back 1.8m from the southern boundary and a condition requires this window to be high level. The front first floor balcony to the master bedroom is sited 4.5m from the side boundaries and 8.4m from the first floor balcony to No. 8 Jamieson Parade. In order to ensure privacy is maintained without the need to add privacy screens either side of the balcony which would add to the visual bulk a condition requires that the balcony is reduced in size to be set back a further 0.5m to the north and south boundaries. The separation distance between the front balconies will be modified to 8.9m which is generally compliant with the recommended 9m separation.

Ground level - Due to the under-croft the finish floor level of the ground floor sits a maximum of 1.7m above ground level. In order to ensure visual privacy is maintained conditions requires the office window and kitchen window to be a high level window and the half wall to the external BBQ area to be increased in height to 1.8m. In addition, a condition requires a privacy screen to be installed along either side of the elevated front deck.

### *North elevation*

Level 1 - The window to bedroom 2 is a high level window and conditions requires the windows to the ensuite to be obscure glazing. The front first floor balcony to the master bedroom is sited 4.5m from the northern side boundary. The balcony sits forward of the existing first floor balcony to No 12 Jamieson Parade and will not result in unreasonable impacts by virtue of overlooking. Despite this a condition requires the setback to be increased a further 0.5m from the northern boundary which will ensure the symmetry of the balcony is retained and further minimises privacy impacts.

Ground level - Due to the under-croft the ground floor level sits up to 2.2m above ground level. In order to ensure privacy is maintained to No. 12 Jamieson to the north a condition requires the guest bedroom and media room are high level. Conditions also require the windows to the ground floor lounge to be fitted with fixed and angled privacy screens and privacy screens to be installed along the northern edge of the ground level front deck and the northern edge of the raised courtyard.

#### Merit consideration

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

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

#### Comment:

Subject to condition including the use of high sills, privacy screens and an increase in the side setback of the first floor balcony visual and acoustic privacy to neighbouring properties can be maintained. In addition, it is recommended that a standard noise condition be imposed to ensure there are no unreasonable acoustic impacts from the pool pump.

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

#### Comment:

The amended design, subject to conditions, is deemed to be acceptable.

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

#### Comment:

The proposal will not result in unreasonable impacts on security.

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

## **D9 Building Bulk**

#### Merit consideration

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

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

Comment:

The amended design reduces the height, bulk and scale of the dwelling. The projecting front balcony has been reduced in size with setbacks increased to 4.5m from the north and south boundary. The facade is well articulated to reduce the bulk and scale of the dwelling from the streetscape.

The front wall of dwelling has been amended to have a 9m set back from the street frontage and a 56sqm area of landscaped open space is retained to the frontage which allows for sufficient space for planting of a canopy tree which will also help soften the bulk of the dwelling.

Conditions are recommended to further reduce the bulk of the side walls to ensure that the dwelling responds to the context of the site.

The dwelling presents as three storeys to Jamieson Parade. In order to ensure that the bulk and scale of the dwelling is reduced to be consistent with the streetscape a condition requires the front door to the gym to be deleted and earthwork and landscaping to be completed to the front garden (the area to the southern side of the stair). Subject to this condition, the dwelling will have a similar presentation to the street as the adjoining properties to the south including No. 4 and 8 Jamieson Parade.

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

Comment:

The amended design increases the setback of the upper floors of the dwelling to between 1.3m to 2.4m. The increase in the setback helps reduce the visual impact of the dwelling from the adjoining properties and a selection of materials have been included to provide variation and interest to the wall plane.

In order to further reduce the visual impact of the development it is recommended that bedroom 2 and 3 are set back a further 0.5m from the side boundaries. This in turn will help minimise the envelope non-compliance and shadow impacts to the property to the south.

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

## **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 2019**

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

A monetary contribution of \$18,720 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,872,000.

## **CONCLUSION**

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

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

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

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

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

In summary, a detailed assessment has been required for the following specific issues:

*Density - bulk, scale, height and massing and impacts on the character of the area.*

The application has been amended to reduce the height, bulk and scale of the development to comply with the built form controls with the exception of minor breaches to wall height, envelope and landscape open space. Conditions are recommended to further reduce the bulk of the development along the side elevations and reduced the terrace area which will help address the breaches. Conditions require the front door to the gym to be deleted and earthworks and landscaping to the southern front garden to reduce the visual impact of the dwelling from the streetscape.

*Impacts on residential amenity*

The amended design helps address amenity impacts including overshadowing. Conditions are recommended to further protect neighbouring amenity including privacy treatment to windows and area of private open space and an increase in the set back of the bedroom 2 and 3 which will help address issues in relation to solar access.

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

## RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2021/0006 for Demolition works and construction of a dwelling house including swimming pool and spa on land at Lot 14 DP 12012, 10 Jamieson Parade, COLLAROY, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA3 Site Analysis Plan	26/03/2021	SketchArc
DA4 Garage Floor Plan	26/03/2021	SketchArc
DA5 Ground Floor Plan	26/03/2021	SketchArc
DA6 Ground Floor Plan	26/03/2021	SketchArc
DA7 First Floor Plan	26/03/2021	SketchArc
DA8 Roof Plan	26/03/2021	SketchArc
DA9 North and South Elevation	26/03/2021	SketchArc
DA10 East and West Elevation	26/03/2021	SketchArc
D11 Street Elevation and Section Drive	26/03/2021	SketchArc
D12 Sections AA and BB	26/03/2021	SketchArc
D13 Section CC and DD	26/03/2021	SketchArc
Materials and Finishes /Perspectives	No date	SketchArc

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
20102 SW-1 - 2	18/12/2020	Michael Korecky

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Preliminary Geotechnical Assessment	18/12/2020	White Geotechnical Group
Waste Management Plan	20/12/2020	Matthew Power
BASIX Certificate	23/12/2020	ecomaxhomes
Arborist Report	13/10/2020	Peake Arboriculture

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA15 Landscape Plan	26/03/2021	SketchArc

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

**2. Prescribed Conditions**

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

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

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

the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

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

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

Reason: Legislative requirement.

### 3. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

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

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

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2018
    - (iv) Australian Standard AS1926 Swimming Pool Safety

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$18,720.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$1,872,000.00.

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

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

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

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

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

### 5. 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 Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

### **6. On Slab Landscape Works**

Details shall be submitted to the Certifying Authority 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 Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed:

- i) 300mm for lawn
- ii) 600mm for shrubs

Design certification shall be submitted to the Certifying Authority 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 secure waterproofing and drainage is installed.

### **7. Amendments to the approved plans**

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

- Privacy treatment, the design shall be amended as follows:
  - Windows W6, W9, W17, W18, W26 and W32 are to be high level with a sill height of 1.6m.
  - Windows W12 and W13 shall be amended to fixed glass (as opposed to louvres) with have fixed angled privacy screens.
  - Windows W33 and W34 shall have obscure glazing.
  - A 1.6m high fixed and angled privacy screen shall be installed along the northern side



of the internal courtyard.

- 1.6m high fixed and angled privacy screens shall be installed along the northern and southern edge of the front elevated deck.
- The southern wall of the BBQ area shall be increased in height to be 1.6m from the finished floor level.
- The first floor front deck to the master bedroom shall be set back an additional 1m from both the north and south side boundaries.

- Reduction in areas of hard surface, the design shall be amended as follows:
  - The hard surface area adjacent to the gym (reference garage floor plan (DA4)) shall be deleted.
  - The rear paved terrace and associated roof shall be reduced in size with a maximum width of 3.0m.
- Increase in the side set back of level 1, the design shall be amended as follows:
  - 0.5m increase in the set back of bedroom 2 level 1 from the northern side boundary.
  - 0.5m increase in the setback of bedroom 3 level 1 from the southern side boundary.
- Landscaping and levels to frontage and door to gym
  - The door to the gym reference W1 shall be deleted window W2 may be increase in length to ensure light and access to the gym.
  - The existing ground level across the front of the property to remain at RL25 at the southern front corner of the dwelling and RL 25.2 adjoining the southern side of the stairs at the front of the dwelling. Along the front boundary the land shall remain at RL25 in the south east corner and 24.8 adjoining the southern alignment with the stairs.
  - Planting to reach a minimum 1m height to be planted along the front of the gym.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land and reduce the visual impact of the dwelling from the streetscape.

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

The recommendations identified in the Preliminary 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 Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

#### 9. **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 Michael Korecky, drawing number 20102, dated 18/12/2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer.

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

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

10. **Structural Adequacy and Excavation Work**

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

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

11. **Vehicle Crossings Application**

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

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

Reason: To facilitate suitable vehicular access to private property.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

12. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

No. 8 and No. 12 Jamieson Parade, Collaroy

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the 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 Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

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 Certifying Authority prior to the commencement of any works on site.

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

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

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

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

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

14. **Protection of Existing Street Trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street trees fronting the development site shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, and in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture.

All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Tree protection.

15. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,

- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an 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 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 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 with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an 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 to the Certifying Authority,
- 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 Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 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 Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause 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.

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

## 16. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,

- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

**17. 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.

**18. Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

**19. 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 Certifying Authority, 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.

20. **Vehicle Crossings**

The Applicant is to construct a vehicle crossing 4 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/4 EH and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

21. **Survey Certificate(Conditions - During Works)**

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

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

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

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

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans. (DACPLE01)

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

22. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Amended Landscape Plan, inclusive of the following conditions:

i) an additional locally native canopy tree shall be required within the front yard of the property, minimum 75L pot size. Suggested species include: *Angophora costata*, *Banksia integrifolia* or *Eucalyptus haemastoma*.

Tree planting shall be located within a 9m<sup>2</sup> deep soil area wholly within the site and be located a minimum of 3 metres from existing and proposed buildings, and other trees.

Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views.

Native tree planting species shall be selected from Council's list, specifically the *Native Plant*

*Species Guide - Narrabeen Ward:* [www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide](http://www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide).

Prior to the issue of an Occupation Certificate, details shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

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

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

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

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

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

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

24. **Environmental Reports Certification**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

- (a) Preliminary Geotechnical Assessment dated 18/12/2020 prepared by White Geotechnical Group
- (b) Waste Management Plan dated 20/12/2020 prepared by Matthew Power
- (c) BASIX Certificate dated 23/12/2020 prepared by ecomaxhomes
- (d) Arborist Report dated 13/10/2020 prepared by Peake Arboriculture

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To ensure compliance with standards.

25. **House Number**

House number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

26. **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 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, 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 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 Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)

27. **Swimming Pool Requirements (existing pool modified by works)**

The existing onsite Swimming Pool / Spa fencing enclosure shall be upgraded to comply with:

(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 2008;
  - (iv) Australian Standard AS1926 Swimming Pool Safety;
  - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools;
  - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (b) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING**



**THIS POOL'** has been installed.

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

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

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To protect human life. (DACPLF10)

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

### **28. Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. 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.

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 and any conditions of consent.

Any screen planting installed within the rear of the property shall be maintained at a height not exceeding 3m measured from the ground level adjacent to the trunk.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

### **29. Undesirable Trees**

Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, or any other Undesirable Trees identified by Council, must not be planted on the site for the life of the development.

In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views and loss of plant diversity.

### **30. Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

### **31. Noise from plant**

Noise from all plant air condition units and pool plant must not generate noise above 5dBA at the property boundary and not be audible within habitable rooms of surrounding properties.