

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0026
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Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 1 DP 758421, 2 Cullen Street FORESTVILLE NSW 2087
Proposed Development:	Construction of a dwelling house including swimming pool
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Jianzhong Zhang Dongyun Yu
Applicant:	RPDC Pty Ltd

Application Lodged:	15/03/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	23/03/2021 to 06/04/2021
Advertised:	Not Advertised
Submissions Received:	5
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 762,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The subject development application seeks consent for the construction of a detached dwelling house. Demolition works are not proposed, as demolition of existing structures was previously approved and undertaken as complying development. A palm tree adjacent to the eastern boundary is proposed to be removed.

The details of the proposal are as follows:

Lower ground floor:

- The front of the lower ground floor is to consist of a large semi-basement carpark. The number of vehicles to be accommodated within this space is not indicated, however the dimensions of

this space are such that at least three (3) vehicles could be accommodated within the garage.

- A living area is to be centrally situated to the rear of the garage, and will separate the eastern and western sides of this level.
- The area on the eastern side of the level between the garage and rear building line is to contain Bed 2, a bathroom, sauna and laundry.
- The area on the western side of the level between the garage and rear building line is to contain a stairway and lift to the levels above, a cellar, media room and Bed 1.
- At the rear of this level is a covered verandah.

Ground floor:

- The front of the ground floor will contain an entry to an open plan living area on the northeast side of this level which consists of a lounge and dining room. Bed 3 with an ensuite and walk-in-robe will be located on the northwest side of this level.
- The remaining eastern side of this level will contain a kitchen, bathroom and Bed 4 with ensuite.
- The remaining western side of this level will contain Bed 5, Bed 6 with ensuite, a stairway and lift.
- A central area will contain a courtyard that is enclosed by the ground floor on all sides but open to the sky. To the rear of the courtyard will be a family room.
- At the rear of this level is a covered balcony.

First floor/roof:

- The enclosed part of the first floor will be located towards the front of the dwelling and will contain a sun room and bathroom (in addition to a stairway and lift connecting to lower levels).
- Accessible areas for the remainder of this level will consist of a large terrace area, part of which will be covered by a pergola structure.
- The remainder of the roof above the ground floor will contain rooftop gardens containing low plants and gravel pathways to enable access to those plants.

Site:

- A swimming pool is to be situated to the rear of the lower ground floor.
- Except for the driveway and access pathway to the front of the dwelling and a rainwater tank on the eastern side of the dwelling, the remainder of the areas outside of the dwelling and pool are to be landscaped.

Amendments to proposal & additional information have been provided at the request of Council that include the following changes:

- Roof Terrace reduced by 1.7m at the eastern side
- Eastern and western first floor terrace garden edge lowered by 700mm
- Opaque glass up to 1.5m above FFL to Dining Room window 2-W6
- Increased sill height of 1.5m above FFL to Kitchen window 2-W7
- Front fence lowered by 100mm
- Additional shadow diagrams
- Revised/updated geotechnical assessment

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 Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - B1 Wall Heights
 Warringah Development Control Plan - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - D6 Access to Sunlight
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D13 Front Fences and Front Walls
 Warringah Development Control Plan - E6 Retaining unique environmental features
 Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

Property Description:	Lot 1 DP 758421 , 2 Cullen Street FORESTVILLE NSW 2087
Detailed Site Description:	<p>The subject site is identified as 2 Cullen Street, Forestville (Lot 1, Sec. 44, DP758421), and consists of a single allotment on the southern side of Cullen Street, approximately halfway between the cul-de-sac turning head and the intersection with Cherana Crescent.</p> <p>The site is irregularly-shaped with an area of approximately 827.3m². The frontage of the site is 10.975 metres, and the width of the site progressively increases towards the rear of the site with a rear boundary width of 27.42 metres; the lengths of the eastern and western boundaries are 43.205 and 45.725 metres respectively. The site is moderately</p>

sloped, with a diagonal front-to-rear slope of approximately 4.33 metres.

The site is located within the R2 Low Density Residential zone under WLEP 2011; the rear boundary adjoins an RE1 Public Recreation zone, though all other boundaries adjoin R2-zoned allotments. The site is also mapped as being affected by a bushfire hazard, a landslip risk (Area B, denoting slopes of 5-25 degrees). The site does not contain a heritage area, is not within a Heritage Conservation Area and is not in close proximity to a mapped heritage item.

Detailed Description of Adjoining/Surrounding Development

Development on adjoining and surrounding residential-zoned sites is characterised by low-density residential development (e.g. detached dwelling houses and associated structures); reserves and vegetated areas to the rear of the site are not developed.

Map:



SITE HISTORY

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

- April 1996: Development Application no. 455/96 approved for alterations and additions to a dwelling.
- 26 July 2000: Development Application no. 4545DA approved for first-floor alterations and additions to a dwelling.
- 17 May 2020: Complying Development Certificate No. CDC2019/0156 approved for the demolition of a dwelling house.

- 15 March 2021: Subject Development Application lodged.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

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

A Bush Fire Report was submitted with the application (prepared by Australian Bushfire Consulting Services (Wayne Tucker), Ref. 20-440, dated 26 November 2020). The report stated that the bushfire attack level of the site is 'Flame Zone'.

The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report , along with the conditions from the NSW RFS have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 23/03/2021 to 06/04/2021 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 5 submission/s from:

Name:	Address:
Mr Eoin Michael Geaney	14 Cherana Crescent FORESTVILLE NSW 2087
Mr Glen Andrew McCarthy	3 Cherana Crescent FORESTVILLE NSW 2087
Ms Eva Ketterer	3 Cullen Street FORESTVILLE NSW 2087
Nikolaos Panopoulos	4 Cullen Street FORESTVILLE NSW 2087
Leslie George Bell	1 Cullen Street FORESTVILLE NSW 2087

The matters raised within the submissions are addressed as follows:

- Three-storey appearance, height and bulk

Comment:

There is no number of storeys control applicable to the site and the proposed dwelling complies with the 8.5m building height control. The development appears from the street frontage as a two-storey dwelling plus a single-width garage door at the lower ground level. The first floor sunroom has increased side setbacks and is sited at the front of the floorplate, limiting the extent of the dwelling that presents as three storeys to the adjoining properties. The proposal is also designed to comply with the setback and building envelope controls to ensure adequate spatial separation. The 4m section of the sunroom wall that exceeds the wall height control is not considered to result in excessive bulk or visual impact. The proposal also provides 41.7% landscaped area in accordance with the control. Given the level of compliance with the relevant Warringah LEP and DCP controls, the development is suitable for the site.

- Privacy impacts, overshadowing of open space and solar panels

Comment:

The first floor terrace and ground floor window amendments adequately address privacy concerns from these areas. Further conditions have also been included to require the area beyond the first floor terrace be non-trafficable roofing. The proposal maintains the required level of sunlight access to the private open space areas of adjoining properties between 9am and 3pm; 1 Cullen Street will be unaffected by shadow until approximately 1pm. It should be noted that the shadow diagrams indicate the impact at ground level, rather than shadows cast on walls, roofs or other structures above ground. The solar panels on the rear roof of No. 1 are unlikely to be affected until approximately 2pm and the panels on the first floor roof will be minimally affected between 2pm and 3pm. There are no specific DCP controls relating to the retention of sunlight to solar panels, however, the resulting impacts are considered to be reasonable in this case. It is also noted that the solar panels on the rear roof of No. 1 are vulnerable to overshadowing due to their location on a ground floor roof to the south of the two-storey part of the dwelling at No. 1. Similarly, the retention of late afternoon sun sunlight is not always a reasonable expectation, particularly where the subject development is almost entirely compliant with the built form controls. Further assessment of overshadowing and privacy is completed under D6 and D8.

- Car parking
Comment:
The number of vehicles able to be accommodated in the semi-basement garage is not indicated on the plans, however it appears capable of accommodating at least three vehicles. This exceeds the minimum of two spaces required by the control for a dwelling house and is acceptable in this case.
- Stormwater management and drainage
Comment:
The proposal provides a compliant landscaped area and Council's Development Engineers raised no objection to the proposed stormwater design, subject to the conditions of consent.
- Damage to adjoining properties during construction
Comment:
Conditions of consent are included requiring the preparation of pre and post-construction dilapidations reports that detail the condition of the existing dwellings at 1 & 3 Cullen Street, and any damage resulting from the proposed development.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development application is for a new dwelling including a pool and landscape works. It is noted that the site is currently vacant and it is within land mapped as bush fire prone. The Landscape Plans indicate all existing trees to be retained. No significant landscape features are indicated by the plans to be affected by the proposed works.</p> <p>No objections to approval, subject to conditions.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018; Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. The application has also been assessed against requirements of the Warringah LEP 2011 and Warringah DCP 2011.</p> <p>The application has also been assessed using Northern Beaches SREP assessment template.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 The subject land has been included on the 'Coastal Environment</p>

Internal Referral Body	Comments
	<p>Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Clauses 13 (coastal environment area) and 14 (coastal use area) do not apply as the site is also located within the SREP area. Hence, only Clause 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under Clause 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Sydney Regional Environment Plan (Sydney Harbour Catchment), 2005</p> <p>Harbour Foreshores & Waterways Area The subject site is located within the Sydney Harbour Catchment and is identified as being within the Foreshores and Waterways Area. Hence Part 2, Clause 14 and Part 3, Division 2 apply in assessing this DA.</p> <p>On internal assessment, it is determined that the Planning Principles and Matters for Consideration of the Area have been met.</p> <p>Warringah LEP 2011 and Warringah DCP 2011</p> <p>No other coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Warringah LEP 2011 and Warringah DCP 2011.</p>
NECC (Development Engineering)	<p><u>1st Referral Response</u> Council's records indicate that the subject property may be/is burdened by a Council stormwater pipeline. The pipe survey provided shows the center line of the stormwater pipeline in the easement. The width of the pipe line is shown only in sections. As the proposed development is in close proximity to the drainage easement the applicant is to show the width of the pipeline for the entire length of the easement on the site plan to allow for an accurate assessment of the proposed works.</p> <p><u>2nd Referral Response</u> Additional Information Received on 29/04/2021 The additional survey for the council pipeline has been reviewed. No objections to approval subject to conditions as recommended.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The property is not tagged as flood affected, but there has not been a flood study undertaken in this area. Refer to Development Engineering comments.</p>
External Referral Body	Comments

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid, who provided an undated response on 19 March 2021. The response indicated 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.
NSW Rural Fire Service – local branch (s4.14 EPAA)	The recommendations contained within the NSW RFS referral response are included in the conditions of consent.
Aboriginal Heritage Office	<p>A response received from the AHO dated 23 March 2021 found that no sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>The AHO therefore considers that there are no Aboriginal heritage issues for the proposed development, subject to a condition requiring that works cease during works if undiscovered elements are found during works.</p>

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. 1161030S, dated 3 December 2020). The BASIX Certificate is supported by an NatHERS Certificate (see Certificate No. 0005460746-01, dated 3 December 2020).

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

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

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. An undated response was received on 19 March 2021; no objections were raised, subject to conditions.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - coastal environmental values and natural coastal processes,*
 - the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - existing public open space and safe access to and along the foreshore, beach,*

headland or rock platform for members of the public, including persons with a disability,

- (f) Aboriginal cultural heritage, practices and places,*
- (g) the use of the surf zone.*

Comment:

Provided that conditions are satisfied to satisfy the natural environment during works, the proposal will not have any foreseeable adverse impacts on the coastal environment. Items of Aboriginal cultural significance have not been identified, however undiscovered finds will be subject to conditions.

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

Comment:

Subject to conditions, the siting and design of the development will not have foreseeable adverse impacts on the natural environment. Any potential conditions that could arise will be addressed by those conditions of consent.

14 Development on land within the coastal use area

- (1)
 - (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposal will have no foreseeable impacts on the coastal use area, in terms of encroachment, overshadowing, adverse visual amenity and heritage. Conditions are recommended to address any undiscovered heritage finds during works.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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

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

Comment:

Subject to conditions, the proposal will have no foreseeable impact on coastal hazards.

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
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

6.2 Earthworks

The proposal includes excavation up to depths of approximately 1m for the semi-basement garage and 1.5m for the swimming pool. Various minor cut/fill works are also proposed according to the geotechnical assessment. The proposed earthworks are supported, subject to the recommendations within the geotechnical assessment.

6.4 Development on sloping land

The site is mapped as Landslip Risk Area B and a geotechnical assessment of the development has been submitted. The recommendations of this geotechnical report are incorporated into the conditions of consent.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	E: 7.2m	7.5m	4.17%	No
	W: 7.2m	7.1m	N/A	Yes
B3 Side Boundary Envelope	E: 4m	Within envelope	N/A	Yes
	W: 4m	Within envelope	N/A	Yes
B5 Side Boundary Setbacks	E: 0.9m	2.89m	N/A	Yes
	W: 0.9m	2.13m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	Building line: 10.39m Porch: 9.86m	N/A	Yes
B9 Rear Boundary Setbacks	6m	Building line: 9.7m Balcony: 6.8m Pool: 1.6m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (330.92m ²)	41.7% (344.8m ²)	N/A	Yes

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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	No	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
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The plans propose a 300mm (4.17%) variation to the maximum wall height on the proposed dwelling's eastern elevation. The breach is located on the southeast corner of the top floor of the building, and is largely attributable to the proposed number of storeys and the slope at this point of the building. A smaller 100mm variation proposed at the rear of the eastern elevation is removed as a result of the amended plans that reduce the height of the garden edge by 700mm.

The western elevation complies due to higher ground levels at that part of the site.

Merit consideration:

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

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

Comment:

The proposed non-compliant wall section is a maximum height of 300mm over a length of 4m. The wall height breach is set back 3.6m-5m from the eastern side boundary and complies with the building envelope control, providing sufficient physical separation from the adjoining property to minimise the visual impact. The area of the breach will also have no impact on visual privacy, and the proposal will comply with solar access requirements (both with regard to the subject site and adjoining sites).

The wall height breach affects the rear of the first floor (as opposed to the front), and will not be visible from the Cullen Street road reserve; conversely, as the full height of the first floor occupies the front part of the building footprint, the noncompliance will be obscured from the public domain at the rear of the site by rear sections of the building and the progressively stepped eastern building line. There will subsequently be no adverse impact on the public domain, and the design of the building is such that it will not be highly evident from adjoining residential sites.

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

Comment:

The proposed dwelling maintains compliance with the building height control and is generally beneath tree canopy level.

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

Comment:

Noting that potentially significant views are located south/southeast, the location of the breach on the southeast side of the first floor (and towards the front of the dwelling) is such that it will not foreseeably affect views either from adjoining sites and the public domain.

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

Comment:

The impact of the breach is minimised by the generous side setback proposed to the non-compliance wall section.

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

Comment:

The proposed dwelling responds reasonably to the topography. Excavation works associated with the dwelling are limited to approximately 1m, and the first floor is contained within the front portion of the building footprint to minimise the extent of the non-compliance.

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

Comment:

The proposed roof forms are appropriate in this case.

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.

B9 Rear Boundary Setbacks

Compliance with control

The proposed swimming pool is non-compliant with the 6m rear setback control, but is not significantly elevated above ground level and does not exceed 50% of the rear setback area. As such, the proposal complies with this control.

D6 Access to Sunlight

Compliance with control

3 Cullen Street

At 9am there is minor overshadowing of the eastern dwelling wall and rear yard of No. 3. There will be negligible impact to this property by 10am, and no impact for the remainder of the day.

1 Cullen Street

The proposal will cause minor overshadowing of the western wall and rear yard of No. 1 at 1pm. The extent of the overshadowing remains relatively minor until 2pm, but will affect more than 50% of the rear yard between 2pm and 3pm. There is also likely to be some overshadowing of the rooftop solar panels at No. 1, particularly those located on the southern ground floor roof. Despite the level of impact in the late afternoon, this property is unaffected until after 12pm.

Given the level of impact described above, the articulation of the proposed dwelling and the northerly orientation of the properties, the subject and adjoining sites will maintain a compliant level of sunlight throughout the day in accordance with this control.

D8 Privacy

Compliance with control

Whilst the proposal is generally satisfactory from a visual privacy perspective, concern is raised regarding two specific elements which are as follows:

Rooftop

The plans propose a rooftop terrace to the south (rear) of the sunroom. Trafficable rooftop gardens and one-metre-high balustrades on both sides were also proposed to the eastern and western sides of the terrace.

Concern was raised with the trafficable gardens, as their design and layout would enable persons on the roof to move close to the edges of this level and overlook the dwellings/private open spaces of the adjoining properties. The applicant has submitted amended plans removing the 1m high balustrades from the eastern and western sides of the gardens, and a condition is imposed to ensure that the gardens are deleted and replaced with non-trafficable roofing.

The location of the terrace is considered to be acceptable based on the removal of the rooftop gardens, as the locations of the roofs of the ground floor level on either side of the terrace would obscure

downward viewing from the terrace into adjoining sites.

Ground floor living areas

Concern was also raised with the size and location of the proposed dining room and kitchen windows (2-W6 and 2-W7 respectively) on the eastern elevation that have the potential to adversely affect the privacy of the adjoining property to the east. The amended plans propose obscured/opaque glass up to 1.5m to 2-W6 and a minimum sill height of 1.5m to 2-W7. The revised window designs are considered to be sufficient to mitigate the potential privacy impacts.

The windows on the western side of the dwelling are narrower in width and relate to bathrooms and bedrooms rather than living areas, and are not anticipated to result in frequent overlooking opportunities. The window schedule submitted by the applicant indicates that opaque glass will be provided to all bathroom and toilet windows, and a condition is included to ensure the two full-height ensuite windows, 2-W17 and 2-W18, are opaque.

Based on the above assessment and recommended conditions of consent, the proposal is considered to be acceptable in relation to privacy and is supported.

D13 Front Fences and Front Walls

A front boundary fence with a height of between 1.2m-1.6m is proposed. The fence is to consist of white masonry pillars with 1.2m high dark grey inserts.

The proposed front fence is not supported for the following reasons:

- The fence will not be compatible with streetscape character, noting that the only other fence addressing Cullen Street is an open wooden picket fence on a secondary frontage opposite the site.
- The placement of the fence does not allow for landscaping to soften its appearance. The section of the fence towards the eastern side boundary will feature a large unarticulated section.
- With regard to the above, the fence will not complement the existing streetscape character.

As such, a condition is recommended that will require deletion of the fence from the construction plans.

E6 Retaining unique environmental features

A condition is included to ensure the retention of rock outcrops beyond the proposed development footprint.

E10 Landslip Risk

The site is mapped as Landslip Risk Area B and a geotechnical assessment of the development, including relevant recommendations, has been submitted as required.

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 \$7,620 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$762,000.

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/0026 for Construction of a dwelling house including swimming pool on land at Lot 1 DP 758421, 2 Cullen Street, FORESTVILLE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition

of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A1 Lower Ground Floor Plan	Rev. A, 28 April 2021	Residential Property Development Consultants
A2 Ground Floor Plan	Rev. A, 28 April 2021	Residential Property Development Consultants
A3 First Floor Plan, Roof and Site Plan	Rev. A, 28 April 2021	Residential Property Development Consultants
A6 Building Elevations - East, South, North & West	Rev. A, 28 April 2021	Residential Property Development Consultants
A7 Building Elevations - Sections S1 & S2	Rev. A, 28 April 2021	Residential Property Development Consultants

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bush Fire Assessment Report	26 November 2020	Australian Bushfire Consulting Services
Geotechnical Assessment Report	29 April 2021	ESWNMAN

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
LA1 Landscape Plan 1	Rev. A, December 2020	Residential Property Development Consultants
LA2 Landscape Plan 2	Rev. A, December 2020	Residential Property Development Consultants

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. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
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Ausgrid	Response Ausgrid Referral	Undated
NSW Rural Fire Service	NSW RFS Referral	10 May 2021

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

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

3. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a 'dwelling house'.

A 'dwelling house' is defined as:

A building containing only one dwelling.

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

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

4. **Prescribed Conditions**

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

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

- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

5. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) 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

6. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$7,620.00 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 \$762,000.00.

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

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.

7. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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).

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

8. **Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$3 000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

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

Reason: Protection of Council's infrastructure.

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

9. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared in accordance with Council's Water Management for Development Policy by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site, via a single connection, to the Council stormwater pipeline along the eastern boundary.

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

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

10. **Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. The Applicant is to ensure footings of any new development within this development consent adjacent to an easement or pipeline are to be designed in accordance with Northern Beaches Council's Water Management for Development Policy. Details and certification prepared by a suitably qualified Structural Engineer demonstrating compliance are to be submitted to Council for approval. Council's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

11. **Amendments to the approved plans**

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

- The rooftop gardens are to be removed from architectural and landscape plans and replaced with non-trafficable roofing.
- Windows 2-W17 and 2-W18 (bed 6 and bed 3 ensuite windows) are to have obscured/opaque glazing.
- The front boundary fence and gates are to be deleted from the plans.

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

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

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

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

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.

13. **Boundary Identification Survey**

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

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

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

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

14. **Vehicle Driveway Gradients**

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

15. **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.

16. **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.

17. **Stormwater Drainage Application**

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

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

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

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

The Applicant is to submit a pre-construction/demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

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

Reason: Protection of Council's infrastructure.

19. **Compliance with Standards**

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

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

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

20. **External Finishes to Roof**

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

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

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

21. **Sydney Water "Tap In"**

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

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

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

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

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

22. 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.

Property / Properties:

- 1 Cullen Street, Forestville
- 3 Cullen Street, Forestville

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.

23. Installation and Maintenance of Sediment and Erosion Control

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

24. Protection of Rock and Sites of Significance

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

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

25. 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.

26. Road Reserve

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

Reason: Public safety.

27. Survey Certificate

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

28. Civil Works Supervision

The Applicant shall ensure all civil works approved in the Section 68 are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

29. Vehicle Crossings

The Applicant is to construct one vehicle crossing 3.0 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ 3NL 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.

30. **Waste Management During Development**

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

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

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

31. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

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

32. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan, with the exception of the rooftop gardens, which are conditioned to be deleted.

Prior to the issue of any Occupation Certificate details (from a qualified horticulturalist, landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

33. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Council's Water Management for Development Policy by a suitably qualified Civil engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

34. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction

Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

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

35. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**

The Applicant shall submit a suitably qualified Structural Engineer's certification that the completed footing works have been constructed in accordance with this consent, Northern Beaches Council's Water Management for Development Policy and the approved Construction Certificate plans. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of Council's Infrastructure.

36. **Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets)**

The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works.

Council's Guidelines are available at
<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council's acceptance of the Dilapidation Survey is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure.

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

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

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

Reason: To ensure bushland management. (DACPLF01)

38. **House / Building Number**

House/building 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.


39. **Waste Management Confirmation**

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

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

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

Signed



Adam Croft, Planner

The application is determined on 27/05/2021, under the delegated authority of:



Anna Williams, Manager Development Assessments