

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0025
----------------------------	-------------

Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 1 DP 577905, 17 A Crown Road QUEENSCLIFF NSW 2096 Lot 1 DP 966972, 17 A Crown Road QUEENSCLIFF NSW 2096
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential Warringah LEP2011 - Land zoned RE1 Public Recreation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Jelte Samuel Bakker
Applicant:	Jelte Samuel Bakker

Application Lodged:	25/01/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	04/02/2021 to 18/02/2021
Advertised:	Not Advertised
Submissions Received:	6
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 355,300.00
---------------------------------	---------------

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to a dwelling house. The subject dwelling house is identified as Heritage Item No. I118 'House'.

Specifically, the proposed development is as follows:

Level 1: FFL - RL28.27

- Convert the living room to a study, including a new internal wall and shelving.

- Relocate the ensuite, including an extension to south-west.
- Excavation to convert the existing ensuite into a WIR and create a larger storeroom.
- A new door to the storeroom.

Level 2: FLL - RL31.13 - RL31.97

- Remove sub floor piers below the heritage cottage and excavate the storeroom to create a new larger storeroom.
- Convert the existing kitchen to a study, including a new window on the north-western elevation.
- Enclose the open courtyard and construct a new entry, cloakroom and kitchen.
- Demolish the glass walls between the new kitchen and existing lounge room, to create an open plan layout.
- Convert the existing window in the heritage building to a door.

Level 3: FFL - RL33.89 - RL34.08

- A new balcony above the kitchen.
- Demolish the existing retractable awning and aluminum windows.
- New sliding doors and sliding windows.

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 - 5.1A Development on land intended to be acquired for a public purpose

Warringah Local Environmental Plan 2011 - 5.10 Heritage conservation

Warringah Local Environmental Plan 2011 - 6.2 Earthworks

Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land

Warringah Development Control Plan - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D7 Views
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

Property Description:	<p>Lot 1 DP 577905 , 17 A Crown Road QUEENSCLIFF NSW 2096</p> <p>Lot 1 DP 966972 , 17 A Crown Road QUEENSCLIFF NSW 2096</p>
Detailed Site Description:	<p>The subject site consists of two allotments located on the north-eastern side of Crown Road, Queenscliff.</p> <p>The site is irregular in shape with an area of 353.2sqm. The site is devoid of off-street parking or vehicular access, with pedestrian access provided via a right of carriageway that traverses along the south-eastern boundary of 17 Crown Road (located to the rear). Occupants within the site also benefit from direct access to Freshwater Beach via a right of carriageway.</p> <p>The area of the site subject to this development application is located within the R2 Low Density Residential zone pursuant to the WLEP 2011 and accommodates a three level dwelling house that steps down the slope. The dwelling is no higher than two storeys in height at any given point. The upper component of the dwelling is identified as Heritage Item No. I118 'House' within Schedule 5 of the WLEP 2011, which is a single storey weatherboard dwelling with corrugated metal gable roof located on top of a sandstone base. A small portion at the rear of the site is zoned RE1 Public Recreation pursuant to the WLEP 2011.</p> <p>The site contains a number of sandstone rock outcrops and small shrubs. The site has a significant slope that is in excess of 35 degrees, which falls away from the street frontage towards Freshwater Beach.</p> <p>Detailed Description of Adjoining and Surrounding Development</p> <p>Adjoining and surrounding development is characterised by both low density detached development and residential flat buildings. The site also adjoins Public Reserves.</p>

Map:



SITE HISTORY

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

Pre-lodgement Meeting PLM2020/0176

A PLM was held between Council and the applicant on 20 August 2020 for alterations and additions to the existing dwelling. The PLM minutes provided the following concluding recommendations:

"You are encouraged to ensure the development minimises impacts upon views and privacy. Council is unable to ascertain the full extent of these impacts until the application is notified and submissions are received. You are also encouraged to draw your attention to the comments provided by Council's Heritage Advisor to ensure the development conserves the heritage significance of the subject heritage dwelling".

The proposal has been designed to address the heritage considerations and the assessment process has found the proposal to be acceptable from an amenity standpoint (ie. views, privacy and solar access), subject to conditions.

Application History

The Assessment Officer undertook a site visit at the subject site on 15 March 2021.

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 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 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 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 this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This 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 matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration'	Comments
	Clause 143A 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.
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 2011 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 04/02/2021 to 18/02/2021 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 6 submission/s from:

Name:	Address:
Withheld Withheld	QUEENSCLIFF NSW 2096
Dr Susan Rowley	21 Crown Road QUEENSCLIFF NSW 2096
Ms Mary Elizabeth Devin	25 Crown Road QUEENSCLIFF NSW 2096
Withheld	QUEENSCLIFF NSW 2096

Name:	Address:
Friends Of Freshwater Inc	4 Marmora Street FRESHWATER NSW 2096
Withheld	QUEENSCLIFF NSW 2096

Following the public exhibition period Council received a total of 6 submissions, all of which objected to the proposed development. The following matters were raised in the submissions and each have been addressed below:

Geotechnical Issues

Concern was raised of the extent of the excavation works proposed, specifically addressing potential impacts on a stone retaining wall located between 17 Crown Road and the subject site.

Comment:

The application was accompanied by a Geotechnical Report (prepared by Coffey, dated 8 December 2020), which states that the proposal is acceptable from a geotechnical standpoint, subject to recommendations during the construction process to minimise the risk of landslip. An additional cover letter (prepared by Crozier Geotechnical Consultants, dated 19 February 2021) was submitted to Council by the neighbours to the proposal. The additional letter concurred with the recommendations of the applicant's geotechnical consultant. The proposal has also been considered against the WLEP 2011 earthworks and landslip risk provisions and found to be acceptable. Therefore, Council can be satisfied that the development is acceptable from a geotechnical standpoint.

Heritage Impacts

Concern was raised of the proposal's impact upon the heritage significance of the existing heritage cottage on the site, which is identified as Heritage Item No. I118 'House' within Schedule 5 of the WLEP 2011.

Comment:

The proposal has been reviewed by Council's Heritage Officer who raises no objections to the development, subject to conditions. Therefore, Council can be satisfied that the proposal will not significantly detract from the heritage significance of the subject heritage item.

Privacy Impacts

Concern is raised that the proposed balcony will allow for overlooking into the rear properties (No. 17 and 19).

Comment:

The above-mentioned areas are elevated significantly higher than the proposed balcony due to the significant slope that falls from the south-west to the north-east. Furthermore, the finished floor level of the balcony is sited 4.32m below the established ridge level of the existing heritage cottage. For these reasons, there will not be opportunities of direct overlooking between the proposed balcony and rear adjoining sites. The balcony addition is also sufficiently separate from these properties, such the noise impacts will not be unreasonable.

It is important to note that the proposal does have a privacy impact on the south-eastern site (15 Crown

Road). However, suitable conditions have been included with this consent to alleviate the impacts. This is discussed in further detail within the section of this report that relates to the WDCP 2011 privacy provision.

Noise Impacts During Construction Works

Concern is raised of the noise impacts that will occur during the construction process.

Comment:

Standard conditions that form part of this consent limit the hours in which demolition and construction works can occur.

Overdevelopment of the Site

Concern is raised that the proposal is an overdevelopment of the site.

Comment:

The alterations and additions to the existing dwelling do not alter the existing building footprint on the site. The proposal steps down with the sloping topography and is not excessive in terms of bulk and scale. The proposal also complies with the Height of Buildings Development Standard and WDCP 2011 wall height, side setback and side building envelope provisions. For these reasons, Council is satisfied that the proposed development does not constitute an overdevelopment of the site.

Parking

Concern is raised that the proposal does not provide any off-street parking.

Comment:

Due to the subdivision arrangement along the coastal cliff, the site does not benefit from vehicular access or off-street parking. The proposal does not increase the housing density on the site and therefore, existing on-street parking will not be compromised by the proposal. Given these circumstances, the existing non-compliance is supported on merit.

Plans not Indicating Existing Building Correctly

Concern is raised that the documentation does not correctly depict the extent of the existing dwelling.

Comment:

The documentation submitted with this application is adequate and has allowed Council to undertake an accurate assessment and form a considered opinion of the proposed development.

Access

Concern is raised of potential access and traffic congestion issues that may arise during construction works.

Comment:

Traffic control measures have been included as conditions of consent to alleviate these issues.

Impacts on Nearby Vegetation in Undercliff Reserve

Concern is raised of potential impacts on nearby bushland in Undercliff Reserve as a consequence of equipment being transported across the reserve to the subject site.

Comment:

Suitable conditions have been recommended with this consent to minimise impacts on nearby bushland during construction works.

Timeline of Construction Works

Concern is raised of the potential duration period of the construction process.

Comment:

This is not a matter for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

Impacts on Right of Carriageway located through 17 Crown Road

Concern is raised of the development's potential to impact the Right of Carriageway that traverses through 17 Crown Road to enable access to the site from Crown Road.

Comment:

Suitable conditions have been included with this consent to address these concerns.

View Loss

Concern is raised of potential view loss resulting from the balcony and awning roof.

Comment:

This matter is discussed in detail within the section of this report relating to Clause D7 of the WDCP 2011. In summary, the view impact is insignificant and therefore, Council is satisfied that the development achieves consistency with the objectives of the control and the planning principles outlined within the NSW Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*.

Damage Occurring to No. 17 During Egress to No. 17A via the Right of Carriageway

Concern is raised of the potential for workers to damage the dwelling and the pathway at No. 17 when accessing the site via the Right of Carriageway.

Comment:

Dilapidation Reports pre and post construction have been conditioned for No. 17 to ensure that if any damage occurs during construction works, that the damage will be accounted for.

Dust Impacts from Construction

Concern is raised of dust that may result from the construction and excavation works.

Comment:

Conditions of consent will minimise the impacts during construction and excavation works.

Concluding Remarks

The matters raised within the submissions have been appropriately addressed above and alleviated through conditions where necessary. The matters do not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) State Environmental Planning Policy (Coastal Management)</p> <ul style="list-style-type: none"> Coastal Environment Area <p>Warringah Development Control Plan (WDCP)</p> <ul style="list-style-type: none"> Clause E2 Prescribed Vegetation Clause E4 Wildlife Corridors Clause E5 Native Vegetation Clause E6 Retaining unique environmental features <p>The application does not involve the removal of vegetation, nor is it likely to indirectly impact upon nearby biodiversity values. The proposal is located wholly within the existing building footprint, therefore the application is recommended for approval without conditions.</p>
NECC (Coast and Catchments)	<p>The proposal is supported for approval without condition.</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p>As assessed in the submitted Statement of Environmental Effects (SEE) report the DA satisfies the requirements under clauses 13, 14 and 15 of the CM SEPP.</p>

Internal Referral Body	Comments		
	As such, it is considered that the application does with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.		
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following condition of consent.		
Parks, reserves, beaches, foreshore	<p>The proposed development borders Freshwater Beach Reserve on its north western boundary. It is noted that the pathway in Freshwater Beach Reserve has been identified as an alternate access to the site during construction. This alternate access during construction is acceptable provided that the recommended conditions are adhered to.</p> <p>No other issues with the proposal.</p>		
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS		
	Discussion of reason for referral		
	<p>The proposal has been referred to Heritage as the site contains a heritage item with local significance, being <i>Item – I118 – House</i> at 17A Crown Road, listed within the Warringah LEP 2011.</p>		
	Details of heritage items affected		
	<p>Details of the item as contained within the Northern Beaches Inventory is as follows:</p> <p><i>Item – I118 – House</i> <u>Statement of significance:</u> A locally rare survivor of a number of small cottages which were built on the cliff face between Freshwater and Queenscliff. Historically represents the nature of early development in the area. <u>Physical description:</u> Original single storey weatherboard dwelling located on cliffside. Corrugated metal gabled roof with skillion roofed verandah structures which have been enclosed. The building has been altered by the enclosure of the verandah. Sandstone block foundations appear in good condition and are an important feature of the building.</p> <p>There have been further alterations and a 2 storey pavilion style addition to the north-east (beach side) of the original building in the late 1990s.</p>		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	

Internal Referral Body	Comments		
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	Consideration of Application		
	<p>This proposal seeks consent for alterations and additions to the existing building, including substantial excavations to the subfloor area and the removal of the existing stone piers under the original cottage to enlarge the existing store area. The proposal also includes the enclosure of the existing courtyard between the original cottage and the later addition (2001).</p>		
	<p>It is noted that, the impact of the enclosure of the existing courtyard and the internal modifications to the later additions will be acceptable from a heritage perspective. However, concerns raised regarding the excavation under the original cottage and heritage recommends to avoid this excavation, due to the possible damage to the heritage listed dwelling and its immediate setting-as part of the heritage listing, including the existing dry stone wall between the existing cottage and 17 Crown Road.</p>		
	<p>Alternatively, an engineering report, from a suitably qualified Structural Engineer is to be prepared in conjunction with the Heritage Consultant detailing the measures to be undertaken to ensure that the excavation and construction can occur without affecting the structural integrity of the original cottage and the dry stone wall. This report is to be submitted to the Council and Accredited Certifier prior to the issue of a Construction Certificate. The recommended measures in the engineering report are to be strictly followed during the course of excavation and construction.</p>		
	<p>The proposed solar panels on the roof of the original dwelling is not acceptable from a heritage perspective and should be located somewhere else.</p> <p>Therefore, no objections are raised to the proposal on heritage grounds subject to two conditions.</p>		
	<p><u>Consider against the provisions of CL5.10 of WLEP 2011.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p>		
	Further Comments		

Internal Referral Body	Comments
	<p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 17 March 2021</p> <p><u>Planner Comment 18 March 2021</u></p> <p>The excavation to the subfloor area under the original cottage has been approved as part of the scope of works for this application. Therefore, Heritage's condition that states that excavation should be avoided has been amended to read as follows:</p> <p>Structural Certification An engineering report from a qualified structural engineer, is to be prepared in conjunction with the Heritage Consultant detailing the measures to be undertaken to ensure that the excavation and construction can occur without affecting the structural integrity of the original cottage and the dry stone wall. This report is to be submitted to the Council and Accredited Certifier prior to the issue of a Construction Certificate. The recommended measures in the engineering report are to be strictly followed during the course of excavation and construction.</p> <p>Reason: To protect the heritage listed building and its immediate setting.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Aboriginal Heritage Office	<p>Development Application No. DA2021/0025</p> <p>Address: 17A Crown Road Queenscliff</p> <p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>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>

External Referral Body	Comments
	<p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office 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.</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 19 - Bushland in Urban Areas

The site adjoins land zoned for Public Open Space. For land adjoining land zoned or reserved for public open space, Council shall not grant development consent unless it has taken into account:

- (c) *the need to retain any bushland on the land,*
- (d) *the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and*
- (e) *any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.*

Comment:

The proposal has been reviewed by Council's Parks and Recreation Department, who raise no objections to the development, subject to conditions. Therefore, Council can be satisfied that the proposal will be consistent with the requirements of SEPP 19.

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 this application (see Certificate No. A401095_02, dated 16 December 2020). A condition has been included with this consent to ensure the applicant adheres to the requirements set out 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Coastal Management) 2018

The site is located within the 'Coastal Environment Area' and 'Coastal Use Area' pursuant to the SEPP (Coastal Management) 2018. Accordingly, an assessment against Clauses 13, 14 and 15 of the SEPP are undertaken below 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:*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*

- (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*
- (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:

The proposal does not result in the removal of native vegetation and does not preclude access to and along the foreshore area. Moreover, the proposal has been reviewed by the Aboriginal Heritage Office, who have noted that the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. A Geotechnical Report (prepared by Coffey Services Australia Pty Ltd, dated 8 December 2020) has been submitted with this application and states that the proposal will be acceptable from a geotechnical standpoint, subject to certain recommendations to reduce coastal and landslip hazards. Based off the above, Council can be satisfied that the proposal has been designed, sited and will be managed to avoid an adverse impact upon the matters referred to in subclause (1).

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:

As noted above, the proposal does not preclude access to and along the foreshore. The proposal has been reviewed by Council's Heritage Officer and the Aboriginal Heritage Office and found to be acceptable in terms of Aboriginal cultural heritage and built environmental heritage. The proposal does not result in a loss of views towards Freshwater Beach and does not result in overshadowing of the foreshore. The alterations and additions respect the topography by stepping down the slope and will not be visually imposing. The proposed development is consistent with surrounding development along the headland in terms of bulk and scale. Based on the above, Council can be satisfied that the proposal satisfies the requirements of Clause 14.

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:

Given the nature of the works proposed and the conditions included to negate coastal hazards, Council can be satisfied that the proposal is not likely to cause an unacceptable level of risk on adjoining properties or the subject site.

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	7.08m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
5.1 Relevant acquisition authority	Yes
5.1A Development on land intended to be acquired for a public purpose	Yes

Clause	Compliance with Requirements
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

5.1A Development on land intended to be acquired for a public purpose

The works are located outside of the portion of the site that is identified on the WLEP 2011 'Land Reservation Acquisition Map'. Therefore, the proposal complies with this clause.

5.10 Heritage conservation

Council's Heritage Officer has reviewed the proposal against the requirements of this clause and raised no objections, subject to conditions. Therefore, Council can be satisfied that the proposal complies with Clause 5.10 of the WLEP 2011.

6.2 Earthworks

The proposal involves moderate earthworks to accommodate for the proposed development. Therefore, Council must consider the requirements of this clause prior to granting consent.

The objectives of Clause 6.2 of the WLEP 2011 require development:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*
- (b) to allow earthworks of a minor nature without requiring separate development consent.*

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

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

Comment:

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

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

Comment:

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

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

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. No major fill is proposed as part of this application.

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

Comment:

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

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

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. No major fill is proposed as part of this application.

(f) the likelihood of disturbing relics

Comment:

The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

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

Comment:

Sediment and erosion control measures have been conditioned to minimise sediment migration into the downslope public space.

Concluding Remarks

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of Clause 6.2 of the WLEP 2011.

6.4 Development on sloping land

The site is identified within 'Area B' and 'Area C' on the WLEP 2011 Landslip Risk Map. Therefore, Council must consider the matters within this clause prior to granting consent.

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

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

Comment:

The applicant has submitted a Geotechnical Report prepared by a suitably qualified geotechnical

expert. This report concludes that the proposed development is acceptable from a geotechnical perspective and therefore, Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

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

Comment:

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

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

Comment:

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

Concluding Remarks

Based off the above assessment, it is concluded that the proposal meets the requirements stipulated within Clause 6.4 of the WLEP 2011.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	5.5m	-	Yes
B3 Side Boundary Envelope	5m then projected at 45 degrees (north-west)	Within envelope	-	Yes
	5m then projected at 45 degrees (south-east)	Within envelope	-	Yes
B5 Side Boundary Setbacks	0.9m (north-west)	1m - 1.3m	-	Yes
	0.9m (south-east)	1.8m - 2.7m	-	Yes
B7 Front Boundary Setbacks	6.5m	no change to front boundary setback	N/A	N/A
B9 Rear Boundary Setbacks	6m	5.2m - 41.8m	up to 13.33%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (140.88sqm)	33.93% (119.5sqm) - as existing	15.18%	No

***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	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes
C3 Parking Facilities	No	Yes
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	No	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native 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

B9 Rear Boundary Setbacks

Description of non-compliance

Clause B9 of the WDCP 2011 requires development to be setback at least 6m from the rear boundary. Due to the irregular allotment configuration, the balcony is setback between 5.2m and 41.8m from the rear boundary. This represents a variation up to 13.33% from the prerequisite.

Merit consideration:

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

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The proposal does not alter the existing dimensions of landscape open space on the site. Therefore, it is considered that the proposal will maintain acceptable levels of deep soil landscaping on the site.

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

Comment:

Whilst numerically non-compliant with the control, the proposed development does not alter the established rear building line on the site. Therefore, the development will not preclude a sense of openness within the rear yard.

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

Comment:

The balcony will be acceptable from an amenity standpoint, subject to a condition that requires the southern elevation of the balustrading to comprise solid, louvre or frosted screening to a height of 1m above the finished floor level. This matter is discussed in further detail within the section of this report that relates to Clause D8 of the WDCP 2011. This condition will not unreasonably impact upon existing view corridors towards Freshwater Beach.

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

Comment:

The proposal does not alter the existing building footprint and therefore, will maintain the existing visual continuity and pattern of buildings, rear gardens and landscaped elements.

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

Comment:

As noted above, the balcony will be acceptable from a privacy standpoint, subject to a condition

requiring the provision of a 1m high solid balustrade.

Concluding Remarks

Having regard to the above assessment, it is concluded that the proposed development is consistent with the objectives of this control, subject to conditions. Therefore, the application is supported on merit in this particular circumstance.

C3 Parking Facilities

Due to the subdivision arrangement along the coastal cliff, the site does not benefit from vehicular access or off-street parking. The proposal does not increase the housing density on the site and therefore, existing on-street parking will not be compromised by the proposal. Given these circumstances, the existing non-compliance is supported on merit.

D1 Landscaped Open Space and Bushland Setting

The existing landscaped open space equates to 33.93% (119.5sqm) of the site, which does not meet the 40% (140.88sqm) prerequisite that is required by Clause D1 of the WDCP 2011. However, the proposal does not result in a reduction in landscaped open space and no additional landscaping is necessary for the purposes of softening the built form, enhancing privacy or increasing water infiltration. Therefore, the existing non-compliance is supported on merit in this particular circumstance.

D7 Views

One submission raising concern of view loss was received from the owner of 17 Crown Road, which is located directly to the rear of the subject site. 17 Crown Road is elevated at a higher topography than the subject site, given the steep slope that falls away from the road towards Freshwater Beach.

In response to this submission, the Assessment Officer undertook a site visit at 17 Crown Road. The Assessment Officer and owner of the adjoining property were in attendance.

Merit consideration

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

- *To allow for the reasonable sharing of views.*
- *To encourage innovative design solutions to improve the urban environment.*
- *To ensure existing canopy trees have priority over views.*

Comment:

In determining the extent of potential view loss to 17 Crown Road, the four (4) planning principles outlined within the NSW 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:

The views from No. 17 are whole views of Freshwater Beach, including the land-water interface and surrounding residential development. The views are unobstructed from level 2 and 3 of No. 17, where the view is partially obstructed by vegetation and the roof line of No. 17A when viewed from level 1 (lowest level).

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:

The views from No. 16 are obtained across the rear boundary. The views can be obtained from standing and sitting positions on levels 2 and 3, whilst the view from level 1 is obtained from a standing position. The views in question are shown in Figures 1, 2 and 3 below.

Figure 1: level 3 standing views



Figure 2: level 2 standing views



Figure 3: level 1 standing views



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:

The proposal will not result in a reduction in views from level 1, given the balcony and awning roof addition is located below the ridge line of the existing heritage cottage. Any view impact from level 2 or 3 is miniscule and would contain a small portion of sand along Freshwater Beach. However, this view impact could only be recognised when standing at the edge of the balustrading of the decks on levels 2-3 and looking down at a 45 degree angle. No. 17 will still retain the whole views of Freshwater Beach subsequent to the proposal and therefore, the qualitative extent of the view loss for the entire adjoining site is considered to be negligible.

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:

The proposal remains within the statutory height limit and complies with the WDCP 2011 wall height, side setback and building envelope provisions. The overall footprint of the dwelling remains unchanged subsequent to the development. Therefore, it is concluded that the view impact is reasonable and therefore, adequate view sharing is achieved.

Concluding Remarks

The information submitted with the application, in conjunction with site visits at the subject site and 17A Crown Road, has allowed Council to accurately consider the extent of the view loss for surrounding properties, without the need to erect height poles. Council is satisfied that the development achieves consistency with the objectives of this control and the planning principles outlined within the NSW Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*.

D8 Privacy

Description of non-compliance

Clause D8 of the WDCP 2011 requires building layout to be designed to optimise privacy for the

occupants of the development and neighbours on adjoining properties. Window W1 adjoining the bathroom on the level 1 will allow for a direct line of sight into the lower terrace at No. 15 (south-eastern site), given the minimal separation provided, lack of boundary fencing and the corresponding levels of the window and adjoining terrace. Furthermore, the balcony on the upper level (RL34.08) contains no privacy treatments and allows opportunities for direct viewing into balconies on the south-eastern site. These features result in a development that is contrary to the intent of this control.

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:

To minimise the amenity impacts upon No. 15, a condition has been included with this consent requiring window W1 to be amended to comprise translucent glazing, which will prevent opportunities for overlooking between the two properties, without completely compromising the bathroom of sunlight. Furthermore, an additional condition has been included requiring the south-eastern elevation of the balcony balustrading to be amended to comprise solid balustrading with a maximum spacing of 20mm, to a height of 1m above the finished floor level. This balustrade will prevent overlooking between the subject site and No. 15 when the occupants are in a sitting position. The application of a full screen height 1.65m screen is not necessary as it will result in further shadowing to the south-east and may have the potential to impact on view lines from nearby properties. It is considered that the proposal, as amended via conditions, will allow for a reasonable level of visual and acoustic privacy for the occupants of the site and neighbouring properties.

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

Comment:

The proposal, as amended via condition, is considered to be an appropriate design that will not be to the detriment of the existing urban environment.

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

Comment:

It is assumed that a sense of personal and property security will be maintained.

Concluding Remarks

Having regard to the above assessment, it is concluded that the objectives of the control will be achieved, subject to the conditions outlined above.

E10 Landslip Risk

The site is identified within 'Area B' and 'Area C' on the WLEP 2011 Landslip Risk Map. Accordingly, a Geotechnical Report (prepared by Coffey, dated 8 December 2020) was submitted in support of this application. The report concludes that the proposal is acceptable from a geotechnical standpoint,

subject to certain recommendations that must be adhered to during the construction process. These conditions form part of this consent.

Following the exhibition period, the neighbours commissioned a separate Geotechnical Engineer to review the submitted geotechnical report. A cover letter (prepared by Crozier Geotechnical Consultants, dated 19 February 2021) was submitted to Council, which concluded the following:

"It is considered that provided the recommendations for inspection and equipment use provided by Coffey are followed, that the risks to the neighbouring properties of No. 17, No. 19 and No. 21 from geotechnical hazards related to the works proposed in No. 17a is 'Very Low'".

Based on the above, Council can be satisfied that the proposal will be consistent with the requirements and objectives of this control, subject to conditions.

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 \$3,553 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$355,300.

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 DA2021/0025 for Alterations and additions to a dwelling house on land at Lot 1 DP 577905, 17 A Crown Road, QUEENSCLIFF, Lot 1 DP 966972, 17 A Crown Road, QUEENSCLIFF, 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
DA-01 - Site Plan	December 2020	Valdis Macens Architects P/L
DA-02 - Landscape Plan & Erosion and Sediment Control	December 2020	Valdis Macens Architects P/L
DA-03 - Level 1 Plans	December 2020	Valdis Macens Architects P/L
DA-04 - Level 2 Plans	December 2020	Valdis Macens Architects P/L
DA-05 - Level 3 Plans	December 2020	Valdis Macens Architects P/L
DA-06 - Stormwater Management Roof Plan	December 2020	Valdis Macens Architects P/L
DA-07 - Short Section	December 2020	Valdis Macens Architects P/L
DA-08 - Long Section	December 2020	Valdis Macens Architects P/L
DA-09 - South East Elevation	December 2020	Valdis Macens Architects P/L
DA-10 - North West Elevation	December 2020	Valdis Macens Architects P/L
DA-11 - North East Elevations	December	Valdis Macens Architects

	2020	P/L
DA-14 - Finishes & Materials	December 2020	Valdis Macens Architects P/L

Engineering Plans		
Drawing No.	Dated	Prepared By
X016 - ESKA - Level 2 - Layout	22 October 2020	Randall Jones & Associates Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A401095_02	16 December 2020	The House Energy Rating Company of Aust. Pty Ltd
Geotechnical Slope Stability Assessment Ref. SYDGE279869AB-Rev.2	8 December 2020	Coffey

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	6 January 2021	Jelte Bakker

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 \$3,553.00 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 \$355,300.00.

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.

5. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security 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.

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

6. **Amendments to the approved plans**

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

- The upper floor balcony sited at RL34.08 must be affixed with a non-transparent screen along the south-eastern elevation to a height of 1 metre above the finished floor level. The screen is to be a fixed panel or louvre style construction with a maximum spacing of 20 millimetres.
- Window W1 on level 1 must comprise translucent glazing.

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.

7. Structural Adequacy and Excavation Work

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

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

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

Reason: To provide public and private safety.

8. Solar panels must be removed from the original cottage

The solar panels, proposed on the roof of the original cottage must be removed from the original dwelling.

Reason: To preserve the significance of the heritage listed item.

9. Working and Access on Reserves Permit

Works (undertaken by principal contractors working without Council supervision) on Land owned or managed by Council require a "Working on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks and Recreation business unit.

Reason: Public safety and the protection of Council infrastructure.

10. 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.

11. 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.

12. Structural Certification

An engineering report from a qualified structural engineer, is to be prepared in conjunction with

the Heritage Consultant detailing the measures to be undertaken to ensure that the excavation and construction can occur without affecting the structural integrity of the original cottage and the dry stone wall. This report is to be submitted to the Council and Accredited Certifier prior to the issue of a Construction Certificate. The recommended measures in the engineering report are to be strictly followed during the course of excavation and construction.

Reason: To protect the heritage listed building and its immediate setting.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. Dilapidation Report of Land owned or managed by Council

A dilapidation report established at the commencement of the works shall contain a survey of pre-existing land features including photographic record of the Land under Council's care control and management adjoining the development, detailing the physical condition of items such as, but not exclusively limited to, physical assets such as crossovers, driveways, footpaths, utilities, furniture, play equipment, trees, gardens, lawn areas, bushland, and any rock outcrops.

This dilapidation report shall be submitted to Council and the Certifying Authority prior to commencement of works, and shall be the basis for rectification of any damage to Council's assets as listed in the Post Construction Dilapidation report submitted prior to the issue of the Occupation Certificate.

Any damage to these assets during the works must be replaced like for like to the satisfaction of the Certifying Authority, and shall be subject to acceptance by Council.

The applicant may be held liable to any damage to public infrastructures in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition. In this regard, where required, the damage deposit lodged by the applicant may be used by Council to repair such damage on Council's property.

Reason: Protection of Council's assets.

14. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of the following adjoining property or 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: 17 Crown Road, Queenscliff.

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.

15. Works on Land owned or managed by Council

No works are to be carried out on Land owned or managed by Council.

Reason: public safety and environmental protection.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. 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:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- 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.

17. Survey Certificate

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

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

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

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

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

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

18. Installation and Maintenance of Sediment Control

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

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

19. **Civil Works Supervision**

The Applicant shall ensure all works approved in this consent 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.

20. **Traffic Control During Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

21. **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.

22. **Storage of Materials on Land owned or managed by Council Prohibited**

The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in Land owned or managed by Council is prohibited.

Reason: public safety and environmental protection.

23. **Protection of Council's Public Assets**

Any damage to Council's public assets shall be made good by the applicant and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

The dumping or storage of building materials, spoil, vegetation, green waste, or any other

material in Land owned or managed by Council is prohibited.

Asset Protection Zones as defined within Planning for Bush Fire Protection 2019, shall be contained wholly within development sites, and shall be managed by the development site owner in perpetuity.

Existing trees shall be protected in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance. Should any problems arise with regard to the existing trees on public land during the construction period, the applicant is to immediately Contact Council's Tree Services section and resolve the matter to Council's satisfaction.

Reason: to protect and/or restore any damaged public asset.

24. Risk Control Measures prior to and during Construction

To reduce vibration during the proposed works, the excavation of rock must be carried out using hand-tools.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

25. Stormwater Disposal

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

26. 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.

27. **Post Construction Dilapidation Report of Land owned or managed by Council**

Rectification works to Council's assets shall be contained in a Post Construction Dilapidation report submitted to Council prior to the issue of the Occupation Certificate.

The applicant may be held liable to any damage to public infrastructures in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition. In this regard, where required, the damage deposit lodged by the applicant may be used by Council to repair such damage on Council's property.

Reason: protection of Council's assets.

28. **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.

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

29. **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.

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

Signed



Thomas Burns, Planner

The application is determined on 30/03/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments