

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1490
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Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 21B DP 395978, 28 Bangaroo Street NORTH BALGOWLAH NSW 2093
Proposed Development:	Demolition works and construction of a new dwelling house, swimming pool, secondary dwelling and retail shop/office premises
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	No
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	Yes
Owner:	Z & C Investment Pty Ltd
Applicant:	Z & C Investment Pty Ltd

Application Lodged:	26/09/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	05/10/2022 to 19/10/2022
Advertised:	Not Advertised
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,260,500.00
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PROPOSED DEVELOPMENT IN DETAIL

The development proposal seeks demolition of all structures on site (dwelling, outbuildings and retail premises) with the construction of new (2 storey) detached dwelling house, swimming pool, 'Secondary' dwelling and retail premises. The proposal (as per amended plans) dated 19 May 2023, includes:

Ground Floor – Retail Premises

- Retail premises with direct pedestrian access from Bangaroo street.
- Back of house facilities office, WC, storage bin store .

First Floor works :

- Storage and stair access.
- Roof Ridge / Parapet RL73.08 to RL71.86

Hours of Operation – Retail Premises:

- Monday – Friday: 7:00 am – 6:00 pm.
- Saturday and Sunday: 7:00 am – 3:00 pm.

Ground Floor component – Secondary Dwelling (two storey building)

- Comprising living area, dining, kitchen, bathroom and laundry facilities with access from St Paul's Road.

First floor works – Secondary dwelling

- Master bedroom, void, bathroom, study and balcony (POS).

Ground floor – Principal dwelling (house)

- Comprising living area, dining, kitchen laundry, study/office area, entry facilities to ground floor residence and 2 x car garage.
- Swimming pool located at ground level positioned between the proposed secondary dwelling and principal residence.

First Floor Works – Principal dwelling (house)

- Master bedroom with walk-in robe and ensuite, rumpus area, bathroom, 2 x secondary bedrooms.
- Roof ridge RL74.67

Ancillary works - site clearing and site preparation works, drainage, excavation, fencing, landscaping, driveway, decking, pathways and ancillary site works.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act

1979, and the associated regulations;

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B5 Side Boundary Setbacks

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

Warringah Development Control Plan - D2 Private Open Space

Warringah Development Control Plan - D3 Noise

Warringah Development Control Plan - D6 Access to Sunlight

Warringah Development Control Plan - D8 Privacy

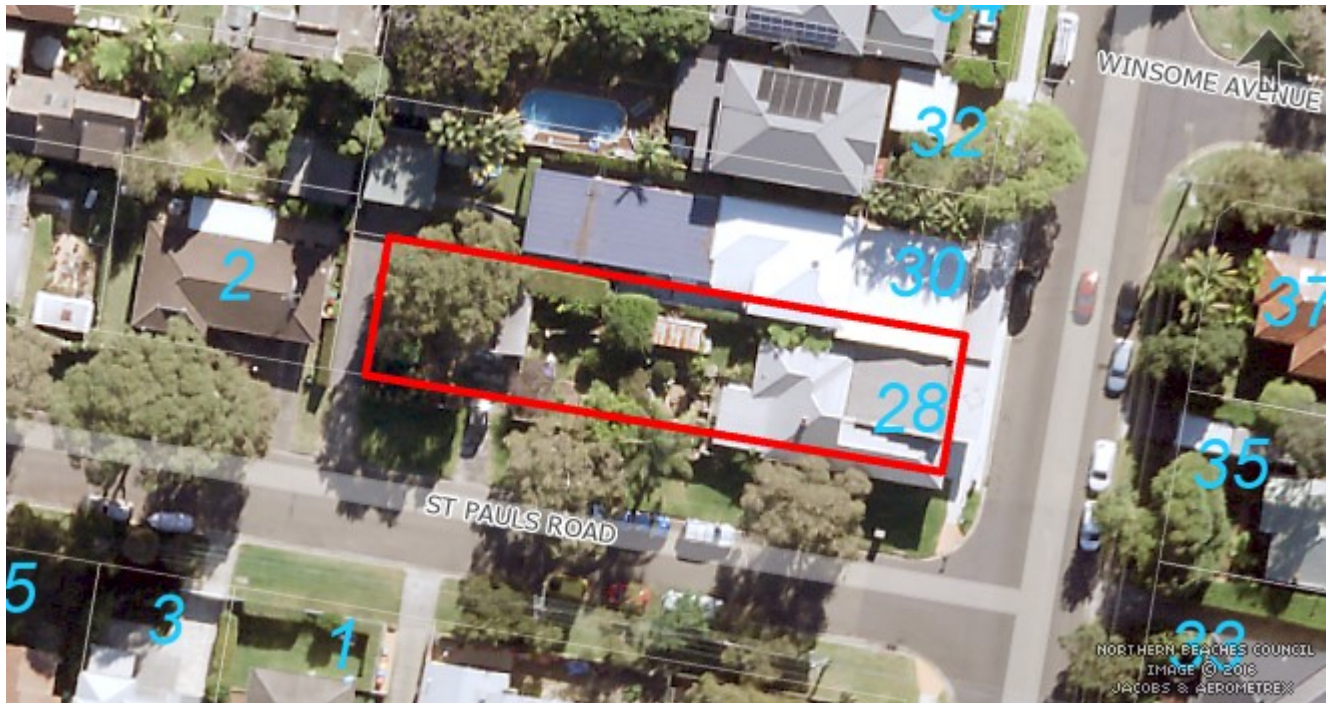
Warringah Development Control Plan - D9 Building Bulk

Warringah Development Control Plan - D16 Swimming Pools and Spa Pools

SITE DESCRIPTION

Property Description:	Lot 21B DP 395978 , 28 Bangaroo Street NORTH BALGOWLAH NSW 2093
Detailed Site Description:	<p>The site is located on the northern corner of Bangaroo Street and St Pauls Road. The property has an area of 632sqm with a frontage of 52m to St Pauls Street and 12.19m to Bangaroo Street. Erected on the property is a single-storey residence with an attached brick shop.</p> <p>The shop component of the development shares a common boundary with No 30 Bangaroo Street, which comprises a corner store and a single-storey residence at the rear of the site. This locality comprises a mixture of single detached residential dwellings, residential flat buildings and dual occupancy developments.</p>

Map:



SITE HISTORY

A Building Record register dated 1949 shows Lot 21 on Bangaroo Street with a note that reads '18/8/52 Comp.'; Lot 21 DP 11936 was the previous legal description of the site and it would appear that 'Comp' is an abbreviation for 'completed';

An application for a *further* shop at 28 Bangaroo Street (on DP 11936); the application was 'resolved to recommend' subject to the submission of satisfactory building plans dated 31 May 1954.

Council's records do not appear to hold any further information regarding the use of the existing shop located at the site after 1962, however, it appears that by 31 May 1954 a further shop (or different shop as the distinction isn't clear from the record) at the site was approved.

The site has most recently be used as an art gallery for the sale of art works (predominantly paintings on canvas) and an art supplies shop.



Image: Shop front of the site includes main dark coloured shop front and painted roll-a-door element on RHS.

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	There are no current draft environmental planning instruments.
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 2021	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider “Prescribed conditions” of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. The DA was notified in accordance with the <i>Community</i></p>

Section 4.15 Matters for Consideration	Comments
(EP&A Regulation 2021)	<p><i>Participation Plan.</i> Additional information was requested in association with design considerations and non-compliance as per Council RFI letter dated 12.12.2022. The applicant provided amended architectural plans (dated 5.12.2022) and arborist assessment documents. The amendments are minor and sought to supplement existing information or improve amenity and reduce overall impacts on the surrounding environment and therefore re-notification is not required. Further design amendments were subsequently proposed to better address non-compliance issues raised Council's RFI letter. These amended drawing are dated 19.5.2023 and improve amenity with less impact on the surroundings (less height / less bulk, better landscaping, improved streetscape, better privacy treatment, appropriate POS and annotations included for shop use). The amendments provide simple changes to the plan and generally would otherwise be achievable by conditions. Therefore, re-notification of the amendments is not required by the <i>Community Participation Plan</i>. The CPP permits that re-notification may not be required for amended plans and the changes are consistent with this allowance.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact 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, subject to conditions.
Section 4.15 (1) (d) – any submissions	See discussion on “Notification & Submissions Received” in this report. It is noted that one submission was withdrawn during the assessment period.

Section 4.15 Matters for Consideration	Comments
made in accordance with the EPA Act or EPA Regs	The amended plans assist to address all submission issues, subject to conditions.
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

- Does the existing use satisfy the definition of "existing use" under the *Environmental Planning and Assessment Act 1979* (the 'Act')?

Section 4.65 of the Act defines an existing use as:

"(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and

(b) the use of a building, work or land:

- (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
- (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse."*

This necessarily requires the following questions to be answered:

1. **Was the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use?**

Comment:

The Applicant has provided evidence in the form of land use summary, which reveals that the use of the building / work / land commenced as a lawful purpose circa 1955 and therefore, prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011. Land use information is outlined in research / investigation undertaken by *PiperAlderman*, dated 15.8.2022.

Timeline notes on planning or land use instruments in Warringah:

- The formal control of land uses did not exist until the commencement of the **Local Government Act in 1919**.
- **Part XI** of the *Local Government Act 1919* dealt with building regulation. Section 311, within Pt XI, provided that "a building shall not be erected or altered unless the approval of the Council is obtained therefor beforehand." However, although Pt XI applied automatically to municipalities, it only applied to shires *by proclamation* (see s 305(2) of LGA 1919). Warringah Shire Council became a shire on 7 March 1906 under the Local Government (Shires) Act 1906. The Governor, by proclamation published in the NSW Government Gazette on 7 June 1940, applied Pt XI of

- LGA 1919 to the "Shire of Warringah" (excluding a defined portion within Ku-ring-gai Chase).
 - On 5 April 1945, Pt XIIA **Town and Country Planning Schemes** was inserted into the *Local Government Act 1919* by the *Local Government (Town and Country Planning) Amendment Act 1945* (1945 Act). This authorised for the first time the making of planning schemes for regulating and controlling the use of land and the purposes for which land may be used (see s 342G(2) of LGA 1919). A building of unspecified detail from Council building card records was approved on the site in 1949, with work 'completed' on 18 August 1952.
 - "Interim development" provisions of Div 7 of Pt XIIA applied to the land for the period whilst the *Cumberland County Council* was preparing its scheme.
 - On 27 June 1951, the **County of Cumberland Planning Scheme** (CCPS 1951) was made, by s 2 of the *Local Government (Amendment) Act 1951* (1951 Act). CCPS 1951 was, notwithstanding Pt XIIA, deemed to be the scheme required by the 1945 Act in respect of the County of Cumberland (s 2(1) of the 1951 Act). Clause 28(1) of CCPS 1951 provided that a building could not, without consent, be erected or used in a zone for a purpose specified in the land use table as requiring consent. Building work for a "further" shop was approved subject to building plans as resolved by Council on 31 May 1954.
 - On 7 June 1963, the **Warringah Shire Planning Scheme Ordinance 1963** (WPSO 1963) was gazetted. Clause 27(1) of WPSO 1963 provided that a building or work could not, without consent, be erected, carried out or used in a zone for a purpose specified in the land use table as requiring consent. Clause 30 of WPSO 1963 provided that: "an existing building or an existing work may be maintained and may be used for its existing use and an existing use of land may be continued."
 - On 11 October 1985, the **Warringah Local Environmental Plan 1985** (WLEP 1985) was gazetted (NSW Government Gazette No 141, 11 October 1985). The land was zoned Residential 2(a) and shops were a prohibited use. WLEP 1985 repealed WPSO 1963.
 - The **Warringah LEP 2000** (WLEP 2000) came into effect on 5 December 2000. The WLEP categorised sites by localities rather than zones. A shop was a "Category 3" use on the site but the LEP 2000 also contained provision for dealing with 'existing uses'. The site was not within a "local retail centre".
 - On 9 December 2011, the **Warringah LEP 2011** came into effect. The property was zoned *R2 Low Density Residential* under the WLEP 2011. Shops are a prohibited use on the site.
2. **Was the use of the building / work / land was granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?**

Comment:

The use of the building and part of the land was lawfully approved by Council prior to 1955 and prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011. Minutes from meeting for an application for a further shop at 28 Bangaroo Street (on DP 11936); the application was 'resolved to recommend' subject to the submission of satisfactory building plans, dated 31 May 1954. The document notes that the application is not for Council's proposed shopping area

3. **Has the use of the building / work / land been carried out within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse?**

Comment:

The Applicant has provided evidence in the form of Council's building record information, which reveals that the use of the building / work / land was inspected for completion on 30 August 1955, which is prior to the date on which the provision having the effect of prohibiting the use commenced. A rates notice from October 1962 for Lot 21 SP 11936 at 28 Bangaroo Street in the sum of \$1,684 which notes the nature of improvement at the Site as 'Shops'. Rates and charges notices from 2021 and 2022 confirm that the Site continues to be levied at the ordinary Business Rate, rather than at a residential rate. The Site has most recently be used as an art gallery for the sale of art works (predominantly paintings on canvas) and an art supplies shop.

- **What is "the land on which the existing use was carried out" for the purposes of cl 162-167 of the Environmental Planning and Assessment Regulation 2021 ("the Regulation")?**

Meagher JA in *Steedman v Baulkham Hills Shire Council* [No. 1] (1991) 87 LGERA 26 stated (at 27) the rule to be applied as follows: "if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose".

Comment:

Having regard to the above case law, it is noted that a part of the area of the land was physically used for the purpose in question and therefore, it is considered that the land was used for that purpose and that existing use rights apply to the shop component which is part of the subject site. The remaining part used for permissible residential purposes.

- **What are the planning principles that should be adopted in dealing with an application to alter enlarge or rebuild and existing use?**

The judgement in *Fodor Investments v Hornsby Shire Council* (2005) NSWLEC 71, sets out the planning principles that should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights.

The following four principles adopted by the NSW *Land and Environment Court* in this case will have general application in dealing with development applications that rely on existing use rights:

1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

Comment:

The site is a corner allotment and adjoins another shop at No.20 Bangaroo Street. Both shops have nil setback to the footpath / road reserve boundary. The proposed shop maintains the same alignment and provides a minor change in setback to the corner with St Paul's Road. The shop design has been amended during the assessment process to maintain continuity with the adjacent shop in terms of parapet shape, a simple street presence with glazing and masonry elements, similar door location and

simple awning design to match. The roof profile of the shop has been amended to a simple skillion slope and is not readily visible behind the parapet. The floor space is similar but now includes improved 'back of house' facilities for administration, storage, WC and waste handling. The shop is not proposed to be used for cooking, cafe/restaurant use or as a food and drink premises. Setback considerations are also detailed within this report under the WDCP.

2. What is the relevance of the building in which the existing use takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

Comment:

The existing shop has not had any customer parking on site in the past and the surrounding streets do not experience high parking congestion. The proposal does not seek to intensify the use by way of providing capacity / capability for cafe or restaurant style use. The proposal includes no grease trap or cooking ducting and therefore remains consistent with the existing generic use as a shop or commercial type use. The proposed setback, FSR, height and streetscape appearance is consistent with the existing use however improved floor layout and internal amenity as a single shop is maintained.

3. What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Comment:

The site has a main shop and smaller separate side space fronting Bangaroo Street. The rebuilding of the shop as a single entity with modern back of house facilities, appropriate streetscape styling in terms of the shop a No.20 Bangaroo and the appearance from St Pauls Road ensures no unreasonable impact on the amenity of surrounding land. The shop is not proposed to be used for cafe type uses and therefore noise considerations such as live music, customer activity, hours of operation will not be created by cafe or restaurant use on the site. Therefore, existing amenity will remain substantially the same in terms of the use of the shop.

4. What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Comment:

The proposal is situated on the south side of a similar shop / dwelling arrangement at No.20 Bangaroo Street. This adjacent site is to the north and the proposal (as amended) does not create any unreasonable privacy, overlooking, overshadowing or amenity impacts on adjacent land.

Conclusion

The use has been approved under a previous environmental planning instrument (County of Cumberland Planning Scheme) and, therefore, is a lawful use. Subsequently, the use can be retained under the current environmental planning instrument (Warringah LEP 2011). On 27 June 1951, the County of Cumberland Planning Scheme (CCPS 1951) was made, by s 2 of the Local Government (Amendment) Act 1951 (1951 Act).

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 05/10/2022 to 19/10/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 4 submission/s from:

Name:	Address:
Stamera Pty Ltd	55 Ellery Parade SEAFORTH NSW 2092
Mrs Helen Anita McMahon	26 Bangaroo Street NORTH BALGOWLAH NSW 2093
Dympna Baker	2 St Pauls Road NORTH BALGOWLAH NSW 2093
Ms Saskia Margaret Emanuel	1 / 1 St Pauls Road NORTH BALGOWLAH NSW 2093

The following issues were raised in the submissions:

1. Privacy
2. Noise
3. Shop use
4. Parking and bus access
5. Common wall
6. Drainage
7. Shop awning

The above issues are addressed as follows:

- 1. *Concern that there will be overlooking / privacy impact from the upper storey of the new house including the western end glazed door.*

Comment:

This issue is addressed in detail under the heading *D8 Privacy* within this report. The proposal has been amended to include details to show timber screens for the upper storey along the northern elevation of the principal dwelling. The western end glazed door is shown to have fluted glass that prevents viewing and the end balcony is principally a service space only to maintain ease of access to the landscape planters for the upper storey. This issue has been addressed by the amended elevations and does not require conditions for additional screening inclusions (as they are now shown on the drawings and provide better amenity / less impact).

- *2. Concern that there will be noise generated from a change of the type of use of the shop (as a cafe) to more intensity of use and noise that may be attributed to use of the pool.*

Comment:

This issue is addressed in detail under the heading *D2 Private Open Space, D3 Noise, and D16 Swimming Pools* within this report. In summary, the shop component will remain similar as no provision is made for cafe style use and the front windows are not operable therefore noise is contained inside the shop. No proposal is made for grease trap or cooktop ducting that would be required for cafe type uses. Hours of operation will remain consistent with the existing shop / commercial premises. Standard conditions are applicable for A/C units to ensure no unreasonable noise impact. The areas of private open space including the pool are consistent with the surrounding residential environment, including landscape areas and side fencing to provide screening. The proposal does not warrant refusal of the application.

- *3. Concern that the proposal will increase customer activity associated with the shop use*

Comment:

No proposal is made for grease trap or cooktop ducting that would be required for cafe type uses therefore the use of the shop / commercial will remain consistent with current operations. Hours of operation will remain consistent with normal business hours for shop / commercial premises and therefore customer activity will remain consistent and appropriate for the residential surroundings. The shop front will have a consistent streetscape appearance to the shopfront facade, awning and fenestration to the adjacent shop at No.30 Bangaroo Street. Conditions are included for operating hours and this issue does not warrant refusal of the application.

- *4. Concern with the proposal for car parking impact from the shop and new driveway and interference with the adjacent bus stop area.*

Comment

The parking generation for the shop will remain consistent with the existing site use, given that secondary dwellings have no carparking requirement and kerbside parking is available near the shop. No change or interference is proposed to the bus stop location on St Paul's Road for site works or new driveway access. This issue does not warrant refusal of the application.

- *5. Concern regarding demolition and construction for the partition wall with No.30 Bangaroo Street.*

Comment:

Dilapidation risk to partition wall and adjacent property assets is addressed by condition for a dilapidation survey to be undertaken. This issue is addressed by standard conditions and does not warrant refusal of the application.

- *6. Concern how stormwater drainage will be managed.*

Comment:

Drainage layout is shown on the engineering design drawing and a new OSD which is compliant with Council's Technical Specification. The stormwater design shows the site will drain to the street (the pool backwash will be connected to sewer) and Development Engineering support the proposal, subject to conditions.

- *7. Concern as to the shop front awning construction and how that will be re-built.*

Comment

The shop awning is standard suspended / cantilever simple design similar to the adjacent building. This is subject to separate approval under for works over the footpath area and conditions are applied to address this (for construction phase) via Council as per standard requirements for shop awnings.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Amended Plans dated 19/5/2023</p> <p>The application has been further investigated with respect to to the amended plans. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p> <p>Supported with conditions.</p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no concerns with the application subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><i><u>Note:</u> The proposed development may not comply with some requirements of the BCA the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</i></p>
Landscape Officer	<p>Supported with conditions.</p> <p>Additional information is submitted addressing previous concerns raised by Landscape Referral, including the impact of proposed works upon the existing street trees and information regarding proposed landscape over the OSD structure.</p> <p>The submitted Landscape Plans are noted and generally Landscape Referral have no concerns, except for the proposed retaining walling along the southern boundary near the existing Paperbark street tree as shown in the Landscape Hardscape Plan, and it is noted</p>

Internal Referral Body	Comments
	<p>that the retaining walling in proximity to the existing street tree has been removed in subsequent updated Site Plans, and the Landscape Plans shall be updated to reflect such changes. Conditions shall be imposed on the minimum soil depth required over the proposed OSD tank to support landscape planting. All other landscape proposals including hard and soft landscape as documented are able to satisfy the landscape objectives of Warringah Development Control Plan clause D1 Landscaped Open Space and Bushland Setting.</p> <p>A Arboricultural Impact Assessment report is submitted and conditions shall be imposed ensure the recommendations of the report for appointment of a project arborist to supervise all excavations near the existing street trees, located within St Pauls Road road reserve, for adequate tree protection measures, are adhered to.</p>
NECC (Development Engineering)	<p>Supported with conditions.</p> <p>The submitted concept stormwater plan including OSD is acceptable subject to condition The proposed driveway crossing is also acceptable.</p> <p>The submitted Traffic Report must be assessed by Council's Traffic Engineers.</p> <p>Development Engineering support the proposal, subject to conditions as recommended.</p>
Traffic Engineer	<p>The submitted plans and associated Traffic Impact assessment report have been reviewed. There is existing retail use on the site and no offstreet parking is available to support that and this will remain the case for the new development. It is however noted that there are street 15min P parking restrictions to cater for parking activity generated by the retail use and this is considered adequate. The 2 proposed offstreet spaces although half a space below DCP requirements for the residential uses are considered adequate to support the development.</p> <p>There is an existing bus stop on the St.Pauls Road frontage. This bus stop will be unimpacted by the proposed work and no relocation or adjustment to the bus stop is required as a result of the development.</p> <p>There are no traffic engineering issues with approval of the development and no conditions to apply.</p>
Waste Officer	<p>Supported with conditions</p> <p>Waste Management Assessment (Plans received 1 June 2023) Supported with conditions as recommended.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council

Policies have been considered in the merit assessment of this application.

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.1321687M dated 26 August 2022). The amended plans remain consistency with the original Basix target scores achieved. The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	53

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

SEPP (Housing) 2021

Part 1 – Secondary Dwellings

Clause 52 – Development may be carried out with consent	
Standard	Compliance/Comment
<p>(2) Development consent must not be granted for development to which this Part applies unless—</p> <p>a) No dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land, and</p> <p>b) The total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument, and</p> <p>c) The total floor area of the secondary dwelling is:</p> <ul style="list-style-type: none"> i) no more than 60m², or ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning 	<p>a) The proposal includes a principal dwelling house and a secondary dwelling. (The secondary dwelling is detached and separated from the shop by a partition wall).</p> <p>b) The floor area of the secondary dwelling is 60sqm. No FSR applies to the site.</p>

instrument - the greater floor area.

Clause 53 – Non-discretionary development standards—the Act, s 4.15	
Standard	Compliance/Comment
a) For a detached secondary dwelling - a minimum site area of 450m ² .	Complies. The land has a site area of 632.3sqm
b) The number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.	Complies. Two car parking spaces currently available and two parking spaces proposed.

Conclusion: The proposal complies with the SEPP and condition is recommended that the site cannot be Strata or Torrens subdivided.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to *Ausgrid* and no objection to approval was raised in the *Ausgrid* response.

Other Service Infrastructure Authorities

The proposal does not require referral to Transport for NSW (TfNSW) and no other service authority referral issues are raised pursuant to the SEPP. Requirements of *Sydney Water* are administered under separate processes directly through *Sydney Water*.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential and commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable

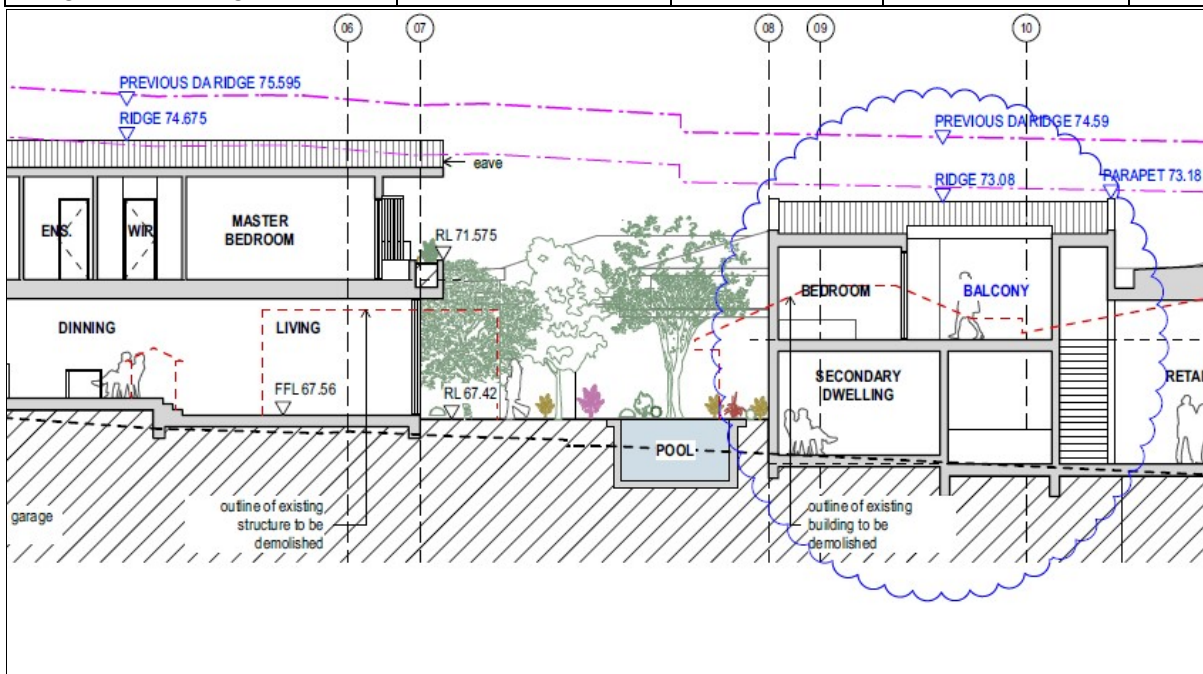
for the residential and commercial land use. The management of asbestos / lead based paint and the like if uncovered during demolition works is subject to standard conditions to ensure safe handling and compliance with *Australian Standards* and relevant health and safety laws.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.6m	N/A	Yes



Pursuant to the approach taken in *Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582* the existing ground level measured to the top of the new roof height gives an overall compliant height of 7.4m.

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	5.6m North	N/A	Yes
		6.5m South	N/A	Yes
		6.4m East	N/A	Yes
		6.6m West	N/A	Yes
B3 Side Boundary Envelope	45 degrees at 4m (eaves permitted) North	Within envelope	N/A	Yes
	45 degrees at 4m (eaves permitted) West	Eaves breach envelope	N/A	Yes
B5 Side Boundary Setbacks	0.9m North	0.0m Shop	100%	No*
		3.0m House wall plane	N/A	Yes
		2.58m Upper storey wall	N/A	Yes
		3.3m Pool coping	N/A	Yes
	0.9m West	0.9m Ground floor	N/A	Yes
		2.3m Upper wall plane	N/A	Yes
B7 Front Boundary Setbacks Bangaroo Street	6.5m	0.0m Shop front facade	100%	No*
B7 Front Boundary Setbacks St Paul's Road	6.5m (variation to 3.5m subject to streetscape)	2.0m Shop south wall	69%	No*
		Secondary dwelling	55%	No*

		2.9m Pool coping	66%	No*
		2.17m to 2.79m Dwelling house wall	100%	No/
		OSD tank in front setback to St Paul's Road and Bangaroo Street		
D1 Landscaped Open Space (LOS) and Bushland Setting Site area 632.3sqm	40% (252.9sqm)	37% 234.4sqm	7.3% (Landscaping over OSD not shown on engineering dwg.)	No*

See detailed merit consideration of variation under the DCP Built Form Controls within this report.

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	No	Yes
B7 Front Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	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	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D14 Site Facilities	Yes	Yes
D16 Swimming Pools and Spa Pools	No	Yes
D18 Accessibility and Adaptability	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
D23 Signs	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

Description of non-compliance

The proposal complies with the side setback except for the basement wall shown within the 0.9m side setback and roof eaves associated with the bin storage entry path structure / front foyer awning.

Merit consideration

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

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

Comment:

The non-compliance with the side setback does not create any unreasonable loss of opportunity for deep soil landscaping space. Generally landscaped open space is reduced by the new dwelling house on the site (this is addressed under Part D1 within this report). Landscape elements are still retained along the side setback to with No.30 Bangaroo Street and along the western boundary and along the front boundary. The site has 2 side boundaries and 2 front (street) boundaries and the positioning of the re-built shop component and secondary dwelling area retains a similar setback pattern. The site has existing use rights relating to the shop component and the use of nil setback is appropriate as shown on the amended plans (below) and does not unreasonably diminish deep soil areas

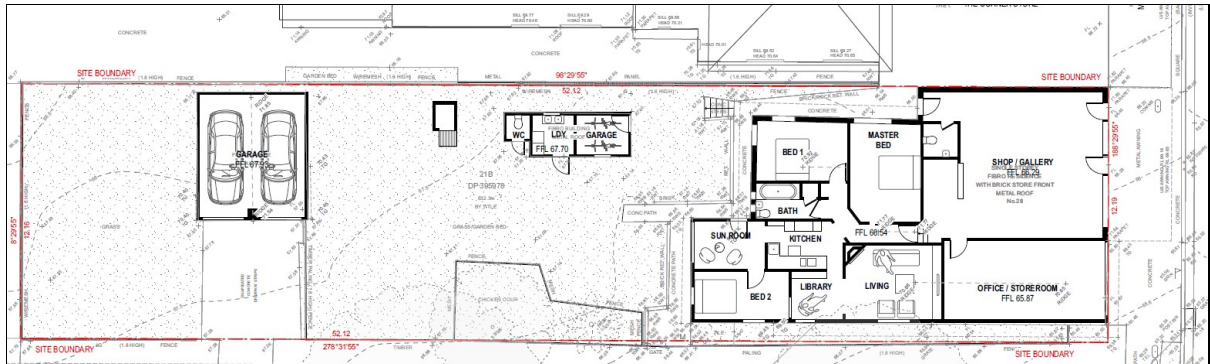


Image: Existing setback position shown in context with site boundary and landscaping.

- To ensure that development does not become visually dominant.

Comment:

The overall bulk and scale of the building is has been amended and the roof profile reduced to minimise upper building bulk and provide a more 'compressed' scale for the house, and shop front component. In this regard the the proposed building seeks to a larger footprint, maintains a centralised position for the new detached house. The secondary dwelling and principal dwelling comply with the side setback. Overall adequate landscaping will be provided to ensure the building does not become excessively dominant compared to adjacent dwellings and landscaping elements have also been used at the upper storey to soften the building appearance.

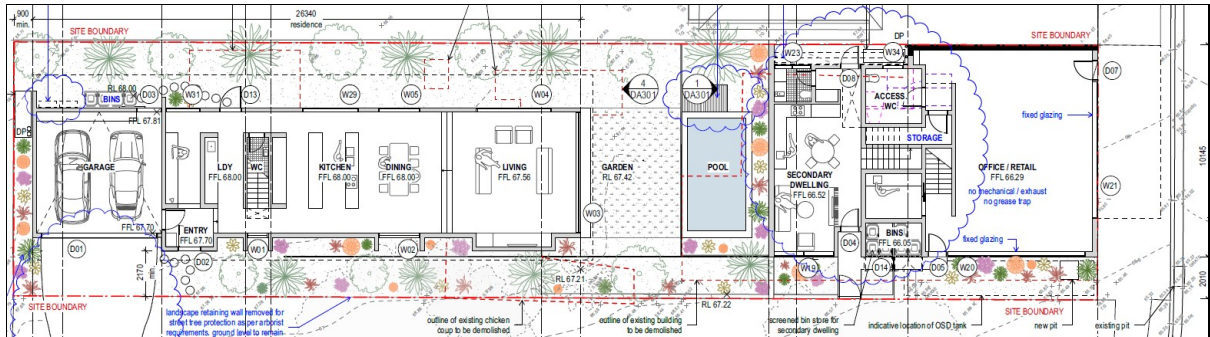


Image: Proposed setback position shown in context with new building footprint and landscape elements.

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

Comment:

The non-compliance to the side setback for related to the partition wall between the existing shop on the site and the adjacent shop. A similar footprint for the shop and secondary dwelling is retained (noting that a pool is now to be positioned with part of this area). The reduced roof profile and parapet at the front, assists to reduce the overall scale and bulk of the development.

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

Comment:

The non-compliance to the side setback for shop walls does not create any unreasonable level of privacy impact, or loss of amenity and solar access to adjoining land. The upper walls of the building have appropriately positioned windows and privacy screening with the principal outlook

directed toward the street. The main dwelling now includes additional screening treatment at the upper level given the narrow side setback (even though the main dwelling complies) The building setback for the secondary dwelling is also satisfactory. Conditions are suitable to ensure compliance with noise from A/C or pool pump motors.

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

Comment:

The non-compliance to the side setback does not create any adverse impacts on the sharing of views to and from public and private properties. Principal view lines are not gained along the side setbacks due to the density of surrounding development and existing ancillary structures and landscaping.

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

B7 Front Boundary Setbacks

Description of non-compliance

The proposal includes non-compliance for Bangaroo Street (proposed as a nil setback for the shop, as well as OSD tank in the SE corner) and non-compliance for the shop, secondary dwelling and principal dwelling as viewed from St Pauls Road. The buildings are required to achieve a 6.5m setback, however 3.5m is permitted for a secondary frontage, subject to the existing streetscape. In this case the main dwelling house, secondary dwelling and shop do not achieve a 3.5m setback for St Paul's Road.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

The front yard has a landscaped open space area that maintains a sense of openness with open style fencing and landscape elements including lawn area. The bin alcove and associated structure is permitted in the front setback and meets Council's requirements for OSD and bin services.

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

Comment:

The landscaped front setback maintains the continuity of the existing pattern of buildings as there are a number of corner site in the area where dwelling are constructed closer to 3.5m on one frontage. The open style fencing with native landscape planting will assist to maintain the visual continuity of the site and the surrounding environment. The proposal is consistent with this objective.

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

Comment:

Visual quality will be maintained by the reduced roof profile and styling of the building as amended. The amendments substantially reduced the overall height of the principal dwelling and the shop roof / parapet. Generally, the front setback in front of the proposed house, shop and secondary dwelling along St Pauls Road includes open style fencing, native landscape planting, lawn and minor structures. The nil setback to Bangaroo Street is appropriate to "pair" the building with the existing shop at No.30 Bangaroo Street.

- *To achieve reasonable view sharing.*

Comment:

The front setback space and ancillary structures do not create any unreasonable impact on any coastal or district views from surrounding properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

Merit consideration

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

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Retail shop	1 car space per 16.4 sqm	(GFA 104sqm) 6.3 car spaces	0	6.3
Residential (Detached house and secondary dwelling)	2	2	2	0
Total				6.3

The property has existing use rights for the shop as outlined within this report previously. The use of the shop is proposed to remain the same type (without food or beverage) and therefore the status quo on parking will remain. The surrounding street has adequate kerbside parking space for the proposed use, including safe pedestrian areas, bus stop locations and low local traffic volume.

No additional car parking is required for a secondary dwelling and the proposal complies with

the DCP for the new house. Adequate car parking is provided for the house and the small retail component is not seeking to intensify existing parking situation for customers or to use the footpath area (such as for alfresco dining).

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

Comment:

The existing site has a detached garage and the new dwelling house will have a double car garage. The garage is at the western end of the dwelling house and does not have an unreasonable impact on the street frontage or

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

Comment:

The position of the garage (and driveway position) is influenced by the existing bus stop point. The garage faces St Paul's Road and is integrated into the dwelling design with landscaping along the side setback and front setback. Given the 2 storey new house design the garage does not dominate the street frontage.

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

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The site will maintain 37% (234.4sqm) of the site area for landscaped open space. This is a 7.3% variation for the R2 residential zone (for a permitted dwelling house). However, the site also has an existing shop building on it to be rebuilt as an 'existing use' and proposes a secondary dwelling, and pool to accompany the new principal dwelling.

Merit consideration

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

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

Comment:

The proposal will result in a decrease in the net landscaped open space on the site with landscaping concentrated at the front and mid section between the shop and the main house. Minor landscape elements with planter boxes are integrated to both buildings to enhance the streetscape. Overall the planting scheme will provide an acceptable streetscape presentation despite the numerical shortfall of landscape space (as per the definition) and the reduced front boundary setbacks. It is noted that with the minor narrow landscape elements included of less than 2.0m width, the site achieves 40% landscaped area. Conditions are included to ensure the OSD tank has a minimum 300mm to 600mm soil cover for grasses and shrubs as the submitted engineering, landscape and architectural plans are inconsistent on this detail.

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

Comment:

The overall landscape area allocated and design (including planting regime) will not have an unreasonable impact on existing trees and shrub vegetation within the locality as principal street trees are unaffected and the site has no significant trees. An arborist report has been provided to assess adjacent trees (roots) close to the basement. Councils landscape officer is satisfied with the works proposed and associated landscape treatment, including tree assessment (prepared by *Tree Management Strategies* dated 7.12.2022) and new planting required. The topography of the site is gently sloping and does not create unreasonable impacts in terms of finished levels for landscaping.

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

Comment:

The new landscaping regime provided is of sufficient native species with a mix of appropriate mature height / size and dimensions to provide for trees and shrubs. Ancillary element such as fencing and entry areas have landscape elements to ensure landscaping is maintained as dominant feature to the street and assist to soften the building bulk and scale.

- *To enhance privacy between buildings.*

Comment:

The position of boundary planting and use of planter boxes as well as principal landscape setbacks assists to create reasonable buffer for privacy and reduce / screen overlooking for adjacent land at ground level, in conjunction with normal fencing structures. At the upper levels balconies face the street and privacy / amenity is assisted by balcony planter boxes. Dense border planting is provided along the northern and western side of the main dwelling house to assist privacy screening.

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

Comment:

Sufficient space is retained for the outdoor recreational opportunities of the occupants. The proposal provides private open space for the house ground level yard and for the secondary dwelling with an upper level balcony (15.7sqm). Private open space for ground level is also improved through the pool area provided for recreation of the occupants. Pool water surface is included as soft landscaping.

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

Comment:

Sufficient space is maintained for service functions, including domestic space for clothes drying for occupants.

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

Comment:

No augmentation for OSD to the existing stormwater management system is required within the property and an OSD design is provided that will have landscape covering to reduce visual impact on the front setback.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D2 Private Open Space

Description of non-compliance

The proposal includes two storey buildings and therefore consideration of window design, private open space and balcony space is relevant to surrounding neighbours amenity

Merit consideration

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

- *To ensure that all residential development is provided with functional, well located areas of private open space.*

Comment:

Private open space is required to be located behind the 6.5m front setback, however the proposal is on a corner site and includes a secondary dwelling and ground level private open space between the two proposed buildings. This main POS for the secondary dwelling has been provided (by amended plans) to give an outlook toward the road intersection of St Pauls Road and Bangaroo Street. The POS for the secondary dwelling is suitably sized and located. The ground level area for the main dwelling has adequate POS for the amenity of the dwelling house and includes a pool area within a landscape setting. Overlooking toward neighbours POS is protected by privacy screens along the northern elevation (top storey) for the dwelling house and the western end door window is fluted glass to prevent overlooking. The upper balcony is narrow and serves to generally allow maintenance access to the planter boxes for the house.

- *To ensure that private open space is integrated with, and directly accessible from, the living area of dwellings.*

Comment:

The dwelling house and secondary dwelling have suitable POS that is integrated with and with convenient access to the living areas. The low density residential setting and rebuilding of the shop component the proposal conforms with the adjacent pattern of development at No.30 Bangaroo Street that also has a shopfront. The POS area provided are suitable for the development. It is noted that the main dwelling house also has an internal rumpus room.

- *To minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces.*

Comment:

Due to the low density residential setting the proposal must rely on arrangement common to a corner lot whereby the front setback is relied on more so that a traditional single frontage elongated standard size lot for POS. Therefore POS in part of the front setback for the building

is appropriate under the circumstances. Landscaping is used to soften the appearance from the street and St Pauls Road also has a wide nature strip area along the south side of the property.

- *To ensure that private open space receives sufficient solar access and privacy.*

Comment:

The solar access diagrams (demonstrate that the POS areas will maintain adequate solar access for the outdoor areas. The proposal achieves direct sunlight and will enable adequate natural light for the occupants. The small drying yard for the secondary dwelling (north boundary) serves as a convenient space to service the laundry and bathroom light / ventilation.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of 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.

D3 Noise

Merit consideration

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

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

Comment:

The proposal includes a POS area at the upper floor for the secondary dwelling which faces the corner of Bangaroo and St Pauls Road. This ensures noise projection and outlook is toward the street intersection which is acceptable. The shop component has "back of house" areas contained within the building and any deliveries are from the public street. Overall the proposal will maintain consistent noise amenity to surrounding land.

- *To ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors.*

Comment:

The front of the shop will have fixed window space to contain shop noise activity and the hours of operation are appropriate for the car parking available in the street. The proposal will be subject to standard conditions to ensure air conditioning (A/C) motors or pool pump motors and the like comply with dBA limits (against background noise) to ensure no unreasonable noise intrusion to the surrounding residential amenity. The use of the shop is limited to retail / office type uses that excludes cafe / food cooking or dining and the proposal includes no grease trap or cooking range hood therefore will not result in unreasonable noise intrusion from shop activity. No outdoor use of the footpath area is proposed. Hours of operation are proposed to be limited to those proposed (including no use on public holidays)

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

D6 Access to Sunlight

Part D6 Access to Sunlight seeks that at least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space (POS) of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.

In this case the building bulk and height of the proposed dwelling will generally cast shadowing across the road reserve area with minimal impact on adjacent residential land. Generally the proposal will create no unreasonable change to solar access between 9am and 3pm on the 21 June for neighbours private open space, by comparison to the existing shadow regime.

In addressing the non-compliance outlined above, the following matters within *Benevolent Society v Waverley Council (2010) NSWLEC 1082* of relevance and have been factored in with the merit consideration of the WDCP objectives:

- *"The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*
- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*
Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.
- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*
- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*
- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence. In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development."*

Merit consideration

With regard to the consideration of Part D6 of the Warringah DCP, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure that reasonable access to sunlight is maintained.*

Comment:

The subject building design has been amended to reduce upper bulk by lowering the roof apex which assists to reduce the overshadowing regime. The proposal demonstrates compliant In this regard access to sunlight is maintained to surrounding land. Shadow diagrams for 9am 12 midday and 3pm have been provided to show the solar impact of the proposal (dated 9.5.2023).

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

Comment:

The proposed design is responsive to the topography and site constraints and does not create an unreasonable impact on the surrounding urban environment. The proposal achieves good internal amenity for the occupants of the site in response to the southerly outlook, building height, setbacks and the amended design to ensures no unreasonable impact on the adjacent properties.

- *To maximise the penetration of mid winter sunlight to windows, living rooms, and high use indoor and outdoor areas.*

Comment:

The proposal has been designed to ensure reasonable penetration of mid-winter sunlight within the building by the use of setbacks, window fenestration and distribution of POS to capture natural sunlight. The shadow diagrams demonstrate suitable mid winter solar access to adjacent private open space on the 21 June. POS for the secondary dwelling is located on the upper level terrace / balcony and therefore has an open outlook with solar access.

- *To promote passive solar design and the use of solar energy.*

Comment:

The proposal includes passive solar design elements and does not have an unreasonable impact of passive solar access to adjacent land.

- *To minimise the need for artificial lighting.*

Comment:

The design of the proposal provides a suitable gable roof form for the new house and skillion over the shop that ensures no unreasonable impact on the need for artificial lighting given the density and pattern of surrounding development.

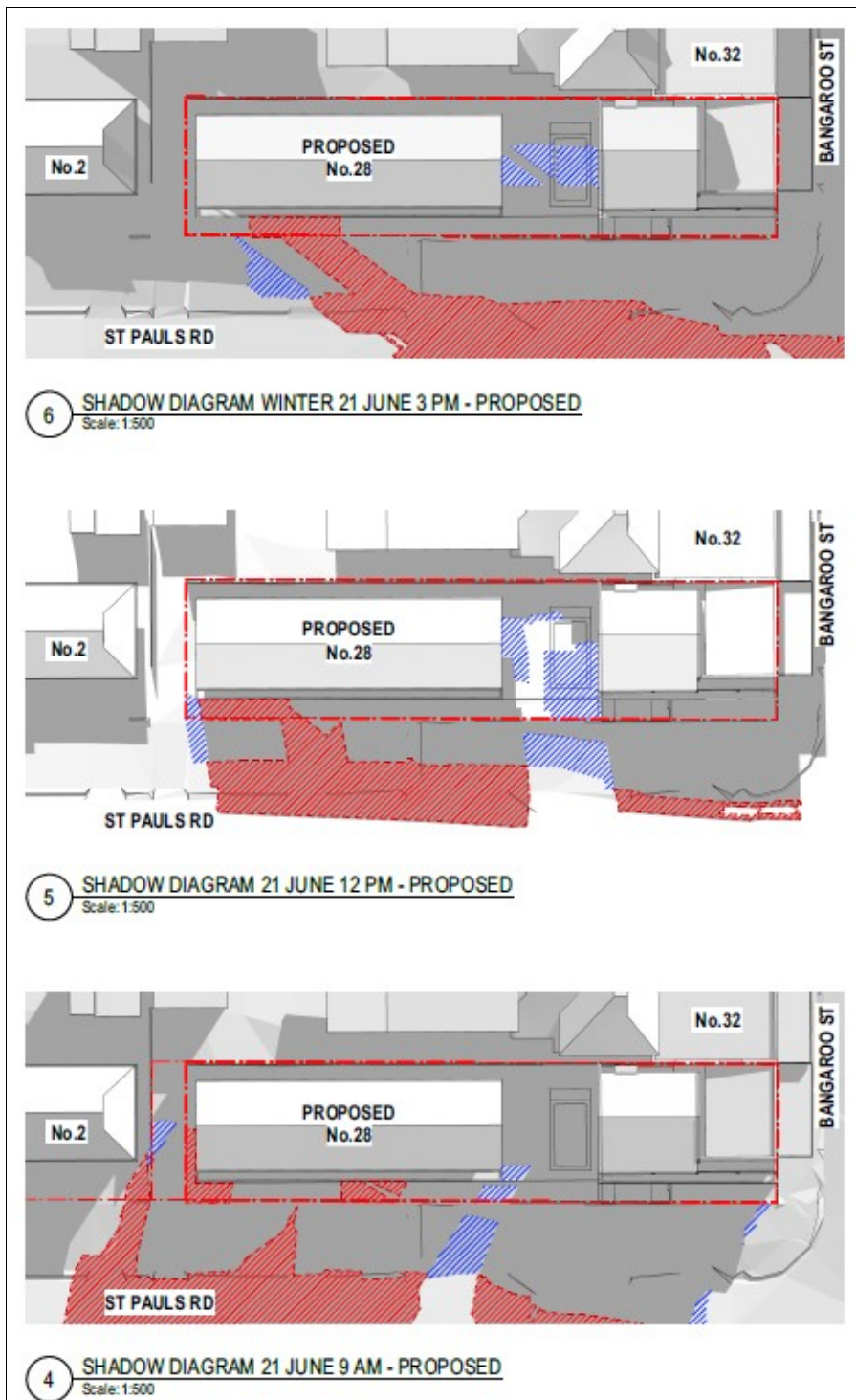


Image: Overshadowing of site and surroundings 9am to 3pm on the 21 June.

Having regard to the above assessment, (including the planning principle established in the *Benevolent Society v Waverley Council (2010) NSWLEC 1082*) it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D8 Privacy

Merit consideration

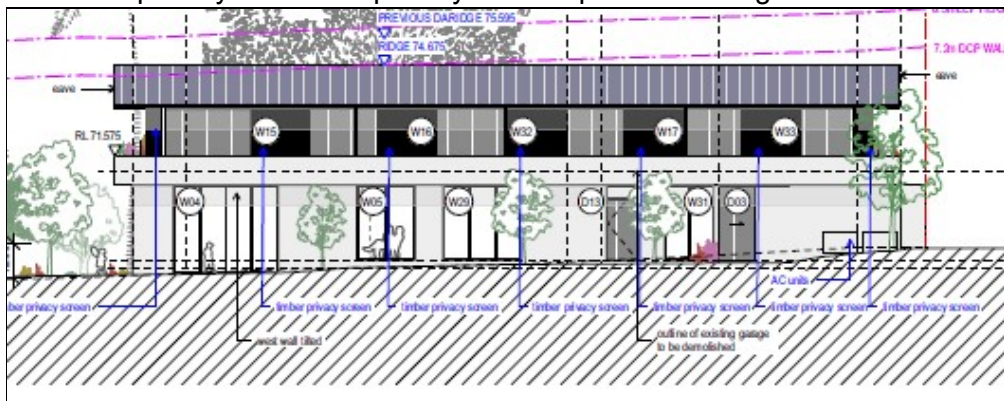
The development is considered against the underlying Objectives of the Control as follows:

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

Comment:

The proposal generally concentrates private open space areas toward the middle of the site and uses window screens for the upper storey of the dwelling along the northern elevation and translucent (fluted) glass to the western terrace (glazed) door. At ground level standard height fencing and boundary screen planting provides suitable screening and privacy protection.

The acoustic and visual privacy associated with the shop is considered to be adequate since the retail space is not intended to be used for cafe (food and beverage) type use and the shop front windows are not operable. No use of the footpath area (in front of the shop) is proposed. Generally the proposal maintains an outlook toward the street and POS areas are suitably shielded from overlooking by the position and design of the upper balcony area for the dwelling and the secondary dwelling. Window W27 is for a study desk and setback from the side boundary and overlooks roof area with W24 being over a void area and therefore has no floor area behind for viewing. Overall the proposal is consistent with this objective in maintaining residential privacy and noise privacy for occupants and neighbours.



Images: Screening added with amended elevations for privacy and screening at upper storey.

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

Comment:

The building provides a contemporary and modern floor layout. Innovative use of internal space has been achieved to ensure the building does not create unreasonable amenity impacts on surrounding land. The proposal has been amended and suitable changes were made to improve privacy considerations to adjacent land, including reduce bulk, landscape screening and allocation of private open space areas.

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

Comment:

The design will include appropriate security including residential style fencing, garage parking, landscaped pathways (rear garden) as well as a well defined front entry area to the flat building. Front fencing will maintain a suitable delineation between the road boundary and the front yard

(open style fencing with landscaped setting / border planting).

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives of this clause and accordingly, this assessment finds that the proposal is supported in this particular circumstance.

D9 Building Bulk

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

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

Comment:

The amendments provided to the plans maintain compliance with the 8.5m height plane, and have reduced the previous extent of building bulk (with the high elongated roof profile) pursuant to this objective. The lowered roof profile for the gable element and the shop reduce building bulk and achieve the desired objectives to ensure that the development does not become visually dominant in relation to adjacent land. The proposal will maintain adequate daylight, solar access and privacy to adjacent living areas of neighbouring properties by providing spatial separation between buildings and to ensure that development responds to the topography of the site. The architecture of the building seeks landscaping as key feature of the building, with minimalist deck and pathway areas.

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

Comment:

The proposal ensures a landscaped front setback and side setback areas retain a landscaped residential outlook along St Pauls Road. The building bulk has been suitably articulated with appropriate driveway and pedestrian entry areas to the streetscape as well as the configuration of the secondary dwelling (as amended). The site is situated within a low density residential area and is consistent with the built form controls for that zone and does not create any unreasonable visual impact for other dwellings nearby, and consistency with the amended shop design. The proposal satisfies this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of 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.

D16 Swimming Pools and Spa Pools

Merit consideration

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

- *To ensure swimming pools and spas are located to preserve the natural environment, streetscape and residential amenity.*

Comment:

The proposed swimming pool is setback 2.9m to the pool coping for St Pauls Road frontage. This is partly within the front setback area of 6.5m to 3.5m as per the DCP for front boundary

setbacks. The pool is also setback 3.3m from the northern side setback and positioned between the proposed secondary dwelling and the principal dwelling. The position of the pool maximises garden space amenity for the living area of the proposed development and reduces the area affected by overshadowing from adjacent land and the secondary dwelling by ensuring solar access between 11am and 2pm even in mid-winter. Conditions may be recommended to ensure pool pump noise does not create unreasonable noise impact. The position of the pool is screened from the neighbours by standard dividing fence height and landscaping.

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

Comment:

The pool provides minimal hard paved area around the pool coping with a small deck and landscaping along the eastern and southern side of the pool. The position of the pool and encroachment into the front setback area does not create unreasonable visual or acoustic impacts for the residential environment.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$22,605 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,260,500.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects,

all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/1490 for Demolition works and construction of a new dwelling house, swimming pool, secondary dwelling and retail shop/office premises on land at Lot 21B DP 395978, 28 Bangaroo Street, NORTH BALGOWLAH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans / Drawings - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA210 Issue B Demolition Ground Floor	18.8.2022	Breakspear Architects
DA211 Issue B Demolition Roof	18.8.2022	Breakspear Architects
DA220 Issue L Proposed Ground Floor	19.5.2023	Breakspear Architects
DA221 Issue K Proposed First Floor	19.5.2023	Breakspear Architects
DA222 Issue F Proposed Roof	19.5.2023	Breakspear Architects
DA300 Issue L North And South Elevation	19.5.2023	Breakspear Architects
DA301 Issue I East And West Elevation	19.5.2023	Breakspear Architects
DA400 Issue I Proposed Long and Cross Sections	19.5.2023	Breakspear Architects
DA401 Issue C Proposed Long Section Ridge Point	19.5.2023	Breakspear Architects
DA500 Issue D Material Palette	5.5.2023	Breakspear Architects

Engineering Plans**		
Drawing No.	Dated	Prepared By
HDA01/P4 Site Plan and Legend	6.12.2022	InLine Hydraulic Services
HDA02/P4 Ground Floor Plan	6.12.2022	InLine Hydraulic Services
HDA03/P4 First Floor Plan	6.12.2022	InLine Hydraulic Services
HDA04/P4 Roof Plan	6.12.2022	InLine Hydraulic Services
HDA05/P4 Sediment and Erosion Control Plan	6.12.2022	InLine Hydraulic Services
HD06/P4 Detail Sheet	6.12.2022	InLine Hydraulic Services

**Engineering plans and details are to be updated with the Construction Certificate to align with the stamped Architectural drawings.

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Basix Certificate	26.8.2022	Aspire Sustainability Consulting Pty Ltd
Geotechnical Report J4376	25.7.2022	White Geotechnical Group
BCA Report 116561-BCA-r1	26.8.2022	BCA Logic
Access Assessment 116561-Access-r1	26.8.2022	BCA Access
Geotechnical Assessment J4376	25.7.2022	White Geotechnical Group
Arboricultural Impact Assessment	7.12.2022	Tree Management Strategies

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
LPDA 23 Rev C Hardscape Plan	22.8.2022	Conzept Landscape Architects
LPDA 23 Rev C Landscape Plan-Ground	22.8.2022	Conzept Landscape Architects
LPDA 23 Rev C Landscape Plan L-1	22.8.2022	Conzept Landscape Architects
LPDA 23 Rev C Planting Palette	22.8.2022	Conzept Landscape Architects
LPDA 23 Rev C Details 1	22.8.2022	Conzept Landscape Architects
LPDA 23 Rev C Details 2	22.8.2022	Conzept Landscape Architects

*Landscape plans and details are to be updated with the Construction Certificate to align with the stamped Architectural drawings.

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
DA1000 Issue A Waste Management Plan	18.8.2022	Breakspear Architects
Waste Management Plan - 28 Bangaroo Street	15.8.2022	Applicant

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. **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 with a detached secondary dwelling and a office premises / shop, in accordance with the Dictionary of the Warringah Local Environmental Plan 2011, as follows:

- **secondary dwelling** means a self-contained dwelling that:
 - (a) is established in conjunction with another dwelling (the **principal dwelling**), and
 - (b) is on the same lot of land as the principal dwelling, and
 - (c) is located within, or is attached to, or is separate from, the **principal dwelling**.
- **shop** means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop and neighbourhood supermarket, but does not include food and drink premises or restricted premises.
- **office premises** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

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.

3. **No Approval for any Signage**

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2011 and State Environmental Planning Policy (Industry and Employment) 2021). A separate Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs including placement of signs in the shopfront footpath area (road reserve).

Reason: Control of signage.

4. **No Approval for any Signage above the parapet / roof line**

No approval is granted under this Development Consent for the erection of any advertising or

business identification signage located above the roof/parapet line.

Reason: Compliance with Warringah Local Environment Plan.

5. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

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

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

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention

to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

6. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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 an 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.
- (o) Prior to commencing works within, or over the road reserve (including erecting shop awnings), digging / placing hoardings such work will require separate approval pursuant to the *Roads Act 1993* and *Local Government Act 1993*. Council (or the relevant roads authority) may

require
design
adjustments
for the
purposes
of
compliance /
safety
or
works /
assets
that
encroach
the
road
reserve /
Council
land.

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

FEES / CHARGES / CONTRIBUTIONS

7. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$22,605.00 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 (as amended).

The monetary contribution is based on a development cost of \$2,260,500.00.

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

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

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

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

8. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any

damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

The applicant is to lodge a bond of \$2,000 as security against any damage to Council's stormwater drainage infrastructure as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifier 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

10. **Access and Facilities for Persons with Disabilities**

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. In this regard the recommendations made in the Access Assessment Report ref 116561-Access-r1 prepared by Jensen Hughes dated 26/8/2022 are to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

11. **Amended Landscape Plan**

Amended Landscape Plans shall be issued to the Principal Certifier prior to the issue of a Construction Certificate to include the following additional details:

- a) co-ordination with Architectural Site Plans and other approved Plans,
- b) minimum 300mm soil depth over the OSD tank, excluding waterproofing and drainage depths,
- c) all nominated boundary (north, south and west) screening planting shall be nominated and installed at minimum 900mm intervals, of a minimum 200mm container size at planting or as otherwise scheduled if greater in size.

Certification shall be submitted to the Principal Certifier that these amendments have been

documented.

Reason: Landscape amenity.

12. On Slab Landscape Works

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

At least a minimum 300mm of soil is required over the OSD tank, and all other planting on structure shall be in accordance with the Landscape Plan sectional detail 10 - Concrete Block Planter Wall on Slab Detail. Design certification shall be submitted to the Certifier by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

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

13. Traffic Management and Control

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to TfNSW standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

14. On-site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Inline Hydraulic Services, drawing number 22204 HDA01, HDA02, HDA03, HDA04, HDA05 and HDA06 Issue P4, dated 6.12.2022. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

1. A summary table for the design of the OSD system.
2. An overflow pipe above the top water level in the OSD tank is to be provided and connected to the outlet pipe.
3. The outlet from the site is to be connected to the existing Council pit in St Pauls Road.
4. An approval under S68 of the Local Government Act from Council for the proposed connection to the existing Council pit.
5. A minimum 300mm depth of soil over the OSD tank (excluding access / overflow grates).

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

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

15. **Amendments to the approved plans**

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

- Engineering and Landscape plans (cited in Condition 1) are to be updated to correspond with the approved Architectural drawings and conditions of this consent prior to issue of the Construction Certificate.

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

Reason: To ensure consistency with approved drawings, conditions and supporting documents.

16. **National Construction Code / Building Code of Australia**

The walls of the proposed secondary dwelling where less than 900mm from an allotment boundary or less than 1.8 m from another building on the same allotment other than a Class 10 building associated with the Class 1 building or a detached part of the same Class 1 building and any openings within these walls is required to comply with the *Building Code of Australia*. Parts of the buildings with the classification of 6 & 8 shall also comply with the relative Sections of the BCA.

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

Reason: To ensure adequate provision is made for fire safety and for building occupant safety.

17. **Fire Safety Requirements – BCA / NCC**

The Fire safety requirements for the building as detailed and recommended in the BCA Assessment Report prepared by Jensen Hughes, dated 26/8/2022, Project No. 116561-BCA-r1, including any required Performance Reviews, are to be considered as part of the assessment for any Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

18. **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.

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

Reason: To provide public and private safety.

19. **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 Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

20. **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 Civil Engineering plans for the design of the stormwater connection from the site to the existing Council stormwater pit in St Pauls Road which is 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 following information is to be provided with the application.

1. A long-section of the outlet pipe from the site to the existing Council pit in St Pauls Road.
2. All existing services in the road reserve are to be shown on the plan and long-section.
3. Any services that are affected by the proposed works will require an approval from the relevant service authority with all costs associated with any relocation to be borne by the applicant.
4. Details of the proposed connection to the Council pit.

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 Certifier prior to the issue of the Construction Certificate.

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

21. **Compliance with Standards**

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

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

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

22. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (as per the approved Materials Schedule) in order to minimise solar reflections to neighbouring properties.

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

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

23. **Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifier prior to the issue of any Construction Certificate.

If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

24. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works to provide tree protection measures in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:

- a) supervision of all excavation works in the tree protection zone vicinity of existing Paperbark street trees identified in the Arboricultural Impact Assessment report as tree 1 and tree 2, as per section 2 and 3 of the report,
- b) inspection and approval of the tree protection fencing identified in the Arboricultural Impact Assessment report in section 3 of the report,
- c) regular monitoring and certification of tree protection measures as identified identified in the Arboricultural Impact Assessment report in section 3 (step 4 and step 6),
- d) any other requirements as imposed by conditions under Tree and Vegetation Protection.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

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

Reason: Tree protection.

25. Pre-Construction Dilapidation Report

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

- No. 30 Bangaroo Street
- Any adjoining private property assets or public property assets that may be damaged or impacted by / during site works.

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

In the event that access for undertaking 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 Certifier 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 Certifier prior to the commencement of any works on site.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

26. Protection of Existing Street Trees

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree(s) fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS4970-2009 Protection of trees on development sites and the recommendations of the Arboricultural Impact Assessment report. As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

All street trees within the road verge 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. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Street tree protection.

27. Tree and Vegetation Protection

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

- i) all trees and vegetation located on adjoining properties,
- ii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,

- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 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 AS4373-2007 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 Principal Certifier must ensure that:

- c) The arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as complaint to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

28. **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.

29. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

30. **Privacy and Amenity**

Privacy screening for the dwelling as shown on the architectural plans, including landscaping works, use of translucent / fluted glass, front and side boundary fencing, window screening and landscape plant screening is to be completed in manner consistent with the approved architectural drawings.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority

Reason: In order to maintain privacy and amenity to the adjoining properties and the street.

31. **Survey Certificate**

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

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

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

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

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

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

32. **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.

33. **Traffic Control During Road 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 (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) 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.

34. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 4 metres wide at the kerb to 5 metres wide at the boundary in accordance with Northern Beaches Council Drawing Normal High Profile 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 kerb, footpath and 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 Certifier.

Reason: To facilitate suitable vehicular access to private property.

35. Waste Management During Development

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

36. Waste/Recycling Requirements (Waste Plan Submitted)

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan dated 15 August 2022.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

37. Waste/Recycling Requirements (Materials)

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

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

38. Landscape Completion

Landscape works are to be implemented in accordance with the approved Amended Landscape Plans, and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) all tree planting shall be a minimum pre-ordered planting size of 75 litres; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 1.5 metres from common residential lot boundaries; and located either within garden bed or within a prepared bed within lawn,
- c) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone.

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

Reason: Environmental amenity.

39. Condition of Retained Vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier,

assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

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

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Civil Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/guide-submitting-ldaa-nov19.pdf>

The form for the application can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/4023-legal-documents-authorisation-oct19.pdf>

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

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

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered.

41. **House / Building Number**

House/building number is to be affixed to the building for the shop front and letterbox for the dwelling house / secondary dwelling, to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

42. **Waste Management Confirmation**

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

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

43. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

44. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

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

45. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan(s) and any conditions of consent.

A maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

The approved landscape planted areas consisting of lawn, planting at grade, planting on structure shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

46. **Acoustics**

The air conditioning plant, swimming pool motors, or the like, and the use of the premises shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

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

47. **Hours of Operation**

The hours of operation of the shop/office premises are to be restricted to:

- Monday to Friday – 7:00am to 6:00pm
- Saturday, Sunday and Public Holidays – 7:00am to 3:00pm

Upon expiration of the permitted hours, all customer service to be reasonably completed for the day, with any on-site customers on the premises shall be required to leave within the following 30 minutes or reasonable time.

Use of the shop / office premises is to remain consistent with condition No.2 of this consent. Development consent is not required for first use / fit-out.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

48. **Commercial Waste Collection**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.

49. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed.

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

Signed



Alex Keller, Principal Planner

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



Rodney Piggott, Manager Development Assessments