

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0060
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Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 2 DP 9667, 3 Birdwood Avenue COLLAROY NSW 2097
Proposed Development:	Construction of a retaining wall and front boundary fence
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Bentag Pty Ltd
Applicant:	Bentag Pty Ltd Neville William Stanford

Application Lodged:	24/01/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	03/04/2020 to 17/04/2020
Advertised:	Not Advertised
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 31,600.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the demolition of the existing dilapidated retaining wall located along a portion of the eastern boundary and the construction of a new concrete retaining wall. The proposal also involves the construction of a 1.5m high aluminium front boundary fence, which will include a pedestrian entry gate and automatic sliding gate. In addition, the works include constructing a new fence panel along the eastern boundary, which will connect to the proposed front fence.

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 - B9 Rear Boundary Setbacks

Warringah Development Control Plan - D13 Front Fences and Front Walls

SITE DESCRIPTION

Property Description:	Lot 2 DP 9667 , 3 Birdwood Avenue COLLAROY NSW 2097
Detailed Site Description:	<p>The subject site consists of two (2) allotment located on the southern side of Birdwood Avenue.</p> <p>Lot 2 DP 9667 is regular in shape with a frontage of 12.19m along Birdwood Avenue and a depth of 40.24m. Lot 1 DP 348277 is located at the rear and is rectangular shaped with a width of 14.79m and depth of 4.57m. The site has a total surveyed area of 553m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates 2-3 storey residential flat building comprising of 5 units with attached parking at front and a detached garage at the rear.</p> <p>The site slopes to the north with an approximate level change of 5.0m.</p> <p>The site contains one pocket of landscaping within the western setback area.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>The character of the localised area is predominately residential in nature and consists of two to three storey detached dwelling houses and three storey apartment buildings/attached dwellings. A number of these properties</p>

have minimal landscaping. The northern side of Birdwood Avenue is public open space and provides access to Collaroy Beach.

The property to the west (1 Birdwood Avenue) is a two storey brick residential dwelling with garaging occupying the lower level facing the street. The property to the east (5 Birdwood Avenue) is a two storey timber residential dwelling with a detached outbuilding within the front setback and a double hardstand.

Map:



SITE HISTORY

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

EPA2019/0316:

Council issued an Emergency Development Control Order on 04 October 2019, with regards to the dilapidated blockwork retaining wall, located in the south east corner of the lot.

DA2020/0060:

The subject development application was lodged on 24 January 2020 to rectify the issues identified in the above compliance investigation.

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	See discussion on "Environmental Planning Instruments" in this

Section 4.15 Matters for Consideration'	Comments
of any environmental planning instrument	report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Matters for Consideration'	Comments
with the EPA Act or EPA Regs	
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

The use of the land for the purposes of a residential flat building is prohibited under the WLEP 2011. Notwithstanding, a search through Council records can confirm that approval (B1361/66) was granted for a residential flat building with off-street parking in 1966. As the proposal does not involve work to the existing residential flat building, no further assessment is required.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

Name:	Address:
Alfred James Kenneth Aspinall	19 Birdwood Avenue COLLAROY NSW 2097
Mr Christopher Douglas Hunt Kristine Mary Hunt	5 Birdwood Avenue COLLAROY NSW 2097
Mr Peter Graeme Dawson	1 / 7 Birdwood Avenue COLLAROY NSW 2097
John Tuinman Mrs Janette Edna Tuinman	1 Birdwood Avenue COLLAROY NSW 2097

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

- **Visual impact of front fence,**
- **Description of works error,**
- **Construction impacts,**
- **Accessibility and parking,**
- **Height of side boundary fence,**
- **Noise and amenity concerns,**
- **Landscaping,**
- **Stormwater.**

The matters raised within the submissions are addressed as follows:

- **Visual impact of front fence:** Concern has been raised within the received submissions that the proposed front fence will create unreasonable visual impacts for the localised streetscape

along Birdwood Avenue. In particular, the submissions reference the proposed fence's height and selected materials, as being the contributing factor towards the proposal's unsightliness. Furthermore, concern has been raised about the proposal's compatibility with the streetscape, as there are no continuous front fences along Birdwood Avenue.

Comment:

It is acknowledged that there are a limited examples of continuous front boundary fences and walls along Birdwood Avenue. However, Warringah Development Control Plan allows the construction of front fencing provided they encourage innovative design solutions to improve the urban environment, while retaining a level of compatibility with the existing streetscape.

When viewing the existing characteristics of front setbacks along Birdwood Avenue it is relatively inconsistent with regards to siting of building and types fencing. As such, there are numerous examples of structures situated within the front setback (Nos. 5, 9-11, 17 and 19 Birdwood Avenue). In addition, types of fencing along Birdwood Avenue vary in size, construction and material. Therefore, it is considered that the localised streetscape is relatively diverse and there is no predominant visual characteristics that influence the built form.

The existing residential flat building is set back 7.0m from the front boundary. This setback area contains no landscaping and the existing structures include; bin storage, informal hardstands, letter-box and a driveway. Presently, there is little relief from the visual impact of these structures and the existing residential flat building. As such, the proposal's modern design is an innovative solution to breaking down the existing built form. Furthermore, the proposal's design demonstrates openness within its design to minimise visual impact of the works. Notwithstanding, imposed conditions will ensure that the fence height is limited to 1.2m, which will further lessen the visual impact of the works.

- **Description of works error:** The received submissions raised concern that the description of works was misleading, as it did not mention the proposed front fence.

Comment:

It is agreed that the original description of works was misleading, as such Council re-notified the application with an amended title, "*Construction of a retaining wall and front boundary fence*". During the notification period Council received four (4) submissions all of which made reference to the proposed front fence.

This matter does not warrant the refusal of the application.

- **Construction impacts:** Concern is raised that the proposed demolition and construction of the eastern retaining wall, will potentially impact the stability of the adjoining land at No.5 Birdwood Avenue. Furthermore, due to the proposal's proximity to the common boundary concern has been raised with possibly encroachments onto the adjoining land at No.5 Birdwood Avenue.

Comment:

Imposed conditions will ensure that a dilapidation report is conducted prior to the commencement of any works and an additional report will be required at the completion of the works. Furthermore, a boundary identification survey will be required prior to the commencement of construction and certification will ensure the boundary setbacks are in accordance with the approved details.

- **Accessibility and parking:** The received submissions have raised concern that the proposed fence will create accessibility issues for the site's informal parking arrangement, as the occupants will be required manoeuvre within constrained circumstances. Furthermore, concern

is raised that the site's usage for 'Air BnB' will present safety issues, as individuals that are unfamiliar with site will have troubles accessing and egressing the site.

Comment:

The proposal does not involve altering the site's formalised parking. As such, due to the scope works proposed it is unreasonable to demand a complete reconfiguration and assessment of the site's parking arrangement.

This matter does not warrant the refusal of the application.

- **Height of side boundary fence:** Concern has been raised that the height of the proposed infill side fence panel will create a visual impact.

Comment:

The new fence panel along the eastern boundary is 1.8m high and will be connected to the proposed front fence. The proposed extension of the side boundary fence will be consistent with the existing fencing with regards to the selected materials and height. Furthermore, the minor extension complies with WDCP's requirements.

This matter does not warrant the refusal of the application.

- **Noise and amenity concerns:** Concern is raised that the proposed mechanical entry gate will detract the neighbourhood amenity due to excessive noise generation.

Comment:

The standard conditions imposed within this consent will ensure that noise generated from the entry gate will comply with the relevant Australian standards.

- **Landscaping:** The received submissions have highlighted that the site provides no compliant landscaped open space areas under current controls.

Comment:

It is agreed that the site does not provide any calculable landscaped areas under current DCP controls. However, the proposal does not involve the construction of any additional impervious surfaces. In addition, the site has Existing Use Rights for the purposes of a residential flat building as per Division 4.11 of the Environmental Planning and Assessment Act, 1979. Therefore, WDCP landscaping requirements are not applicable.

This matter does not warrant the refusal of the application.

- **Stormwater:** The submissions have raised concerns that during rainfall events all of the runoff from the subject site is directed towards No.5 Birdwood Avenue creating unreasonable impacts.

Comment:

Existing stormwater infiltration issues cannot be addressed within this development application, due to the scope of works only including the construction of a retaining wall and front fence. Furthermore, the proposal does not include the construction of any additional impervious areas. This concern should be reported to Council's Compliance Team.

This matter does not warrant the refusal of the application.

REFERRALS

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid, whom provided a response on 06 April 2020, which supports the application subject to conditions. The Ausgrid referral response has formed part of the conditions of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid, whom provided a response on 06 April 2020, which supports the application subject to conditions. The Ausgrid referral response has formed part of the conditions of consent.

SEPP (Coastal Management) 2018

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

14 Development on land within the coastal use area

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

Comment:

The works are conditioned entirely within the subject site's property boundaries and will not affect existing public access to Collaroy Beach. In addition, the proposed fence demonstrates openness within its design and will be conditioned to no more than 1.2m, which will minimise any unreasonable visual impact to the scenic qualities of the coast. Furthermore, the proposal has been designed and sited to prevent view loss of the foreshore from public places.

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

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

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

Comment:

It is considered that the proposal will not cause an increased risk of coastal hazards, due to the nature

of the works proposed and the location of the subject site.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	2.5m (Retaining wall) 1.5m (Front fence)	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.6 Exceptions to development standards	Yes
5.3 Development near zone boundaries	Yes
6.1 Acid sulfate soils	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	No walls proposed	N/A	Yes
B3 Side Boundary Envelope	4m	No encroachment	N/A	Yes
	4m	No encroachment	N/A	Yes
B5 Side Boundary Setbacks	0.9m - East	0.2m	77.78%	No
	0.9m - West	11.7m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	Nil (Front boundary fence)	N/A	Yes
B9 Rear Boundary Setbacks	6m	3.6m (Retaining wall)	40%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	0% (No areas meet the minimum requirements)	N/A	Existing

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D13 Front Fences and Front Walls	Yes	Yes
D15 Side and Rear Fences	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

Description of non-compliance

The proposed retaining wall will be located along a portion of the eastern side boundary on a 0.2m setback. Due to the slope of the land the height of the retaining wall ranges between 0.8m - 2.0m. WDCP requires a minimum side setback of 0.9m for all structures that are more than 1.0m high.

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 works will be carried out above existing built upon surfaces and will not involve the removal of any deep soil landscape areas.

- To ensure that development does not become visually dominant.*

Comment:

The proposed retaining wall will be located towards the rear of the site and will not be readily visible when viewed from the street. In addition, the existing eastern side boundary fence will reasonably screen the works.

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

Comment:

The proposal will be set back 2.1m from the existing residential flat building, while being reasonably screened from adjoining properties and nearby public places. As such, the development will not create any unreasonable building bulk.

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

Comment:

The proposed retaining wall is consistent with existing structures and will maintain a reasonable level of privacy and solar access. In addition, the proposed remedial works to the eastern boundary will provide a higher level of amenity for both the occupants of the subject site and the occupants of No.5 Birdwood Avenue, as the proposal seeks to reinforce structural integrity of the land.

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

Comment:

The proposal will not obscure any views from nearby public and private properties.

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

B9 Rear Boundary Setbacks

Description of non-compliance

The proposed retaining wall will be set back 3.9m from the rear boundary. WDCP requires structures to be setback at a minimum of 6.0m.

Merit consideration:

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

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

Comment:

The works will be carried out above existing built upon surfaces and will not involve the removal of any deep soil landscape areas.

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

Comment:

The proposal will replace the existing retaining wall and is remaining consistent with the scale of the existing development. As such, there will be no change to the sense of openness in the rear yard.

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

Comment:

The proposed remedial works to the eastern boundary will provide a higher level of amenity for both the occupants of the subject site and the occupants of No.5 Birdwood Avenue, as the proposal seeks to reinforce structural integrity of the land. In addition, due to the nature of the works there are no privacy impacts expected.

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

Comment:

The proposed retaining wall will be constructed over built upon surfaces and will remain relatively consistent with existing development. Overall, the works will maintain the existing visual continuity of rear setbacks and landscape elements.

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

Comment:

The proposed retaining wall will not result in any privacy impacts.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D13 Front Fences and Front Walls

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 fencing, terracing and retaining walls are compatible with the existing streetscape character while creating visual interest in the public domain.*

Comment:

When viewing the existing visual and spatial characteristics of front setbacks along Birdwood Avenue it is relatively inconsistent with regards to siting of building, types fencing and landscaping. As such, there are numerous examples of structures situated within the front

setback (Nos. 5, 9-11, 17 and 19 Birdwood Avenue). In addition, types of fencing along Birdwood Avenue vary in size, construction and material. As such, it is considered that the localised streetscape is relatively diverse and there is no predominant visual characteristics that influence the built form.

The proposed front fence demonstrates openness within its design, whilst imposed conditions will ensure the maximum height of the fence is no more than 1.2m. In addition, the proposal's modern design is broken down by the existing block work and entry gates. Furthermore, the proposal will provide reasonable screening of the existing built form. Overall, it is considered that the proposal will provide visual interest in the public domain.

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

Comment:

The existing residential flat building is set back 7.0m from the front boundary. This setback area contains no landscaping and the existing structures include; bin storage, informal hardstands, letter-box and a driveway. Presently, there is little relief from the visual impact of these structures and the existing residential flat building. As such, proposal's modern design is an innovative solution to breaking down the existing built form. Furthermore, the proposal's design demonstrates openness within its design to minimise visual impact of the works.

Notwithstanding, imposed conditions will ensure that the fence height is limited to 1.2m, which will further lessen the visual impact of the works.

- *To avoid a 'walled in' streetscape.*

Comment:

The proposal demonstrates openness within its design and has been conditioned to more than 1.2m high. As such, it is considered that the relevant design measures have been implemented to avoid creating a 'walled in' streetscape.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/0060 for Construction of a retaining wall and front boundary fence on land at Lot 2 DP 9667, 3 Birdwood Avenue, COLLAROY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A001 - RevP1: Site plan	13 January 2020	Lead Architects
A200 - RevP2: Elevations and sections	04 February 2020	Lead Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
A01: Retaining wall	28 November 2019	Cornerstone Structures

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report	08 January 2020	Aargus

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	20 January 2020	Neville Stanford

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

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

2. **Prescribed conditions (Demolition):**

(a) 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 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
- (ii) 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.

(b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

the Council) has given the Council written notice of the updated information.

(c) 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.

Reason: Legislative Requirement.

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which

the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

Reason: Legislative requirement.

4. **General requirements (Demolition):**

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- o 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) At all times after the submission a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.

(c) 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.

(d) 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.

(e) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

(i) 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.

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

5. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that

occurs on Council's property.

- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) 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 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner

that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

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

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

FEES / CHARGES / CONTRIBUTIONS

6. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

7. Amendments to the approved plans

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

- The proposed front fence is to have a maximum height of 1.2m.

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

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

8. Boundary Identification Survey

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

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

this consent.

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

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

9. **Compliance with standards (Demolition):**

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 Council prior to the commencement of demolition works.

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

10. **Compliance with Standards**

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

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

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

11. **Sydney Water "Tap In"**

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

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

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

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

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

12. **Structural Adequacy of Works**

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

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

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

Reason: To provide public and private safety.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. **Pre-Construction Dilapidation Report**

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

Property: No.5 Birdwood Avenue

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

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. **Survey Certificate**

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

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

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

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

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

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

15. **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.

16. Waste Management During Development

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

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

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

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

17. Post-Construction Dilapidation Report

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

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

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

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

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

18. Waste Management Confirmation

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

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

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

Signed



Kye Miles, Planner

The application is determined on 04/05/2020, under the delegated authority of:



Steven Findlay, Manager Development Assessments