

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/1182
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<b>Responsible Officer:</b>	Thomas Burns
<b>Land to be developed (Address):</b>	Lot 13 SP 101104, 110 / 11 Lawrence Street FRESHWATER NSW 2096
<b>Proposed Development:</b>	Construction of a Pergola
<b>Zoning:</b>	Warringah LEP2011 - Land zoned B2 Local Centre
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	The Owners Of Strata Plan 101105
<b>Applicant:</b>	In House Town Planning

<b>Application Lodged:</b>	13/10/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	21/10/2020 to 04/11/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 25,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent for the construction of a pergola in the courtyard area of Unit 110/11 Lawrence Street, Freshwater.

### 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 - C3 Parking Facilities  
 Warringah Development Control Plan - C4 Stormwater  
 Warringah Development Control Plan - C8 Demolition and Construction  
 Warringah Development Control Plan - C9 Waste Management  
 Warringah Development Control Plan - D2 Private Open Space  
 Warringah Development Control Plan - D8 Privacy  
 Warringah Development Control Plan - D12 Glare and Reflection  
 Warringah Development Control Plan - 1. Built form in Freshwater  
 Warringah Development Control Plan - 3. Street activation  
 Warringah Development Control Plan - 10. Front setback  
 Warringah Development Control Plan - 11. Side and rear setbacks

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 13 SP 101104 , 110 / 11 Lawrence Street FRESHWATER NSW 2096
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment located on the northern side of Lawrence Street, Freshwater.</p> <p>The site is irregular in shape in that the north-wester corner of the site is intersected by a Council owned carpark by 7.3m and for a length of 27m.</p> <p>The site is located within the B2 Local Centre zone pursuant to the WLEP 2011 and accommodates a shop top housing development.</p> <p>Topographically the sites incline towards the south-west by approximately 5m. The slope of the land is not steep and is consistent across the site.</p> <p>The site is located within the precinct identified as "Special Area G5" Freshwater Village in the WDCP 2011.</p> <p><b>Detailed Description of Adjoining and Surrounding Development</b></p> <p>The location of the development site is unique by virtue of its</p>

eclectic surrounds. The greater context of Freshwater is predominantly characterised by single detached dwellings houses of varying age, size and construction. The small Freshwater Village area that this site is within is highly desirable and as such, special consideration is given to the developments within the precinct.

Map:



## SITE HISTORY

The history of the site is described below:

### Development Application DA2010/0697

An application for demolition works and construction of a mixed use development was lodged with Council on 10 May 2010. The development site was large and included 5-19 Lawrence Street, 22A Albert Street and 18-22 Marmora Street, with a combined total area of 9,565.6m<sup>2</sup>

In total the development included 337 car parking spaces, four 3-4 storey mixed use and residential flat buildings, three detached dwellings and seven townhouse style developments.

On 22 June 2010 Council raised a number of concerns regarding the proposal. The application was subsequently withdrawn on 6 August 2010.

### Development Application DA2010/1446

Following the withdrawal of DA2010/0697, the applicant revised the proposal to be for demolition of existing buildings and construction of a mixed use retail and residential development comprising of shop top housing buildings, a residential flat building and two levels of basement car parking. The application was lodged on 9 September 2010. In total, the proposal had 91 apartments, 7 townhouses and 3,415m<sup>2</sup> of retail space.

The application was heard before the Sydney East Joint Regional Planning Panel for determination on

9 December 2010. The meeting minutes read:

1) The Panel resolves unanimously to refuse the application. The Panel notes that this is not consistent with the recommendation of the first planning assessment report, which the Panel finds thorough and sound. It is simply that the Panel has come to a different planning value judgment.

2) The Panel notes that the supplementary assessment report recommends refusal. The Panel also notes that the recommendation of the Warringah Development Assessment Panel is to defer the application. The Panel believes, however, that deferral would be appropriate only if some new information or amendment were expected, and this is not true in this case.

3) The Panel's reasons for refusal are as follows:

a) The proposal breaches both the eleven-metre and the three-storey height limits.

b) The proposal is inconsistent with the Desired Future Character of the Harbord (Freshwater) Village Locality. That character is best expressed by the words "mix of small retail and business uses with lowrise shop top housing". A four-storey apartment building without retail or business component does not fit this description.

c) The public opposition to the proposal is overwhelming. It includes nearly 2000 objectors as well as the local and State representatives of the community. In some cases objectors represent a private interest; however, in this case the objectors are so numerous and so many of them are not directly affected by the development, that their opposition must be considered to represent the public interest.

Following this determination by way of refusal, the applicant lodged a Class 1 Appeal with the Land and Environment Court of NSW on 15 December 2010. The matter of *Freshwater Village Developments Pty Ltd v Warringah Council* was heard before the court on 4, 5 and 6 April 2011, with a decision date of 24 May 2011. The decision was to dismiss the appeal in its entirety.

This development scheme was not further pursued upon the subject site.

#### **Pre-lodgement Meeting PLM2015/0094**

On 27 August 2015 Council met with a developer to discuss a preliminary concept proposal for demolition works, construction of shop top housing, two residential flat buildings, basement car parking and landscaping works.

In principle, Council raised no fundamental concerns regarding the application subject to design modifications and further analysis of the critical issue of the reclassification of the Oliver Street carpark. A follow-up pre-lodgement meeting was held on 8 October 2015 to further discuss the proposal and revisions made in light of the comments made in PLM2015/0094.

#### **Pre-lodgement Meeting PLM2017/0100**

Prior to the lodgement of this current development application, the applicant met with Council on 5 September and 24 October 2017 to discuss the design scheme. A number of design amendments were discussed, and the formal non-verbatim minutes of the meeting highlight the primary areas of discussion in its conclusion as follows:

The proposal to obtain vehicular access of Lawrence Street is not preferred; however Council acknowledges the attempts made by the Applicant to amalgamate with the adjoining property to the west to reduce the number of crossings, in lieu of obtaining access over the Oliver Street Carpark to the

rear of the site. Council acknowledges that the re-classification of the public carpark has not occurred and that the landowner has waited a significant time period for that to happen.

As discussed later in this report, the issue of vehicular access is a fundamental consideration in the assessment of this application.

Following the favourable comments from Council in the pre-lodgement meeting, the application proceeded to lodge Development Application DA2017/1294.

### **Development Application DA2017/1294**

Development Application DA2017/1294 for demolition works and the construction of a shop top housing development approved by Council on 20 June 2018.

### **Section 4.55(1A) Modification Mod2019/0209**

Section 4.55(1A) Modification Mod2019/0209 for modification of Development Consent DA2017/1294 for demolition works and the construction of a shop top housing development approved by Council on 7 August 2019. The modification sought to amend the consent to recognise adaptable units not being a requirement of the Warringah Development Control Plan 2011.

### **Section 4.55(2) Modification Mod2019/0477**

Section 4.55(2) Modification Mod2019/0477 for modification of Development Consent DA2017/1294 for demolition works and the construction of a shop top housing development withdrawn by the applicant. The modifications pertained to relocating the car park entry, increasing floor space for retain shop area, reducing one retain car space, repositioning the loading dock and amending the layout of the retain end of tri facilities.

### **Complying Development Certificates**

Various Complying Development Certificates issue by Private Certifiers for strata subdivision.

### **APPLICATION HISTORY**

The Assessment Officer undertook a site visit at the subject site on 10 November 2020.

Council's preliminary assessment of the application concluded that the applicant had submitted insufficient information. The deficient information was as follows:

- Plans that indicated the maximum height of the pergola, including the RLs of the pergola to the Australian Height Datum.
- Plans that indicated the setbacks of the pergola relative to the property boundaries.

The applicant subsequently submitted amended plans to Council's satisfaction. The plans did not amend the design of the proposal and as such, the application was not re-notified for 14 days, in accordance with the Northern Beaches Community Participation Plan.

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

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



Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to revised plans.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration'	Comments
	Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 21/10/2020 to 04/11/2020 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 of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	The applicant proposed to erect a pergola on the existing courtyard. Development Engineering has no objection to the application.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## 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's Assessment under DA2017/1294 for the shop top housing development concluded that the land could be made suitable for the purpose of a shop top housing development. Conditions imposed with that consent ensured that the land was suitable for the intended use. 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 mixed 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.



## Warringah Local Environmental Plan 2011

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

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	8.48m (RL26.90)	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.4 Development on sloping land	Yes

## Warringah Development Control Plan

### Built Form Controls

Part B Built Form Controls of the DCP does not apply to land described in Part G Special Area Controls. Controls pertaining to the desired built form can be found later in this report under Part G5.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C3 Parking Facilities	N/A	N/A
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C8 Demolition and Construction	No	Yes
C9 Waste Management	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
D12 Glare and Reflection	No	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes
G5 Freshwater Village	Yes	Yes
1. Built form in Freshwater	Yes	Yes
2. Number of storeys	Yes	Yes
3. Street activation	Yes	Yes
6. Lighting	Yes	Yes
7. Safety and security	Yes	Yes
10. Front setback	Yes	Yes
11. Side and rear setbacks	Yes	Yes
13. Roofs and building form	Yes	Yes
14. Building massing	Yes	Yes
16. Materials and colours	Yes	Yes

#### Detailed Assessment

#### **C3 Parking Facilities**

The proposed development pertains to a pergola and does not increase the number of bedrooms on the site. Therefore, the development will not impact upon the parking requirements for the site. No further consideration of this control is required for this particular assessment.

#### **C4 Stormwater**

Suitable conditions have been imposed to ensure the adequate management of stormwater.

#### **C8 Demolition and Construction**

A detailed Waste Management Plan was not submitted with this application. Accordingly, a suitable condition has been included with this consent requiring the applicant to submit a detailed Waste Management Plan to the Certifying Authority prior to the issue of a Construction Certificate. Subject to compliance with the conditions of consent, the application will comply with the requirements of this control.

#### **C9 Waste Management**

A detailed Waste Management Plan was not submitted with this application. Accordingly, a suitable

condition has been included with this consent requiring the applicant to submit a detailed Waste Management Plan to the Certifying Authority prior to the issue of a Construction Certificate. Subject to compliance with the conditions of consent, the application will comply with the requirements of this control.

## **D2 Private Open Space**

The development will maintain compliant levels of private open space, in accordance with the previous approvals for the shop top housing development.

## **D8 Privacy**

The masonry wall running along the western elevation of the courtyard will continue to provide for a reasonable level of visual/acoustic privacy.

## **D12 Glare and Reflection**

Conditions have been included with this consent to ensure compliance with this control.

### **1. Built form in Freshwater**

The proposal pertains to a pergola, with the overall built form approved under DA2017/1294 remaining consistent with the objectives and requirements of this control.

### **3. Street activation**

The unit is located to the rear of the site and the current frontage will remain as existing.

### **10. Front setback**

The pergola is setback over 60m from the front boundary and does not alter the approved front building line for the site.

### **11. Side and rear setbacks**

The pergola is within an approved building footprint and does not alter the established side or rear building line for the site.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2019**

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 DA2020/1182 for Construction of a Pergola on land at Lot 13 SP 101104, 110 / 11 Lawrence Street, FRESHWATER, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. **Approved Plans and Supporting Documentation**

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

##### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Sheet No. 0.5 - Proposed Floor Plan	10 November 2020	In-House Town Planning

Sheet No. 0.6 - Section & Elevation	10 November 2020	In-House Town Planning
Sheet No. 07 - Site Boundaries	10 November 2020	In-House Town Planning

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

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

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

## 2. Prescribed Conditions

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

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

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



development consent must, at the person's own expense:

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

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

Reason: Legislative requirement.

### 3. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

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

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 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**

### **4. 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 are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

### **5. 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.

**6. 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.

**7. External Finishes to Roof**

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

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

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

**8. Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Warringah Development Control Plan 2011 and Council's Waste Management Guidelines.

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

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

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

**9. 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 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**

**10. Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian

Standards and Codes by a suitably qualified person.

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

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

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

**Signed**



**Thomas Burns, Planner**

The application is determined on 16/11/2020, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**