

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/1827
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Responsible Officer:	Adriana Bramley
Land to be developed (Address):	Lot 2 DP 14040, 11 Loch Street FRESHWATER NSW 2096
Proposed Development:	Demolition works and construction of a dwelling house including a swimming pool
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Applicant:	Laura Aitken

Application Lodged:	10/01/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	22/01/2025 to 05/02/2025
Advertised:	Not Advertised
Submissions Received:	8
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,892,977.00
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EXECUTIVE SUMMARY

This development application seeks consent for demolition of a dwelling house and development of a new detached dwelling house and swimming pool.

The application is referred to the Development Determination Panel (DDP) due to receiving 5 unresolved submissions.

The proposal meets Principal Development standards Clause 4.3 Height of Buildings proposing a maximum height of 8.33m.

The proposal contravenes the Built Form Controls:

- Clause B1 Height of Walls proposing a maximum of 7.8m representing a 8.3% variation
- Clause B3 Side Boundary Envelope proposing 3 breaches entailing to following:
 - Southern wall: up to 1.4m breach for 6.5m
 - Southern wall: up to 0.4m breach for 7.7m in length
 - Northern wall: up to 0.9m breach for 10.1m in length.

The application was notified for a period of fourteen (14) days in accordance with the Northern Beaches Community Participation Plan (CPP). 5 submissions were received objecting to the proposal and 1 in support.

Concerns raised in the objections predominantly relate to overall building bulk and scale, wall heights, side boundary envelope, side and front setbacks, filling/excavation, extent of landscaped open space, view impacts and privacy. Throughout the assessment process, additional information was requested in relation to those matters in addition to the installation of height poles to assess view sharing.

The applicant submitted amended plans addressing these issues, providing an increase in front setback, removal of breaches in side setbacks, decreased fill for pool, removal of fill off side boundary, removal of external spiral staircase, decrease in side envelope breaches.

The amended plans were not re-notified to surrounding properties given they resulted in a reduction in the issues raised.

Critical assessment issues included side building envelope, view loss, and privacy. Overall, this assessment finds that the amended proposal achieves acceptable view sharing and maintains a reasonable level of privacy to surrounding properties and provides a dwelling of an appropriate bulk and scale.

This report concludes with a recommendation that the DDP grant approval to the development application, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks development consent for a new Dwelling House as follows:

- Demolition of existing two-storey detached dwelling house
- Construction of new two-storey detached Dwelling House
- Constuction of a swimming pool
- 1.5m high front fencing

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land

Warringah Development Control Plan - B1 Wall Heights

Warringah Development Control Plan - B3 Side Boundary Envelope

Warringah Development Control Plan - D7 Views

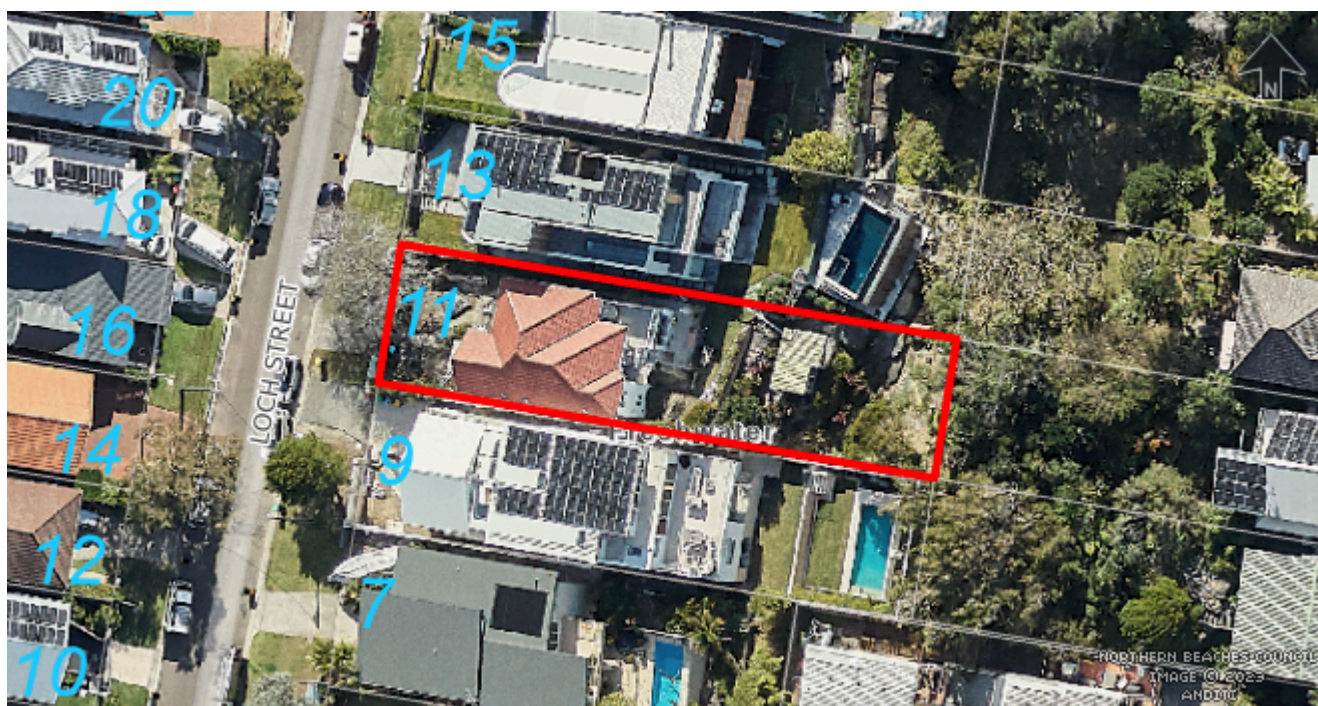
Warringah Development Control Plan - D8 Privacy

Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 2 DP 14040 , 11 Loch Street FRESHWATER NSW 2096
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Loch Street.</p> <p>The site is regular in shape with a frontage of 12.575m along Loch Street and a depth of 50.29m. The site has a surveyed area of 632.3m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a detached dwelling house and shed.</p> <p>The site boundary is a height of 45.10m AHD and slopes down to the rear eastern boundary 35.64 and generally has a cross fall of up to 1m (northern side boundary sloping down to southern).</p> <p>The site contains modified urban gardens and retains a large melaleuca at the rear and some rocky outcrops in the rear 8 metres.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached dwelling houses on sloping sites.</p>

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:

- Loch Street Building card shows a dwelling was completed on the site on 4/8/1955

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to building bulk and scale, height, potential view loss and retention of natural features.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Matters for Consideration	Comments
accordance 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

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 22/01/2025 to 05/02/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 8 submission/s from:

Name:	Address:
Mr Simon John Fraser	9 Loch Street FRESHWATER NSW 2096
Mr Kevin Mullen	16 Loch Street FRESHWATER NSW 2096
Bill Tulloch	Po Box 440 MONA VALE NSW 1660
Ms Elizabeth Sillars Crawford	14 Loch Street FRESHWATER NSW 2096
Dr Raymond Harvey Owen	8 Loch Street FRESHWATER NSW 2096
Glenn Edward Harrison	6 Ellen Street CURL CURL NSW 2096
Harrison James Kelly	7 / 48 Pavilion Street QUEENSCLIFF NSW 2096
Mr Darren Eugene Clarkin	9 Loch Street FRESHWATER NSW 2096

The following issues were raised in the submissions and summarised as:

- Building Envelope not shown
- Overlooking at Rear (from pool to properties at rear)
- Dust, Debris and Runoff
- Bulk and Scale / Setbacks / Wall Height
- Impact on streetscape and Neighbourhood Character
- Removal of Significant Tree at Front
- Loss of Ocean Views and airflow
- Privacy, overshadowing and Amenity Impacts
- Contrary to aims of LEP / Zone Objectives
- Incorrect consideration of 'Ground Level Existing'
- Inadequate Landscape Amenity
- Excessive Swimming Pool Envelope

The above issues are addressed as follows:

- **Building Envelope**

The submissions raised concerns that the building envelopes were not shown on plans.

Comment:

Building Envelopes are marked in Red on the amended plans submitted in response to the Request for Further Information (RFI).

- **Overlooking at Rear (from Pool)**

The submissions raised concerns that occupants of the pool will overlook to the rear yard of adjacent properties.

Comment:

The proposed pool terrace is above the rear adjacent private open space and has been designed as a terrace to take advantage of views toward the coast eastward. The proposed pool is located further back into the block than the adjacent pools in Loch Street. Rear screening would be onerous given the generous rear setback provided. In addition, the gully between the properties is heavily vegetated with protected coastal vegetation which forms a natural privacy screen obscuring views between properties at the rear.

- **Dust, Debris and Runoff**

The submissions raised concerns that dust, debris and runoff would impact adjacent property.

Comment:

The proposal will be subject to erosion and sediment controls, stormwater management and approved standards to manage dust from construction. Conditions will be placed on the development during demolition, construction and occupancy stages.

- **Bulk and Scale / Setbacks / Wall Heights**

The submissions raised concerns that the proposal is excessive in bulk and scale due to building envelope non-compliance.

Comment:

The extent of building envelope non-compliances were reduced as a response to a Request for Further Information. The proposed dwelling has minor areas on non-compliance of building wall height and envelopes. These are largely confined to the rear portions of walls and internal to side boundaries as the land slopes down towards the rear. These walls do not extend past the existing internal side boundaries of adjacent dwellings. Building mass has also been addressed by utilising a variety of materials and stepping back upper stories at the rear from the side boundary. Building envelope non-compliance extends to the front elevation however the proposal contains a consistent bulk and scale presenting to Loch Street with adjacent dwellings with an overall roof lower than adjacent. Upper and Lower floors are distinguished by a mix of materials consistent with others in the street and the building is also softened by upper floor landscaped planters to the street and compliant landscaping in the front setback. .

- **Impact on local character and streetscape**

The submissions raised concerns that the proposed house height and mass is out of proportion with many houses in the vicinity.

Comment:

Some houses on the western side of Loch Street are smaller in scale due to the nature of the subdivision pattern being dominated by smaller and narrower lots. The proposed dwelling is consistent with the scale of dwelling houses developed on the adjacent lots on the eastern side of Loch Street being located on larger and wider lots. The height of the proposed dwelling meets the requirements. Wall and envelope height breaches are contained to small areas with impacts of those breaches being contained to the internal side boundaries between the two adjacent properties. The proposed dwelling house as it presents to Loch Street is consistent with the pattern of development adjacent. The extent of breaches of wall height and building envelopes were reduced during the assessment process.

- **Removal of Tree at the front**

The submissions raised concerns that the removal of the tree will detract from the leafiness of the street.

Comment:

The tree located at the front of the proposal is a species listed as 'undesirable' in the Northern Beaches (that being a 'Liquid Amber'). The tree is to be replaced by a more suitable local species as outlined in the Landscaping Plans.

- **Loss of Ocean Views and Coastal Airflow**

The submissions raised concerns that views would be lost from properties adjacent and opposite side of Loch Street and the proposal results in a loss of coastal airflow.

Comment:

A view loss analysis was undertaken from the properties on the opposite side of Loch Street and to the south. Ocean glimpses are available between the existing houses on the eastern side of Loch Street. Some views are obscured by established leafy street trees or only available between current dwellings due to being of single story. extensive views are available to the ocean from rear of properties on eastern side of Loch Street. Height poles erected during the assessment process revealed that there is no significant loss of ocean glimpses and some views will be maintained between and above roof lines for properties on the western side of Loch Street and that there are no impacts to ocean views from the property adjacent to the south. Photomontages were not considered necessary. The proposal is for a dwelling house with side setbacks along the entire side boundaries consistent with the dwelling house that will be demolished. With the maintenance of space between buildings on the eastern side of Loch street there is unlikely to be any disruption of coastal airflows.

- **Privacy, Overshadowing and amenity Impacts**

The submissions raised concerns that there will be overshadowing on neighbouring properties. Additional height and scale will diminish privacy.

Comment:

An East / West block orientation results in any development creating overshadowing to the southern side boundary. The proposal however is compliant with the requirements of sunlight availability to the adjacent lot. Privacy issues are minimised with the orientation of spaces to the rear. There is some overlooking between balconies at the rear of properties on upper levels on the eastern side of Loch Street - this is largely due to providing a balance between retention of views to the coast and privacy between dwellings. No windows in side elevations look into adjacent properties. Privacy screens consistent with adjacent properties have been conditioned to the southern side of balconies on upper and partial ground floor levels.

- **Contrary to aims of LEP / Zone Objectives**

The submissions raised concerns that the proposal is inconsistent with the LEP / Zone Objectives.

Comment:

The proposal for a detached dwelling house is consistent with the LEP and the zone.

- **Incorrect consideration of 'Ground Level Existing' resulting in non-compliant Height**

The submission raised concerns that incorrect ground levels have been considered.

Comment:

Council has considered ground levels based on sufficient information including survey plans, council records of approved dwellings and adjacent survey levels. The proposed height is considered compliant.

- **Inadequate Landscape Amenity**

The submission raised concerns that inadequate landscape amenity has been provided.

Comment:

Council has considered the landscaping proposed including quantum, location and selection of plants and materials. The proposal meets council requirements.

- **Excessive Swimming Pool Envelope / Noise from Pool Plant**

The submission raised concerns that height above ground and insufficient side setbacks.

Comment:

As a response to the Request for Further Information the proposed swimming pool levels have been reduced, pushed back into the slope and the side setback has increased. This provides adequate separation from adjacent dwellings and provision of soft landscaping. The pool plant is located centrally, under the pool and planter and will be subject to standard conditions.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>Council's Biodiversity Referrals team have assessed the Development Application for compliance against the following applicable provisions:</p> <ul style="list-style-type: none">• Warringah DCP cl. E2 Prescribed Vegetation• Warringah DCP cl. E5 Native Vegetation• Warringah DCP cl. E6 Retaining Unique Environmental Features <p>No prescribed trees or vegetation are proposed for removal to facilitate the proposal as the proposal is located within existing built and/or landscaped areas.</p> <p>Subject to the retention of all prescribed trees within the property property, Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Development Engineering)	<p>Applicant proposes to construct a new dwelling. The stormwater management provided for a partial charged drainage system with overflow being directed to an OSD system in compliance with Northern Beaches Council's Water Management for development Policy. The stormwater flow to the gutter does not capture the 1% AEP stormwater flows and will cause negligible effect on the street gutter capacity.</p> <p>The stormwater management plan and driveway access proposed for the development is acceptable.</p> <p>No Development Engineering objection is raised to the proposed development subject to conditions.</p>

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

External Referral Body	Comments
	Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1775641S_02 dated 20 March 2025).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6.9m (street front roof) - 8.33m (at rear roof ridge)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

6.4 Development on sloping land

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

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

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably

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

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

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

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

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

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	South Elevation 7.8m max 2 areas outside wall height: - 0-0.6m for 5.8metres - 0.3 - 0.6m for 7.7metres	up to 8.3% (max wall height 7.8m)	No
	7.2m	North Elevation 7m max	N/A	Yes
B3 Side Boundary Envelope	5m	Southern side envelope 1.4m max breach 2 areas outside envelope: - 1.5m setback wall has 0.1-1.4m for 12.8metres - 2.7m setback wall has 0.1-0.4m for 7.7metres	up to 1.4m above 6.5m required setback (wall with 1.5m setback) up to 0.4m above 7.7m required height (wall with 2.7m setback)	No
	5m	Northern side envelope 0.9m max breach: - 1.0m setback wall	up to 0.9m above 6.0m required height (wall with 1.0m setback)	No

		has 0.3-0.9m for 10.1metres		
B5 Side Boundary Setbacks	0.9m (area B)	1.3m (southern side)	N/A	Yes
	0.9m (area B)	1.0m (northern)	N/A	Yes
B7 Front Boundary Setbacks	6.5m (area F)	6.5m	N/A	Yes
B9 Rear Boundary Setbacks	6m (area D)	7.8m (to pool retaining wall) 18.9m (to upper ground floor balcony)	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	41.3%	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
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	No	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

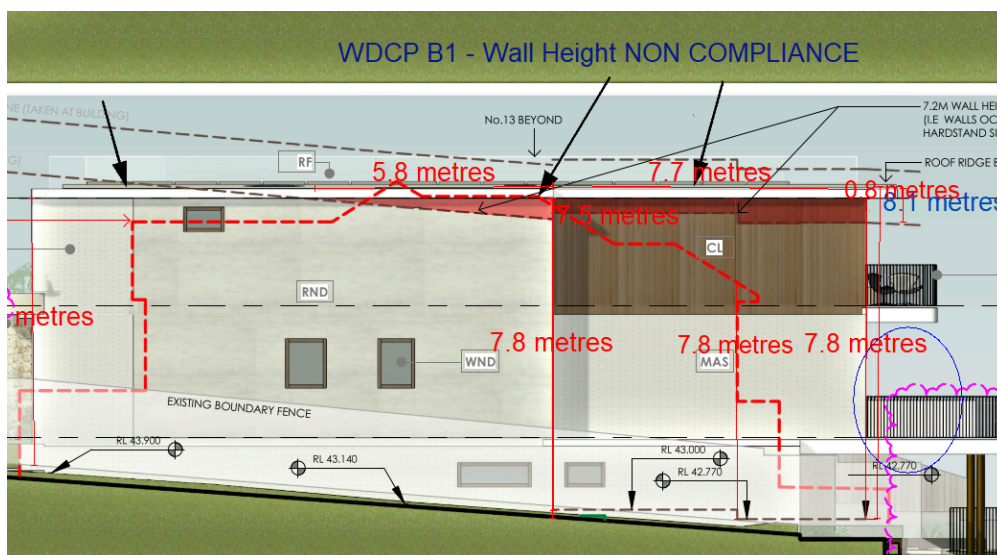
Detailed Assessment

B1 Wall Heights

Description of non-compliance

Wall Heights are non-compliant as follows:

- Section of internal boundary side wall on Southern Elevation breaches 0-0.3m (up to 7.5m above ground level for a length of 5.5m); and
- Section of wall boundary side wall on southern elevation breaches 0.3m-0.8m (up to 7.8m above ground level for a length of 7.7m).



Merit consideration:

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

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

Comment:

Non-complying sections of walls are minimal and are not located in an area visible from streets, waterways or public recreation areas. Visual impact to the adjacent property is minimised by utilising a mix of materials to provide visual interest.

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

Comment:

No existing tree canopy is relevant to the site.

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

Comment:

Reasonable view sharing is maintained.

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

Comment:

Visual impact to adjacent property to the south is minimal and located away from windows and the orientation of living areas.

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

Comment:

Development is generally stepped down the site to respond to topography while balancing continuous living space floor plates.

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

Comment:

Roof Design incorporates sustainable PV electricity generation.

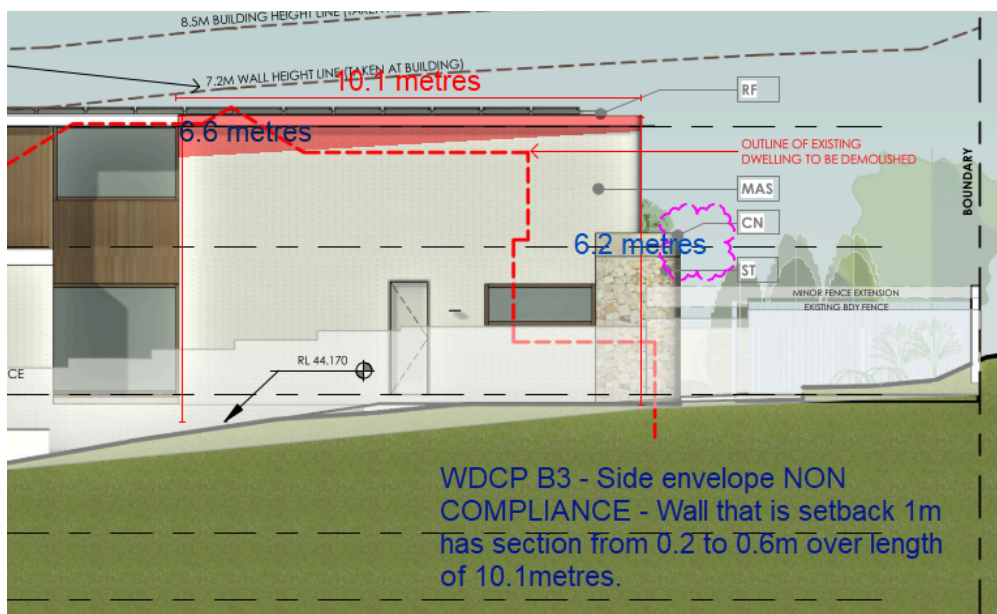
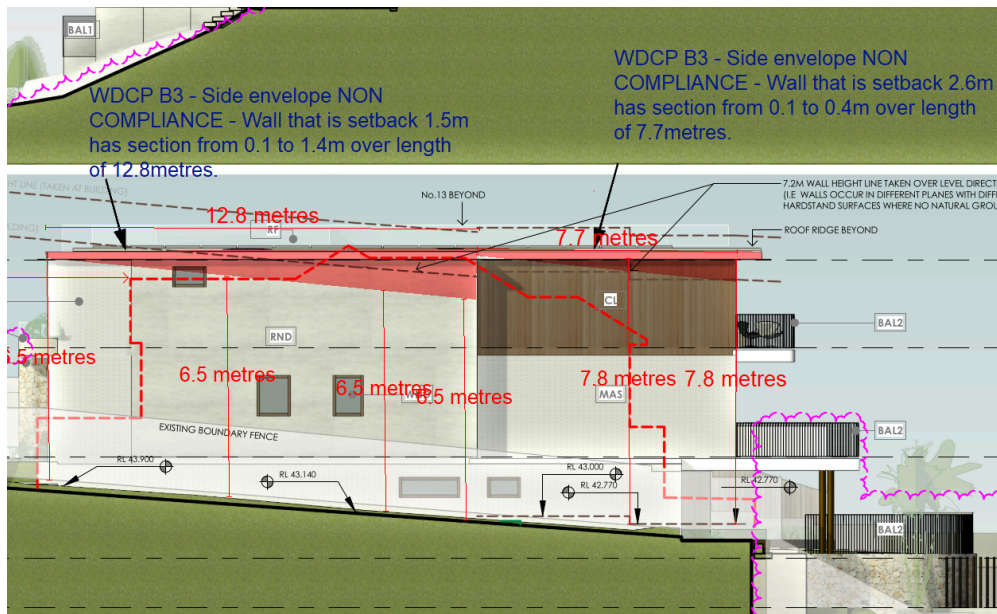
Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported,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

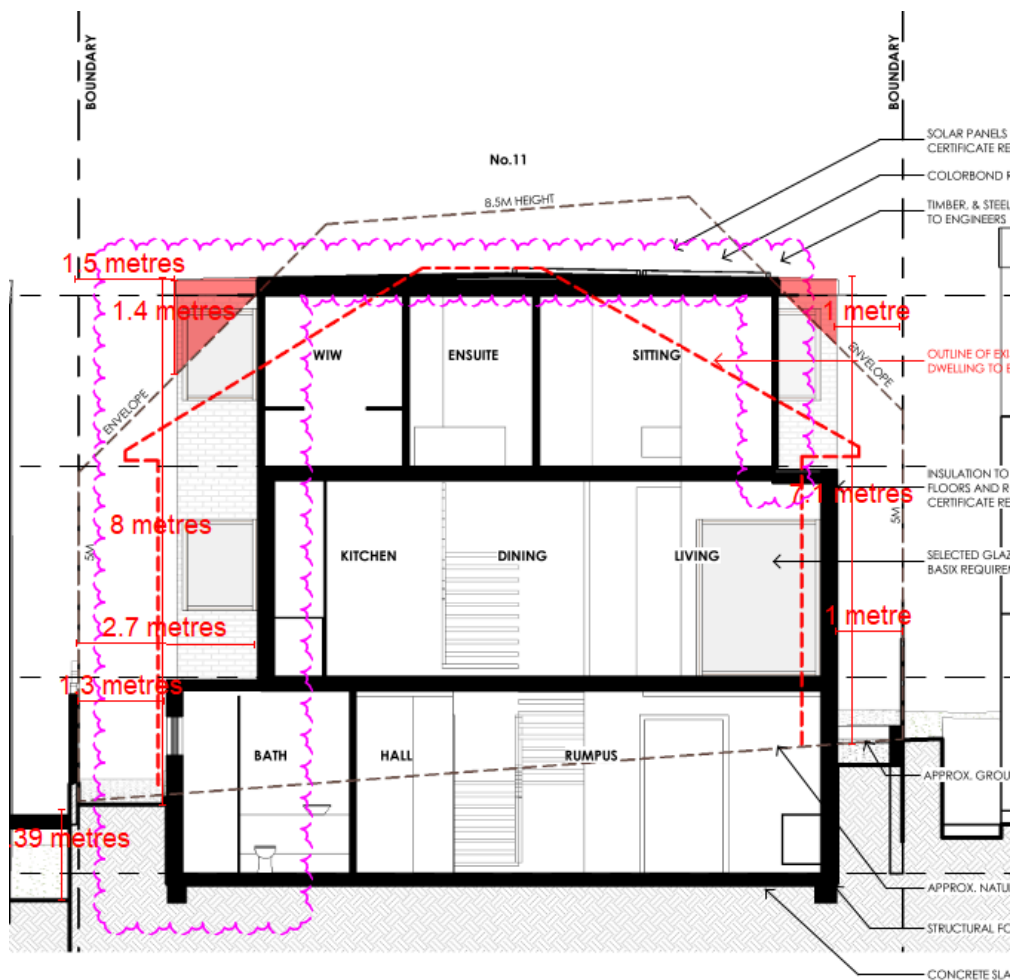
B3 Side Boundary Envelope

Description of non-compliance

Building envelope non-compliance is as follows:

- side internal boundary south facing wall breach 0.1-1.4metres over a length of 12.8 metres;
- side internal boundary south facing wall breach 0.1-0.4m over a length of 7.7 metres; and
- side internal boundary north facing wall breach 0.2-0.6m over a length of 10.1 metres.





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 development does not become visually dominant by virtue of its height and bulk.*

Comment:

Development is broken up to provide visual interest by providing a mix of materials and vertical wall planes.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

Adequate access to light, solar and privacy is provided.

- *To ensure that development responds to the topography of the site.*

Comment:

Development steps down the site on several levels responding to topography while providing adequate continuous floor planes for occupants.

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.

D7 Views

Merit consideration

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

- *To allow for the reasonable sharing of views.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

Narrow water views (ocean and sky) are available between the existing properties at 9 and 11 Loch Street for properties at 14 and 16 Loch Street. Expansive (>180°) ocean and beach views are available from subject site, and adjacent properties at 9 and 13 Loch Street.

2. What part of the affected property are the views obtained

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

Comment to Principle 2:

14 Loch Street - Water glimpses from ground floor terrace (no second floor), partially obscured by vegetation.

16 Loch Street - Water glimpses from part of the first floor balcony between buildings, obscured by street tree and vegetation on the subject site; and

9 Loch Street - Expansive ocean views from Ground floor and First Floor Balconies and rear private open space

3. Extent of impact

"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating".

Comment to Principle 3:

Height poles were used to assess the reasonableness and extent of any view loss and findings are as follows:

- 14 Loch Street - minor View Loss from living room and part of balcony



- 16 Loch Street - unlikely to impact views from courtyard or living space



- 9 Loch Street - unlikely to impact views of ocean, beach or foreshore. Building will be visible from upstairs bedroom, however extent of building bulk does not interrupt views.



11 Apr 2025 at 10:13:50 am
45° NE
9 Loch St
Freshwater NSW 2096
Australia
Altitude:40.7meter
Speed:0.7km/h





11 Apr 2025 at 10:17:57 am
293° NW
11 Loch St
Freshwater NSW 2096
Australia
Altitude:38.3meter
Speed:0.5km/h



4. Reasonableness of the proposal that is causing the impact

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."

Comment to Principle 4:

Minimal loss of glimpses is reasonable.

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

Comment:

Proposal is an improved modern design to the 1950's house and responds to the site and is designed to complement the materials and scale of the newer dwellings in the immediate locale.

- *To ensure existing canopy trees have priority over views.*

Comment:

Mature Street tree in Loch Street will be retained.

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.

D8 Privacy

Privacy screening has been included due to the exposed and elevated nature of the proposed balconies due to the topography on the block sloping steeply down at the rear. The proposed balconies are above the level of the adjacent property balconies to the south due to topography by 900mm (above adjacent upper ground balcony) and 1100mm (above the adjacent first floor balcony).

To avoid looking down onto the adjacent balconies and to also ensure that the extensive views towards the coast are largely uninterrupted, modest privacy screening has been included as a condition to the following:

- First Floor: southern side of the balcony outside the proposed master bed; and
- Ground Floor: southern side (partial) of the BBQ bench (to the extent of matching the first floor).

D9 Building Bulk

Merit consideration

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

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

Comment:

Cut and Fill in excess of 1m is required to address topography to provide flat areas for adequate recreation and car maneuvering. These are internal to the site and have been designed to provide an improvement of the urban environment through a mix of sympathetic materials and modern design.

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

Comment:

A mix of materials and interesting modern design elements along with upgraded landscaping will minimise any visual impacts when viewed from adjacent 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.

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 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$28,930 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,892,977.

CONCLUSION

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

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

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

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

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

PLANNING CONCLUSION

This proposal, for a demolition of a Dwelling House and development of a new detached Dwelling House and Swimming Pool has been referred to the Development Determination Panel (DDP) due to the number of unresolved submissions (5).

The concerns raised in the objections have been addressed and resolved by:

- bulk and scale - reduction in side boundary envelope breaches
- bulk and scale - increase in southern side boundary setback, removal of fill for lower ground yard from boundary, increase in front setback, lowering of pool terrace
- privacy - removal of external spiral staircase on southern side
- privacy - additional conditions requiring privacy screening to southern side balconies
- view loss - view loss assessment (using height poles) showing no loss of significant views

The critical assessment issues:

- non-compliance with wall height and building envelope on the southern elevation (internal side boundary)
- Privacy
- View Loss

REASON FOR DETERMINATION

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval.

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 DA2024/1827 for Demolition works and construction of a dwelling house including a swimming pool on land at Lot 2 DP 14040, 11 Loch Street, FRESHWATER, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section

4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A001		Site Plan	FBC Architects	05/03/2025
A002		Demolition Plan	FBC Architects	05/03/2025
A003		Waste Mgmt, Erosion/Sediment Control	FBC Architects	05/03/2025
A004		Cut & Fill Plan	FBC Architects	05/03/2025
A100		Lower Ground Floor	FBC Architects	05/03/2025
A101		Upper Ground Floor	FBC Architects	05/03/2025
A102		First Floor Plan	FBC Architects	05/03/2025
A103		Roof Plan	FBC Architects	05/03/2025
A200		External Finishes Schedule	FBC Architects	05/03/2025
A201		Elevations (West)	FBC Architects	05/03/2025
A202		Elevations (East)	FBC Architects	05/03/2025
A203		Elevations (North & South)	FBC Architects	05/03/2025
A300		Sections (Section 1)	FBC Architects	05/03/2025
A301		Sections (Section 2)	FBC Architects	05/03/2025
A303		Sections - Envelope (Section 3 & 4)	FBC Architects	05/03/2025
LPL_1401	C	Landscape Plan Upper Ground	Lone Pine Landscapes	25/03/2025
LPL_1402	C	Landscape Plan First Floor	Lone Pine Landscapes	25/03/2025
LPL_1403	C	Landscape Plan Lower Ground	Lone Pine Lower Ground	25/03/2025
C1	1	Site & Catchment Plan	5QS Consulting Engineers	21/03/2025
C2	1	Stormwater Drainage Plan 1 of 2	5QS Consulting Engineers	21/03/2025
C3	1	Stormwater Drainage plan 2 of 2	5QS Consulting Engineers	21/03/2025
C4	1	Roof Drainage Plan	5QS Consulting Engineers	21/03/2025

C5	1	Harvesting Tank Schematics	5QS Consulting Engineers	21/03/2025
C6	1	OSD Tank Schematic	5QS Consulting Engineers	21/03/2025
C7	1	Driveway Plan	5QS Consulting Engineers	21/03/2025
C8	1	Driveway Long Section	5QS Consulting Engineers	21/03/2025

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Geotechnical Assessment	3	AscentGeo Geotechnical Consulting	19/03/2025

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	22/01/2025 (registered by NBC)

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

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

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifier for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

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

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

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

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

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

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

Reason: Legislative requirement.

4. **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) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) 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.
- (f) 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.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% 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.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

- (i) 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.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) 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.

- (m) 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.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools

- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$28,929.77 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$2,892,977.00.

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

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

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

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

6. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. No Clearing of Vegetation

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

8. On-Site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by 5QS consulting Engineer, drawing number C2,C3,C4.C5 and C5, dated 18/12/2024. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- An overflow pipe from the rain water tank (RWT1) shall be connected to the Pit-A1, in order to prevent stormwater overflow spillage from the rainwater tank.

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

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

9. Vehicle Crossings Application

The Applicant is to submit an application with Council for driveway levels to construct one vehicle crossing 3.0 metres wide in accordance with Northern Beaches Council Standard Drawing Normal Low and in accordance with Section 138 of the Roads Act 1993.

Note: driveways are to be in plain concrete only. All redundant vehicular crossing and Layback shall be removed.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

A Council approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

10. Off Street Parking Design

The Applicant shall submit a design for the parking facility in accordance with the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

11. Stormwater Drainage Disposal

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifier prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifier prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

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

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

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

13. Boundary Identification Survey

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on a boundary identification survey, prepared by a Registered Surveyor, 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 Certifier prior to the issue of any Construction Certificate.

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

14. Compliance with Standards

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

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

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

15. External Finishes to Roof

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

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

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

16. Privacy Screen

A minimum of 1.7 metre privacy screen (measured from finished floor level) is to be erected:

- for the entire length of the outermost southern side of the First Floor balcony located off the 'Master Bed 1' as shown on the approved plans.
- for the length of the upper level (to match the alignment with the First Floor balcony) on the outermost southern side of the Upper Ground Floor balcony located off the 'Kitchen' as shown on the approved plans. this screening may be extended to the full height of the floor;
- The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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

Reason: In order to maintain privacy to the adjoining / nearby property.

17. 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 Certifier 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

18. Sediment and Erosion Controls

For developments that include more than 2500sqm of disturbance:

A Soil and Water Management plan (SWMP), in accordance with section 2.3 of the Blue Book, must be prepared and certified by a suitably qualified professional.

For sites larger than 250sqm and less than 2500sqm of disturbance:

An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified person in accordance with the following considerations and documents:

- Sites that have slopes exceeding 20% (measured in any direction across the site), and/or where works are within the high-water mark or adjacent to a waterway or watercourses are considered environmentally sensitive areas. These sites require a site-specific ESCP which must be prepared and certified by a suitably qualified professional,
- The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate – Volume 1, 4th Edition (2004)' (the Blue Book), and
- The 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure).

The ESCP must include the following as a minimum:

- Site Boundaries and contours,
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application),
- Location of site access, proposed roads and other impervious areas (e.g. parking area and site facilities),
- Existing and proposed drainage patterns with stormwater discharge points,
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected,
- North point and scale,
- Type of erosion control measures to divert and slow run-off around and within the site.

Environmentally sensitive areas (i.e. Sites that have slopes exceeding 20% and/or where

works are within the high-water mark or adjacent to a waterway or watercourses) must also consider:

- Identify and mark any environmentally sensitive areas on and immediately next to the site and how you will protect these, including any appropriate buffer zones (for example, marking them out as 'no-go' areas),
- Details on vegetation you will clear, as well as areas of vegetation you will keep (mark no go areas),
- Detail on soil information and location(s) of problem soil types, especially dispersive soils and potential or actual acid sulfate soils,
- Location of any natural waterways that could receive run-off and how these will be protected these from run-off.

For sites smaller than 250sqm or where the disturbance is less than 50sqm:

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- Diverting uncontaminated run-off around cleared or disturbed areas, and
- Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- Preventing the tracking of sediment by vehicles onto roads, and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- Identifying any environmentally sensitive areas on and immediately next to the site, and demonstrating how these will be protected (for example, by designation as no-go areas).

Details demonstrating compliance with the relevant requirements above are to be submitted to the Certifier, and the measures implemented, prior to the commencement of works.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

19. Disconnection of Services Before Demolition Work

Before demolition work commences, all services, such as water, telecommunications, gas, electricity and sewerage, must be disconnected in accordance with the relevant authority's requirements.

Reason: To protect life, infrastructure and services.

DURING BUILDING WORK

20. Wildlife Protection

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

21. Road Reserve

The applicant shall ensure the public footways and roadways adjacent to the site are

maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

22. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

23. Geotechnical Requirements

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

Reason: To ensure geotechnical risk is mitigated appropriately.

24. Survey Certificate

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

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

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

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

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

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

25. Maintenance of Sediment and Erosion Controls

Erosion and sediment controls must be adequately maintained and monitored at all times, particularly surrounding periods of rain, and shall remain in proper operation until all development activities have been completed and the site is in a state where no substance other than rainwater can enter the stormwater system and waterways.

All sediment control measures must be maintained at, or above, their design capacity.

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log

book or inspection test plan (ITP) must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

Details demonstrating compliance must be provided to the Certifier during demolition and building works.

Reason: Protection of the receiving environment and to ensure no substance other than rainwater enters the stormwater system and waterways.

26. Property Boundary Levels

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve.

27. Waste Management During Development

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

28. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Details demonstrating compliance are to be provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

29. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

30. Stormwater Drainage Disposal Certification

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the

requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Principal Certifier prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the authority to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure satisfactory management of stormwater.

31. Reinstatement of Kerb

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

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

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor), and Civil Engineers' certification.

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

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

issue of an Occupation Certificate.

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

33. Waste Management Confirmation

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

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

34. Swimming Pool Requirements

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating 'YOUNG CHILDREN SHOULD BE ACTIVELY SUPERVISED WHEN USING THIS POOL' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

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

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

Reason: To protect human life.

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

35. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

36. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

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