

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0978
Responsible Officer:	Stephanie Gelder
Land to be developed (Address):	Lot 11 DP 448061, 44 Beacon Hill Road BEACON HILL NSW 2100
Proposed Development:	Alterations and additions to a dwelling house including a swimming pool and fencing
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Jonathan Edward Rudd Meisha Alison Rudd
Applicant:	Jonathan Edward Rudd
Application Lodged:	01/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	09/07/2021 to 23/07/2021
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 264,000.00

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for alterations and additions to the existing dwelling including a swimming pool.

Specifically, the works comprise of the following:

Lower Ground Floor

- Retain the existing subfloor and workshop; and
- New subfloor area with water tanks and pool filter storage.

Ground Floor

- Refurbish the existing laundry and add a toilet;
- Demolish the rear concrete patio and stairs;
- A new internal wall and sliding door between the living and dining room;
- Demolish the dining room window and brickwork below; and
- Construct a new sunroom, covered tile deck and stairs.

External

- 7 metre by 2.9 metre swimming pool, with an aluminum deck and pool fencing;
- Stormwater for site including dispersion trench, OSD and rainwater tank; and
- Construct a front boundary fence at a height of 1.5m.

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 - B3 Side Boundary Envelope
 Warringah Development Control Plan - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - D6 Access to Sunlight
 Warringah Development Control Plan - D10 Building Colours and Materials
 Warringah Development Control Plan - D13 Front Fences and Front Walls

SITE DESCRIPTION

Property Description:	Lot 11 DP 448061 , 44 Beacon Hill Road BEACON HILL NSW 2100

Detailed Site Description:

The subject site consists of one (1) allotment located on the eastern side of Beacon Hill Road.

The site is irregular in shape with a frontage of 18.9m along Beacon Hill Road and a depth of 35.75m on the northern boundary and 28.715m on the southern boundary. The site has a surveyed area of 609.2m².

The site is located within the R2 Low Density Residential zone from WLEP 2011 and accommodates a single storey dwelling.

The site slopes from the front north-west to the rear south-east of the site at an average gradient of 10 degrees.

The site contains lawn areas, well-maintained garden beds and small to medium sized shrubs and trees. The site contains no threatened species.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by a variety of single and double storey detached dwellings varying in architectural style.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

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&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent</p>

Section 4.15 Matters for Consideration'	Comments
	<p>authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> 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.</p>
<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>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application (prepared by Bushfire Planning & Design, dated 26 May 2021). The report stated that the bushfire attack level of the site is “Flame Zone”.

The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 09/07/2021 to 23/07/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Simon Paul Duckworth	C/- Vaughan Milligan Development Consulting Pty Ltd Po Box 49 NEWPORT NSW 2106

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

- Side Setback
- Building Envelope
- Access to Sunlight

The matters raised within the submissions are addressed as follows:

- Side Setback
Comment:
Concern was raised in relation to the roof, gutter and eaves encroaching within the side boundary setback. This matter is discussed in detail under Part B3 Side Boundary Envelope of the WDCP 2011 in this report. In summary, a DCP exception is possible for encroachments of fascias, gutters, downpipes, eaves (up to 0.675 metres from the boundary), masonry chimneys, flues, pipes or other services infrastructure may encroach beyond the side boundary envelope.
- Side Boundary Envelope
Comment:
Concern was raised in relation to the southern wall, roof, gutter and eaves encroaching within the side boundary envelope control. This matter is detailed under B3 Side Boundary Envelope of the WDCP 2011 in this report. In summary, the minor non-compliance relating to the side boundary envelope is supported as Council is satisfied that the development is consistent with the objectives of the control.
- Access to Sunlight
Comment:
Concern was raised in relation to the southern wall of the proposed sunroom and the shadowing to the neighbouring property at No. 42 Beacon Hill Road. This matter is detailed under D6 Access to Sunlight of the WDCP 2011 in this report. In summary, the proposed development is compliant with the control and does not impact upon public or private space of adjoining properties.

Concluding Comment

The matters raised within the submission have been appropriately addressed above and the matters do not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal is for alterations and additions to an existing dwelling and a new swimming pool.</p> <p>The application is assessed by Landscape Referral against Warringah Development Control Plan 2011, including but not limited to the following clauses:</p> <ul style="list-style-type: none"> • D1 Landscaped Open Space and Bushland Setting • D16 Swimming Pools and Spa Pools • E1 Preservation of Trees or Bushland Vegetation <p>The site does not support any trees of significance that are impacted by the development. Existing landscape includes boundary hedge planting to the perimeter in parts. Existing street trees exist within the road verge of high significance and conditions of consent shall be imposed for tree protection measures.</p> <p>Additional landscape works are proposed to enhance the landscape setting and Landscape Referral raise no objections.</p>
NECC (Bushland and Biodiversity)	<p>The application seeks approval for the construction of alterations and additions to an existing dwelling, including a rear addition and a new swimming pool. The application also seeks to establish an Asset Protection Zone (APZ) over the entirety of the site in perpetuity.</p> <p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) Warringah Development Control Plan (WDCCP)</p> <ul style="list-style-type: none"> • Clause E2 Prescribed Vegetation • Clause E4 Wildlife Corridors • Clause E6 Retaining unique environmental features <p>Vegetation within the site is currently managed, and will not require any additional vegetation removing to achieve compliance with the required standards for an APZ. The application does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values. Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Development Engineering)	<p>The applicant proposed a level spreader to discharge the on site stormwater.</p> <p>The total stormwater discharge rate from the site is slightly higher than the allowable rate in accordance with Council's Water Management For Development Policy.</p> <p>A condition has been placed to address the discharge rate.</p> <p>As such, Development Engineering has no objection to the application</p>

Internal Referral Body	Comments
	subject to the following conditions of consent.
NECC (Water Management)	The proposal is for alterations and additions to an existing dwelling and a new swimming pool. The water quality management as shown on the documentation is satisfactory, and comply with Council Water Management for Development Policy.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response on 14 July 2021 stating that the proposal is acceptable as there are no impact to Ausgrid assets with the proposed alterations.
NSW Rural Fire Service – local branch (s4.14 EPAA)	The proposal was referred to NSW Rural Fire Service who provided a response on 26 July 2021 stating that the proposal is acceptable subject to compliance with the recommended conditions. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A413969 dated 21 April 2021).

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who provided a response on 14 July 2021 stating that the proposal is acceptable as there are no impact to Ausgrid assets with the proposed alterations.

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	6.7m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	5.5m	-	Yes
B3 Side Boundary Envelope	4m (North)	Within Envelope	-	Yes
	4m (South)	Outside Envelope	-	No
B5 Side Boundary Setbacks	0.9m (North)	1.1m to 1.7m	-	Yes
	0.9m (South)	1.2m	-	Yes
B7 Front Boundary Setbacks	6.5m (West)	7.3m	-	Yes
B9 Rear Boundary Setbacks	6m (East)	5.4m (Pool Deck)	10%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (243.68m ²)	39.56% (241.0m ²)	1.10% (2.68m ²)	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	Yes	Yes
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
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B3 Side Boundary Envelope

Description of non-compliance

The proposed sunroom results in a minor non-compliance to the southern side boundary envelope control by approximately 0.26m to 0.38m.

It is noted that the southern side boundary eaves are located approximately 0.7m from the southern side boundary.

Under Part B3 of the Warringah Development Control Plan 2011 an exception is made for land zoned R2 that eaves (up to 0.675 metres from the boundary) may encroach beyond the side boundary envelope.

Therefore, the eave encroachment is considered to be supported as it is an exemption to the control.

In addition under Part B3 of the Warringah Development Control Plan 2011 an exception is made for for the addition of a second storey to an existing dwelling house that to a minor extent does not comply with the requirement of this control. It is to be considered the minor non-compliance of the building envelope control is supported in this instance.

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:

The proposed development provides a compliant wall height at 5.5m and is considered to be visually integrated with the existing dwelling house and of reasonable building bulk.

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

Comment:

Adequate light, solar access and privacy is provided by the 1.2m setback providing separation between buildings. The proposed sunroom does not contain any windows on the southern wall to provide for privacy for both residents and adjoining neighbours at No.42 Beacon Hill Road.

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

Comment:

The development positively responds to the gentle north-west downward slope to the south-east.

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

B9 Rear Boundary Setbacks

Description of non-compliance

The aluminum deck surrounding the swimming pool is located 5.4m from the rear boundary line. The required setback is 6.0m, however the proposed 5.4m setback is 0.6m (10%) variation to the numerical control.

Under Part B9 of the Warringah Development Control Plan 2011 exceptions for Land Zoned R2 Low Density Residential under the Warringah Local Environmental Plan 2011 can be made where the minimum rear building setback is 6 metres. Exemptions can be made for swimming pools that, in total, do not exceed 50% of the rear setback area, provided that the objectives of this provision are met.

Therefore, as the objectives of the provision are met it is considered that the encroachment of the swimming pool meets the objectives of the control as detailed below.

Merit consideration:

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

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

Comment:

There are ample opportunities for deep soil landscape area on the site with 39% of the site accommodating soft landscaped area. As the landscape area control does not include areas less than 2m, there is an addition of 42.1m² provided along the side boundaries of the site to contribute to deep soil landscape areas.

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

Comment:

A sense of openness is provided in the rear yard with the lawn area providing open space for residential amenity.

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

Comment:

Amenity is provided to adjacent sites with existing and proposed hedging on the northern, eastern and southern boundaries.

A privacy screen has been proposed on the southern end of the deck to preserve privacy for both the neighbour at No. 46 Beacon Hill Road and the residents.

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

Comment:

The addition of the primary dwelling is consistent with the existing character of the building. The existing rear garden and landscaping is maintained and provides enhancement with proposed shrubs and hedging.

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

Comment:

The proposed hedging on the northern and eastern boundaries provides additional hedging to promote privacy.

Existing hedging is provided on the southern boundary that is to be retained.

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

D6 Access to Sunlight

Access to sunlight has been assessed under Clause D6 of the WDCP 2011 and the planning principle established within the NSW Land and Environment Court Case of *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082.

Clause D6 Access to Sunlight

Clause D6 of the WDCP 2011 sets out the following requirements for solar access:

1. Development should avoid unreasonable overshadowing any public open space.

2. At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.

Comment

Concern has been raised by the adjoining property (No. 42 Beacon Hill Road) in relation to the proposed development impact upon solar access to the lounge room. The requirements outlined by the control are in relation to public open space and private open space and the WDCP 2011 does not contain provisions to sunlight access to windows.

The site and adjoining sites have an east/west aspect and therefore the southern site will be subject to shadowing. In addition, the adjoining property (No. 42 Beacon Hill Road) is located downslope resulting in vulnerability to shadowing.

The proposed development complies with the wall height, setback and building height control. Whilst there is a minor building envelope breach this does not exacerbate the impacts to windows as a compliant building envelope would have the same impact.

NSW Land and Environment Court Case of The Benevolent Society v Waverley Council [2010] NSWLEC 1082

When considering the reasonableness of the overshadowing impacts, the assessment draws upon the solar access planning principle established within the NSW Land and Environment Court Case of The Benevolent Society v Waverley Council [2010] NSWLEC 1082. Numerical guidelines dealing with the hours of sunlight on a window or open space usually leave open the question what proportion of the window or open space should be in sunlight, and whether the sunlight should be measured at floor, table or a standing person's eye level. Numerical guidelines should therefore be applied with the following principles in mind, where relevant:

The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.

Comment:

The locality and zoning is characterised by low density residential development. Therefore, there is a reasonable expectation that the dwelling and open space will retain its existing access to sunlight. It is noted that No. 42 Beacon Hill Road is located directly south and downslope of the site and is considered to be more vulnerable to overshadowing.

The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.

Comment:

Overall, the proposed alterations and additions results in the retention of all rear private open space sunlight. The access to sunlight at the window on the northern wall of No. 44 Beacon Hill Road is the location where access to sunlight is lost from the hours 12pm-3pm.

Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.

Comment:

The side setbacks are compliant with the numerical controls and even if the side setbacks were increased this would not reduce the impact on neighbours as the angle of the shadowing would remain. The design is considered to be the most sensitive and the same amenity would not be able to be provided with an altered design.

To be assessed as being in sunlight, the sun should strike a vertical surface at a horizontal angle of 22.5o or more. (This is because sunlight at extremely oblique angles has little effect.) For a window, door or glass wall to be assessed as being in sunlight, half of its area should be in sunlight.

Comment:

The shadowing impacts to the window of the living room on the northern wall of No. 42 Beacon Hill Road will be most significant between the hours of 12pm-3pm. The living room will receive full sunlight at 9am and this will then reduce up until 12pm.

For private open space to be assessed as being in sunlight, either half its area or a useable strip adjoining the living area should be in sunlight, depending on the size of the space. The amount of sunlight on private open space should be measured at ground level.

Comment:

The private open space is not impacted upon by the proposed development and will retain all existing sunlight access.

Overshadowing by fences, roof overhangs and changes in level should be taken into consideration.

Comment:

The eave overhang is considered to be minor and will not have an unreasonable impact upon overshadowing. It is important to note there are significant level changes between the site and No. 42 Beacon Hill Road that contributes to the extent of overshadowing due to the natural topography of the land.

Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.

Comment:

Overshadowing by vegetation has been disregarded as this assessment focuses on the impacts arising from the proposed built form.

In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.

Comment

The impact on the existing development is considered to be reasonable. It is anticipated that if No. 42 Beacon Hill Road were to re-develop the overshadowing impacts would be a result of the east/west site orientation. Compliance would be achievable with the WDCP Part D6 requirements including avoidance of unreasonable overshadowing and at least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.

Concluding Comments

Having regard for the above, the proposed development does not have any shadow impacts upon the

public open space or private open space to the adjoining dwelling at No. 42 Beacon Hill Road. It is concluded that the proposed development satisfies the requirements and objectives of Clause D6 Access to Sunlight under WDCP 2011 and is consistent with the planning principle established within the NSW Land and Environment Court Case of *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082.

D10 Building Colours and Materials

As the building colours for the walls and roofing have not been confirmed on the Master Plans a condition has been imposed to ensure consistency with the objectives of Clause D10 Building Colours and Materials.

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 the colours and materials of new or altered buildings and structures are sympathetic to the surrounding natural and built environment.*

Comment:

The colour and materials of the addition to the existing dwelling house is to be sympathetic to the natural and built environment and consist of medium to dark earthy tones.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 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.

D13 Front Fences and Front Walls

Warringah Development Control Plan (WDCP) 2011 does not have a numerical control for front fence heights.

Therefore, the proposed solid front fence of 1.5m in height has been assessed based on the objectives below.

Merit consideration

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

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

Comment:

The proposed front fence is consistent with surrounding properties that are characterised by solid fence types due to the nature of the busy road.

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

Comment:

The 1.5m front fence will provide added visual privacy to the busy street associated with

pedestrian and vehicular traffic.

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

Comment:

The front fence is open at the driveway and pedestrian path and is surrounded by existing small shrubs to soften the visual amenity of the front fence to avoid a walled in streetscape.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$2,640 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$264,000.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/0978 for Alterations and additions to a dwelling house including a swimming pool and fencing on land at Lot 11 DP 448061, 44 Beacon Hill Road, BEACON HILL, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Analysis, DA01 - RevD	19 May 2021	Action Plans
Site / Roof / Sediment Erosion / Waste Management / Stormwater Concept Plan, DA02 - RevD	19 May 2021	Action Plans
Proposed Lower Ground Floor Plan, DA05 - RevD	19 May 2021	Action Plans
Proposed Ground Floor Plan, DA06 - RevD	19 May 2021	Action Plans
North / East Elevation, DA07 - RevD	19 May 2021	Action Plans
South / West Elevation, DA08 - RevD	19 May 2021	Action Plans
Boundary Fence Elevation, DA09 - RevD	19 May 2021	Action Plans
Long / Cross Section, DA10 - RevD	19 May 2021	Action Plans
Pool Plan & Long Section, DA11 - RevD	19 May 2021	Action Plans

Stormwater Plans		
Drawing No.	Dated	Prepared By
Stormwater Management General Notes & Drawing Schedule, D01 - RevA	11 June 2021	Consulting Engineers
Stormwater Management Drainage Plan & Details, D02 - RevA	11 June 2021	Consulting Engineers

Stormwater Management Drainage Plan & Details, D03 - RevA	11 June 2021	Consulting Engineers
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Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (No. A413969)	21 April 2021	Action Plans
Bushfire Report	26 May 2021	Bushfire Planning & Design
Geotechnical Report	3 February 2021	Ascent Geotechnical Consulting

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	21 June 2021	Jonathan Rudd

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. **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
NSW RFS	RFS Referral Response	26 July 2021

(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 Certifying

Authority for the work, and

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

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

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

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

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

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

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

Reason: Legislative requirement.

4. **General Requirements**

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

- 7.00 am to 5.00 pm inclusive Monday to Friday,

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out

- v) For any work/s that is to be demolished
The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$2,640.00 is payable to Northern Beaches Council for the provision

of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$264,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

6. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

7. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the

requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). 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 areas 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.

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

Reason: Protection of the receiving environment.

8. **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 Certifying Authority 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 Certifying Authority 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.

9. **On-site Stormwater Disposal Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater disposal system in accordance with Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY, and generally in accordance with the concept drainage plans prepared by NB Consulting Engineer, drawing number 210146, dated 11/6/2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. the total discharge including bypass flows and controlled flow through the level spreader must

not exceed the 20% AEP in state of nature storm event.

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.

10. Compliance with Standards

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

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

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

11. Sydney Water "Tap In"

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

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

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

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

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

12. 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.

13. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

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 THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. Clearing for Asset Protection Zones

Clearing of vegetation during works for APZ establishment must only occur within the surveyed and marked APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries.

Written certification of compliance is to be submitted to the Principal Certifying Authority.

Reason: To protect native vegetation and wildlife.

15. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. Protection of Existing Street Trees

All existing street trees in the vicinity of the works shall be retained during all construction stages and the street tree fronting the development site - (Brushbox fronting No. 44) and (Eucalyptus fronting No. 42) shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings and in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites.

As a minimum, the tree protection fencing for the Brushbox shall consist of standard 2.4m panel length placed at the edge of the footpath and extended along the footpath and returned to meet the existing front fence, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

Tree protection fencing in accordance with the Australian Standard 4970-2009 Protection of Trees on Development Sites shall also be placed around the Eucalyptus fronting No. 42. This fencing shall not impact upon driveway access for No. 42 and shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Tree protection.

17. Tree and Vegetation Protection

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

- i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

18. **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.

19. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent

of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

20. Dewatering Management

Tailwater (surface water and rainwater): Please contact catchment@northernbeaches.nsw.gov.au for advice on Council's water quality requirements for a single instance of dewatering tailwater that collects in an excavation during works. A dewatering permit application must be made for expected multiple instances or continuous dewatering of tailwater.

Groundwater: A permit from Council is required for any dewatering of groundwater. An application for interference with an aquifer is required to the Natural Resources Access Regulator. Contact catchment@northernbeaches.nsw.gov.au for more information about permits.

The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources.

21. Survey Certificate

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

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

22. Landscape Completion

Landscaping is to be implemented in accordance with the landscape works illustrated on plan DA06 - Ground Floor Plan.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

23. Clearing for Asset Protection Zones

Clearing of vegetation for APZ establishment must only occur within the surveyed and marked

APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries.

Written certification of compliance is to be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To protect native vegetation and wildlife.

24. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

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

25. **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 Certifying Authority 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 party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure satisfactory management of stormwater.

26. **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), hydraulic 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 Certifying Authority prior to the issue of final Occupation Certificate.

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

27. Waste Management Confirmation

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

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

28. 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 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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, 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 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 Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)

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

29. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

30. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

31. **Maintenance of Asset Protection Zones**

Vegetation clearing for ongoing APZ maintenance must only occur within the surveyed and marked APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries.

Reason: To protect native vegetation and wildlife.

32. **Control of Domestic Dogs/Cats**

Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife in accordance.

33. **Maintenance of Stormwater Treatment Measures - Minor**

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate

maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

34. **Pool Filter Noise**

The maximum noise level associated with the pool filter does not exceed 5dB(A) above ambient background level when measured from any adjoining premises.

Reason: To protect the amenity of adjoining properties.

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

Signed



Stephanie Gelder, Planner

The application is determined on 02/08/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments