

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/0059
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<b>Responsible Officer:</b>	Thomas Burns
<b>Land to be developed (Address):</b>	Lot 1 DP 234584, 32 A Oxford Falls Road BEACON HILL NSW 2100
<b>Proposed Development:</b>	Alterations and additions to a dwelling house including a secondary dwelling
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Craig Stephen Te Oru Lowe Lenamaree Teresa Sunshine Johnston Lowe
<b>Applicant:</b>	Craig Stephen Te Oru Lowe Lenamaree Teresa Sunshine Johnston Lowe

<b>Application Lodged:</b>	23/01/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - New second occupancy
<b>Notified:</b>	14/02/2020 to 28/02/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 300,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to the existing dwelling house and the construction of an attached secondary dwelling. Specifically, the proposed works are as follows:

#### Principal Dwelling

- The construction of a storage area and laundry on the eastern elevation of the ground floor;
- The removal of the existing rear external stairs;

- The extension of the existing living space on the western elevation of the first floor;
- Internal alterations to the existing floor plan on the first floor to provide a new kitchen, dining area and toilet; and
- The construction of a balcony on the northern and eastern elevations of the first floor adjoining the dining room.

### Secondary Dwelling

The proposed secondary dwelling is located on the first floor and comprises:

- Two (2) bedrooms;
- A combined bathroom and laundry room;
- A kitchen and living space; and
- A balcony on the southern elevation with external stairs to the ground floor for access.

## **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 - B7 Front Boundary Setbacks  
Warringah Development Control Plan - C4 Stormwater  
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting  
Warringah Development Control Plan - D8 Privacy  
Warringah Development Control Plan - E10 Landslip Risk

## **SITE DESCRIPTION**

<b>Property Description:</b>	Lot 1 DP 234584 , 32 A Oxford Falls Road BEACON HILL NSW 2100
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**Detailed Site Description:**

The subject site consists of one (1) allotment with frontages to the eastern and northern sides of Oxford Falls Road, Beacon Hill. Vehicular and pedestrian access is gained from the western boundary (eastern side of Oxford Falls Road).

The site is irregular in shape with a primary frontage of 26.822m along the eastern side of Oxford Falls Road (western boundary) and a secondary frontage of 18.593m along the northern side of Oxford Falls Road (southern boundary). The site has a surveyed area of 581.98sqm.

The site is located within the R2 Low Density Residential zone and accommodates a two (2) storey detached dwelling house.

The site contains a large landscaped open space area within the northern and western portions. Furthermore, the site accommodates one (1) large canopy tree within the north-western corner; two (2) medium sized trees along the southern boundary; and two (2) medium sized palm trees and numerous shrubs along the western boundary.

The site experiences a gradual fall of approximately 2.5m that slopes from the southern boundary towards the northern boundary.

The site is identified within the 'Landslip Area B' precinct under the provisions of the WLEP 2011.

The site is burdened by an easement to drain water 0.9m wide that runs contiguous to the northern boundary.

**Detailed Description of Adjoining and Surrounding Development**

Adjoining and surrounding development is characterised by one (1) and two (2) storey detached dwelling houses.

Map:



## SITE HISTORY

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

- Tree Application DA2013/0659 for the removal of one (1) tree approved by Council staff under delegated authority on 17 June 2013.

## Site Visits

A site inspection was undertaken at the subject site on 27 February 2020.

## 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	None applicable.
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)(iiiia) – 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)	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been

Section 4.15 Matters for Consideration'	Comments
	<p>addressed via a condition of consent.</p> <p>Clause 92 of the EP&amp;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>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received in relation to this application.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED



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

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
NECC (Development Engineering)	No objections are raised to the proposed development, subject to conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be</p>

External Referral Body	Comments
	Aboriginal, the Department of Planning, Industry and Environment (DPIE) and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

## 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 (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

## Division 2: Secondary dwellings

### Clause 19: Definition

Development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

**Note:** The standard instrument defines secondary dwelling as follows:

**"secondary dwelling means a self-contained dwelling that:**

- (a) is established in conjunction with another dwelling (the principal dwelling), and*
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling."*

Comment:

The proposed use is defined under WLEP 2011 as a secondary dwelling. The definition is the same as the Standard Instrument LEP definition.

Clause 20: Land to which this Division applies:

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is permissible on the land:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential.	<b>Consistent.</b> The site is located within the R2 Low Density Residential zone and, as such, the proposed use is permissible with consent under WLEP 2011.

Clause 21: Development to which this Division applies

Requirement	Comment
This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling.	<b>Consistent.</b> The development involves the construction of a secondary dwelling, as defined by the Standard Instrument. Therefore, this Division applies.

Clause 22: Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	The proposal will result in one (1) principal dwelling and one (1) secondary dwelling on the site. The proposed secondary dwelling will be attached to the existing principal dwelling.
(3) A consent authority must not consent to development to which this Division applies unless:  (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and  (b) the total floor area of the secondary dwelling is	The site does not have a floor space ratio control.  Clause 5.4 (9) of the WLEP 2011 stipulates that the gross floor area of secondary dwellings must not exceed 60sqm, which correlates with this SEPP.  The proposed secondary dwelling has an internal floor area of 49.87sqm, which satisfies the requirements of this SEPP and the WLEP 2011.



no more than 60m <sup>2</sup> or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	
<p>(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:</p> <p>(a) site area if:</p> <p>(i) the secondary dwelling is located within, or is attached to, the principal dwelling, or</p> <p>(ii) the site area is at least 450 square metres.</p> <p>(b) parking if no additional parking is to be provided on the site.</p>	<p>The proposed secondary dwelling is attached to the principal dwelling.</p> <p>The site has a surveyed area of 581.98sqm.</p> <p>The existing double garage is retained as part of this application. No additional parking is proposed. The WDCP 2011 does not require additional off-street parking for secondary dwellings. The existing off-street parking satisfies the minimum of two (2) off-street parking spaces, as required by the WDCP 2011.</p>

**Note:** A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

#### Clause 24: No subdivision

Requirement	Comment
A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.	<p><b>Consistent.</b></p> <p>This application does not propose any subdivision of the existing allotment.</p>

#### Conclusion

The proposed secondary dwelling demonstrates compliance with the requirements of the SEPP ARH and is worthy of Council support.

#### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX Certificate has been submitted with the application (see Certificate No. 13 December 2019 dated 1066565S). 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

### Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.73m	-	Yes
Gross Floor Area:	60sqm	49.87sqm	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	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	5.24m (eastern elevation)	-	Yes
B3 Side Boundary Envelope	4m (east)	Minor encroachment for a length of 0.75m at a maximum height of 0.08m	N/A	No
	4m (west)	Within envelope	-	Yes
B5 Side Boundary Setbacks	0.9m (north)	2.58m	-	Yes
B7 Front Boundary Setbacks	6.5m (west)	5.24m	19.38%	No
B7 Front Boundary Setbacks - Secondary Frontages for	3.5m (south)	2.07m	40.86%	No

Corner Allotments				
B9 Rear Boundary Setbacks - Corner Allotments	0.9m (east)	1.17m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (232.79sqm)	32.27% (187.8sqm)	19.33%	<b>No</b>

**\*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	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	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	No	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

#### Detailed Assessment

### B3 Side Boundary Envelope

#### Description of non-compliance

Clause B3 of the WDCP 2011 stipulates that buildings are to be projected at 45 degrees from a height of 4m above the existing ground level at side boundaries. The proposed development encroaches beyond the prescribed building envelope along the eastern elevation for a length of 0.75m at a maximum height of 0.08m. Consequently, the proposal fails to comply with the requirements of this control.

#### Merit Assessment

With regard to the consideration for a variation, the proposed 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 is compliant by virtue of the 8.5m maximum building height development standard and maintains a two (2) storey appearance, which is consistent with established development within the locality. Despite the minor variation to the prescribed building envelope, the proposed development will not be visually dominant when viewed from Francis Street or adjoining properties.

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

#### Comment:

The shadow diagrams submitted with this application indicate that over 50% of private open space areas within the subject site and adjoining properties maintain at least three (3) hours of sunlight between 9am and 3pm on June 21 (winter solstice). A condition has been included with this consent requiring the applicant to install a privacy screen along the eastern elevation of the proposed first floor deck to ensure the preservation of privacy between the subject site and 32 Oxford Falls Road (eastern adjoining property). A detailed discussion entailing justification for this condition is provided in the section of this report relating to Clause D8 of the WDCP 2011.

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

#### Comment:

The overall bulk and scale of the proposal is generally consistent with established development within the locality. As such, the proposal will not detract from the streetscape. Subject to compliance with the condition of consent requiring the installation of a privacy screen along the eastern elevation of the proposed first floor deck, the proposal will not adversely impact upon the amenity of adjoining properties. Having regard to the above, it is considered that the proposal is reasonable in the context of site topography.

Having regard to the above assessment, it is concluded that the applicable objectives of the control

have been satisfied. Therefore, the application is supported on merit.

## **B7 Front Boundary Setbacks**

### Description of non-compliance

Clause B7 of the WDCP 2011 stipulates that all development (excluding driveways, letter boxes, garbage storage areas and fences) is to be setback at least 6.5m from the front boundary. Furthermore, the control also states that 6.5m front setback may be reduced to a minimum of 3.5m along secondary frontages. The proposed front setbacks are as follows:

- Primary Frontage (western boundary): 5.24m, which represents a variation of 19.38% from the 6.5m requirement; and
- Secondary Frontage (southern boundary): 2.07m, which represents a variation of 40.86% from the 3.5m requirement.

Consequently, the proposal fails to comply with the requirements of this control.

### Merit Assessment

With regard to the consideration for a variation, the proposed development is considered against the underlying objectives of the control as follows:

- *To create a sense of openness.*

### Comment:

In considering the primary frontage, it is noted that all works encroaching into the 6.5m front setback area pertains to the extension of the first floor living room within the footprint of the existing balcony. Given the non-complaint works maintain the existing front building line, the proposal will not detract from a sense of openness within the front yard

In relation to the secondary frontage, it is noted that the non-complaint works largely relate to a small portion of the external staircase and balcony located on the southern elevation of the secondary dwelling. In conjunction with the above, a corner of the proposed bedroom encroaches within the 3.5m secondary frontage area for a length of 0.46m. In support of this non-compliance, it is noted that the variance extends for less than 25% of the secondary frontage and is ultimately a consequence of the irregular allotment size. Despite this variation, the proposed development will not detract from a sense of openness within the secondary frontage.

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

### Comment:

As noted above, all works encroaching into the primary front setback area conform to the established front building line on the subject site. Therefore, the proposed development will not significantly alter the siting and appearance of the existing dwelling when viewed from the primary frontage.

As noted above, the non-compliance along the secondary frontage extends for less than 25% of the building width, which is a consequence of the irregular allotment size. The bulk and scale of the

proposed development is consistent with prevailing development within the locality. As such, the proposed development will maintain the visual continuity of development along the secondary frontage.

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

Comment:

The existing vegetation located along the western and southern boundaries will soften the built form, thereby preserving the visual quality of the streetscape.

- *To achieve reasonable view sharing.*

Comment:

The proposed development is compliant by virtue of the 8.5m maximum building height development standard and will not give rise to unreasonable view loss.

Having regard to the above assessment, it is concluded that the applicable objectives of the control have been achieved. Therefore, the application is supported on merit.

#### **C4 Stormwater**

Council's Development Engineer has assessed the application against the requirements of this control and raised no objections, subject to conditions. Subject to compliance with the conditions of consent, the application will satisfy the requirements of this control.

#### **D1 Landscaped Open Space and Bushland Setting**

Description of non-compliance

Clause D1 of the WDCP 2011 stipulates that development is to ensure at least 40% (232.79sqm) of the site area is landscaped open space (LOS). In calculating LOS, landscaped areas with dimensions less than 2m are excluded from the calculation. The proposed LOS equates to 32.27% (187.8sqm) of the site area, which fails to comply with the control. It is noted that the existing LOS equates to 41.05% (238.88sqm) of the site area, with the reduction of LOS equating to 8.78% (51.08sqm) of the site area. Furthermore, by including landscaped areas with dimensions less than 2m, 38.4% (223.5sqm) of the site area is landscaped.

Merit Assessment

With regard to the consideration for a variation, the proposed development is considered against the underlying objectives of the control as follows:

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

Comment:

The site accommodates numerous trees and shrubs of varying sizes. The existing landscape features contributes to an attractive streetscape and will soften the visual impact of the built form.



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

Comment:

Whilst the proposal is deficient in LOS, the proposed development will not result in the removal of trees or significant landscape features. The existing vegetation on site serves as potential habitat for wildlife within the locality.

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

Comment:

As noted earlier within this report, the existing vegetation located contiguous to the primary and secondary frontages will soften the built form.

- *To enhance privacy between buildings.*

Comment:

As discussed earlier within this report, a condition has been included with this consent requiring the applicant to install a privacy screen along the eastern elevation of the proposed first floor deck to ensure the preservation of privacy between the subject site and 32 Oxford Falls Road (eastern adjoining property). No additional planting for the purposes of enhancing privacy is required.

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

Comment:

The large lawn area within the northern and eastern portions of the site, in conjunction with the proposed elevated decks, provide appropriate outdoor recreational opportunities that will sufficiently meet the needs of the occupants.

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

Comment:

The site contains a sufficient amount of space to service functions, including clothes drying.

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

Comment:

Council's Development Engineer has assessed the application with respect to stormwater management and raised no objections, subject to conditions. Subject to compliance with the conditions of consent, the proposal will adequately facilitate stormwater management.

Having regard to the above assessment, it is concluded that the applicable objectives of the control have been achieved. Therefore, the application is supported on merit.

## **D8 Privacy**

### Description of non-compliance

Clause D8 of the WDCP 2011 requires building layout to be designed to optimise privacy for occupants of the development and occupants of adjoining properties. The proposed development comprises an elevated balcony that wraps around the eastern and northern elevations of the principal dwelling, being setback between 1.755m and 2.68m from the eastern side boundary. It is noted that the eastern elevation of the balcony is orientated towards the private open space (being a rear yard and elevated balconies) at 32 Oxford Falls Road. Consequently, the proposal would result in potential overlooking into the adjoining private open space, which is inconsistent with the requirements of this control.

### Merit Assessment

With regard to the consideration for a variation, the proposed development is considered against the underlying objectives of the control as follows:

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

### Comment:

In examining the potential privacy impacts of the proposal, it is noted that the balcony is devoid of any privacy screening. Furthermore, the finished floor level of the balcony ranges between 2.33m and 2.95m above the existing ground level along the eastern elevation, which is sited above the established screen planting that runs contiguous to the eastern boundary (refer to Figures 1 and 2 depicting the adjoining property from the eastern elevation of the subject site).

*Figure 1 - 32 Oxford Falls Road from kitchen window*





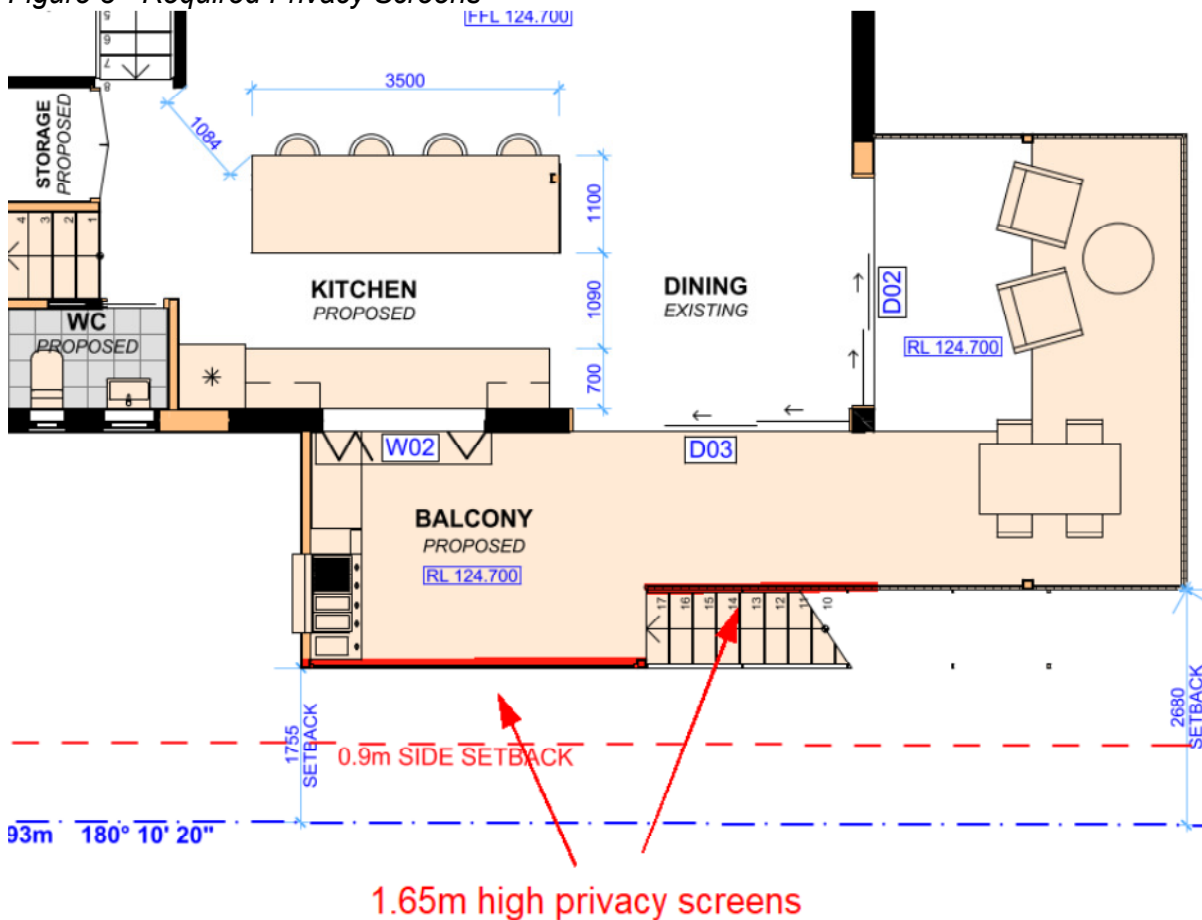
*Figure 2 - 32 Oxford Falls Road from existing deck on northern elevation*





As presented, the proposed balcony will encourage direct overlooking between the subject site and private open space at 32 Oxford Falls Road, thereby detracting from a sense of visual privacy. To alleviate the overlooking impacts, a suitable condition has been included with this consent requiring a 1.65m high privacy screen (measured from the finished floor level) to be erected along the eastern elevation of the deck, spanning from the southern corner of the deck towards to external wall of the existing dining area, as depicted in Figure 3.

Figure 3 - Required Privacy Screens



In the consideration for a privacy screen along the entirety of the eastern elevation, it is noted that the adjoining private open space is sited slightly behind (south-west) the proposed balcony, due to the irregularity of the allotment dimensions. Therefore, the required screening (as depicted in Figure 3) will sufficiently negate any unreasonable privacy impacts. Subject to compliance with the aforementioned condition, the proposed development will provide a building design that encourages a high level of visual and acoustic privacy for the occupants of the subject site and adjoining properties.

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

#### Comment:

Subject to compliance with the condition noted above, the proposed development will provide a design that is considered acceptable in the context of the site and locality.

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

Comment:

Subject to compliance with the condition referenced above, the occupants will maintain a sense of personal and property security.

Having regard to the above assessment, it is concluded that the applicable objectives of the control have been achieved. Therefore, the application is supported on merit, subject to conditions.

### **E10 Landslip Risk**

A preliminary Geotechnical Report has been submitted with this application in accordance with the requirements of this control. A condition has been included in the recommendation of this report requiring compliance with the recommendations indicated in the Geotechnical Report.

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

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

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

### **POLICY CONTROLS**

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

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

A monetary contribution of \$3,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$300,000.

### **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 DA2020/0059 for Alterations and additions to a dwelling house including a secondary dwelling on land at Lot 1 DP 234584, 32 A Oxford Falls 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA02 Revision E	19 December 2019	Action Plans
DA05 Revision E	19 December 2019	Action Plans
DA06 Revision E	19 December 2019	Action Plans
DA07 Revision E	19 December 2019	Action Plans
DA08 Revision E	19 December 2019	Action Plans
DA09 Revision E	19 December 2019	Action Plans

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Preliminary Geotechnical Assessment	13 December 2019	Ascent Geotechnical Consulting
BASIX Certificate No. 1066565S	13 December 2019	Action Plans

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:

<b>Waste Management Plan</b>
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Drawing No/Title.	Dated	Prepared By
Waste Management Plan	not dated	Lena Lowe

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

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

## 2. Prescribed Conditions

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

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

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

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

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

Reason: Legislative requirement.

### 3. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

change. The applicable fee at the time of payment of the Long Service Levy will apply.

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

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## **FEES / CHARGES / CONTRIBUTIONS**

### **4. Policy Controls**

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

A monetary contribution of \$3,000.00 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 \$300,000.00.

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](http://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.

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

An inspection fee in accordance with Council adopted fees and charges (at the time of payment)

is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

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

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

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

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

### 6. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Warringah Water Management Policy PL850. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

### 7. **Amendments to the approved plans**

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

- The balcony on the eastern elevation of the principal dwelling is to incorporate a 1.65m high privacy screen (measured from the finished floor level) along the outermost eastern edge as shown on the approved plans. The privacy screen shall span for 6.55m, measured from the southernmost point of the balcony towards the northernmost edge of the dining room (as depicted in Figure 3 of the Assessment Report), and 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 Certifying Authority prior to the issue of the Construction Certificate.

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

### 8. **BCA Report**

A 'Building Code of Australia (BCA) Assessment Report' from an appropriately qualified Accredited Certifier\* will need to be submitted with the Construction Certificate application. This report should address the Classification of the building and include requirements for fire separation, sound transmission / insulation and any other requirements appropriate for its intended use.

\*To be regarded as an "appropriately qualified accredited certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for

the subject building.

The 'Building Code of Australia (BCA) Assessment Report' is to be submitted to the Certifying Authority with the Construction Certificate application.

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

**9. 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.

**10. 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](http://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 TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**11. 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.

**12. Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

**13. Installation and Maintenance of Sediment Control**



Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

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

14. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

15. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management.

16. **Waste Management Confirmation**

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

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

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

**Signed**



**Thomas Burns, Planner**

The application is determined on 11/03/2020, under the delegated authority of:



**Matthew Edmonds, Manager Development Assessments**