

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2024/1625
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<b>Responsible Officer:</b>	Lachlan Rose
<b>Land to be developed (Address):</b>	Lot 1 DP 171852, 44 Kooloorra Avenue FRESHWATER NSW 2096
<b>Proposed Development:</b>	Alterations and additions to a dwelling house
<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>Applicant:</b>	Kimberley Gai Large Joshua Large

<b>Application Lodged:</b>	02/12/2024
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	13/12/2024 to 20/01/2025
<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>	\$ 58,300.00
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### PROPOSED DEVELOPMENT IN DETAIL

The development is described as Alterations and additions to a dwelling house.

The proposal includes:

- The enclosure of the existing open double carport to provide for an enclosed garage (a condition of consent applies to removal all carport works with the applicants request)
- Amendments to the existing front brick fence include part brick column and part open style powder coated steel fence panels with matching powder coated steel double entrance gates. The fence and gates present a maximum proposed height height of 1.5m.
- Side boundary fencing comprising open style powder coated steel fence panels with varying heights to a maximum of 2.3m from ground level. It is noted that the there are portions of the

existing walls and fence to retain/ make good.

Conditions of consent apply stating that there is no approval for side and rear boundary fencing under this application due to owners consent from adjoining properties not being provided. This condition applies to ensure all works remain wholly within the property boundaries and to ensure consistency with the relevant legislation under the Dividing Fences Act 1991.

Additionally, a condition of consent applies to amend the approved plans to remove all carport works. The applicant has submitted an email to the Planning Officer requesting that all carport works are removed from the development application due to the Council's Development Engineering Team being non-supportive of the carport enclosure works.

## 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 - B9 Rear Boundary Setbacks  
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting  
 Warringah Development Control Plan - D13 Front Fences and Front Walls  
 Warringah Development Control Plan - D15 Side and Rear Fences

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 171852 , 44 Kooloora Avenue FRESHWATER NSW 2096
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment located on the northern side of Kooloora Avenue.</p> <p>The site is regular in shape with a frontage of 10.06m along</p>

Kooloora Avenue and a depth of 57m. The site has a surveyed area of 573.3m<sup>2</sup>.

The site is located within the R2 Low Density Residential zone and accommodates an existing dwelling house and brick studio to the rear.

The site slopes approximately 2m from rear (north) to front (south).

The site contains two significant trees and a variety of smaller planted vegetation.

### Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by a range of residential development including detached dwellings, dual occupancies and residential flat buildings.

Map:



### SITE HISTORY

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

- Application **DA2021/2478** for Alterations and additions to a dwelling house was staff on 06/05/2022 by delegated authority.
- Application **DA2020/1147** for Demolition works and construction of a dwelling house was staff on 15/12/2020 by delegated authority.
- Pre-lodgement Meeting **PLM2019/0272** was held on 17/12/2019 for Demolition Works and construction of a dwelling house including a swimming pool.

## APPLICATION HISTORY

Council's development engineer provided a referral response on 20/12/2024 stating that this application must be assessed by Council's Flood team and appropriate flood control conditions applied prior to Development Engineering providing comments. Council's Flood team provided a referral on 15/01/2025 stating that this application is not assessed by the Flood Management team as it is not in an adopted flood study area and the Development Engineering team will conduct the flood assessment the carport enclosure works are unsupported. A new referral response was provided on 06/02/2025 in regard to the flood response stating that the enclosing the existing carport is unsupported.

In response, the applicant submitted a report by Northern Beaches Consulting Engineers on 24/02/2025. Upon review by the Council Development Engineer, the advise was given that the referral dated 06/02/2025 is still applicable with no changes.

On 13/03/2025 the Assessment Planner received an email from the applicant stating that the clients wish to condition this application to exclude all carport works, clarifying that the carport works are not included in the application.

The application was re-referral to the development engineer, acknowledging that the carport works are to be excluded from the application. A referral response was provided on 17/03/2025 stating that the application is supported subject to conditions of consent to exclude the carport works.

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p>



Section 4.15 Matters for Consideration	Comments
	<p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
<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) <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>
<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 &amp; 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 not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 13/12/2024 to 20/01/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

## REFERRALS

Internal Referral Body	Comments
NECC (Coast and Catchments)	<p>The proposed development is supported without conditions. The site of the proposed development is located outside of the coastal zone. Consideration related to the Coastal Management Act 2016 and State Environmental Planning Policy (Resilience &amp; Hazards) 2021 do not apply to this assessment.</p>
NECC (Development Engineering)	<p>The proposal is for alterations and additions to an existing dwelling.</p> <p>The applicant has provided a flood study that identifies the subject site as flood affected however it is not tagged flood prone Council system. However as the consultant's report assesses the application against Council's flood controls, this application must be assessed by Council's Flood team and appropriate flood control conditions applied prior to Development Engineering providing comments.</p> <p><i>Note to Planner: Please refer to Flood team for comments and conditions.</i></p> <p><b>Review 6/12/2025</b></p> <p>The proposal includes enclosing the existing carport with 50% open screens.</p> <p>The Flood Risk Management Report by NB Consulting Engineers dated 10/10/2024 classifies it as a carport. However, in accordance with Control D3, Clause E11 of Warringah DCP carports are to be 100% open on 2 sides otherwise, it is considered a garage. To comply with the DCP control D5 FFL of a garage must be above 1% AEP.</p> <p>Based on the 1% AEP of 5.05m AHD provided in the flood report a FFL of 4.37m AHD for the proposed garage does not comply with the DCP controls and is not supported.</p> <p><b>Review 6/3/2025</b></p> <p><i>Note to Planner: Please reopen for comments if amended plans</i></p>

Internal Referral Body	Comments
	<p><i>deleting the proposed works to the carport are provided.</i></p> <p><b>Review 17/3/2025</b> The applicant has confirmed via email that the proposed works to the carport is no longer included in the application. No amended plans have been provided.</p> <p><b>Note to Planner: Enclosure of the carport is not approved. Please include a condition to ensure the works to the carport are deleted from the application.</b></p> <p>No objections to the proposed works to the fence subject to conditions as recommended.</p>
NECC (Flooding)	<p>This is not assessed by the Flood Management team as it is not in an adopted flood study area. The Development Engineering team will conduct the flood assessment.</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>This proposal has been referred to Heritage as the subject site adjoins two heritage items</p> <p><b>Item 170 - House known as 'Felicita' - 46 Koolooro Avenue</b></p> <p><b>Item 169 - Street Trees - Koolooro Avenue</b></p>
	Details of heritage items affected
	<p>Details of the items as contained within the Warringah heritage inventory is as follows:</p> <p><b>Item 170 - House known as 'Felicita'</b>  <u>Statement of significance</u>  A rare example of a post-war functionalist dwelling in the Harbord area. Displays high integrity with much original fabric &amp; detailing. Historically indicates the variety of post-war beach-side development.  <u>Physical description</u>  Two storey dwelling, brick on ground floor &amp; fibro to 1st floor (?). Garage on ground floor with original decoration. Skillion roof. Front facade of extensive glazing with low projecting balcony with inclined handrails and posts.</p> <p><b>Street Trees</b>  <u>Statement of significance</u>  Socially significant as plantings by the local school. Although some are in poor health they are a prominent visual element in the Freshwater Beach area &amp; are representative of seaside plantings &amp; associated with recreation/holiday themes.</p>

Internal Referral Body	Comments		
	<u>Physical description</u> Norfolk Island Pines (22) along both sides of Kooloorra Avenue, with an average height of 15 - 20 metres. Those in the western section of the street are in poorer condition, however most are not very healthy. Some have been removed. Planting is not regular.		
	<u>Other relevant heritage listings</u>		
	SEPP (Biodiversity and Conservation) 2021	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	<u>Consideration of Application</u>		
	<p>The proposal seeks consent for alterations and additions to the existing dwelling. The proposed works comprise external works including enclosure of the existing open double carport with timber slatted panels; additions to the existing masonry front fence to increase its height to 1.5m with masonry columns above and powder-coated steel permeable infill; and new side boundary fence with matching height and material to the front fence.</p> <p>The heritage listed house "Felicita" adjoins to the south-eastern boundary. In accordance with the objectives of Warringah DCP 2011 - Part D the proposed fence is to be compatible with the existing streetscape character while creating visual interest in the public domain. The proposed materials and colour scheme is supported by Heritage, however the proposed fence height should be reduced to 1200mm to be compatible with the front fence height of the neighbouring buildings.</p> <p>Given the minor scale of the proposed works the proposal is considered to not impact the heritage significance of the house known as "Felicita" or the heritage listed street trees.</p> <p>Therefore, no objections are raised on heritage grounds, subject to two conditions.</p> <p><u>Consider against the provisions of CL5.10 of WLEP 2011.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>		



Internal Referral Body	Comments

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

### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

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

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

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

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

#### **SEPP (Transport and Infrastructure) 2021**

##### Ausgrid

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

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

##### Comment:

The proposal was referred to Ausgrid who raised no objections.

#### **SEPP (Resilience and Hazards) 2021**

#### **Chapter 4 – Remediation of Land**

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

## Warringah Local Environmental Plan 2011

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

### Principal Development Standards

Subject to a condition of consent, the proposed carport works are to be removed from the application at the applicants request. Therefore, the application does not result in any changes to the Principal Development Standards of Warringah LEP. The application is only subject to the proposed fencing works.

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

## Warringah Development Control Plan

### Built Form Controls

Subject to a condition of consent, the proposed carport works are to be removed from the application at the applicants request. Therefore, the application does not result in any changes to the Built Form Controls of Warringah DCP. The application is only subject to the proposed fencing works addressed throughout this report.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	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
D13 Front Fences and Front Walls	No	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	No	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

#### Detailed Assessment

#### **B9 Rear Boundary Setbacks**

The proposed development does not result in changes to the existing rear setback from previous approval. Therefore, a merit assessment is not required in this instance.

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

The proposed development does not result in changes to the landscaped open space of the subject site from previous approval. Therefore, a merit assessment is not required in this instance.

#### **D13 Front Fences and Front Walls**

### Merit consideration

The proposal includes a 1.5m front fence with a design comprised of the existing/ new masonry wall and new powder coated steel gates and fence above the masonry wall. The proposed fence is to replace the existing 2m front boundary fence with a similar design. It is noted that Councils Heritage Officer has applied a condition requiring the proposed front fence height to be reduced to 1200mm at the south-western corner of the site with matching height to the side boundary fences, to be compatible with the front fence height of the neighbouring buildings. Additionally, a condition is imposed requiring a maximum front fence height of 1.5m at any point to ensure consistency with the proposed plans.

The proposed fencing will compliment the existing streetscape and fences along Kooloora Avenue.

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 front fence is considered compatible with the existing streetscape character and will provide for a high visual quality within the public domain. As mentioned above, the proposal includes conditions to ensure consistency with the streetscape. The design includes powder coated steel fencing with masonry walls present a open view to the streetscape.

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

#### Comment:

The design of the fence is appropriate and of high-quality and that will improve the urban environment.

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

#### Comment:

The subject front fence height is acceptable within the streetscape and the proposed slatted design will avoid a 'walled in' streetscape. The subject site includes landscaped areas located behind the proposed front fence which is retained on the plans and in conjunction with the steel panels, the proposal will 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.

## **D15 Side and Rear Fences**

### Merit consideration

The proposed side fencing results in a maximum height of 1.5m to the eastern elevation and 2.2m to the western elevation. It is noted that the western elevation is primarily continuing from the existing masonry wall and aluminum fence at a maximum height of 2.4m, whereby the proposed fence adequately steps with the slope of the land. The proposed side fencing includes a powder coated steel fence which will be installed on top of the existing/ proposed masonry walls. The application includes a conditions of consent stating that all works are to remain wholly within the property boundaries as no owners consent was received from adjoining property owners for boundary fencing and that there is no approval for side and rear boundary fencing is given under this consent.

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

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

### Comment:

The proposed side fencing adequately corresponds to the existing fencing and will not result in any adverse impacts on the streetscape. The proposed maximum 2.2m high fencing to the western elevation will match the existing 2.4m wall and fence situated directly to the east. Hence, there will be no additional amenity impacts in relation to privacy, views or overshadowing. Furthermore, the wall and fencing material will help to alleviate any potential noise or privacy impacts to and from the adjoining dwellings.

Strict compliance with 1.8m height fence is not necessary in this instance as there is not expected to be any adverse impacts as a result. It is considered the proposed fencing is an innovative design that will improve the urban environment.

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 2024**

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



of this application.

## CONCLUSION

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

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

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2024/1625 for Alterations and additions to a dwelling house on land at Lot 1 DP 171852, 44 Kooloorra Avenue, FRESHWATER, subject to the conditions printed below:

### Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

## GENERAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by

Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A01	1.2	Proposed Floor Plan	Emma Macindoe	03/10/2024
A02	1.2	Carport & Front Elevation	Emma Macindoe	03/10/2024
A03	1.2	West Elevation	Emma Macindoe	03/10/2024
A04	1.2	East Elevation	Emma Macindoe	03/10/2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Waste Management Plan	-	Applicant	20/11/24
Flood Risk Management Report	A	NB Consulting Engineers	10 October 2024

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

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

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

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	03/01/2025

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

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon

- plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (i) showing the name, address and telephone number of the Principal Certifier for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

#### 4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
- i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
  - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The

amount payable is subject to indexation at the time of payment.

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018



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

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

## BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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

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

- All proposed carport works are to be removed from the approved plans. This application does not include the approval of any carport works under this development consent.

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

**7. Boundary Identification Survey**

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

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

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

**8. Boundary Fencing**

No approval for side and rear boundary fencing is given under this consent, as this is a matter for civil negotiation between relevant property owners. Plans are to be amended to remove reference to all side and rear boundary fencing. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure consistency with the relevant legislation under the Dividing Fences Act 1991.

**9. Front fence height**

The proposed front fence height should be reduced to 1200mm at the south-western corner of the site with matching height to the side boundary fences, to be compatible with the front fence height of the neighbouring buildings. Details demonstrating compliance with this condition are to be submitted to Council's Heritage Advisor for approval prior to the issue of the Construction Certificate.

Reason: To ensure the front fence is compatible with the adjacent heritage item and the streetscape.

**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 Certifier 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 Certifier 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 THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 12. Sediment and Erosion Controls

For developments that include more than 2500sqm of disturbance:

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

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

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

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

The ESCP must include the following as a minimum:

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

Environmentally sensitive areas (i.e. Sites that have slopes exceeding 20% and/or where works are within the high-water mark or adjacent to a waterway or watercourses) must also consider:

- Identify and mark any environmentally sensitive areas on and immediately next to the site and how you will protect these, including any appropriate buffer zones (for

- example, marking them out as 'no-go' areas),
- Details on vegetation you will clear, as well as areas of vegetation you will keep (mark no go areas),
- Detail on soil information and location(s) of problem soil types, especially dispersive soils and potential or actual acid sulfate soils,
- Location of any natural waterways that could receive run-off and how these will be protected these from run-off.

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

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

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

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

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

## DURING BUILDING WORK

### 13. 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.

### 14. Survey Certificate

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

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

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

approved plans.

**15. Maintenance of Sediment and Erosion Controls**

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

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

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log book or inspection test plan (ITP) must be undertaken by the site supervisor:

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

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

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

**16. Heritage Listed Street Tree**

The heritage listed Norfolk Island Pine located in the road reserve adjacent to the driveway crossover is to be protected at all times during any demolition and construction works.

Reason: Protection of heritage listed tree.

**17. Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

## **BEFORE ISSUE OF THE OCCUPATION CERTIFICATE**

**18. Waste Management Confirmation**

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

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

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

**19. Approved Works**

Nothing within this consent grants approval for works beyond the property boundaries of the subject site to which this development application applies.



Reason: To ensure all works are undertaken in accordance with this consent, and to ensure all works remain wholly within the property boundaries.

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

**Signed**



**Lachlan Rose, Planner**

The application is determined on 17/03/2025, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**