

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/2599
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<b>Responsible Officer:</b>	Thomas Burns
<b>Land to be developed (Address):</b>	Lot 62 DP 31553, 25 Beacon Avenue BEACON HILL NSW 2100
<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>Owner:</b>	Daniel John Bunting
<b>Applicant:</b>	Daniel John Bunting

<b>Application Lodged:</b>	10/01/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	10/02/2022 to 24/02/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: 5.88%
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 550,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to an existing dwelling house including an upper floor addition. The works consist of:

#### Level 1

- Removal of existing internal stairs and construct new internal staircase to access level 2.

#### Level 2

- No change aside from new stairs from level 1.

### Level 3

- Internal alterations to modify the floor plan.
- Extension to the east to provide additional floor space.
- Internal staircase to access upper floor addition.
- New balustrading to rear decking.

### Level 4

- New upper floor addition to provide main bedroom with WIR, ensuite and deck; and two additional bedrooms.

## **ASSESSMENT INTRODUCTION**

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## **SUMMARY OF ASSESSMENT ISSUES**

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings  
Warringah Development Control Plan - B1 Wall Heights  
Warringah Development Control Plan - B3 Side Boundary Envelope  
Warringah Development Control Plan - D8 Privacy

## **SITE DESCRIPTION**

<b>Property Description:</b>	Lot 62 DP 31553 , 25 Beacon Avenue BEACON HILL NSW 2100
<b>Detailed Site Description:</b>	The subject site consists of one allotment located on the southern side of Beacon Avenue, Beacon Hill. Pedestrian access to the site is provided via an external staircase at the

frontage, whilst vehicular access is provided via a shared Right of Carriageway through the western boundary.

The site is rectangular in shape with a frontage of 15.24m and a depth of 36.575m. The site has a surveyed area of 557.4sqm.

The site is located within the R2 Low Density Residential zone pursuant to Warringah LEP 2011 and accommodates a part 2-3 storey dwelling house.

The site experiences a fall of approximately 14.2m that falls away from the north-east towards the south-west.

The front of the site contains a steep rock embankment and a number of small shrubs and a canopy tree. The rear yard contains a number of trees, rock outcrops and retaining walls.

The site is burdened by Council stormwater pipeline that runs contiguous to the eastern side boundary and is environmentally constrained with landslip hazards.

### **Description of Surrounding Development**

The surrounding built environment is characterised by detached low density residential development, ranging between 1-3 storeys in height.

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 no recent or relevant applications.

## APPLICATION HISTORY

The Development Assessment Planner examined the subject site and the surrounds on 28 March 2022.

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 92</u> 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><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and	<p>(i) <b>Environmental Impact</b></p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p>

Section 4.15 Matters for Consideration	Comments
economic impacts in the locality	<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	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 10/02/2022 to 24/02/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

Name:	Address:
Mr John Graeme Knox	23 Beacon Avenue BEACON HILL NSW 2100

One submission was received following the public exhibition period. The submission was prepared by the owners of the eastern adjacent site at 23 Beacon Avenue. The following issues were raised in the submission:

- **Privacy**

The submission raised concerns of potential overlooking occurring from east facing windows on the uppermost floor of the development.

Comment:

This matter is discussed in detail within the section of this report relating to Clause D8 of the



Warringah DCP 2011. In summary, which it is acknowledged that the proposed east facing windows adjacent to the bedrooms, bathroom and stairwell will allow the occupants to overlook towards a swimming pool and windows that serve a bedroom and bathroom on the eastern adjacent site, the impacts are considered to be reasonable as the overlooking occurs from areas that receive low volumes of activity on a day to day basis. Accordingly, the overlooking will occur infrequently and thus, the impacts are acceptable.

- **Overshadowing of Lower Ground Floor Windows**

The submission raised concerns that the proposed development will create unreasonable overshadowing of west and south facing windows on the lower floor of the adjacent dwelling.

Comment:

It is noted that due to the north-south orientation of the allotments and the significant slope that falls towards the south, these windows of concern currently receive limited sunlight on June 21. It is acknowledged at 3pm that the proposal will create shading of two west facing windows on the lower floor. However, a fully compliant design will not have a materially different impact in this regard. It is noted that Clause D6 of the Warringah DCP 2011 does not require Council to assess solar access impacts to windows on adjacent properties but rather the adjacent private open space. It is noted that the private open space on the adjacent site (i.e. rear decking) is sited at the rear of the dwelling with a southern aspect. This area is also located on the lower side of the slope and thus, is completely overshadowed on June 21. Therefore, the proposal does not have an adverse shadowing impact to this area. It is noted that the swimming pool area within the front yard receives adequate solar access on June 21 to ensure a reasonable level of amenity for the occupants of the adjacent site.

Conclusion

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

**REFERRALS**

Internal Referral Body	Comments
NECC (Development Engineering)	<p><b>28/03/2022:</b></p> <p>This proposal seeks approval for the construction of alterations and additions to an existing dwelling including a new upper level.</p> <p><b>Access</b> Site is accessed by Right of Way. No changes are proposed to existing parking or existing vehicular crossing.</p> <p><b>Stormwater</b> Proposal is to collect all stormwater and continue to be discharged to the existing stormwater system.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The application was referred to Ausgrid, who responded stating that a formal assessment was not required.

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

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

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

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

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

#### **SEPP 55 - Remediation of Land**

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

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

A BASIX Certificate was submitted with this application (see BASIX Certificate No. A438759, dated 13 December 2021). A condition has been included with this consent to ensure compliance with the aforementioned 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 application was referred to Ausgrid, who responded stating that a formal assessment was not required.

## 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	9m	5.88%	No

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

### Detailed Assessment

#### 4.6 Exceptions to development standards

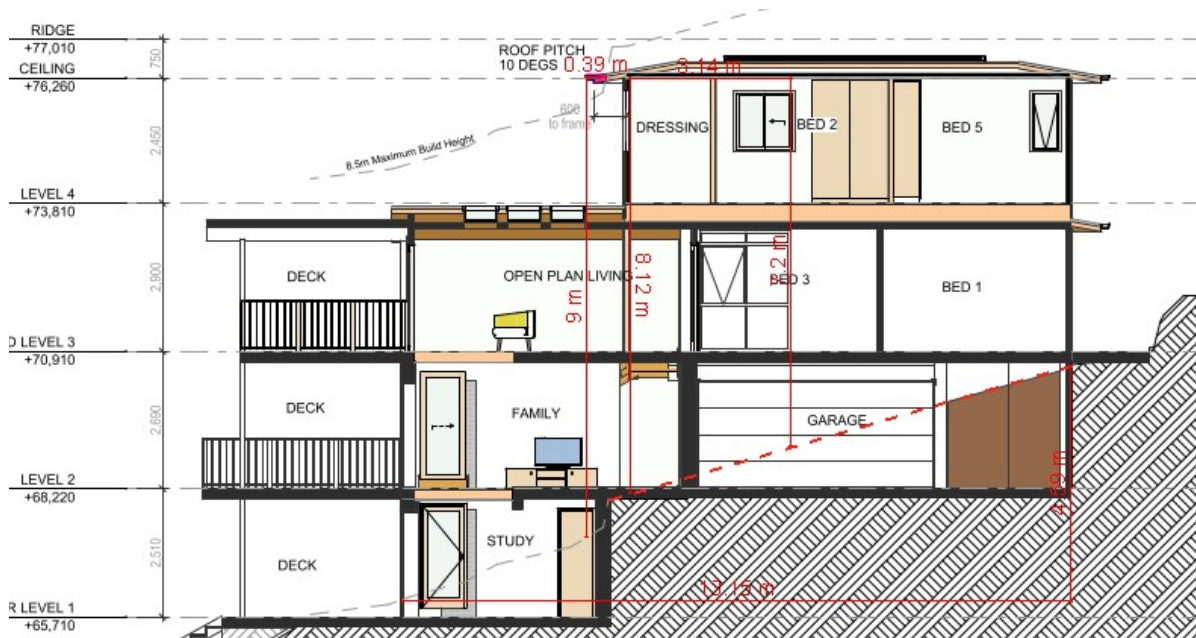
##### Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	9m
Percentage variation to requirement:	5.88%

The maximum height of the proposed development is 9m, which exceeds the 8.5m statutory height limit. The non-compliance is confined to a small portion of the eave and gutter line on the rear elevation of the uppermost floor. The non-compliance occurs for a horizontal length of 390mm. Figure 1 below depicts the extent of the non-compliance.

#### **Figure 1: building height breach**





#### Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

#### Clause 4.6 Exceptions to development standards:

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

#### Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Secretary has been obtained.*

**Clause 4.6 (4)(a)(i) (Justification) assessment:**

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

*'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'*

s 1.3 of the EPA Act reads as follows:

**1.3 Objects of Act(cf previous s 5)**

*The objects of this Act are as follows:*

*(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*

*(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental*

*and social considerations in decision-making about environmental planning and assessment,*  
*(c) to promote the orderly and economic use and development of land,*  
*(d) to promote the delivery and maintenance of affordable housing,*  
*(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*  
*(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*  
*(g) to promote good design and amenity of the built environment,*  
*(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*  
*(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*  
*(j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicant's written request argues, in part:

- *"The site is constrained by the significant slope with a fall of 13m cross the site and 6.0m across the building footprint. The proposed non-compliance is at the rear of the addition and provides for an eave. An alternative roof form to comply would not serve any benefit.*
- *The area of non-compliance is not visible from the street and does not result in any detrimental impacts".*

#### Planner Comment:

Council's Development Assessment Planner agrees generally with the applicant's justification.

It is accepted that the height breach is minor, being confined to an eave and gutter line, and that an alternative roof form would not result in an improved environmentally planning outcome. The non-compliant element does not exacerbate overshadowing towards adjacent properties or impact upon view lines from nearby public and private land. In addition, the non-compliant element is sited below the ridge line of the proposed development and located on the rear elevation. Hence, the non-compliant element will not be visible from Beacon Avenue.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

#### **Clause 4.6 (4)(a)(ii) (Public Interest) assessment:**

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is*

*proposed to be carried out*

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

**Objectives of development standard**

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the WLEP 2011 are:

(1) The objectives of this clause are as follows:

*a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

Comment:

The resulting development will read as a two storey dwelling when viewed from the public domain due to the sloping topography, which is consistent with the general scale of development within the locality.

*b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*

Comment:

The roofline of the proposed development sits approximately 1.8m above the road reserve level and hence, the proposed development is unlikely to obscure district views from residential developments on the northern side (high side) of Beacon Avenue. It is important to note that significant views are not obtained from the road reserve adjacent to the front boundary due to the existing dense vegetation that runs contiguous to the front boundary. A compliant front setback has been provided for the uppermost floor to negate unreasonable visual impacts upon the streetscape. In addition, due to the north-south orientation of the allotments and adequate separation afforded, the proposed development does not result in significant further shading of private open space on adjacent properties. It is noted that these areas currently receive limited direct sunlight during mid-winter due to their southern aspect. Moreover, the non-compliant element of the building does not give rise to unreasonable privacy impacts, noting that the non-compliance relates to the eave and gutter line.

*c) to minimise adverse impact of development on the scenic quality of Warringah’s coastal and bush environments,*

Comment:

The proposed development does not necessitate the removal of significant landscaping on the site. The existing landscape treatment on the site will soften the visual impacts of the development.

*d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,*

Comment:

As noted above, the roofline of the proposal sits approximately 1.8m above the levels of the road reserve. As such, the development is not anticipated to be visually imposing when viewed from the public domain.

**Zone objectives**

The underlying objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposal comprises alterations and additions to an existing dwelling house. The resulting dwelling will provide for the housing needs of the community within a low density residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

The proposal relates to a residential land use.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

Existing environmental features (i.e. canopy trees, rock outcrops) on the site will be maintained and more than 50% of the site will consist of deep soil landscaping, thereby ensuring that the development is in harmony with the natural environment.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone and the objectives of Clause 4.3 - Height of Buildings.

**Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:**

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020 issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

## Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	8.12m	12.78%	No
B3 Side Boundary Envelope	4m then projected at 45 degrees (E)	Within Envelope	-	Yes
	4m then projected at 45 degrees (W)	Outside Envelope	9.02%	No
B5 Side Boundary Setbacks	0.9m (E)	Level 1: no change Level 2: no change Level 3: 1.84m - 3.03m Level 4: 3.9m - 4.07m	-	Yes
	0.9m (W)	Level 1: 3.2m Level 2: 3.2m Level 3: 3.29m Level 4: 4.65m - 7.29m	-	Yes
B7 Front Boundary Setbacks	6.5m	6.52m	-	Yes
B9 Rear Boundary Setbacks	6m	13.75m (new balustrading)	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (222.96sqm)	51.72% (288.3sqm)	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D21 Provision and Location of Utility Services	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

### **B1 Wall Heights**

#### Description of non-compliance

The maximum wall height of the proposed development is 8.12m, which exceeds the numeric requirement of 7.2m. It is noted that the non-compliant elements are confined to the rear portion of the uppermost floor and occur for a horizontal length of 3.14m.

#### Merit consideration:

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

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

#### Comment:

The resulting development will read as a two storey dwelling when viewed from the public domain due to the sloping topography, which is consistent with the general scale of development within the locality. In addition, the roofline of the proposal sits approximately 1.8m above the road reserve level due to the sloping topography. This factor, combined with adequate separation from the front boundary, will ensure the development is not visually imposing when viewed from Beacon Avenue. Moreover, the building mass steps down in height with the slope of the land to negate unreasonable visual impacts upon adjacent residential properties. Generous side setbacks have also been provided for the uppermost floor to alleviate impacts upon the adjacent properties. Overall, it is considered that the proposal satisfies this objective.

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

Comment:

The resulting development is below the established tree canopy level.

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

Comment:

The roofline of the proposed development sits approximately 1.8m above the road reserve level and hence, the proposed development is unlikely to obscure district views from residential developments on the northern side (high side) of Beacon Avenue. It is important to note that significant views are not obtained from the road reserve adjacent to the front boundary due to the existing dense vegetation that runs contiguous to the front boundary.

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

Comment:

The wall height numeric non-compliance does not have a detrimental impact upon the amenity of nearby residential and public properties, specifically with regard to views, solar access, privacy and visual bulk. It is noted that the non-compliance is exacerbated by the sloping topography.

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

Comment:

As noted above, the building height descends in height with the slope of the land to ensure an appropriate response to the site topography. In addition, the proposed development does not necessitate significant earthworks.

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

Comment:

The roof pitch correlates with the existing roof form on the site and is considered to be an adequate design.

## Conclusion

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

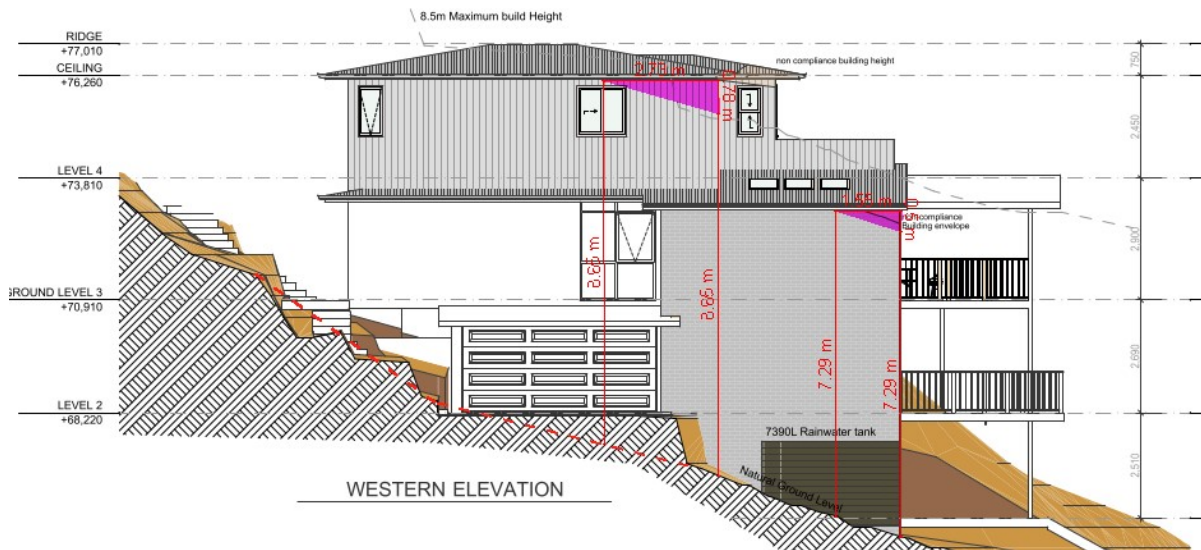
## **B3 Side Boundary Envelope**

## Description of non-compliance

The control requires development to be sited within a building envelope which is determined by projecting planes at 45 degrees from a height of 4m above the existing ground level at side boundaries.

The proposed development protrudes outside of the prescribed side building envelope on the western elevation for portions of level 3 and 4. Figure 2 below depicts the extent of the non-compliance.

**Figure 2: western elevation envelope breach**



## Merit consideration

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

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

### Comment:

The uppermost floor has been stepped in from the lower floors on the side elevations to reduce the extent of the envelope breach and alleviate the building bulk. In addition, the height of the resulting built form steps down with the slope of the land to visually reduce the bulk and scale of the development as perceived from adjacent properties. It is noted that the roofline of the development sits approximately 1.8m above the road reserve level due to the sloping topography. This factor, coupled with the compliant front setback, will ensure that the development is not visually imposing within the streetscape. For the reasons outlined above, it is considered that the proposed development will not become visually dominant by virtue of its height and bulk.

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

### Comment:

As discussed earlier within this report, the proposed development does not result in significant

overshadowing towards adjacent properties. In addition, the privacy impacts arising from the proposal are considered to be reasonable. This is discussed in detail within the section of this report relating to Clause D8 of the Warringah DCP 2011.

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

Comment:

As noted above, the building height descends in height with the slope of the land to ensure an appropriate response to the site topography.

## Conclusion

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

## **D8 Privacy**

### Description of non-compliance

The uppermost floor includes a number of east facing windows located approximately 5m from existing west facing windows at 23 Beacon Avenue (eastern adjacent site occupied by a dwelling house), which does not meet the 9m separation requirement.

### Merit consideration

The 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:

Whilst the window sill heights on the adjacent dwelling and proposed upper floor addition generally correlate, it is noted that the overlooking between both properties would occur from bedroom and bathroom windows. These areas receive low volumes of pedestrian activity on a daily basis, as opposed to living rooms and kitchen areas. As such, the overlooking impacts are not deemed to be unacceptable in this circumstance. This notion is outlined within the NSW Land and Environment Court Case of *Meriton v Sydney City Council [2004] NSWLEC 313*, where Commissioner Roseth SC states that "*overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time*".

In addition to the above, it is noted that overlooking may also occur from window W15 (stairwell window) into a swimming pool area at No. 23 to the east. However, noting that the stairwell is merely used for movement between the uppermost and lower floors, the privacy impacts are not deemed to be unreasonable.

This assessment has also considered to potential privacy impacts arising from the uppermost floor rear balcony adjacent to the main bedroom. It is considered that due to the low use of the area, being located adjacent to a bedroom on the uppermost floor, and the central positing of the balcony within the site, the privacy impacts are deemed to be minor and acceptable.

For the reasons outlined above, it is considered that the proposal meets this objective.

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

Comment:

The proposal is a satisfactory design that will have an acceptable impact upon the surrounding built environment.

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

Comment:

It is assumed that a sense of person and property security will be maintained.

Conclusion

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit 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 inconsistent with the principles of Crime Prevention Through Environmental Design.

**POLICY CONTROLS**

**Northern Beaches Section 7.12 Contributions Plan 2021**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$5,500 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$550,000.

**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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

## RECOMMENDATION

That Northern Beaches Council as the consent authority vary Clause 4.3 Height of Buildings development standard pursuant to clause 4.6 of the WLEP 2011 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2021/2599 for Alterations and additions to a dwelling house on land at Lot 62 DP 31553, 25 Beacon Avenue, 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>
Drawing A1 - Roof Plan	22 November 2021	Sally Gardner Design and Draft
Drawing A2 - Level 4 Plan	22 November 2021	Sally Gardner Design and Draft
Drawing A3 - Level 3 Plan	22 November 2021	Sally Gardner Design and Draft
Drawing A4 - Level 1 + Level 2 Plans	22 November 2021	Sally Gardner Design and Draft
Drawing A5 - Elevations Sheet 1	22 November 2021	Sally Gardner Design and Draft
Drawing A6 - Elevations Sheet 2	22 November 2021	Sally Gardner Design and Draft
Drawing A7 - Cross Sections Sheet 1	22 November 2021	Sally Gardner Design and Draft
Drawing A8 - Cross Sections Sheet 2	22 November 2021	Sally Gardner Design and Draft

<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 Ref. J3968	17 December 2021	White Geotechnical Group
BASIX Certificate No. A438759	13 December 2021	Sally Gardner Design and Draft

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>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	December 2021	Nolan Planning Consultants

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

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

## 2. Prescribed Conditions

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

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

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

Reason: Legislative requirement.

### 3. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

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

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

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

#### **4. Policy Controls**

##### **Northern Beaches 7.12 Contributions Plan 2021**

A monetary contribution of \$5,500.00 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 2021. The monetary contribution is based on a development cost of \$550,000.00.

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 2021 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 \$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 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.

#### **6. Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$5000.00 as security against any damage or failure to

complete the construction of stormwater drainage works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

### **7. 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 WATER MANAGEMENT for DEVELOPMENT POLICY. 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.

### **8. Pre-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/generalinformation/engine>

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure

### **9. Certification of Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification). Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted) -Structural details prepared by a suitably qualified Structural Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure

### **10. Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural



Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

11. **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.

12. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA Classification M or D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

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

13. **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

14. **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.

**15. Removing, Handling and Disposing of Asbestos**

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

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

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

**16. Survey Certificate**

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

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

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

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

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

**18. 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 Certifying Authority.

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

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

**19. Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Northern Beaches Council's Water Management for Development Policy by a suitably qualified person. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of Final Occupation Certificate.

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

development.

20. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**  
All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification). Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted) - Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure

21. **Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets)**  
The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/generalinformation/engine>

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council's acceptance of the Dilapidation Survey is to be submitted to the Certifying Authority prior to the issue of any Occupation Certificate.

Reason: Protection of Council's infrastructure

22. **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 Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management.

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

**Signed**



**Thomas Burns, Acting Principal Planner**

The application is determined on 30/03/2022, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**