

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2022/1710
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<b>Responsible Officer:</b>	Tony Collier
<b>Land to be developed (Address):</b>	Lot 5 DP 1636, 24 Oliver Street FRESHWATER NSW 2096 Lot 6 DP 1636, 24 Oliver Street FRESHWATER NSW 2096
<b>Proposed Development:</b>	Demolition works and construction of two dwelling houses
<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>	Jovan Sarai
<b>Applicant:</b>	Strategic Approvals

<b>Application Lodged:</b>	14/11/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	18/11/2022 to 02/12/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 840,950.00
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### PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent to demolish the existing dwelling and associated structures (including the swimming pool) and construct two detached two-storey dwellings with landscape works.

Both dwellings are identical and the following therefore describes the proposed works for both lots:

#### Ground Floor

- Single garage.
- Open plan Living Room/Dining and Kitchen at the rear.
- Laundry.
- Bathroom.

- Stairwell and entry hallway.

### Upper Floor

- 3 x bedrooms.
- Ensuite.
- Bathroom.
- Stairwell and hallway.

### Exterior

- Terraced landscaped works at the rear.
- Combined driveway/carparking space.

Each dwelling has a width of 4.39m and a ground floor length of 21m. The upper floor has a shorter length of 17.2m.

## **ASSESSMENT INTRODUCTION**

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

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

## **SUMMARY OF ASSESSMENT ISSUES**

Warringah Development Control Plan - B3 Side Boundary Envelope  
Warringah Development Control Plan - B5 Side Boundary Setbacks  
Warringah Development Control Plan - B7 Front Boundary Setbacks  
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting  
Warringah Development Control Plan - D6 Access to Sunlight  
Warringah Development Control Plan - D8 Privacy  
Warringah Development Control Plan - D9 Building Bulk

## **SITE DESCRIPTION**

<b>Property Description:</b>	<p>Lot 5 DP 1636 , 24 Oliver Street FRESHWATER NSW 2096</p> <p>Lot 6 DP 1636 , 24 Oliver Street FRESHWATER NSW 2096</p>
<b>Detailed Site Description:</b>	<p>The subject site consists of two (2) allotments located on the western side of Oliver Street.</p> <p>The allotments are legally known as Lot 5 in DP 1636, No. 24 Oliver Street, and Lot 6 in DP 1636, No. 24 Oliver Street.</p> <p>The identical sites are rectangular in shape with a frontage of 6.095m along Oliver Street and a depth of 43.965m and 44.14m respectively. Each site has a surveyed area of 268.1m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a single storey detached dwelling which straddles both lots. A single storey outbuilding is located at the rear of the site (which also straddles both lots). A below ground swimming pool is located on Lot 5 between the dwelling and the outbuilding.</p> <p>The site slopes gradually upward from the front boundary to the rear boundary by approximately 2.0m.</p> <p>The site contains little vegetation, the only area being concentrated within the front setback consisting of lawn and shrubs only. The rear of the site consists of hard surface area (excluding the swimming pool).</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is predominantly characterised by detached dwellings of varying age and architectural design. A three-storey walk-up flat building is located on the opposite side of Oliver Street and a community building is situated within a pocket B2 Local Centre zone further to the flat building. Entry to a ground level Council carpark (zoned SP2 Carpark) is located to the south of the community building.</p>

Map:



## SITE HISTORY

The property has been the subject of the following applications:

### PLM2022/0020

A pre-lodgement meeting was held on 29 March 2022 for demolition works and construction of two (2) dwelling houses.

The design of the proposal was two attached dwellings (as opposed to two detached dwellings) aligned in a similar manner to that proposed in the subject Development Application. The remainder of the proposal is similar to that proposed in this subject application.

The notes sent to the applicant after the meeting included the following comment pertaining to the provision of on-site carparking (which was of a similar design to the proposed development in the subject application):

*"The proposed development may be supported subject to design amendments to increase the provision of parking by providing an additional hardstand parking space per dwelling on the respective driveways. The hardstand parking space may be provided forward of the required 6.5m front building line, but must comply with the requirements of Australian Standard AS 2890.1:2004: Parking facilities - Off-street car parking in terms of size and grade".*

## 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	There are no current draft environmental planning

Section 4.15 Matters for Consideration	Comments
draft environmental planning instrument	instruments.
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 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> <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>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p>



Section 4.15 Matters for Consideration	Comments
	<b>(iii) 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.
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 18/11/2022 to 02/12/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Sebastian Andreas Schultes	22 Oliver Street FRESHWATER NSW 2096
Boston Blyth Fleming Pty Ltd	1 / 9 Narabang Way BELROSE NSW 2085

The following issues were raised in the submissions:

- Incompatibility of the existing subdivision pattern with current LEP requirements.
- Creation of undesirable precedent.
- Impact on character of the streetscape landscape elements.
- Non-compliance with Clause B3 (Side Boundary Envelope) under the WDCP 2011.
- Inconsistency with the objectives of Clause B5 (Side Boundary Setbacks) under the WDCP 2011.
- Privacy.
- Provision of car parking.
- Development not in the public interest.

The above issues are addressed as follows:

- **Incompatibility of the existing subdivision pattern with current LEP requirements**

The submissions raised concerns that

Comment:

The site legally consists of two narrow allotments which are reflective of the historical 15 lot subdivision which occurred in or around 1879 (the four allotments immediately to the north and the two allotments to the south being other such remaining examples of this subdivision).

A review of the Deposited Plan reveals that each of the 15 lots were of the same dimensions and area as the subject lots. That there are dwellings which are constructed over lot boundaries leads to an appearance of larger lot sizes in the area but this is not the case with respect to actual lot sizes and dimensions as subdivided.

Given this context, the development is considered to be in keeping with the established subdivision pattern in the area.

This issue does not warrant the refusal of the proposal.

- **Creation of undesirable precedent**

The submissions raised concerns that the development of the two lots in the form proposed would set an undesirable precedent for similar development to occur in the area, given the prevalence of similarly sized/dimensioned lots.

Comment

The local area (particularly the strip facing Oliver Street) contains a total eight (8) lots which are of the same size as the subject site. This is reflective of the original subdivision pattern in the area and is legally established.

Because of this established lot layout, there is no precedent to create beyond that which is already established in the area and that the development of each legally created lot will be assessed on its merits against the applicable controls as per this application.

This issue does not warrant the refusal of the proposal.

- **Impact on character of the streetscape landscape elements**

The submissions raised concerns that

Comment

The development would introduce 2 x two storey dwellings which are visually closer together than other dwellings in the area (noting that the two lots to the north are of similar size and dimension and accommodate two detached dwellings which are of a single storey scale). This visual appearance is reflective of the established subdivision pattern on this strip of Oliver Street and would therefore not be inconsistent.

The development would require alteration to the existing verge plantings however, this aspect has been reviewed by Council's Landscape Officer who does not raise any objection subject to condition.

This issue does not warrant the refusal of the proposal.

- **Non-compliance with Clause B3 (Side Boundary Envelope) under the WDCP 2011**

The submissions raised concerns that the proposal includes breaches to the building envelope which exacerbate building bulk and scale.

Comment

This matter has been discussed elsewhere in this report (see Clause B3 'Side Boundary Envelope' and Clause D9 'Building Bulk').

In summary, it was considered that the non-compliance was minor and supportable given that its area of non-compliance was at the front corners of each dwelling only.

This issue does not warrant the refusal of the proposal.

- **Inconsistency with the objectives of Clause B5 (Side Boundary Setbacks) under the WDCP 2011**

The submissions raised concerns that the proposal includes breaches to the building envelope which exacerbate building bulk and scale.

Comment

This matter has been discussed elsewhere in this report (see Clause B3 'Side Boundary Envelope', B5 'Side Boundary Setbacks', and Clause D9 'Building Bulk').

In summary, it was considered that the non-compliance was localised to the internally facing walls between the two dwellings. Although no impact results from this 0.1m each non-compliance, it is considered that the increase to the side setback of 0.1m each (i.e. to achieve a compliant side setback of 0.9m each) should be required and that a condition is included in the consent to address this.

This issue does not warrant the refusal of the proposal.

- **Privacy**

The submissions raised concerns that the development would impact upon visual privacy, specifically to Window W18 (being the full height window to the stairwell). The submission requests that this window comprise obscure glazing, together with all other remaining windows on the northern elevation.

Comment

This matter has been discussed elsewhere in this report (see Clause D8 'Privacy').

In summary it was considered that, on review of the plans it is reasonable to require the stairwell window to include obscure glazing and this has been included as a condition however, the remaining windows are highlighted with a sill height of between 1.6m (Bedroom 2) and 1.8m (Ensuite and Bathroom). In this regard, the proposed sill heights are of a height which is normally applied to address overlooking and further conditioning to increase the sill height or to include obscure glazing is not considered necessary.

This issue does not warrant the refusal of the proposal.



- **Provision of car parking**

The submissions raised concerns that the development would not provide the required off-street parking and that the development would result in a loss to on-street parking.

Comment

This matter has been discussed elsewhere in this report (see Clause C3 'Parking Facilities').

In summary, it was considered that the development provided the required provision of off-street parking (being 1 x vehicle in the garage and 1 x vehicle on the hardstand in a tandem arrangement). This was considered to be adequate given the narrowness of each lot.

It is accepted that the incorporation of an additional crossover would result in the loss of a parking space however, it is considered that this would potentially be taken up by the parking of a the second vehicle from the development anyway so the net loss prescribed to the development would be equitable.

This issue does not warrant the refusal of the proposal.

- **Development not in the public interest**

The submissions raised concerns that the collective issues raised with respect to the proposal suggest that the development is not in the public interest.

Comment

The issues raised in the submissions and, as addressed throughout this report, indicate that the proposal is in the public interest as it promotes development which is permitted on the two legally established lots. The degrees of non-compliance, and their resulting impacts, have been found to be minor and responsive considering the nature of the proposal and the respective lot sizes/dimensions.

This issue does not warrant the refusal of the proposal.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The application is assessed by Landscape Referral against Warringah Local Environmental Plan 2011 and the following Warringah Development Control Plan 2011 controls (but not limited to):</p> <ul style="list-style-type: none"> <li>• D1 Landscaped Open Space and Bushland Setting.</li> <li>• E1 Preservation of Trees or Bushland Vegetation and E2 Prescribed Vegetation.</li> </ul> <p>An amended Landscape Plan and a Arboricultural Impact Assessment is submitted.</p> <p>The road reserve verge supports a hedge group of existing Murraya and should the application be approved removal is recommended as</p>

Internal Referral Body	Comments
	<p>assessed in the Arboricultural Impact Assessment to facilitate new driveway crossover. The existing Cocus Palm recommended for retention should be removed. Landscape Referral shall impose conditions for street tree replacement as well as Murraya hedge replacement.</p> <p>The submitted amended Landscape Plan is noted and is satisfactory subject to imposed conditions.</p>
NECC (Development Engineering)	<p>The application is supported subject to conditions recommended. Further,</p> <p>As per AS/NZSAS 2890.1:2004, the minimum width of each proposed driveway needs to be 3m.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>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.</p>

## 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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1327942S dated 10 August 2022 (Lot 5) and 1327949S-02 dated 10 August 2022 (Lot 6)).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
<b>Water</b>	40	Lot 5: 42 Lot 6: 42
<b>Thermal Comfort</b>	Pass	Lot 5: Pass Lot 6: Pass
<b>Energy</b>	50	Lot 5: 51

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

## SEPP (Transport and Infrastructure) 2021

### Ausgrid

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

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

### Comment

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

## 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	3.8m to 7.3m	N/A	Yes

### Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

## Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall Height Lot 5 Lot 6	7.2m 7.2m	5.9m to 6.3m 5.9m to 6.3m	N/A N/A	Yes Yes
B3 Side Boundary Envelope Lot 5 Lot 6	5.0m x 45° 5.0m x 45°	Outside Envelope Outside Envelope	100% 100%	No No
B5 Side Boundary Setbacks Lot 5 Lot 6	0.9m 0.9m	0.8m to 1.7m 0.8m to 1.7m	11.1% (0.1m) 11.1% (0.1m)	No No
B7 Front Boundary Setbacks Lot 5  Lot 6	6.5m Free of carparking 6.5m Free of carparking	6.5m to 7.0m Includes carparking 6.5m to 7.0m Includes carparking	N/A 100% N/A 100%	Yes No Yes No
B9 Rear Boundary Setbacks Lot 5 Lot 6	6.0m 6.0m	16.0m to 20.1m 16.0m to 20.1m	N/A N/A	Yes Yes
D1 Landscaped Open Space (LOS) and Bushland Setting Lot 5 (Site Area: 268.1m <sup>2</sup> ) Lot 6 (Site Area: 268.1m <sup>2</sup> )	40% (107.2m <sup>2</sup> ) 40% (107.2m <sup>2</sup> )	39.1% (104.7m <sup>2</sup> ) 39.1% (104.7m <sup>2</sup> )	2.3% (-2.5m <sup>2</sup> ) 2.3% (-2.5m <sup>2</sup> )	No No

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	N/A	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

### Detailed Assessment

#### **B3 Side Boundary Envelope**

##### Description of non-compliance

Clause B3 requires development to be sited within a building envelope determined by projecting planes at 45 degrees from a height above ground level (existing) at the side boundaries of 5 metres.

The development includes a breach to the side boundary envelope at the front corners of each dwelling. The breaches, which are depicted in Plan A-9, are generated by the combined height, side setback and sloping topography at this section of the site. Considering the narrowness of each site and the proposed building footprint, the breaches are considered to be minor in terms of adding to the bulk and scale of each dwelling and their impact to adjacent private and public domains.

Nonetheless, the non-compliances are considered against the objectives of the clause as follows:

##### 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 non-compliant elements are concentrated to narrow triangles which are situated at the front of each dwelling. The triangular areas occur approximately 0.5m below the gutter then angle upwards (i.e. diminish) over a length of 6.8m. The remainder of each dwelling then achieves compliance with the building envelope.

As noted earlier, the non-compliant elements are due to the sloping topography of the site (further noting that the development attempts to achieve an average cut and fill along the length of each dwelling) and, given the lower lying rear element which is well within the building envelope, do not unreasonably add to the building bulk and scale by virtue of it becoming visually dominant as a direct result of this non-compliance.

It is considered that the development satisfies this objective.

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

Comment

The development is sited on two narrow allotments which each require (as per Clause B5) side setbacks of 0.9m.

The issue of the non-compliant side setback between the two dwellings is discussed separately under Clause B5 but it's relevant to note here that the separation between the two proposed dwellings is deficient by a total of 0.2m (i.e. 200mm).

The 0.2m deficiency amounts to 2 x 0.1m (i.e. 100mm) non-compliances along the northern side of the dwelling on Lot 5 and along the southern side of the dwelling on Lot 6. While the deficiency of 0.1m is evident, it does not impact upon the building envelope non-compliance to any significant degree and, as noted earlier, this is largely due to the slope of the site and the effect of attempting to achieve an average cut and fill (which is an attempt to mitigate the non-compliance).

In terms of the impact the non-compliant building envelope has on light, solar access and privacy between dwellings, it is noted that both dwellings have been designed to include blank walls which face each other. In this way, the issue of privacy has been satisfactorily addressed.

With respect to light and solar access, the southern dwelling on Lot 5 has windows which face east, west and south. Noting the narrowness of the dwelling, the positioning of the primary living areas benefit from morning and afternoon sun has been optimised, with the locating of ancillary rooms within the center of the dwelling. It is noted that Bedroom 2 has been positioned at the center of the dwelling however, solar access could be addressed by the inclusion of a skylight and light tube although noting that Bedrooms 1 and 3 are the most likely to be used given their front and rear orientations.

Although the above commentary discusses light and solar access, the non-compliant building envelope does not impact upon these elements as the non-compliance occurs forward of Bedroom 2. In this respect, and as noted earlier, the non-compliant building envelope does not contribute towards the level of achievable light and solar access to both dwellings.



The development satisfies this objective, subject to condition.

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

Comment

As noted earlier, the development has been sited to achieve an average cut and fill along the length of each dwelling. Instead of commencing construction at the high point at the rear (which would exacerbate the degree of non-compliance at the front), the development has been designed to respond to the topography, the limitations of each lot and its surrounding context.

The development satisfies this objective.

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

## **B5 Side Boundary Setbacks**

Description of non-compliance

Clause B5 requires development to provide a side setback of 0.9m. The development provides a side setback of 0.8m along the southern elevation of the dwelling on Lot 6 and along the northern elevation of the dwelling on Lot 5.

Merit consideration

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

- ***To provide opportunities for deep soil landscape areas.***

Comment

The non-compliance occurs along the inner side of the development (i.e. between the dwellings on Lots 5 and 6). An assessment of the provision of landscaped area reveals that the development is deficient by 2.3% (2.5m<sup>2</sup>) on each lot but a compliant side setback would not improve upon this as a 0.9m width cannot be included in the calculation of landscaped area (the minimum width is 2.0m in order to qualify).

Furthermore, a setback of 0.9m along the side of a building is usually used for access which involves installing paving rather than soft landscaping. It is noted that the space between the two dwellings (being on the southern side of the dwelling on Lot 6) will be in shadow which would limit the ability to grow any vegetation of substance.

The development is considered to satisfy this objective.

- ***To ensure that development does not become visually dominant.***

Comment

The non-compliant side setback is centrally located to the building separation between the the

two proposed dwellings and, as mentioned earlier in this report, do not include any windows which face each alternate wall. Furthermore, the side setback areas in question will not be used for any outdoor recreational purposes due to their width and location. In this regard, visual dominance is not considered to be a significant issue, particularly as the non-compliance equates to 0.1m (100mm) per dwelling and that a compliant side setback of 0.9m would not provide any additional relief.

The development is considered to satisfy this objective.

- ***To ensure that the scale and bulk of buildings is minimised.***

Comment

As discussed above, visual dominance and by implication, building bulk, is not considered to be a significant issue, particularly as the non-compliance equates to 0.1m (100mm) per dwelling and that a compliant side setback of 0.9m would not provide any noticeable additional relief to the bulk and scale of the built form.

The development is considered to satisfy this objective.

- ***To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.***

Comment

The development is sited on two narrow allotments which each require side setbacks of 0.9m which is 0.1m (100mm) greater than what is proposed.

As discussed earlier, the impact the non-compliant setback has on light, solar access and privacy between dwellings is negligible as both dwellings have been designed to include blank walls which face each other. In this respect, the issue of privacy is satisfactorily addressed.

With respect to light and solar access, the southern dwelling on Lot 5 has windows which face east, west and south. Noting the narrowness of the dwelling, the positioning of the primary living areas benefit from morning and afternoon sun has been optimised, with the locating of ancillary rooms within the center of the dwelling. It is noted that Bedroom 2 has been positioned at the center of the dwelling however, solar access could be address by the inclusion of a skylight and light tube although noting that Bedrooms 1 and 3 are the most likely to be used given their front and rear orientations.

In this respect, and as noted earlier, the non-compliant side setback of 0.1m does not contribute towards the level of achievable light and solar access to both dwellings.

The development satisfies this objective, subject to condition.

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

Comment

The non-compliant side setbacks will not have any unreasonable impact upon view sharing to and from public and private properties.

Notwithstanding the above, it is considered that the increase to the side setback of 0.1m each (i.e. to achieve a compliant side setback of 0.9m each) should be required and that a condition is included in the consent to address this.

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

## **B7 Front Boundary Setbacks**

### Description of non-compliance

Clause B7 requires the front boundary setback area to be landscaped and generally free of any structures, basements, **carparking** or site facilities other than driveways, letter boxes, garbage storage areas and fences.

The development includes a tandem parking arrangement which results in one vehicle parking in a the single garage and the second vehicle parking on the hardstand/driveway within the front setback.

### Merit consideration:

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

- ***To create a sense of openness.***

#### Comment

The non-compliance involves the parking of a vehicle on a driveway. As such, no structure is involved which would otherwise result in a loss to the sense of openness of the property when viewed from the street.

The development satisfies this objective.

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

#### Comment

Front setbacks are varied along Oliver Street and the proposed front setback of both dwelling (at 6.5m) is both compliant and consistent with the visual continuity and pattern of buildings in the area. The landscaped elements within front setbacks is also varied and it is noted that car parking on driveways and on lawns occurs within a significant number of front setback areas along the street. The proposed car parking within the front setback area is therefore, also considered to be consistent with the visual continuity and landscape elements of the local area.

The development satisfies this objective.

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

#### Comment

The non-compliance involves the parking of a vehicle on a driveway. As such, the effect will not be dissimilar to other parking arrangements in the area where vehicles park on driveways. No visible structure is proposed to be constructed within the front setback area which would otherwise impact upon the visual quality of the streetscape.

The development satisfies this objective.

- ***To achieve reasonable view sharing.***

Comment

The non-compliance is at ground level and will not have any adverse impact upon view sharing.

The development satisfies this objective.

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

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

### Description of non-compliance

Clause D1 requires development to provide 40% of the site area (i.e. 107.2m<sup>2</sup> per lot) as landscaped open space. Based upon the calculation method for landscaped open space, the development provides 104.7m<sup>2</sup> which equates to 39.1%. This represents a shortfall of 2.5m<sup>2</sup> and a variation of 2.3% per lot.

Landscaped open space is calculated as follows:

- *Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation.*
- *The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation.*
- *Landscaped open space must be at ground level (finished).*
- *The minimum soil depth of land that can be included as landscaped open space is 1 metre.*

### Merit consideration

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

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

Comment

The development provides a 6.5m front setback of which 42% consists of lawn area per lot. This enables planting to maintain and enhance the streetscape.

The development is considered to satisfy this objective.

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

Comment

It is noted that, currently, the site is largely built upon and comprises a soft landscaped area within the front setback only. The remainder of the site is building footprint or hard surface. It is

estimated that the site currently accommodates 71.34m<sup>2</sup> (i.e. 27%) landscaped area. Therefore, the development improves upon this situation by 33.4m<sup>2</sup> (12.1%) which facilitates the enhancement of indigenous vegetation and habitat for wildlife. there are no topographical features of note to preserve (such as rock outcrops etc).

The development is considered to satisfy this objective.

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

Comment

The landscape plan submitted with the application includes provision for the planting of low lying and medium height shrubs around the eastern and western perimeters of each lot.

Council's Landscape Officer has reviewed additional information received pertaining to the impact of the development on verge plantings and does not raise any objection subject to conditions.

The development is considered to satisfy this objective.

- ***To enhance privacy between buildings.***

Comment

The development has been designed to address privacy via architectural treatments rather than relying on landscaping. This is a preferred outcome as the architectural treatments are permanent as opposed to the variability of landscaping and vegetation.

The development is considered to satisfy this objective.

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

Comment

The development includes principal private open space areas at the rear of each dwelling, each of which has an area of 87.8m<sup>2</sup> and exceeds the minimum required area for private open space (refer to Clause D2 under the WDCP 2011) by 52.8m<sup>2</sup>. Therefore, the development accommodates appropriate outdoor recreational opportunities that meet the needs of the occupants.

The development is considered to satisfy this objective.

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

Comment

The development includes ample area around each allotment to accommodate service functions, including clothes drying.

The development is considered to satisfy this objective.

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

#### Comment

This aspect of the development has been reviewed by Council's Development Engineer who advises that no objection is raised subject to conditions which are included in the consent.

The development is considered to satisfy this objective subject to conditions.

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

#### **D6 Access to Sunlight**

The shadow diagrams submitted with the application have been reviewed and reveal the following degrees of shadow cast over the principal private open space area of the rear of the neighbouring property to the south on 21 June:

- 9.00am - 118m<sup>2</sup> (57.8%).
- Noon - 42.7m<sup>2</sup> (21%).
- 3.00pm - 23.8m<sup>2</sup> (11.7%).

Clause D6 requires that **"at least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21"**.

Therefore, the assessment indicates that the development satisfies the requirement of Clause D6 in that from the nominated 3 hour period between Noon and 3.00pm, the principal private open space area of the neighbouring property has access to sunlight which is greater than 50% of that area.

With respect to light and solar access, the proposed southern dwelling on Lot 5 has windows which face east, west and south. Noting the narrowness of the dwelling, the positioning of the primary living areas benefit from morning and afternoon sun has been optimised, with the locating of ancillary rooms within the center of the dwelling. It is noted that Bedroom 2 has been positioned at the center of the dwelling however, solar access could be address by the inclusion of a skylight and light tube although noting that Bedrooms 1 and 3 are the most likely to be used given their front and rear orientations.

#### **D8 Privacy**

The development includes windows along the northern elevation of Lot 6 and the southern elevation of Lot 5.

Submissions were received from the neighbouring properties to the north and south raising concerns regarding privacy. A submission refers specifically to Window W18 (being the full height window to the stairwell. The submission requests that this window comprise obscure glazing, together with all other remaining windows on the northern elevation.

On review of the plans it is considered reasonable to require the stairwell window to include obscure glazing and this has been included as a condition however, the remaining windows are highlighted with a sill height of between 1.6m (Bedroom 2) and 1.8m (Ensuite and Bathroom). In this regard, the proposed sill heights are of a height which is normally applied to address overlooking and further conditioning to increase the sill height or to include obscure glazing is not considered necessary.



As the dwellings are mirrored, the above comments apply to both dwellings on Lots 5 and 6.

## D9 Building Bulk

### Description of the Development

Clause D9 does not prescribe any numerical control to guide assessment, rather (and relevantly) the control stipulates:

- *Side and rear setbacks are to be progressively increased as wall height increases.*
- *Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.*
- *Articulate walls to reduce building mass.*

The narrowness of each lot (i.e. 6.095m each) limits the extent to which the upper floors of both proposed dwellings could be setback from side boundaries any further, and it is doubtful that any setback applied would make any fundamental difference to the visual appearance of the development.

The development is a two storey construction with the ground floor having a longer footprint than the upper floor.

The ground floor extends for a length of 21.08m which equates to 47.7% of the side boundary. The upper floor extends for a length of 17.4m which equates to 39.4% of the side boundary.

As the ground floor is largely concealed from view from neighbouring properties by boundary fencing, the upper floor will be the most visible.

Both dwellings include 2.0m wide indents on the outer edges of the northern and southern facades respectively (i.e. the facades which face neighbouring properties) which assists in breaking up the continual wall plane, particularly to the upper floor which is visible from neighbouring properties.

### Merit consideration

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

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

#### Comment

As detailed above, the development has been designed with a reduced upper floor footprint (relative to the ground floor) which assists in limiting visual impact to neighbouring properties. The design also includes 2.0m wide indentations which further limits the extent of continual wall planes.

It is considered that, given the limitations of each site, the design has attempted to achieve compliance with the majority of controls applicable. Of the non-compliances identified in this assessment, the degrees of variation are considered to be minor and supportable.

The impacts upon neighbouring properties has been considered and it is concluded that those impacts (privacy and overshadowing) are compliant with the respective controls under the

WDCP 2011.

The development, when viewed from the street, will introduce a new two storey element separated by 1.8m (subject to condition). Although closer than typical dwellings in the area, the site legally consists of two narrow allotments which are reflective of the historical 15 lot subdivision which occurred in or around 1879 (the four allotments immediately to the north and the two allotments to the south being other such remaining examples of this subdivision). A review of the Deposited Plan reveals that each of the 15 lots were of the same dimensions and area as the subject lots. Given this context, the development is considered to be in keeping with the historical intent of this row of allotments.

The development is considered to be consistent with this Objective.

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

Comment

As discussed above, the development is considered to have been designed to respond to the unique context of the site and its relationship to surrounding development.

Although a two storey build, this is not considered to be out of context to the area or the prevailing subdivision pattern along this stretch of Oliver Street. That larger dwellings have been constructed which straddle narrow lot boundaries does not necessarily represent the prevailing and less visible subdivision pattern of in this part of Oliver Street.

The development is considered to be consistent with this Objective.

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

## **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 2022**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$8,410 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$840,950.

## **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 DA2022/1710 for Demolition works and construction of two dwelling houses on land at Lot 5 DP 1636, 24 Oliver Street, FRESHWATER, Lot 6 DP 1636, 24 Oliver Street, FRESHWATER, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

#### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A-1 - Site Plan	10 August 2022	Obliq Design
A-2 - Ground Floor Plan	10 August 2022	Obliq Design
A-3 - Level 1 Floor Plan	10 August 2022	Obliq Design

A-4 - East & West Elevations	10 August 2022	Obliq Design
A-5 - North & South Elevations	10 August 2022	Obliq Design
A-6 - Sections 1-2	10 August 2022	Obliq Design
A-7 - Section 3	10 August 2022	Obliq Design

<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>
BASIX Certificate 1327942S	10 August 2022	Obliq Design
BASIX Certificate 1327949S-02	10 August 2022	Obliq Design

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
1 of 2 - DA Landscape Concept	16 January 2022 - A	Monaco Designs
2 of 2 - Landscape Details	16 January 2022 - A	Monaco Designs

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management	10 August 2022	Not provided.

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

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

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

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

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Ausgrid Referral Response	24 November 2022

(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 (Demolition):**

(a) 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 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  
(ii) 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.

(b) 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.

(c) 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.

Reason: Legislative Requirement.

#### 4. **Prescribed Conditions**

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

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

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

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

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

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

Reason: Legislative requirement.

## 5. **General requirements (Demolition):**

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- o 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) At all times after the submission a Notice of Commencement to Council, a copy of the



Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.

(c) 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.

(d) 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.

(e) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy. )

(i) 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.

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

## 6. 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 an 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.

#### 7. **Sewer / Water Quickcheck (Crown Land Only)**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

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

## FEES / CHARGES / CONTRIBUTIONS

#### 8. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$8,409.50 is payable to Northern Beaches Council for the provision

of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$840,950.00.

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

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

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

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

#### 9. **Security Bond**

A bond (determined from cost of works) of \$5,000 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.

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

#### 10. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to kerb at Oliver Street..

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

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

**11. Amendments to the approved plans**

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

- The stairwell windows on the southern elevation of the dwelling on Lot 5 and on the northern elevation of the dwelling on Lot 6 are to be installed with full-height fixed obscure glazing.
- A skylight window and/or light-tube is to be installed over the south-facing Bedroom 2 of the dwelling on Lot 5 to enable greater daylight light access into that room.
- The side setbacks between the two proposed dwellings are to be increased to 0.9m each to achieve a total building separation of 1.8m.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land and to improve internal amenity.

**12. Vehicle Driveway Gradients**

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

**13. Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

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

Reason: To facilitate suitable vehicular access to private property.

**14. Compliance with standards (Demolition):**

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 Council prior to the commencement of demolition works.

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

**15. 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.

**16. Privacy Treatments**

The windows to the stairwells of both dwellings on Lot 5 (Window W11) and Lot 6 (Window W18) are to include obscure glazing for the full surface area of each window. The obscure treatment may include glass or film. The obscure treatment is to remain installed for the life of the development.

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

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

**17. Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](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**

**18. Tree Removal Within the Property**

This consent approves the removal of existing trees within the property as recommended in the Arboricultural Impact Assessment. A qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised building works.

**19. Tree Removal Within the Road Reserve**

This consent approves the removal of the following tree(s) within the road reserve (as recommended in the Arboricultural Impact Assessment):

- i) tree number 2 (group of 5) *Murraya paniculata*, subject to street tree replacement,
- ii) and additionally tree 1 *Cocus Palm*,
- iii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services business unit prior to removal.

Reason: Public liability.



## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

### 20. **Tree and Vegetation Protection**

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

- i) all trees and vegetation located on adjoining properties,
- ii) all road reserve trees and vegetation, except where approved for removal.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Principal Certifier must ensure that:

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

Reason: Tree and vegetation protection.

### 21. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

### 22. **Removing, Handling and Disposing of Asbestos**

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

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

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

**23. Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

**24. Survey Certificate**

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

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

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

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

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

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

**25. 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.

**26. Vehicle Crossings**

The Applicant is to construct two vehicle crossing ] metres wide in accordance with Northern Beaches Council Drawing Normal High (NH) and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Certifier.

Reason: To facilitate suitable vehicular access to private property.

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

**27. Street Tree Planting**

Street tree planting shall be installed in accordance with the following:

- i) one (1) *Lophostemon confertus* located centrally within the road reserve verge, planted at a minimum pre-ordered planting size of 200 litres, and shall meet the requirements of Natspec - Specifying Trees, and planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, including a four post and top and mid rail timber tree guard, and watered until established, and shall be generally located at least 2.0 metres from driveways, and shall generally be centralised within the road verge,
- ii) three (3) *Murraya paniculata* shall be planted at a minimum 300mm pot container size and located in alignment to match the existing *Murraya* hedge planting along the streetscape.

Reason: to maintain environmental and streetscape amenity.

**28. Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan prepared by Monaco Designs, and inclusive of the following conditions:

- i) all tree planting shall be a minimum pre-ordered planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees, planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings or more, at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- ii) street tree planting shall be completed in accordance with any condition of consent, and the remaining road reserve verge shall be made good with turf to maintained thereafter.

Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape designer) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

**29. Stormwater Disposal**

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

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

30. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

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

31. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

The approved landscape area shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity

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

**Signed**



**Tony Collier, Principal Planner**

The application is determined on 31/01/2023, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**