

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0092
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Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 6 DP 659074, 1184 - 1186 Pittwater Road NARRABEEN NSW 2101
Proposed Development:	Modification of Development Consent DA2008/1216 granted for Major alterations and additions to an existing heritage building residential flat building to create 5 residential units with basement carparking and strata subdivision
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes, under State Environmental Planning Policy Coastal Management (2018)
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Jann Denise Wiggins Yadev Holdings Pty Ltd Robert Keith Wiggins
Applicant:	Yadev Holdings Pty Ltd

Application Lodged:	21/06/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	30/06/2021 to 30/07/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

EXECUTIVE SUMMARY

This assessment report is submitted to the Northern Beaches Local Planning Panel for the consideration of Modification application No. Mod2021/0092, which seeks approval to extend the basement level and modify the coastal protection works along the eastern boundary. Since the original approval in 2008, Council has adopted Northern Beaches Coastal Erosion Policy (December, 2016), which includes new specifications for coastal protection works along Collaroy-Narrabeen Beach. In

addition, as discussed in further detail under the 'Site History' section of this report, consent DA2008/1216 physically commenced on 10 September 2014, given that a construction certificate (CC) was issued prior to the lapse date of the operative consent (16 September 2014).

The application is being referred to the Northern Beaches Local Planning Panel as the previous Independent Panel (Warringah Development Assessment Panel - WDAP) determined the original development application.

The proposed modifications are to be made to a "residential flat building" as defined under the Warringah Local Environmental Plan (WLEP) 2011, which is a prohibited use in the R2 Low Density Residential zone. However, the site has Existing Use Rights for the purposes of a Residential flat buildings as per Division 4.11 of the Environmental Planning and Assessment Act, 1979.

Notification of the application resulted in no objections to the proposed development.

Based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

Modification of Development Consent DA2008/1216 granted for major alterations and additions to an existing heritage building residential flat building to create 5 residential units with basement carparking and strata subdivision. The works involve:

- Extending the basement level 10.9m to the eastern (side) boundary.
- Modifications to coastal protection works, including the construction of an engineered coastal protection wall on the eastern side of the site. The wall is a vertical design.

The engineered coastal protection wall is located at the eastern (side) boundary of the sites and is,

- 30m long (from north to south),
- 6.4m in height from the base of the pile to the top of the wall.

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 - Zone R2 Low Density Residential

Warringah Local Environmental Plan 2011 - 6.5 Coastline hazards

Warringah Development Control Plan - B5 Side Boundary Setbacks

Warringah Development Control Plan - E7 Development on land adjoining public open space

Warringah Development Control Plan - E9 Coastline Hazard

SITE DESCRIPTION

Property Description:	Lot 6 DP 659074 , 1184 - 1186 Pittwater Road NARRABEEN NSW 2101
Detailed Site Description:	<p>The site is known as Lot 6, DP 659074, Nos. 1184 and 1186 Pittwater Road, Narrabeen and is located on the south-eastern corner of the intersection of Pittwater Road and Clarke Street.</p> <p>The site is zoned as R2 Low Density under WLEP 2011 and identified as being within the 'Coastal Zone' as defined by the Coastal Protection Act 1979. The site is affected by the 'Zone of Reduced Foundation Capacity', the 'Zone of Slope Adjustment' and the 'Zone of Wave Impact', as shown on Council's Collaroy / Narrabeen / Fishermans Beach Hazard Line Maps.</p> <p>The site is irregular in shape, with a total area of the site is 1,577m². The site has two street frontages being; Pittwater Road to the west and Clarke Street to the north. The eastern boundary of the site adjoins Narrabeen Beach.</p> <p>The site currently accommodates a two storey brick and tile building with a pitched metal which was originally constructed in the early 19th century and has been extensively modified over time.</p> <p>The subject site contains a heritage item 125 listed under Schedule 5 Warringah Local Environmental Plan 2011, being the 'house'.</p> <p>The 'Conservation Management Plan' (CMP) submitted with the original application, prepared by Graham Brooks and Associates, indicates the building was originally used as a 'Coffee Palace' which contained a grocery store and accommodation. The building has since been converted into a residential flat building containing 12 dwellings. The site also accommodates a single storey corner shop (circa 1962) trading as "Cherry Blossom" which is located on the corner of Pittwater Road and Clarke Street.</p>

Currently, vehicular access to the site is gained via a 3m wide crossover from Pittwater Road which is located adjacent to the southern boundary. On-site car parking is limited to the short driveway which is capable of parking 2 to 4 vehicles in an informal arrangement.

Landscaped open space is currently provided within the building's setbacks to the eastern, western and southern boundaries. The landscaped area is predominately occupied by lawn with some trees located within the front setback to Pittwater Road.

The surrounding development is characterised by a mix of residential flat buildings, attached dwellings and detached dwellings. A single dwelling is located on the northern side of Clarke Street. Adjoining this dwelling, further north, is a residential flat building. A two storey attached dual occupancy development is located on the adjoining site to the south. One dwelling is located on the ground floor of this building and the other on the first floor. A vacant shop and single storey dwellings are located opposite the site, on the western side of Pittwater Road.

Map:



SITE HISTORY

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

DA2008/1216:

Consent granted by the former Warringah Development Assessment Panel (WDAP) for "Demolition of part of an existing heritage building and construction of alterations and additions to create five (5)

residential units with basement carparking and strata subdivision" on 15 April 2009. The consent was subject to Deferred Commencement, for matters related to conservation management. The consent was activated on 16 September 2009.

Mod2014/0068:

Consent to S4.55(2) modification granted by the former WDAP on 9 July 2014. This modification consisted of the:

- Relocation of the approved basement carpark from the front (west) portion of the site to the rear (east) portion of the site;
- Provision of a revetment sea wall located adjacent to the eastern boundary to prevent coastal erosion; and
- Relocation to the basement access stairs to suit the modification.

CC2014/0468:

A construction certificate (CC) was issued on 10 September 2014. This CC related to the seawall on the eastern boundary of the site. This seawall has been constructed, with an Interim Occupation Certificate issued for the seawall on 20 October 2016. Given that the CC was issued prior to the lapse date of the operative consent (16 September 2014), consent DA2008/1216 has physically commenced on the site.

Mod2018/0604:

Consent to S4.55(2) modification granted by Northern Beaches Local Planning Panel (NBLPP) on 3 April 2019. This modification consisted of the:

- Extending the eastern setback of the ground and 1st floor of Units 2, 4 and 5 by approximately 3m;
- Corresponding increase in the floor area of Units 2, 4 and 5 of between 32m² and 52m²;
- Enlarging the basement area adjoining the Pittwater Road frontage by approximately 117m², for storage area;
- Partial deletion of the rear path leading to the rear stairs; and
- Staging of works into three (3) components.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2008/1216, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>Consideration of whether a development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted, Justice Bignold established the following test in the <i>Moto Projects (No 2) Pty Ltd v North Sydney Council</i> (1999) 106 LGERA 289 where His Honours states:</p> <p><i>"[54] The relevant satisfaction required by s96(2)(a) to be found to exist in order that the modification power be available involves an ultimate finding of fact based upon the primary facts found. I must be satisfied that the modified development is substantially the same as the originally approved development.</i></p> <p><i>[55] The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is "essentially or materially" the same as the (currently) approved development.</i></p> <p><i>[56] The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."</i></p> <p>The applicant has provided the following justification to support their argument that the modifications are substantially the same:</p> <p><i>The proposed modifications to the previously approved development retain the approved use and the maximum height and setbacks of the building. The overall building envelope of the approved</i></p>

Section 4.55 (2) - Other Modifications	Comments
	<p><i>development will not change. Importantly, there is not likely to be any impact on surrounding development as a result of the excavation for the sea wall as it is similar to the existing approval and contained within a basement level.</i></p> <p>Reviewing the above comments and the court judgement by Justice Bignold established in the <i>Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) 106 LGERA 289</i> it is concurred that the proposed modification is consistent with the (original) consent and can be considered under Section 4.55 of the Act.</p>
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2008/1216 did require concurrence from the Director- General (Planning & Environment), in relation to the then State policy, <i>State Environmental Planning Policy No. 10 – Retention of Low- Cost Rental Accommodation</i> . However, this policy was revoked on 30 July 2009. Hence concurrence is no longer required.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of 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 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation was submitted with the original application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to Coastal and Landscaping advice.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&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 in the original consent.</p>

Section 4.15 'Matters for Consideration'	Comments
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) Environmental Impact 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) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
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.

COASTAL MANAGEMENT ACT 2016

Section 27 of the Coastal Management Act 2016 states:

27 Granting of development consent relating to coastal protection works

(1) Development consent must not be granted under the Environmental Planning and Assessment Act 1979 to development for the purpose of coastal protection works, unless the consent authority is satisfied that:

(a) the works will not, over the life of the works:

(i) unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland, or

(ii) pose or be likely to pose a threat to public safety, and

(b) satisfactory arrangements have been made (by conditions imposed on the consent) for the following for the life of the works:

(i) the restoration of a beach, or land adjacent to the beach, if any increased erosion of the beach or adjacent land is caused by the presence of the works, (ii) the maintenance of the works.

(2) The arrangements referred to in subsection (1) (b) are to secure adequate funding for the carrying out of any such restoration and maintenance, including by either or both of the following:

(a) by legally binding obligations (including by way of financial assurance or bond) of all or any of the following:

(i) the owner or owners from time to time of the land protected by the works,

(ii) if the coastal protection works are constructed by or on behalf of landowners or by landowners jointly with a council or public authority—the council or public authority,

(b) by payment to the relevant council of an annual charge for coastal protection services (within the meaning of the Local Government Act 1993).

(3) The funding obligations referred to in subsection (2) (a) are to include the percentage share of the total funding of each landowner, council or public authority concerned.

Comment:

Consistent with the findings established within *Salama v Northern Beaches Council* [2020] NSWLEC 143, it is considered that imposition of two conditions relating to financial assurances and time limited consent will be sufficient to satisfy Section 27 of the Coastal Management Act 2016 and can be viewed in full at the end of this report.

EXISTING USE RIGHTS

The use of the land as a Residential Flat Building (RFB) is a prohibited land use under the WLEP 2011. However, the site has Existing Use Rights for the purposes of a RFB as per Division 4.11 of the Environmental Planning and Assessment Act, 1979.

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 30/06/2021 to 30/07/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	No objections to proposed works. Construction is readily capable of compliance with the Building Code of Australia.
Environmental Health (Acid Sulphate)	<p>General Comments</p> <p>Geotechnical report investigates and discusses the likelihood of proposed excavation exposing potential or actual acid sulphate soils. The report determines the works can be carried out without an approved acid sulphate soils management plan with reference to criteria outlined in the <i>Acid Sulphate Management Advisory Committee Guideline</i>.</p> <p>Environmental Health find the conclusions in the report to be satisfactory, and in line with other findings for similar developments in the area. We recommend approval subject to a condition that would alter these conclusions during works.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p> <p>PLANNER COMMENT</p> <p>The recommended condition relating to new Acid Sulphate Soils or contamination evidence was imposed under MOD2014/0068. As such, this has not been included within the recommended conditions of consent to</p>

Internal Referral Body	Comments
	avoid duplication.
Landscape Officer	<p data-bbox="461 365 1038 398"><u>Additional Information Comment 03/09/2021</u></p> <p data-bbox="461 398 1273 432">Amended Landscape Plans prepared by Greenland are noted.</p> <p data-bbox="461 465 1337 544">The plans address absorption trenches in the front setback and the provision of planting to replace trees to be removed.</p> <p data-bbox="461 577 1439 745">At the rear of the site two Araucaria sp. are to be removed to enable extension of the basement and construction of new sea wall. The trees are in fair condition and not considered significant in this instance. The Landscape plan indicates replanting of native twelve trees in addition to other shrubs and ground covers.</p> <p data-bbox="461 779 1406 891">No objections are raised to the modification. Landscape Plan references will need to be updated including the following (as listed in the original consent):</p> <p data-bbox="461 925 863 958">3. Approved Landscaping Plan</p> <p data-bbox="461 958 1382 1059">Landscaping works on the site are to be undertaken generally in accordance with the Landscape Plan Drawing No. LA01C prepared by Taylor Brammer dated 23.06.2008.</p> <p data-bbox="461 1059 1433 1137">Reason: To ensure appropriate landscaped area and landscaping amenity at the final inspection stage of the development.</p> <p data-bbox="461 1171 762 1205">56. Protection of Trees</p> <p data-bbox="461 1205 1401 1305">All trees which are not listed as exempt or noxious in Warringah that are not indicated for removal on Landscape Plan Drawing No. LA01C prepared by Taylor Brammer dated 23.06.2008 are to be protected.</p> <p data-bbox="461 1384 1439 1451">Reason: Protection of existing environmental infrastructure and community assets.</p> <p data-bbox="461 1529 703 1563"><u>Original Comment</u></p> <p data-bbox="461 1563 1366 1664">The modification indicates extension of the basement to the eastern boundary, amended sea wall and relocation of stormwater dispersion trench to the front setback.</p> <p data-bbox="461 1697 1425 1798">Implications of the proposed amendments on the landscape treatments to the front and rear setbacks have not been clarified as no amended landscape plans have been provided.</p> <p data-bbox="461 1832 1401 1977">In order to assess impacts, amended landscape plans are required to ensure that the amendments can meet the requirements of the planning controls. The landscape plans are to address relevant Planning controls including:</p> <p data-bbox="461 1977 1038 2011">Zone R2 Low Density Residential Objectives</p> <p data-bbox="461 2011 839 2045">B7 Front Boundary Setbacks</p> <p data-bbox="461 2045 834 2078">B9 Rear Boundary Setbacks</p> <p data-bbox="461 2078 1129 2112">D1 Landscaped Open Space and Bushland Setting</p>

Internal Referral Body	Comments
	<p>E1 Preservation of Trees or Bushland Vegetation E4 Wildlife Corridors E7 Development on land adjoining public open space</p> <p>At this stage, the proposal is not able to be assessed due to insufficient information.</p> <p>If additional information is provided further assessment can be undertaken.</p>
NECC (Bushland and Biodiversity)	<p>The application does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values. Council's Natural Environment Unit - Biodiversity referral team has no objections to the proposed modification subject to the biodiversity related conditions provided for the previous DA consent (DA2008/1216).</p>
NECC (Coast and Catchments)	<p>This application has been assessed as complying with following policies and instruments:</p> <ul style="list-style-type: none"> • The Northern Beaches Coastal Erosion Policy • The CZMP for Collaroy-Narrabeen Beach and Fishermans Beach • WLEP 201 (Clause 6.5) • WDCP 2011 (Clause E9) <p>An independent technical assessment has confirmed that the works comply with the Collaroy-Narrabeen Beach Coastal Protection Works Specifications. The proposed works will form part of continuous coastal protection works covering multiple properties across an area of approximately 1.3km. The impact of these works to coastal processes and public access has been assessed in Collaroy-Narrabeen Beach Coastal Protection Assessment (Manly Hydraulics Laboratory and UNSW Water Research Laboratory, 2016) and addendum report (2019).</p>
NECC (Development Engineering)	<p>The proposed amendment to the stormwater plan is acceptable. The proposed piling along Clarke St may require rock anchors and will require approval from Council which has been conditioned.</p> <p>No objection to approval subject to the amendment of condition B2 of consent DA2008/1216 being amended to reflect the revised stormwater plan as follows.</p> <p>2. Approved Stormwater Plan</p> <p>The stormwater drainage works are to be generally in accordance with the drainage plan submitted by Woolacotts, drawing number 18-183 SW1 Rev F dated 09.04.2021.</p> <p><i>Reason:</i> To ensure appropriate provision for stormwater disposal arising from the development.</p>

Internal Referral Body	Comments
	<p>The following condition is to be included under the heading Conditions to be Satisfied Prior to the Issue of a Construction Certificate.</p> <p>Shoring of Councils Road Reserve or Adjoining Property (Temporary road anchors) Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.</p> <p>An application to Council for approval under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Councils road reserve. The form can be found on Council's website using the following link.</p> <p>https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/temporary-ground-anchors-road-reserve/4018-temp-ground-anchors-application-jun19.pdf</p> <p>The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges.</p> <p>Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.</p> <p>Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.</p>
NECC (Riparian Lands and Creeks)	<p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas and groundwater.</p> <p>The site is very close to Narrabeen Beach and the development must not significantly impact the biophysical, hydrological or ecological integrity of this area, or the quantity and quality of surface and groundwater flows. Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p> <p>This application, subject to conditions, is recommended for approval as it is unlikely to have an adverse effect on the integrity and resilience of the biophysical, ecological and hydrological environment of Narrabeen Beach if conditions are adhered to.</p> <p>PLANNER COMMENT</p> <p>The recommended condition relating to sediment control was imposed under the original application. As such, this has not been included within</p>

Internal Referral Body	Comments
	the recommended conditions of consent.
Parks, reserves, beaches, foreshore	Parks referral section have reviewed the plans and raise no objection to the modification.
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	The proposal has been referred to Heritage as the subject site is a heritage item
	I25 - House - 1184-1186 Pittwater Road, Narrabeen
	Details of heritage items affected
	Details of the item as contained within the Warringah inventory is as follows:
	Statement of Significance
	A rare example of a late Victorian residence, which although altered retains important original fabric. Historically the building provides evidence of 19th century development and the importance of beach-side leisure accommodation.
	Physical Description
	Two storey residential building being used as 8 flats. Rendered masonry walls & roughcast piers to verandah. Hipped tiled roof with skillion corrugated iron roof to 1st floor verandah (infilled). Original joinery details. Timber sash windows on ground level with half-round heads; original 4 panel doors with half-round fanlights; rendered mouldings around windows & doors.Substantially modified.
	Other relevant heritage listings
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
	No
	Australian Heritage Register
No	
NSW State Heritage Register	
No	
National Trust of Aust (NSW) Register	
No	
RAIA Register of 20th Century Buildings of Significance	
No	
Other	
N/A	
Consideration of Application	
The proposal seeks consent for modifications to an approved development application. Changes include rebuilding the sea wall, extending the underground car park to the rear and some internal reconfiguration. A short Heritage Impact Statement has been submitted	

Internal Referral Body	Comments
	<p>with the proposal which concludes the works are acceptable.</p> <p>The proposed works are considered to not impact upon the heritage item or its significance. The changes are either to the rear of the property, underground or located within proposed area of new work already approved. Therefore, Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of WLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? Yes Has a CMP been provided? Yes - A CMP was provided with the original development application in 2006 Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p> <p>Further Comments</p> <p>COMPLETED BY: Brendan Gavin, Principal Planner</p> <p>DATE: 9 August 2021</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Aboriginal Heritage Office	<p>In 2008, DA2008/1216 was assessed by the Aboriginal Heritage Office and the advice provided was 'Monitor for skeletal remains.'</p> <p>No sites are recorded in the current development area, however within the sandy peninsula environment there is potential for burials.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development if the modification does not do further excavation/earthworks into undisturbed ground.</p> <p>Should the modifications require further excavations, then monitoring for skeletal remains will still be advised.</p>

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 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) the development consists of any of the following:

- (i) the erection of a new building,
- (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
- (iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

As previously outlined, the proposed modification involves an expansion of the basement level and alterations to approved coastal protection works. Overall, it is considered that the proposal does not involve a substantial redevelopment or the substantial refurbishment of the approved development.

As per the definition of a residential flat building and the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are not applicable to the assessment of this application.

Accordingly, no further assessment is required with regard to the provisions of SEPP 65.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The modified works have been assessed by Council's internal and external coastal experts.

The coastal protection works will link with other protection works to the north and south that, overall, run for approximately 1.3km along Collaroy/Narrabeen beach. The proposed works will fit with this overall alignment, ensuring a contiguous wall, best suited to cause the least impact on coastal processes.

The design of the wall (a verticle piled structure) is the most appropriate for this site to both align with the adjoining coastal protection works, minimise the impact on coastal processes, and maximise the

usable space for the private property owners.

Conditions have been imposed to protect public safety, access to the beach, and Aboriginal cultural heritage.

In this regard, the works, as assessed by Council's internal and external coastal experts will not have unreasonable impacts on:

- the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
- the coastal environmental values and natural coastal processes,
- the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
- marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- Aboriginal cultural heritage, practices and places,
- the use of the surf zone.

(2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*

- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

As above, the modified works are the best fit for the circumstances of the site and the overall alignment of works along Collaroy/Narrabeen Beach, ensuring a contiguous wall, best suited to cause the least impact on coastal processes.

The impacts from the works will be managed by the conditions of consent, ensuring on-going maintenance and action in the event of a storm that causes any damage to the works.

14 Development on land within the coastal use area

- (1)
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*

- (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment:

(a) The modified works remain entirely on private land and will not impact on the public access to the beach. The works are near natural ground level at the eastern end of the subject site and will not cause unreasonable impacts to the visual amenity and scenic qualities of the coast, or any unreasonable overshadowing, wind tunnelling or the loss of views from public places to the foreshore. Conditions of consent have been included to protect public safety, access to the beach, and Aboriginal cultural heritage.

(b) The proposed works are the best fit for the circumstances of the site and the overall alignment of works along Collaroy/Narrabeen Beach, ensuring a contiguous wall, best suited to cause the least impact on coastal processes.

The impacts from the works will be managed by the conditions of consent, ensuring on-going maintenance and action in the event of a storm that causes any damage to the works.

(c) The coastal protection works will link with other protection works to the north and south that, overall, run for approximately 1.3km along Collaroy/Narrabeen beach. The proposed works will fit with this overall alignment, ensuring a contiguous wall, best suited to cause the least impact on coastal processes.

As such, it is considered that the application meets the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed works have been assessed by Council's internal and external coastal experts who have confirmed that, subject to conditions, the proposed development is not likely to cause increased risk of coastal hazards.

Overall, the proposed coastal protection works will link with other protection works to the north and south that run for approximately 1.3km along Collaroy/Narrabeen beach. The proposed works will fit with this overall alignment, ensuring a contiguous wall, best suited to cause the least impact on coastal processes and hazards.

Warringah Local Environmental Plan 2011

Is the development permissible?	No
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

Development Standard	Requirement	Approved	Proposed	Complies
Height of Buildings:	8.5m	10.3m	4.0m (Seawall)	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	Yes
5.3 Development near zone boundaries	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
6.5 Coastline hazards	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

Zone R2 Low Density Residential

The current use of the site as a Residential Flat Building is a prohibited use in the R2 Zone under WLEP2011, however the site has the benefit of Existing use Rights as a Residential Flat Building, which was confirmed as part of the assessment of the original DA and subsequent modification applications.

The modified coastal protection works are permissible under State Environmental Planning Policy Coastal Management (2018).

6.5 Coastline hazards

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

(a) will not significantly adversely affect coastal hazards, and

Comment:

The modified coastal protection works have been assessed by Council's Coastal Engineers. The

Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not significantly adversely affect coastal hazards.

(b) will not result in significant detrimental increases in coastal risks to other development or properties, and

Comment:

Conditions to ensure appropriate integration with adjoining private land have been included in the recommendation. As such, the proposal will not result in significant detrimental increases in coastal risks to other development or properties.

(c) will not significantly alter coastal hazards to the detriment of the environment, and

Comment:

The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not significantly alter coastal hazards to the detriment of the environment.

(d) incorporates appropriate measures to manage risk to life from coastal risks, and

Comment:

The development has been assessed by Council's Coastal Engineers. The Engineers have confirmed that the works, subject to conditions, are consistent with the Collaroy-Narrabeen Beach Coastal Protection Works Specifications. Therefore, Council is satisfied that the development incorporates appropriate measures to manage risk to life from coastal risks.

(e) avoids or minimises exposure to coastal hazards, and

Comment:

The coastal protection works will minimise exposure to coastal hazards through the appropriate location and integration of the works with adjoining protection works. The wall is designed to only come into effect during large coastal storms.

(f) makes provision for relocation, modification or removal of the development to adapt to coastal hazards and NSW sea level rise planning benchmarks.

Comment:

Actions required to retrofit works have been identified. These actions are recommended to be conditioned as part of a maintenance plan. Therefore, Council is satisfied that the development makes provision for relocation, modification or removal of the development to adapt to coastal hazards and NSW sea level rise planning benchmarks.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the foundations of the development have been designed to be constructed having regard to coastal risk.

Comment:

The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the foundations of the development have been designed to be constructed having regard to coastal risk.

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved*	Proposed	Complies
B1 Wall height	7.2m	9.2 maximum (within the existing building footprint) 6.3m (additions to the east and south of the heritage building)	4.0m (seawall)	Yes
B3 Side Boundary Envelope	4m (east)	No breach	No change	Yes
	4m (south)	Breach of 0.6-1m (height) x 15.5m (length)	No change	Yes
B5 Side Boundary Setbacks	0.9m (east)	19.6m (building) 11.7m (basement) 1.3m (seawall)	Nil (seawall) 0.9m (basement)	No
	0.9m (south)	2.13m (building)	No change	Yes
B7 Front Boundary Setbacks	6.5m (Pittwater Road)	8.9m (basement)	No change	Yes
	3.5m (Clarke Street)	Nil (basement/seawall)	No change	Yes (no change)
B9 Rear Boundary Setbacks	N/A (corner allotment)	N/A	N/A	N/A
D1 Landscaped Open Space and Bushland Setting	40%	763m ² or 48%	677m ² or 42%	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E9 Coastline Hazard	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

Description of non-compliance

The modified coastal protection works have a nil setback to the eastern side boundary.

The control requires a minimum of 0.9m.

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 vertical wall takes up a minimal amount of area on the site. As such, sufficient opportunities for deep soil landscaping will remain.

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

Comment:

The coastal protection works will sit close to natural ground level at the eastern end of the subject site, but will be partly visible from the beach (depending on the sand level). The wall is

designed to blend in with the sand, by using a natural sandstone finish.

While a vertical wall is not ideal from a visual impact perspective, it is the most appropriate design for this site given its existing eastern setback and allotment layout.

The proposed seawall will link up with works on Council land to the north and private property to the south. In this regard, the proposal will not become unreasonably visually dominant.

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

Comment:

The coastal protection works will sit close to natural ground level at the eastern end of the subject site (side) but will be partly visible from the beach (depending on the sand level). The wall is designed to blend in with the sand, by using a natural sandstone finish. In this regard, the scale and bulk of buildings will be minimised.

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

Comment:

The proposed works will not result in any privacy, amenity or solar access impacts to adjoining properties. In addition, the works must link up with the adjoining seawalls, otherwise outflanking would occur defeating the purpose of the coastal protection works. In this regard, a nil setback is necessary and appropriate.

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

Comment:

The coastal protection works will sit close to natural ground level at the eastern end of the subject site and will not result in the unreasonable loss of any views.

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

E7 Development on land adjoining public open space

Merit consideration:

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

- *To protect and preserve bushland adjoining parks, bushland reserves and other public open spaces.*

Comment:

The coastal protection works will assist in preserving the public beach and will link with other

neighbouring coastal protection works to form a network of coastal protection.

- *To ensure that development responds to its adjacent surroundings to preserve and enhance the natural qualities of the environment.*

Comment:

The modified coastal protection works will link with the neighbouring public and private coastal protection works. The proposed works will form part of a continuous 1.3km length of protection works and will be finished in a natural sandstone look to minimise visual impacts.

From a coastal engineering and processes perspective, this is the ideal outcome in these circumstances, given the demolition of all development on the foredune is not a reasonable proposition.

In this regard, the proposed works will be the best option to rebuild and enhance the natural qualities of this environment.

- *Development on land adjoining open space is to complement the landscape character and public use and enjoyment of the adjoining parks, bushland reserves and other public open spaces.*

Comment:

As previously discussed, the works will complement neighbouring protection works, help preserve private and public land and ensure the beach is usable for longer periods of time (due to less damage during large coastal storms).

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

E9 Coastline Hazard

Merit consideration:

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

- *To minimise the risk of damage from coastal processes and coastline hazards for proposed buildings and works along Collaroy Beach, Narrabeen Beach and Fisherman's Beach.*

Comment:

The coastal protection works will serve to minimise the risk of damage for the existing building on subject site. The works will form part of a longer contiguous protection wall along Collaroy and Narrabeen Beach.

Without these works, the subject site will have no suitable protection against erosion and storm damage and will eventually be washed into the sea. This will destabilise the neighbouring public and private land, resulting in exponentially more damage.

To ensure that development does not have any adverse impact on the scenic quality of

Collaroy, Narrabeen and Fisherman's Beaches.

Comment:

The structure is designed to blend in with the natural sand by using a sandstone colour finish. While a vertical wall is not ideal, it is the most appropriate result for this particular site. In this regard, the scenic quality of Collaroy and Narrabeen Beaches will be reasonably maintained.

- *To ensure that development does not adversely impact on the coastal processes affecting adjacent land.*

Comment:

Council's Coastal Engineers have confirmed that on their own, and when combined with the works to the north and south of the site, the development will not adversely impact on coastal processes.

- *To retain the area's regional role for public recreation and amenity.*

Comment:

The works will not limit public access to the beach and will help maintain the beach after any storm so that it is usable for longer periods for public recreation and amenity.

- *To maximise the use of existing infrastructure.*

Comment:

The works will assist in the long term protection of Pittwater Road and will, in conjunction with neighbouring coastal protection works, protect public land, public infrastructure and private properties.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 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

The existing development includes a five (5) unit residential flat building with basement carparking and coastal protection works.

The current application seeks approval to amend the approved coastal protection works and basement.

The proposed coastal protection works involve a vertical wall design that will provide a link to other protection works to the north and south. In addition, the basement will extend 10.9m to the east.

No submission were received during the notification of this proposal.

Overall, it is considered that the modification is reasonable and satisfactory on its merits.

Accordingly, the application is recommended for approval subject to the modified conditions. 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 Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2021/0092 for Modification of Development Consent DA2008/1216 granted for Major alterations and additions to an existing heritage building residential flat building to create 5 residential units with basement carparking and strata subdivision on land at Lot 6 DP 659074,1184 - 1186 Pittwater Road, NARRABEEN, subject to the conditions printed below:

A. Add Condition No.1D - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01 - RevQ: Site plan	01 September 2021	Bonus + Associates
DA02 - RevT: Basement plan	01 September 2021	Bonus + Associates
DA03 - RevU: Ground floor plan	01 September 2021	Bonus + Associates
DA04 - RevM: First floor plan	01 September 2021	Bonus + Associates
DA05 - RevL: Attic floor plan	01 September 2021	Bonus + Associates
DA06 - RevO: Elevations	01 September 2021	Bonus + Associates
DA07 - RevT: Sections	01 September 2021	Bonus + Associates
DA08 - RevP: Sections	01 September 2021	Bonus + Associates

Engineering Plans		
Drawing No.	Dated	Prepared By
CM2 - D: Sections	25 August 2021	Woolacotts
CM1 - F: Plan	25 August 2021	Woolacotts
SW1 - F: Stormwater Management Plan	09 April 2021	Woolacotts
SW3 - C: Basement Stormwater Drainage Plan	09 April 2021	Woolacotts

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Construction Management Program - Rev F	25 August 2021	Woolacotts
Stormwater Management Report - Rev D	09 April 2021	Woolacotts
Geotechnical Investigation and Acid Sulphate Soil Assessment Report	17 May 2021	Geotechnique
Coastal Assessment report	20 April 2021	Royal HaskoningDHV

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
2429.GD.01: Landscape plan	25 August 2021	Greenland Design
2429.GD.02: Landscape details and specifications	25 August 2021	Greenland Design
2429.GD.02: Landscape details and specifications	25 August 2021	Greenland Design

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

B. Modify Condition 2. Approved Stormwater Plan, to read as follows:

The stormwater drainage works are to be generally in accordance with the drainage plan submitted by Woolacotts, drawing number 18-183 SW1 Rev F dated 09.04.2021.

This to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

C. Modify Condition 3. Approved Landscaping Plan, to read as follows:

Landscaping works on the site are to be undertaken generally in accordance with the Landscape Plan Drawing No. 2429.GD.01-02 prepared by Greenland Design dated 25 August 2021.

Reason: To ensure appropriate landscaped area and landscaping amenity at the final inspection stage of the development.

D. Add Condition 28A. Shoring of Councils Road Reserve or Adjoining Property (Temporary road anchors), to read as follows:

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

An application to Council for approval under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Councils road reserve. The form can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/temporary-ground-anchors-road-reserve/4018-temp-ground-anchors-application-jun19.pdf>

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges.

Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

E. Add Condition 28B. Adherence to Natural Environment Consent Conditions, to read as follows:

All biodiversity-related conditions of consent under previous development applications are to be adhered to, including DA2008/1216, unless amended by these biodiversity-related conditions of consent.

Reason: To protect biodiversity values.

F. Add Condition 28C. Access for construction and maintenance of works, to read as follows:

The works are to be designed and constructed in accordance with the access requirements outlined in the Collaroy-Narrabeen Beach Coastal Protection Works Design Specifications 2016. Details demonstrating compliance with this requirement are to be prepared by a suitably qualified coastal engineer and submitted to the certifying authority for approval prior to issue of the Construction Certificate.

Reason: To ensure suitable access for construction and maintenance of coastal protection.

G. Add Condition 28D. Crest Level, to read as follows:

Suitable drawings and design certification to confirm the crest level of the coastal protection works coincides with the adjacent ground level must be provided. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To maintain existing ground levels.

H. Add Condition 28E. Permanent lateral restraint to coastal protection works - to read as follows:

Suitable drawings and design certification to demonstrate that adequate permanent lateral restraint will be provided by the basement floor and roof, taking into account an appropriate design scour level must be provided. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure structural stability of the works.

I. Add Condition 28F. Northern Beaches Council Collaroy-Narrabeen Beach Coastal Protection Works Design Specifications, to read as follows:

Confirmation that the design of the works complies with the Northern Beaches Council Collaroy-Narrabeen Beach Coastal Protection Works Design Specifications must be provided. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure compliance with the Northern Beaches Council Collaroy-Narrabeen Beach Coastal Protection Works Design Specifications.

J. Modify Condition 56. Protection of Trees, to read as follows:

All trees which are not listed as exempt or noxious in Warringah that are not indicated for removal on Landscape Plan Drawing No. LA01C prepared by Taylor Brammer dated 23.06.2008 are to be protected.

Reason: Protection of existing environmental infrastructure and community assets.

K. Add Condition 58A. Safety requirements under storm conditions, to read as follows:

Works are not to be placed during storm conditions unless the owner/s obtains a written opinion from a suitably qualified coastal engineer that the placement of the works under these conditions does not present a significant safety risk to any person or will result in damage to the beach. This opinion is to be kept by the landowner until the works are completed. If adverse weather conditions are forecast, the works site is to be made safe (where practical) to avoid the dispersal of equipment and debris onto the beach and into the surf zone.

Reason: To ensure the safety of workers and the public during construction.

L. Add Condition 58B. Sand, to read as follows:

No sand excavated from the beach seaward of the subject properties to construct the works is to be placed landward of the protection works before, during or after construction. All such sand shall be placed seaward of the works. The sand shall be screened to remove unsuitable material as required.

Reason: To avoid damage to the beach.

M. Add Condition 58C. Removal of unsuitable material, to read as follows:

Unusable materials found within the area of excavation and not utilised in the construction of the works will be required to be removed. Confirmation of this requirement is to be provided to Council by the engineer supervising the works.

Reason: To ensure that all unsuitable material is removed from the beach.

N. Add Condition 58D. Site Supervision, to read as follows:

A suitably qualified coastal engineer is to be employed to review and check the work of the construction contractor for the duration of the approved works.

Reason: To ensure appropriate construction of the coastal protection works.

O. Add Condition 70A. Surveys During Works and Post Completion Survey, to read as follows:

A declaration by a registered surveyor is required as evidence that all construction has been effected in accordance with the Development Consent, approved plans and specifications in the Consent. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to approval of an occupation certificate. Survey plans and a declaration are to be provided to Council on issue of the Occupation Certificate.

Reason: To ensure accurate location of coastal protection works.

P. Add Condition 70B. Maintenance Management Plan for Coastal Protection Works, to read as follows:

A Maintenance Management Plan (MMP) is to be prepared for the maintenance of the coastal protection works for their intended design life. The MMP is to be prepared by a suitably qualified coastal engineer and is to be approved by Council in writing prior to issue of the construction certificate. The

MMP must be complied with at all times.

The MMP may be modified from time to time by the agreement of all landowners at the time and with the approval of Council. These modifications to the MMP must also be made (if necessary) each time the design life is extended in accordance with condition 36. This is to ensure the MMP continues to be suitable in perpetuity.

Reason: To ensure a plan is in place for the on-going maintenance of the works prior to the start of construction and at each extension of the design life.

Q. Add Condition 70C. Maintenance Obligations and Public Safety - to read as follows:

The owners of 1184, Pittwater Road, Narrabeen must provide an irrevocable bank guarantee (or other suitable legally binding obligation) to Council prior to the issue of any construction certificate in the amount of \$1000 per lineal metre of work (based on the length of the seaward property boundary) to undertake maintenance of the coastal protection works in the event that they are damaged as a result of coastal storm, including to undertake any works required to remove any threat to public safety arising from the coastal protection works including the removal of debris, that has become dislodged from the coastal protection works approved under this consent, from the public beach and adjacent public land, and to implement the Maintenance Management Plan (MMP).

In this condition "maintenance" means the restoration of the works to a standard in accordance with the approved plans and specifications following any damage caused by a coastal storm, and implementation of the MMP.

The bank guarantee (or other suitable legally binding obligation) is to be replenished if drawn upon and increased to allow for Consumer Price Index (CPI) every 10 years from the date of establishment.

The bank guarantee (or other suitable legally binding obligation) is to be in the favour of Council. The funds may be accessed by the owners, for the undertaking of works referred to in this condition and in the approved MMP, with the written consent of Council.

The bank guarantee is to be released to the landowners at the time, if the coastal protection works are removed.

Reason: To satisfy the requirements of Section 27 of the Coastal Management Act 2016 and to ensure that the coastal protection works will not pose any significant threat to public safety.

R. Add Condition 70D. Restoration of sand, to read as follows:

Sand, shaped to a natural profile, is to be restored seaward of the works, once construction is completed. Sand from the public beach may be used for this purpose. Details are to be provided to the Principal Certifying Authority prior to the issue of the Occupation Certificate. These details are to be provided to Council on issue of the Occupation.

Reason: To limit the impact of the works on the visual quality of the beach.

S. Add Condition 70E. Certification of works, to read as follows:

The constructed coastal protection works are to be certified by a suitably qualified coastal engineer as being constructed in accordance with the approved design and performance criteria. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to approval of an occupation certificate. This certification is to be provided to Council on issue of the Occupation

Certificate.

Reason: To ensure appropriate design and construction of coastal protection works.

T. Add Condition 73A. Ongoing maintenance of the Coastal Protection Works and public safety, to read as follows:

The coastal protection works must be maintained in accordance with the Development Consent, conditions, approved plans and specifications as outlined in this consent. The maintenance must be to a standard that does not compromise the protection or integrity of the adjoining land. Appropriate arrangements to allow sufficient access to the works in the event that maintenance is required are to be maintained in accordance with the Maintenance Management Plan of the Coastal Protection Works.

Any debris on the beach resulting from damage or failure of the coastal protection works must be rectified by the owner or owners of the works that are the source of the damage, as part of maintaining the works as per condition No. 70C of this consent. If required, the financial arrangements established in condition No. 70C of this consent may be utilised in accordance with any written consent that may be issued by Council.

Reason: To satisfy the requirements of Section 27 of the Coastal Management Act 2016 and to ensure that the coastal protection works will not pose any significant threat to public safety.

U. Add Condition 73B. Post storm inspection, to read as follows:

After any storm event that exposes any part of the coastal protection works to damage, that impacts the support or performance of the works, the owners are to procure, at their cost, inspections by a suitably qualified coastal engineer of the coastal protection works. A detailed report is to be provided by this coastal engineer and any recommendations within the report are to be undertaken as soon as reasonably practicable after necessary approvals are obtained, if required.

Reason: To ensure the coastal protection works are maintained after a storm event.

V. Add Condition 73C. Removal of debris, to read as follows:

The owners must obtain all necessary approvals and then remove debris from any adjoining public land if part of the coastal protection works is dispersed onto that land, with such removal to be done as soon as reasonably practicable to the satisfaction of Council and, if necessary, the Crown, at no cost to Council. If required the financial arrangements established as part of this consent may be utilised in accordance with any written consent that may be issued by Council.

Note: Debris will be taken to have been deposited from the coastal protection works seaward of 1184 - 1186 Pittwater Road, Narrabeen if found on public land within a line extending from either longitudinal boundary to the mean low water mark, and it is evident that the debris has originated from the approved works or from within the subject properties.

Reason: To ensure the safety of the public beach.

W. Add Condition 73D. Time limited consent, to read as follows:

The consent operates for 60 calendar years from the date of the issue of the occupation certificate and such other period as may be extended with the written approval of Council in accordance with the following.

A minimum of three (3) years prior to the date of 60 years after the issue of the occupation certificate for the development, the owner/s shall procure, at no cost to Council, a Review Report, by a suitably qualified independent coastal engineer.

The report must review the performance of the coastal protection works using the evidence and coastal hazard predictions known at that time. The report must consider whether:

- (a) The coastal protection works are satisfactory in their current state and do not result in a threat to public safety, in which case the report can recommend an extension to the consent, or
- (b) Upgrades to the coastal protection works are recommended to ensure they will not result in a threat to public safety to extend the consent for a further period of time, or
- (c) Removal and replacement of the coastal protection works with an alternative design is recommended to ensure they do not result in a threat to public safety, or
- (d) Demolition and removal of the coastal protection works in the interest of public safety is recommended.

The Review Report shall be submitted to Council for approval not later than twelve (12) months prior to the date of 60 years after the issue of the occupation certificate in the first instance, or 12 months prior to the end of such other period identified in any written approval from Council, in accordance with this condition.

If the Review Report concludes that the coastal protection works is satisfactory in accordance with (a) above, and Council accepts the findings of the report, Council will, in writing, approve an extension of the term of the development consent for the period recommended in the Review Report, or such lesser time as Council considers appropriate.

If the Review Report recommends any upgrades or alterations to the coastal protection works in accordance with

(b) above, those upgrades must be dealt with under the planning laws at that time.

If the Review Report recommends removal and replacement of the coastal protection works with an alternative design in accordance with (c) above, the replacement coastal protection works will be the subject of a further development application for consent to Council, if required by the planning laws at that time. For the avoidance of doubt, nothing shall oblige the owners to replace the coastal protection works if they instead choose to remove the works at the expense of the owners.

If the Review Report recommends demolition and removal of the coastal protection works in the interest of public safety, such removal will be undertaken by the owners at their own expense, and within such reasonable time period required by Council.

Any written approval from the Council extending the period of operation of this consent is to be recorded on the s10.7 Planning Certificate for the land and Council's register of development consents.

A further Review Report will be provided to Council a minimum of twelve (12) months prior to the end of any extended period notified identified in writing by the Council in accordance with this condition, with the above process repeated for such extension.

In the event that,

- The Council does not accept the recommendations of the Review Report (including an amended or replacement Report) in writing, or
 - The Council fails to provide written notification of its acceptance of the recommendations within the Review Report within 12 months of lodgement of the Review Report, or
 - An application for the continued use, upgrade or replacement of the works is made,
- this consent will continue to operate until any application to modify this condition, or for the continued

use or upgrade or replacement of the coastal protection works, or any proceedings seeking review of the refusal of Council to accept the recommendations, has been finally determined by Council or the Court.

Any application, proceedings or appeal, must be lodged within 6 months of Council's decision to not accept the findings of the Review Report or Council's failure to notify of its acceptance of the Review Report, whichever is the later.

Note: This continued operation or extension may need to be facilitated by a formal application to modify the consent having regard to the planning laws at the time.

Reason: The development application indicated the Coastal Protection works have a design life of 100 years; to satisfy the requirements of Section 27 of the Coastal Management Act 2016, and to provide a mechanism to review the works and extend the operation of the consent.