

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/1395
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<b>Responsible Officer:</b>	Catriona Shirley
<b>Land to be developed (Address):</b>	Lot 36 DP 25164, 45 Earl Street BEACON HILL NSW 2100
<b>Proposed Development:</b>	Alterations and additions to a Dwelling house
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Peter Joseph Conduit
<b>Applicant:</b>	Rapid Plans Pty Ltd

<b>Application Lodged:</b>	06/12/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	19/12/2019 to 24/01/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	3
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 788,800.00
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### PROPOSED DEVELOPMENT IN DETAIL

The proposal includes the alterations and additions to an existing dwelling house.

The works include the following:

#### Lower Ground Floor

- New rumpus and bathroom
- Access stairs
- Rear entry

#### Ground Floor

- Internal reconfiguration
- New entry area
- New double garage
- New laundry and bathroom
- New rear decking

#### First Floor

- Internal reconfiguration
- New master, en-suite and walk in robe
- Two new rear decks

#### External

- New front fence and arbour
- New swim spa
- New roof over the rear decked area.

After a planning assessment and inspection of the subject and adjoining sites, it was identified that there were concerns with the proposal relating to visual privacy and overshadowing. As a result, the applicant submitted updated plans that amended the first floor rear deck areas, and changed the roof form of the rear cabana. The planning assessment below has been undertaken on the submitted amended plans.

### **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 - 6.4 Development on sloping land  
Warringah Development Control Plan - B1 Wall Heights

Warringah Development Control Plan - B3 Side Boundary Envelope  
Warringah Development Control Plan - B9 Rear Boundary Setbacks  
Warringah Development Control Plan - D8 Privacy  
Warringah Development Control Plan - D13 Front Fences and Front Walls

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 36 DP 25164 , 45 Earl Street BEACON HILL NSW 2100
<b>Detailed Site Description:</b>	<p>The site is identified as Lot 35 in Deposited Plan 25164, and is known as 45 Earl Street Beacon Hill. The site is located within the R2 Low Density Residential zone of the Warringah Local Environment Plan 2011.</p> <p>The site is regular in shape, and is approximately 579.7sqm in size. The front boundary to Earl Street measures 18.29m, with eastern and western side boundaries measuring 31.7m, and the southern rear setback measuring 18.29m.</p> <p>The site has a gentle slope from the north-east to the south of over 2.78m.</p> <p>The site currently contains a <i>Angophora costata</i> subsp. <i>costata</i> located at the rear of the existing dwelling. This tree has high significant biodiversity value and is to be retained as part of the proposal.</p> <p>The site currently contains an existing two storey dwelling house, with a decked area within the rear setback area of the site.</p> <p>Surrounding sites consist of one and two storey dwelling houses, of varying ages, within a landscape setting.</p>

Map:



## SITE HISTORY

A search of Council's records has revealed the following relevant development applications:

- Development application **DA2019/0469** for the alterations and additions to a dwelling house including spa was lodged with Council on the 13 May 2019. The application was subsequently withdrawn on the 23 July 2019 due to significant planning concerns regarding the overall building height, wall height, and the extent of side boundary envelope encroachment. The application also failed to provide an Arborist Report with sufficient detail on the large *Angophora costata* subsp. *costata* located at the rear of the property.

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

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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 of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been</p>

Section 4.15 Matters for Consideration'	Comments
	addressed via a condition of consent.  Clause 98 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 of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	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 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Mrs Dorothy Rose McIlroy	47 Earl Street BEACON HILL NSW 2100
Matthew Paul Hiller	42 Mary Street BEACON HILL NSW 2100



Name:	Address:
Withheld	BEACON HILL NSW 2100

The following issues were raised in the submissions and each have been addressed below:

- **Building Height**
- **Solar Access**
- **Privacy**
- **Bulk and Scale**
- **Noise**
- **Precedent**
- **Stormwater**
- **Illumination**
- **Vegetation on the site**
- **Loss of income from Secondary Dwelling**
- **Property Value**

The matters raised within the submissions are addressed as follows:

- ***Concern was raised from neighbouring properties that the excessive building height of the proposal will have unreasonable amenity impacts, including reduced solar access.***

Comment:

The overall height of the development is predominantly below the permitted building height at 8.4m and is representative of a two storey development when viewed from properties to the east and west (along Earl Street) and a three storey development when viewed from properties to the west (Mary Street).

Due to the topographical nature of the site and the local area, the resulting variety of built forms along Earl Street and the overall compliance of the development to the standard does not unreasonably conflict with the height and scale of surrounding and nearby development. In this context, the proposed height of the additional works is compliant and considered to be compatible.

The matters of privacy and solar access are addressed elsewhere in this report (refer to Clauses D7 and D8 of the WDCP 2011).

In summary, it has generally been found that the development does not result in any unreasonable loss to privacy or solar access.

The issue does not warrant refusal of the application.

- ***Concern is raised that the development will result in the overshadowing to the eastern and southern adjoining properties.***

Comment:

The development includes amended shadow diagrams which have been prepared by Rapid Plans.

The amended shadow diagrams (due to the change in roof design of the rear cabana) indicate that the development will cast additional shadow over the neighbouring property to the east (No.

43 Earl Street) and south (No.44, No.46, and No.48 Mary Street).

However, it is noted that the extent of shadow cast complies with the requirements of this clause in that, at least 50% of the principle private open space area at the rear of the neighbouring properties will have access to direct sunlight for a minimum of 3 hours on 21 June (ie: between 9.00am and 3.00pm).

In summary, the assessment found that the development complied with the requirements of the control and did not warrant the refusal of the application.

- ***Concern is raised that the development will result in a significant loss of privacy to the rear private open space area, particularly with respect to the proposed windows and two deck areas on the First Floor.***

Comment:

The development includes three windows along the first floor of the eastern side elevation which face the side elevation of the neighbouring property at No. 47 Earl Street. Windows W7, W8 and W9 are proposed to include clear glass and have sill heights of 1.6m and will not have any adverse impact upon privacy from direct overlooking.

There are no additional windows on the western elevation.

The rear elevation includes additional windows, doors and decks that face south and service the Master Bedroom, a Family Room, Bathroom and Bedroom 4. The window servicing the bathroom displays a sill height of 1.6m, with a sill height of 0.9m servicing the Family Room. It is not considered that unreasonable overlooking is created by the addition of these windows, particularly due to the location being over 9m from the rear boundary, as per the rear setback control.

Due to the elevation above ground level and direction of the rear balconies servicing the First Floor Bedrooms, overlooking opportunities into the principal private open space area of the neighbouring properties to the east and west (which also includes a swimming pool) could occur. Therefore, it is considered that a fixed privacy screen should be installed to prevent downward viewing into these areas. An appropriate condition is imposed to address this matter.

The privacy impacts to the rear adjoining property in this instance is considered reasonable as the balconies are located over 9.8m from the rear setback which exceeds the 9.0m requirement, of limited size (i.e. 1m in width) and adjoining bedrooms (which are rooms regarded by the NSW Land and Environment Court as being of lesser impact than dedicated living rooms).

This issue does not warrant the refusal of the application.

- ***Concern is raised in regards to the visual impact of the bulk and scale of the proposed dwelling house.***

Comment:

The alterations and additions to the existing two storey dwelling house are not inconsistent with the scale of surrounding development. The application has been assessed against the provisions of Clause D9 Building Bulk and found to be consistent with the objectives and requirements of that clause.

The appropriateness of the height and bulk of the development is considered to be consistent with the planning principle established in the Land and Environment Court case *Flashing v*

Randwick Council [2007] NSWLEC 428.

The design is not considered to be offensive in that it presents as an obvious visual departure from the character of the area or that it represents something other than a dwelling house.

This issue does not warrant the refusal of the application.

- ***Concern has been raised that the additional deck areas and swim spa will create unreasonable noise impacts on adjoining neighbours.***

Comment:

The acoustic level within the subject site and designated recreational areas would be consistent with the established current low density residential living. A condition will be included that requires the existing deck area that sits within the rear setback to be amended and provide a 2m distance to the rear setback. The swim spa filter will also be conditioned to be located in a sound proof enclosure and not emit noise over 5dba above background noise at the nearest residential boundary.

This issue does not warrant the refusal of the application.

- ***Concern has been raised that approval of the proposed development would set a precedent within the area.***

Comment:

The suburb of Beacon Hill, and in particular Earl Street has a significant number of larger dwelling houses with associated structures (swimming pools etc.) within landscaped gardens. It is noted that this proposal will have an excavated level (Lower Ground Floor) which will be the base for the dwelling and the upper levels will be sit above this level (Ground Floor and First Floor).

The dwelling additions conforms to the building height, side setback, front boundary setback, rear boundary setback and landscape open space controls of the WLEP 2011 and WDCP 2011. The variations to the wall height and building envelopment are considered reasonable and satisfy the objectives of corresponding controls of the WDCP 2011. Given the scale, size and predominant nature of the existing housing stock in this locality, it is considered that the dwelling and development will be compatible with surrounding dwellings in the locality and will not set a precedent.

Given the above, it is considered that the proposal development is compliant with the relevant built form controls of the WLEP 2011 and WDCP 2011 and that this issue does not warrant refusal.

- ***Concern has been raised in regards to the stormwater design of the proposal.***

Comment:

The proposal includes a stormwater drainage network for the site to manage stormwater, Council's Development Engineers have assessed the stormwater management system proposed for the site as being satisfactory and applied appropriate conditions to ensure no unreasonable impact from overland flow.

This issue has therefore been addressed by detailed design plans and engineering conditions and does not warrant refusal of the application.

- ***Concern has been raised that the illumination of the proposed development will have adverse impacts on a neighbouring dwelling.***



Comment:

Concern has been raised that the new glazed windows and doors will create unreasonable light spill. The internal light spill is considered to be reasonable and consistent with a low density residential living.

There is no external lighting proposed as part of this application, and no specific requirements within the applicable planning controls in regards to the placement of lighting.

However, a condition will be included in the consent that all outdoor lighting is to be directed away from the adjoining property boundaries and must comply with Australian Standard AS/NZS 4282 'Control of obtrusive effects of outdoor lighting'.

This matter does not warrant refusal of the application.

- ***Concern is raised that over pruning of the mature tree on the subject site will be undertaken.***

Comment:

The proposal includes an Arborist Report with recommendations for the management of trees on the subject site. Council's Landscape Officers have assessed the subject site, with the Arborist Report and consider that the tree management proposed for the site is satisfactory and has applied appropriate conditions to ensure no unreasonable impact to the retained trees.

This issue has therefore been addressed by the Arborist Report and landscaping conditions and does not warrant refusal of the application.

- ***Concern is raised that the development will reduce the income of a neighbouring secondary dwelling.***

Comment:

This issue of property income is not a planning matter which can be addressed under the provisions of Section 97C of the Environmental Planning and Assessment Act (EP&A Act).

Appropriate conditions are included within the consent to assist the timely progress of development work and ensure timings and phases of construction are conducted in an orderly manner with minimal disruption to neighbours and road users.

Additionally, appropriate conditions are also included to maintain the amenity of neighbouring properties with regard to construction site access, sediment and erosion control, tree protection, noise and hours of construction.

This issue does not warrant the refusal of the application.

- ***Concern is raised that the development will reduce property value.***

Comment:

This issue of property value is not a planning matter which can be addressed under the provisions of s.97C of the EP&A Act.

This issue does not warrant the refusal of the application.

## REFERRALS

Internal Referral Body	Comments
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Internal Referral Body	Comments
Landscape Officer	<p>The Arborist's Report submitted with the application is noted.</p> <p>The Arborist's Report assesses impacts on a mature <i>Angophora costata</i> subsp. <i>costata</i> located at the rear of the existing dwelling. The impacts on the <i>Angophora</i> are considered acceptable in relation to AS4970-2009 Protection of Trees on Development Sites, subject to tree protection conditions.</p> <p>No objections to approval, subject to conditions.</p>
NECC (Development Engineering)	<p>The existing driveway crossing is to remain which is acceptable. Stormwater disposal to be in accordance with the Water Management Policy which has been conditioned. No objection to approval, subject to conditions as recommended.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.A346247\_03 and 14 October 2019). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No.A346247\_03 and 14 October 2019).

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

Commitment	Required Target	Proposed
Water	40	Pass
Thermal Comfort	Pass	Pass
Energy	50	Pass

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

### SEPP (Infrastructure) 2007

#### Ausgrid

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

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

#### Comment:

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

### Warringah Local Environmental Plan 2011

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

#### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.4m	-	Yes

#### Compliance Assessment

Clause	Compliance with Requirements

Clause	Compliance with Requirements
6.4 Development on sloping land	Yes

#### Detailed Assessment

#### **6.4 Development on sloping land**

A Preliminary Geotechnical Assessment, prepared by White Geotechnical Group, Report Number J2135, dated 16 April 2019 was submitted with the application. This report and its recommendations are included within the conditions of consent to ensure there is no adverse impacts to the surrounding properties resulting from the proposal on sloping land.

#### **Warringah Development Control Plan**

##### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	5.7m - 7.1m East 7.2m - 7.3m West	- 1.3%	Yes <b>No</b>
B3 Side Boundary Envelope	4m	Diminishing triangle for a length of 10.4m for a height of up to height of 1.3m	32.5%	<b>No</b>
	4m	Height of up to 1.9m for a length of 2.1m	47.5%	<b>No</b>
B5 Side Boundary Setbacks	0.9m East	0.9m Garage 0.9m Ground Floor Dwelling 1.9m First Floor Dwelling 1.9m First Floor Deck	- - - -	Yes Yes Yes Yes
	0.9m West	1.4m Ground Floor Decking 1.4m First Floor Dwelling 1.4m First Floor Decking	- - -	Yes Yes Yes
B7 Front Boundary Setbacks	6.5m	6.5m Garage 8.9m Ground Floor Dwelling House 7.5m First Floor Dwelling	- - -	Yes Yes Yes
B9 Rear Boundary Setbacks	6m	10.9m (existing) Ground Floor	-	Yes
		8.8m Ground Floor Balcony	-	Yes
		10.9m First Floor	-	Yes
		9.8m First Floor Balcony	-	Yes
		2m Swim Spa	66.6%	<b>No</b>
		1.4m Cabana Roof	76.6%	<b>No</b>
		1.1m Rear Deck	81.6%	<b>No</b>
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	41% (238.6sqm)	-	Yes

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
Part B Built Form Controls	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C9 Waste Management	Yes	Yes
Part D Design	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
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	No	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
Part E The Natural Environment	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E10 Landslip Risk	Yes	Yes

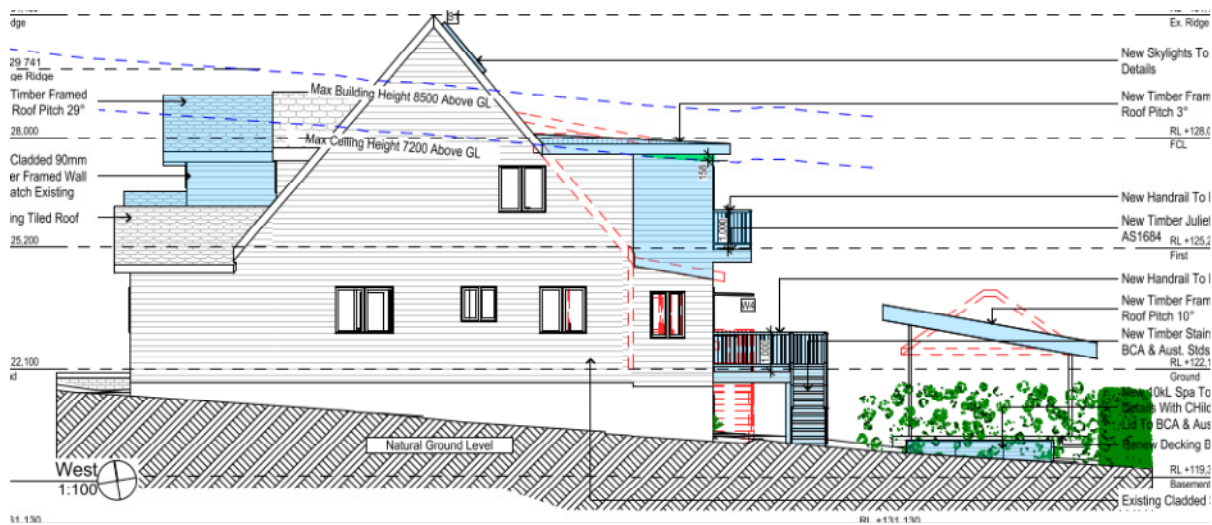
#### Detailed Assessment

### **B1 Wall Heights**

#### Description of non-compliance

The development proposes a wall height of between 7.2m and 7.3m on the western elevation, see Figure 1.

The non-compliance corresponds with the slope of the site and the siting of the existing house.



**Figure 1.** Non-compliant wall height on the western elevation shown in green.

Merit consideration:

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

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

Comment:

The extent of the non-compliance up to (0.1m) is considered to be minor when compared to a compliant wall height, and a compliant wall height would not result in any notable improvement to the overall visual appearance of the development.

Notwithstanding, because of the minor nature of the breach and that it does not extend for the full length of the side wall, the non-compliance does not unreasonably offend the visual appearance of the development by resulting in an unreasonable bulk and scale when viewed from adjoining properties and streets.

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

Comment:

The overall height of the new building works is between 4.9m and 8.4m - both of which are compliant with the Height of Buildings Development Standard. In this regard, the building will maintain a height which would be generally beneath the existing tree canopy level.

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

Comment:

The development will not have an unreasonable impact upon view sharing from



neighbouring public and private properties.

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

Comment:

The impact of the non-compliant element is minimised due to the slope of the site which diminishes the wall height to compliance. The reducing effect of the non-compliance will not have any unreasonable impact on adjoining or nearby properties.

The shadow diagrams have been tested against a normally compliant wall height, where it was found that the extent of overshadowing cast over adjoining properties would not be reduced to a point where any net gain would be achieved within their private open space area.

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

Comment:

The development, at the section of the building where the non-compliance occurs, uses the existing building footprint at the lower ground and ground floor levels. Therefore, any addition above these levels would result in a slight variation to achieve the required floor-to-ceiling heights.

There is no notable excavation works occurring which would unreasonably impact upon the natural landform.

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

Comment:

The development includes a gable roof form at the front of the dwelling and a flat roof form at the rear of the dwelling that is generally compatible with other roof forms in the local area (which consists a mix of pitched, gabled and flat roof forms).

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and 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.

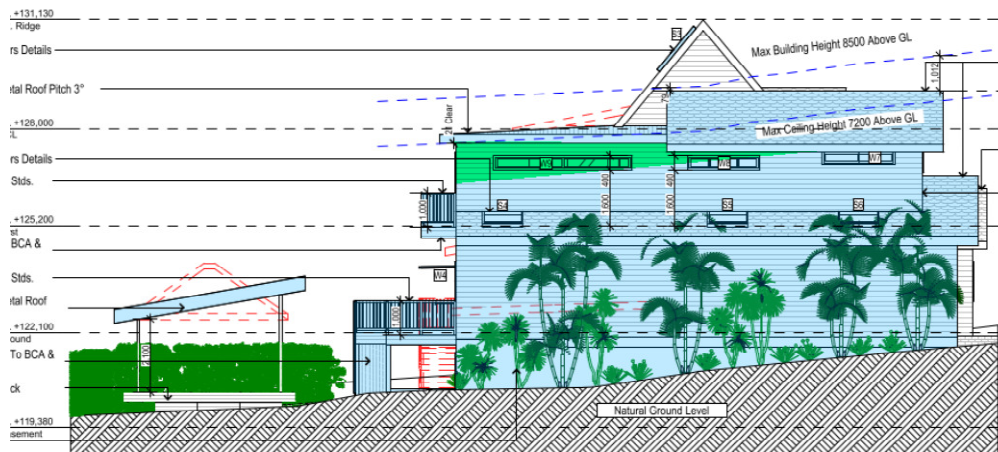
### **B3 Side Boundary Envelope**

Description of non-compliance

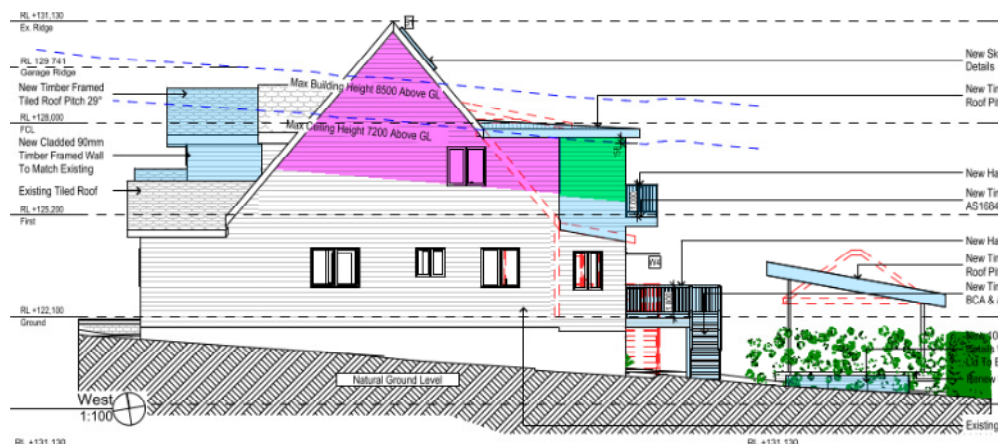
The non-compliant areas occur along the eastern and western side elevations demonstrated in Figure 2 and 3 below.

It is noted by comparison with the existing built form that the building already included a level of noncompliance to the western side boundary envelope as demonstrated in Figure 3.

The development increases the level of non-compliance of the western side wall due to the new extension to the first floor.



**Figure 2.** Eastern building envelope non-compliance shown in green.



**Figure 3.** Building envelope non-compliance for the existing building shown in pink and the additional non-compliance shown in green.

### 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:

Due to the presence of existing walls, the breach to the building envelope most notably occurs at the south-east and south-west corner of the building where the slope of the site is most acute and the existing floor levels of the dwelling are sited 1.4m above natural ground level.

The breach to the eastern side is not as noticeable due to a smaller variation and the prevalence of the larger side setback.

With respect to the western part of the development, the elements are well recessed back from the street and, due to the angle of the building, would not be noticeable from the street. The breach to the First Floor on the western elevation correlates to the sloping topography of the site, achieves a scale which relates to the bulk and scale surrounding residential development, and does not offend the visual relationship to the western neighbouring site.

Therefore, the proposal satisfy the objective.

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

Comment:

As noted above, the non-compliant element on the western elevation is located towards the rear of the building. In this regard, the non-compliant elements do not unreasonably diminish the provision of solar access to neighbouring properties, particularly given that these elements are situated well below the compliant building height.

As discussed under Clause D8 - Privacy later in this report, the development includes additional windows and additional deck areas at the rear of the dwelling. However, it is considered that the envelope breach does not have an unreasonable impact upon the privacy of the eastern or western adjoining properties, nor to the properties adjoining the rear of the subject site.

The spatial separation between the proposed dwelling and the two neighbouring dwellings at No. 43 and No 47 Parr Parade are reasonable (i.e. 1.9m and 1.4m respectively) and the non-compliant elements do not visually reduce that separation.

It is noted that there are new windows proposed within the eastern elevation have been treated with sill heights of 1.6m to minimise potential overlooking.

There are no additional windows on the western elevation. The First Floor balcony will be conditioned to provide fixed privacy screens at a height of 1.6m to prevent direct overlooking into private open space of the properties to the east and west. The screens will be conditioned to be angled such that downward viewing is not achievable but permits a horizontal line of sight across the neighbouring properties.

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

Comment:

The development is founded within and upon the framework of the existing building and does not introduce elements which result in the building conflicting with the topography of the site.

With the exception of the extension to the First Floor, the overall form the building will remain the same as that previously existing. The extension to the first floor is not considered to compromise the topographical relationship of the dwelling to the slope of the site.

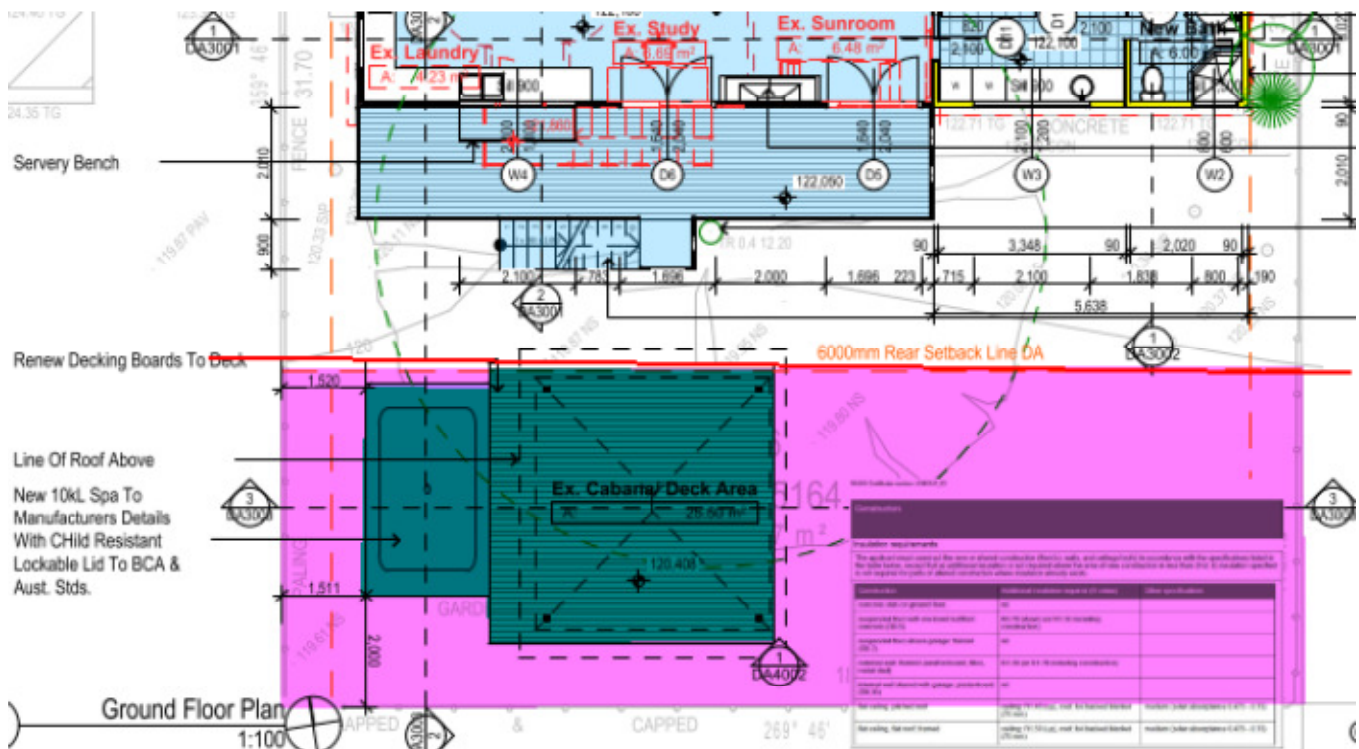
Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported,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

## B9 Rear Boundary Setbacks

### Description of non-compliance

The proposal has located a swim spa, deck and associated roof within the rear setback.

The swim spa and decking makes up 30% of the total rear setback area as shown in figure 4 below. Therefore, the proposal complies with the DCP requirement that such ancillary structures to a dwelling *"must not exceed 50% of the rear setback area"*.



**Figure 4.** Rear setback area shown in pink, portion of the rear setback area containing the swim spa and cabana shown in green.

However, a condition will be applied to require the decked area and associated roofing to be located a minimum of 2m from the rear setback to ensure the objectives of the rear setback are met.

### 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 opportunities for deep soil landscape areas are maintained.

### Comment:

The development has been found to comply with the overall Landscape Open Space requirement of 40% by providing 41% (238.6m<sup>2</sup>). Notwithstanding, the rear setback area achieves an average depth of 8.7m which ensures opportunities for deep soil landscape areas to be maintained.

The conditioned distance of 2m from the rear setback for the swim spa, and decked area will allow additional area for deep soil landscaping to provide vegetative privacy screening.

The development satisfies this objective.

- *To create a sense of openness in rear yards.*

Comment:

The swim spa and decking makes up 30% of the total rear setback area, and therefore, complies with the DCP requirement that such ancillary structures to a dwelling "*must not exceed 50% of the rear setback area*". Consequently, the proposed swim spa, and conditioned deck and associated roofing will have no additional adverse impact on the openness of the rear yard.

The development satisfies this objective.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

The swim spa, rear deck and associated roofing are to be located a minimum of 2m from the rear setback, and is screened by the paling fencing for both of the side and rear boundaries, with garden bed areas to ensure adequate privacy for the rear adjoining property. The location of the swim spa, and conditioned rear decking area is consistent with neighbouring built form in the rear setback area and low density residential living.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

The rear setbacks of existing swimming pools and outbuildings which surround the site vary from 2m (No. 43 Earl Street) to approximately 1m (No. 47 Earl Street). Swimming pools and built structures in the rear setback area are common in the vicinity of the site, and often a dominant feature.

Therefore, the conditioned rear setback of 2m for the swim spa and the roofed deck area is consistent with the existing pattern of buildings in the rear setback.

As noted above, the conditioned 2m setback for the decking element improves the proposed the bulk or scale and does not conflict with the visual continuity and pattern of buildings, rear gardens and landscape elements of the visual catchment.

The development is considered to satisfy this objective.



- *To provide opportunities to maintain privacy between dwellings.*

Comment:

The existing vegetation, side and rear boundary fences will continue to provide a reasonable level of privacy for the occupants of the subject site and those of adjoining 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 section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **D8 Privacy**

### Merit consideration

The development includes two new First Floor rear deck areas. The two decks service the Master Bedroom and Bedroom 4 and extend 1m from the rear wall of the upper level.

Given the elevation and distance from the side boundaries (i.e. 1.9m from the eastern boundary and 1.4m from the western boundary) the decks have the potential to overlook into the rear private open space area of surrounding sites.

However, the overlooking is not considered unreasonable due to the limited size of the deck areas (being 1m in depth) and that the rooms the decks services are bedrooms (which are rooms regarded by the NSW Land and Environment Court as being of lesser impact than dedicated living rooms).

However, the deck areas serve a purpose beyond that which the Court considered to be typically intended for bedroom use and the proposal is considered against the underlying Objectives of the Control as follows:

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

Comment:

As discussed above, the development includes a rear elevated decks which will overlook the principal private open space area of the neighbouring properties at No. 43 and No. 47 Earl Road.

Although servicing bedrooms, the decks are designed to be used as an outdoor area in which to actively stand and/or sit (i.e. not sleep).

Therefore, it is considered appropriate to require screening to be installed along the eastern and western side edge of the decks to mitigate overlooking opportunity (and the perception of being overlooked) especially to the swimming pool at No. 43 Earl Street. The screening is to be louvered, spaced and angled such that downward viewing is not achievable but permits a distant horizontal line of sight across the neighbouring properties.

There is currently a existing degree of overlooking to No. 46 Mary Street. However, the overlooking in this instance is considered reasonable as the balconies are located over 9.8m from the rear setback which exceeds the 9.0m requirement, of limited size ( i.e. 1m in width) and



adjoining bedrooms which are considered low usage rooms.

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

Comment:

The development has designed the decks to be only 1m in width to reduce the extent of usable area to prevent unreasonable overlooking. However, as discussed above, the inclusion of a privacy screen along the eastern and western edge of the rear decks is considered necessary to minimise the overlooking of the private open space and swimming pool area at No. 47 Earl Street, and private open space of No. 43 Earl Street.

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

Comment:

The development provides for the personal and property security for occupants and visitors.

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.

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

#### Description of Noncompliance

The proposal includes a minor upgrade of the existing front fence, by installing an new open style picket fence vehicle access gate to a maximum height of 1.8m, a new pedestrian entry gate of 1.2m and a upgraded arbour entry at 2.2m.

Earl Street includes a range of fencing types, with the dominant streetscape being for timber fences or low open style front fencing. There are situations of higher fencing that have occurred fronting Earl Street, however these higher styles of front fencing along this section of Earl Street are not a dominant style.

Due to the maximum height of up to 2m for the vehicle entry gate and arbour, a merit assessment is undertaken below.

#### 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 fencing, terracing and retaining walls are compatible with the existing streetscape character while creating visual interest in the public domain.*

Comment:

A site visit and review of the plans indicates that the timber slat fencing is consistent in construction and height with existing fences along the street and in the area overall. The adjoining property No. 43 Earl Street, also displaying a arbour measuring up to approximately 2m in height.

The Warringah DCP encourages low open style of front fencing with more than 50% of the structure being open (gaps), the proposed fencing. The proposed fencing will demonstrate this requirement with a high element of visual openness (transparency).

Therefore, the proposed fence upgrades the site frontage, allows for casual surveillance to the site, and thereby increases visual interest in the streetscape overall.

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

Comment:

The proposed timber fence with incorporated landscaped zones provides a design solution for safety and security for the occupants, whilst improving the overall outlook of the built environment.

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

Comment:

The proposed timber slatted fence has appropriate spacing and visual openness that will not result in the "walling in" of the street.

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 effect threatened species, populations or ecological communities, or their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

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

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

A monetary contribution of \$7,888 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$788,800.

## **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;

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

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/1395 for Alterations and additions to a Dwelling house on land at Lot 36 DP 25164, 45 Earl Street, BEACON HILL, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

#### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan DA1003	24/02/2020	Rapid Plans
Demolition Ground Floor DA1006	24/02/2020	Rapid Plans
Demolition First Floor DA1007	24/02/2020	Rapid Plans
Excavation and Fill Plan DA1008	24/02/2020	Rapid Plans
Basement/Lower Ground Floor DA2001	24/02/2020	Rapid Plans
Ground Floor Plan DA2002	24/02/2020	Rapid Plans
First Floor Plan DA2003	24/02/2020	Rapid Plans
Roof Plan DA2004	24/02/2020	Rapid Plans

Sections 1 & 3 DA3001	24/02/2020	Rapid Plans
Section 2 DA3002	24/02/2020	Rapid Plans
Section 4 & 5 DA3003	24/02/2020	Rapid Plans
Ground Floor and Section Drive DA3004	24/02/2020	Rapid Plans
East and North DA4001	24/02/2020	Rapid Plans
West and South DA4002	24/02/2020	Rapid Plans
Front Fence & Ground Floor DA4003	24/02/2020	Rapid Plans

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Preliminary Geotechnical Assessment	16/04/2019	White Geotechnical Group
Arboricultural Impact Assessment	30/07/2019	Temporal Tree Management

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Landscape Plan DA1011	24/02/2020	Rapid Plans

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

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

## 2. Prescribed Conditions

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

demolition work is being carried out, but must be removed when the work has been completed.

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

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

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

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

Reason: Legislative requirement.

### 3. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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



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

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

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2008
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$7,888.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$788,800.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash

contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

#### **5. Security Bond**

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

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

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

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

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

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

#### **6. Stormwater Disposal from Low Level Property**

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's "Warringah Water Management Policy PL 850" in particular the Stormwater Drainage from Low Level Properties Technical Specification. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's "Warringah Water Management Policy PL 850" are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

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

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

- a) The swim spa pump is to remain in a sound proof enclosure and is to not emit noise over 5dba above background noise at the nearest residential boundary.
- b) The rear decked area and associated roofing of the (cabana) is to be located a minimum of 2m from the rear boundary setback.
- c) A privacy screens is to be constructed on the eastern elevation of the First Floor balcony servicing the Master Bedroom. The privacy screen is to have a minimum height of 1.6 metres above the finished floor. The privacy screens shall be of louver style construction (with a maximum spacing of 20mm) which are positioned horizontally to prevent downward viewing of the private open space area of No. 47 Earl Street and in materials that complement the design of the approved development.
- d) A privacy screens is to be constructed on the western elevation of the First Floor balcony servicing Bedroom 4. The privacy screen is to have a minimum height of 1.6 metres above the finished floor. The privacy screens shall be of louver style construction (with a maximum spacing of 20mm) which are positioned horizontally to prevent downward viewing of the swimming pool/private open space area of No. 43 Earl Street and in materials that complement the design of the approved development.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

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

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

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

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

Reason: To provide public and private safety.

#### 9. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

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

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

#### 10. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

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

**11. Sydney Water "Tap In"**

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

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

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

**12. Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

**13. Tree protection**

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

14. **Project Arborist**

- i) A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works.
- ii) The Project Arborist is to oversee all tree protection measures, pruning and works impacting Tree 1 *Angophora costata* subsp. *costata* as outlined in the Arboricultural Impact Assessment dated July 2019 prepared by Temporal Tree Management Pty Ltd and AS4970-2009 Protection of trees on development sites.
- iii) The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: To ensure protection of vegetation proposed for retention on the site.

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

15. **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.

16. **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.

17. **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 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 Certifying Authority.

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

**18. Waste Management During Development**

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

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

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

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

**19. Stormwater Disposal**

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

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

**20. Waste Management Confirmation**

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

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

**21. Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING**



**THIS POOL** has been installed.

- (e) Signage showing resuscitation methods and emergency contact
- (f) All signage shall be located in a prominent position within the pool area.
- (g) Swimming pools and spas must be registered with the *Division of Local Government*.

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

Reason: To protect human life (DACPLF09)

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

**22. Outdoor Lighting**

All outdoor lighting on the western boundary is to be directed away from the adjoining property boundaries and must comply with AS/NZS 4282 'Control of obtrusive effects of outdoor lighting'.

Reason: to maintain the amenity of the adjoining properties.

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

**Signed**



**Catriona Shirley, Planner**

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



**Rodney Piggott, Manager Development Assessments**