

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1716
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Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 20 DP 218395, 23 Reynolds Crescent BEACON HILL NSW 2100
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Natali Maja Calci
Applicant:	Michael Lescesin

Application Lodged:	30/12/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	14/01/2021 to 28/01/2021
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 110,000.00
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PROPOSED DEVELOPMENT IN DETAIL

Development consent is sought for the alterations and additions to the existing dwelling house and use of unauthorised works. The architectural plans submitted with the application distinguish between the building work that has been carried out without consent (and which development consent for use only is sought) and new building work for which development consent for construction is sought.

Consent for 'use' of unauthorised works comprise of:

- on the lower ground floor – new door opening to front part of the eastern façade and new highlight window opening to the northern façade; and
- on the upper ground floor – new door opening to front part of the eastern façade and new highlight window opening to the northern façade, new entry awning and increase wall height by 500 mm and

new roof frame

- Excavation works, new concrete slab and wall opening at the rear of the dwelling

The owner has made an application for a building information certificate (BC2020/0229) under section 6.23 of the EP&A Act to regularise these unauthorised work. The application is yet to be determined.

The proposed new building works (not yet constructed) consist of:

- Installation of doors in openings on the lower and upper ground floors on the eastern façade, placement of window frames and glass in highlight windows on the lower and upper ground floors on the northern façade;
- Installation of roof tiles;
- Raised steps to rear yard level;
- Raising existing boundary fence by 400mm
- New basement store room to rear of dwelling, including concrete slab and construction of double skin concrete block wall all below ground level (existing);
- Filling of rear yard above basement store room and associated landscaping; and
- New screen planting to rear south and south western boundary.
- Conversion of garage/store room into bedroom

It should also be noted that the works for the approved Complying Development Certificate (CDC2020/0978) for alterations and additions to an existing dwelling and swimming pool are currently under construction. The submitted plans clearly differentiate that which has been approved under CDC and that which is proposed under his Development Application. This Application will assess only the additional works proposed (not the works approved under CDC2020/0978).

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 - 6.2 Earthworks
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - C7 Excavation and Landfill
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D15 Side and Rear Fences

SITE DESCRIPTION

Property Description:	Lot 20 DP 218395 , 23 Reynolds Crescent BEACON HILL NSW 2100
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Reynolds Crescent.</p> <p>The site is regular in shape with a frontage of 20.12m along Reynolds Crescent and a depth of 29.3m. The site has a surveyed area of 561.8m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a under construction two storey dwelling house and swimming pool approved under Complying Development Certificate (CDC2020/0978).</p> <p>Prior to the works commencing for CDC2020/0978, the site had a fall of approximately 3.0m from the western (rear) boundary to the eastern boundary (street frontage). However, excavation works (both approved in CDC2020/0978 and unauthorised excavation works at the rear) have rendered the existing site relatively level.</p> <p>The site does not contain any significant trees or natural features.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one an two storey dwelling houses of varying architectural styles.</p>

Map:



SITE HISTORY

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

- **CDC2020/0322** - Complying Development Certificate for the alterations and additions to an existing dwelling and swimming pool - Approved 26 May 2020
- **DA2020/1077** - Development Application for alterations and additions to an existing dwelling - Withdrawn 26/11/2020
- **DA2020/1315** - Development Application for alterations and additions to an existing dwelling consisting of a proposed storeroom and raised rear yard finished level - In progress - Withdrawn 26/11/2020
- **BC2020/0229** - Building Information Certificate (149D Unauthorised) Excavation works; construction of concrete slab; construction of roof frame; window and door openings; awning over entry patio - In progress
- **CDC2020/0978** - Modification to Alterations & additions to an existing dwelling and swimming pool - 2019/431/02Mod - Approved 14 December 2020

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) –	Draft State Environmental Planning Policy (Remediation of Land)

Section 4.15 Matters for Consideration'	Comments
Provisions of any draft environmental planning instrument	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)(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&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 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 clause is not relevant to this 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 a geotechnical report.</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 of 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 clause is not relevant to this application.</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 of 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 of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Planning & Design, dated 25 September 2020) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 14/01/2021 to 28/01/2021 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 2 submission/s from:

Name:	Address:
Mr James David Bailey	18 Boyer Road BEACON HILL NSW 2100
Mrs Fiona Costa	19 Reynolds Crescent BEACON HILL NSW 2100

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

- **Privacy**

Comment:

The proposed development is acceptable in relation to privacy for the reasons detailed in the section of this report relating to Section D8 Privacy of the Warringah DCP. In summary, the proposal results in reasonable levels of privacy to adjoining properties subject to recommended conditions.

- **Overshadowing**

Comment:

Concern was raised by the property to the west (No.18 Boyer Road) with regards to overshadowing associated with raised fence level and the proposed landscaping on the rear boundary. As discussed within Section D15 (Side and Rear Fences) of this report, as no owners consent from the adjoining properties has been submitted for the alteration of the existing rear boundary fence, the proposed changes to this fence are not permitted. A condition is recommended to ensure a fence is constructed wholly on the subject property adjacent to the western boundary to be 1.8m above proposed finished ground level. This fence is to run the entire length of the proposed rear garden. This would result in the fence being a height ranging from 1.62m to 1.97m as viewed from No.18 Boyer Road. Given the orientation of 18 Boyer Road and the 2.5m spatial separation between the fence and dwelling, the resulting overshadowing impacts are not considered unacceptable in this instance.

Additionally, concern was raised by the property to the west (No.18 Boyer Road) and the property to the south (No.25 Reynolds Crescent) regarding the proposed overshadowing created by the proposed screen planting. Conditions have been imposed by Council's Landscape Officer restricting the height of the proposed screen planting to maintained at a height no higher than 3 metres. Furthermore, conditions have been imposed requiring the nominated *Waterhousia floribunda* tree planting at the rear of the property shall be deleted and replaced with a smaller canopy tree. These conditions are considered to appropriately mitigate adverse overshadowing impacts.

The proposal would comply with the requirements of Clause D6 (Access to Sunlight) which requires at least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.

- **Unclear on fence details**

Comment:

Concern was raised insufficient details in relation to the proposed fence alterations. This has been detailed in the section of this report relating to Section D15 Side and Rear Fences of the Warringah DCP. In summary, the Applicant has not provided owners consent from the adjoining properties for the alteration or removal of the existing boundary fence. The removal or alteration of existing fencing located along the shared boundaries is covered by the Dividing Fences Act 1991 and requires agreement between the affected property owners, which has not been provided. As such, a condition is to be imposed that no alteration to the existing boundary fencing is permitted.

A condition is recommended to ensure a fence is constructed wholly on the subject property adjacent to the southern and western boundaries to be 1.8m above proposed finished

ground level.

- **How landscaping will remain in confines of boundary**

Comment:

The proposed planting is proposed to be within the property boundaries. Any overhanging vegetation would be a civil matter between the property owners. Planting along rear and side rear is considered to be reasonable in this instance subject to conditions for maintenance of hedging at 3m in height and the substitution of the *Waterhousia floribunda* with a smaller canopy tree. This issue is not considered to warrant a refusal of the application

- **Retaining wall to support excavation in breach of CDC.**

Comment:

Concern was raised with the the short-term stability of the shoring of boundaries associated with the unauthorised excavation works on site. Following these concerns, temporary shoring measures have been implemented and have been certified by a geotechnical engineer. These existing earthworks have been sought to be regularized through a submitted Building Information Certificate (BC2020/0229). The application has been investigated with respect to aspects relevant to the Building Certification by Council's Building Control Officer (responsible for Building Information Certificate BC2020/0229) who has no objections to approval of the development.

The remaining earthworks seeking consent as part of this Development Application, primarily consisting of fill, have been reviewed Council's Development Engineer and Water Management Officer, who have raised no objection to the application subject to recommended conditions. A geotechnical report has also been submitted with the Development Application (J2960D - White Geotechnical Group dated 15 February 2021) and states that:

"the proposed development is suitable for the site. No geotechnical hazards will be created by the completion of the proposed development provided it is carried out in accordance with the requirements of this report and good engineering and building practice."

The recommendations of this report are to be conditioned as part of any consent.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Landscape Officer	<p>The application is assessed by Landscape Referral against Warringah Development Control Plan 2011, including but not limited to the following clauses:</p> <ul style="list-style-type: none"> • D1 Landscaped Open Space and Bushland Setting <p>The site is under construction and supports no existing trees nor</p>

Internal Referral Body	Comments
	<p>vegetation. A Landscape Plan is provided and requires mortification to ensure that the completed landscape works are able to satisfy clause D1, including the provision of at least 1 metre planter depth for on slab in order for such areas to be assessed as Landscaped Area, and additional planting to soften the built form.</p> <p>Landscape Referral raise no objection to the proposal subject to conditions of consent.</p>
NECC (Development Engineering)	No objections to approval subject to conditions as recommended.
NECC (Water Management)	<p>The proposal decreases the impervious area of the lot, therefore water quality controls are not required. Regardless, the applicant is encouraged a sediment control pit at the boundary (SP2) to capture coarse sediments and organic matter prior to discharge of stormwater from the land.</p> <p>It is not expected that any work for the swimming pool will intercept groundwater.</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>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</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.A400157 dated 16 December 2020).

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	7.6m	N/A	Yes

Compliance Assessment

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

Detailed Assessment

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and
- (b) to allow earthworks of a minor nature without requiring separate development consent.

Significant earthworks have been undertaken on the subject site without development consent. Temporary shoring measures have been implemented and have been certified by a geotechnical engineer for these works. These existing earthworks have been sought to be regularized through a submitted Building Information Certificate (BC2020/0229). The application has been investigated with respect to aspects relevant to the Building Certification by Council's Building Control Officer (responsible for Building Information Certificate BC2020/0229) who has no objections to approval of the development.

The remaining earthworks seeking consent as part of this Development Application, primarily consisting of fill, have been reviewed Council's Development Engineer and Water Management Officer, who have raised no objection to the application subject to recommended conditions. A geotechnical report has

also been submitted with the Development Application (J2960D - White Geotechnical Group dated 15 February 2021) and states that:

"the proposed development is suitable for the site. No geotechnical hazards will be created by the completion of the proposed development provided it is carried out in accordance with the requirements of this report and good engineering and building practice."

The recommendations of this report are to be conditioned as part of any consent.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of an suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of an suitable quality.

(f) the likelihood of disturbing relics

Comment: The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

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 s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

6.4 Development on sloping land

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:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective and therefore, Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	5.8m	N/A	Yes
B3 Side Boundary Envelope	4m (N)	Within Envelope	N/A	Yes
	4m (S)	Within Envelope	N/A	Yes
B5 Side Boundary Setbacks	0.9m (N)	1.7m	N/A	Yes
	0.9m (S)	Nil (access stairs and fill)	100%	No
B7 Front Boundary Setbacks	6.5m	6.0m (windows, roof and wall extension) 6.2m (awning)	7.7%	No
B9 Rear Boundary Setbacks	6m	1.1m (Retaining Wall) 2.3m (Basement Store Room)	83.1%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (224.72sqm)	18.49% (103.85sqm)	53.8%	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

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	No	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	No	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

Description of non-compliance

This control requires development to be setback from the side boundaries at a minimum distance of 0.9m.

The proposed development generally achieves compliance with the side setback control, except for the proposed access stairs along the southern boundary which would have a nil setback.

Merit consideration

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

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

Comment:

Landscaped open space is discussed below in Section D1 of this report. In summary, the encroachment into the side boundary setback area does not result in any unreasonable loss of deep soil area from the pre-existing site conditions. Further, Council's Landscape Officer has reviewed this application and raised no concern with the proposal, subject to conditions. As such, the proposal will not impact upon the existing deep soil areas of the site.

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

Comment:

The nature of the non-compliance is minor and does not present as visually dominant to the street frontage and adjoining properties.

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

Comment:

As above, the nature of the non-compliance is minor and does not create an unreasonable bulk and scale.

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

Comment:

Subject to recommended conditions for fencing along the southern boundary, the proposed access stairs would not result in amenity impacts to adjoining land. This matter is discussed further in section D8 and D15.

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

Comment:

The proposed access stairs will not impact upon views currently enjoyed by the subject site and adjoining properties.

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

B7 Front Boundary Setbacks

Description of non-compliance

Clause B7 of the WDCP 2011 stipulates that development is to be setback at least 6.5m from the front boundary. The proposed works would be 6.0m from the front boundary, non-compliant with the numeric control. This represents a 7.7% variation to the numeric control.

It is important to note the the proposal would maintain the existing front setback of the dwelling.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

The proposal would maintain the existing front setback of the dwelling. The addition in height, change in roof form and entry awning is not considered to unreasonably impact the openness of the site. Sufficient spatial separation is provided from the front boundary to provide a built form that consistent with the character of the street.

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

Comment:

The proposal will maintain the visual continuity of the existing built structures on the site as viewed from the street. The existing landscaping within the front setback (as approved within CDC2020/0978) is minimally disturbed and will ensure the works within the front setback do not dominate the dwelling when viewed from Reynolds Crescent. Overall, it is considered that the proposed works will reasonably maintain visual continuity between surrounding buildings and landscape elements.

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

Comment:

The design of the proposal will successfully achieve a reasonable level of openness within the front setback, while maintaining the visual continuity of buildings and landscape elements on site. It is considered, that the proposed works within the front setback will not unreasonably affect the visual quality of the surrounding streetscape, as there are still opportunities within this setback area to incorporate adequate landscaping to soften the built form. Therefore, the proposal is compatible with the established and future streetscape of Reynolds Crescent.

- *To achieve reasonable view sharing.*

Comment:

The front setback non-compliance does not contribute to the view loss.

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 proposed rear basement retaining wall and storeroom is non-compliant with the 6.0m rear setback control, with a minimum setback of 1.1m and 2.3m respectively.

It should be noted that prior to the construction of CDC2020/0978 and the carrying out of unauthorised excavation works, the rear yard was a completely paved area with the exception of a swimming pool, i.e the rear yard did not contain any landscaping.

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:

Landscaped open space is discussed below in Part D1 of this report. In summary, the encroachment into the rear boundary setback area does not result in any unreasonable loss of deep soil area from pre-existing site conditions (prior to unauthorised works). The proposal would increase areas for planting provided within the rear setback. Further, Council's Landscape Officer has reviewed this application and raised no concern with the proposal, subject to conditions.

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

Comment:

The proposed basement would be below natural ground level. No additional structures are proposed on top of this garden area. Hence, a sense of openness would be maintained.

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

Comment:

The basement storeroom would not result in amenity impacts to adjoining land. Existing and proposed boundary fencing and proposed landscaping would maintain privacy between buildings. This is discussed further within Section D8 of this report.

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

Comment:

The proposed basement storeroom would be below ground level, with the proposed fill on top

of this structure resulting in the finished floor level of the rear yard area being at a similar level to that of adjoining properties. No additional structures are proposed on top of this area. Therefore, the rear setback would visually appear as lawn area with an adjoining pool. As such, the proposal is considered to maintain the existing visual continuity and pattern of buildings, which is characterised by lawns and pools.

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

Comment:

This is discussed further within Section D8 of this report. In summary, subject to recommended conditions, the privacy impacts are considered to be reasonable within a residential environment.

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.

C7 Excavation and Landfill

As discussed within Section 6.2 of this report, significant earthworks have been undertaken on the subject site without development consent. Temporary shoring measures have been implemented and have been certified by a geotechnical engineer for these works. These existing earthworks have been sought to be regularized through a submitted Building Information Certificate (BC2020/0229). The application has been investigated with respect to aspects relevant to the Building Certification by Council's Building Control Officer (responsible for Building Information Certificate BC2020/0229) who has raised no objections to approval of the development.

The remaining earthworks seeking consent as part of this Development Application, primarily consisting of fill, have been reviewed Council's Development Engineer and Water Management Officer, who have raised no objection to the application subject to recommended conditions. A geotechnical report has also been submitted with the Development Application (J2960D - White Geotechnical Group dated 15 February 2021) and states that:

"the proposed development is suitable for the site. No geotechnical hazards will be created by the completion of the proposed development provided it is carried out in accordance with the requirements of this report and good engineering and building practice."

The recommendations of this report are to be conditioned as part of any consent.

The remaining earthworks proposed as part of this application, primarily consisting of fill over a basement level within the rear garden. This fill would result in a raised rear yard level (RL115.420). This raised garden level, although approximately 1.0m above natural ground level (pre-excavation) would be relatively consistent with the ground level of adjoining properties.

Furthermore, given the proposed location of the earthworks at the rear of the site, the proposal is not considered to have an adverse impact on the streetscape. In order to ensure that there are no adverse impacts on the adjoining neighbours, conditions have been imposed which:

- Ensure structural adequacy of landfill and excavation work;
- Ensure the Waste Management Plan is adhered to;
- Ensure the Geotechnical report is adhered to;
- Ensure the proper installation and maintenance of sediment and erosion control;
- Ensure topsoil is stockpiled on site and stabilised during construction works;
- Advise no works are permitted on adjoining land;

The proposal has also been assessed by Council's Landscape Officer and Water Management Officer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions.

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.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The proposed development provides 18.49% or 103.85m² of the site area as landscaped area.

The control requires 40% or 224.72m² of the site area to be provided as landscaped area.

Warringah Local Environmental Plan defines landscaped area as "*a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.*" Furthermore, clause (D1 Landscaped Open Space and Bushland Setting) specifies that roofed areas are excluded from the calculation. Therefore, when determining the landscaped area of the site, the proposed landscaping on top of the proposed basement has not been included in the calculation as it is a part of the site that includes a building.

It should however, be noted that this clause (D1 Landscaped Open Space and Bushland Setting) specifies that minimum soil depth of land that can be included as landscaped open space is 1 metre. The proposed landscaping on top of the proposed basement would have 1m of depth which would facilitate the growing of grasses, plants and small trees. This area also enables the ability to facilitate outdoor recreational opportunities that meet the needs of the occupants. It should also be noted that the pre-existing site (prior to unauthorised works and construction for CDC2020/0978) had no landscaped area within the rear yard (with the exception of the pool).

Merit consideration

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

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

Comment:

The proposed development would not alter the approved landscaping within the front garden. All existing areas of landscaped open space within the front yard are to be retained to enable planting to maintain and enhance the streetscape. Conditions have been imposed for additional tree planting to enhance the streetscape and minimise visual bulk.

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

Comment:

The site has been altered over the residential history of the allotment. There are no threatened species, significant topographical features or vegetation identified on site. Further, the proposal does not require the removal of any significant vegetation to facilitate the development.

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

Comment:

The front and rear gardens will in turn be of a sufficient size to allow the establishment and retention of low lying shrubs, medium high shrubs and canopy trees that can serve to soften the built form of the development. A condition of consent has been imposed to ensure additional tree planting.

- *To enhance privacy between buildings.*

Comment:

This matter has been addressed in detail under Clause D8 Privacy under WDCP. In summary, the proposal is capable of maintaining reasonable privacy between buildings subject to conditions. Screen planting is proposed to mitigate privacy impacts.

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

Comment:

The proposed development will continue to accommodate sufficient outdoor recreational opportunities to meet the needs of the occupants.

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

Comment:

The site contains a sufficient amount of outdoor open space to service functions, including clothes drying.

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

Comment:

Council's Development Engineer has reviewed the proposal with respect to stormwater management and raised no objections, subject to conditions. Moreover, the proposed impervious areas on site will assist in stormwater infiltration.

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

D8 Privacy

Detailed description of non-compliance

Concern has been raised by adjoining property owners to the west (No.18 Boyer Road) and to the south (25 Reynolds Crescent) with regards to the privacy impacts arising as a result of the proposal, specifically the raising of the rear garden level to RL 115,420.

A merit assessment is conducted below.

18 Boyer Road

The proposed landfill on top of the storeroom basement would result in the finished floor level of the rear garden to be RL 115,420. The survey provided and the submitted plans indicate that the existing ground level of 18 Boyer Road (adjacent to the subject site) ranges from 115,250 to 115,60 . This would result in the garden level of the proposal ranging from 170mm above and 180mm below that of 18 Boyer Road. The existing boundary fence dividing 18 Boyer Road and the subject site would be 1.4m above the proposed raised garden level. As such, it is considered that this raised ground may result in potential privacy impacts and overlooking to 18 Boyer Road. To mitigate privacy impacts a condition has been imposed for a 1.8m fence to be constructed on wholly on the subject site (this matter is discussed further in section D15). Furthermore, a landscape plan has been provided which proposes screen planting along the western boundary. Subject to conditions imposed by Council's Landscape Officer this planting is to be maintained at a height no higher than 3 metres.

It is considered that this fence and screen planting would maintain adequate privacy to 18 Boyer Road.

25 Reynolds Crescent

As discussed above, the proposed landfill on top of the storeroom basement would result in the finished floor level of the rear garden to be RL 115,420. The survey provided and the submitted plans indicate that the existing ground level of 25 Reynolds Crescent (adjacent to the subject site) is 115,340. This would result in the garden level of the proposal being 80mm above that of 25 Reynolds Crescent. The existing boundary fence dividing 25 Reynolds Crescent and the subject site would be 1.6m above the proposed raised garden level. To mitigate privacy impacts a condition has been imposed for a 1.8m fence/privacy screen to be constructed on wholly on the subject site (this matter is discussed further in section D15). This fence will also be conditioned to be adjoining the access stairs along the southern boundary. Furthermore, a landscape plan has been provided which proposes screen planting along the southern boundary. Subject to conditions imposed by Council's Landscape Officer this planting is to be maintained at a height no higher than 3 metres.

It is considered that this fence and screen planting would maintain adequate privacy to 25 Reynolds Crescent.

21 Reynolds Crescent

As discussed above, the proposed landfill on top of the storeroom basement would result in the finished floor level of the rear garden to be RL 115,420. The survey provided and the submitted plans indicate that the existing ground level of 21 Reynolds Crescent (adjacent to the subject site) is 113,810. This would result in the garden level of the proposal being 1.6m above that of 21 Reynolds Crescent. However, this raised land level would be separated by this neighbour by approximately 6.0m, given the location of the pool currently under construction. It is considered this level of spatial separation, combined with the location of the existing 1.8m boundary fence on the northern boundary would maintain adequate privacy. Furthermore no submissions in relation to privacy impacts was received from this neighbour.

Given the dense urban environment of the Northern Beaches, it is considered that it is an unreasonable expectation that complete privacy can be maintained between dwellings and these mitigation methods are considered acceptable in this instance. Subject to recommended conditions, the privacy impacts are considered to be reasonable within a residential environment.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit, subject to conditions.

D15 Side and Rear Fences

Description of non-compliance

The proposal seeks to raise the height of the existing western (rear) boundary fence by 400mm (adjoining No.18 Boyer Road) and raise the height of southern (side) boundary fence by 400mm (adjoining No.25 Reynolds Crescent). The fence additions are proposed directly on the property boundaries. The Applicant has not provided owners consent from the adjoining properties for the alteration or removal of the existing boundary fence. The removal or alteration of existing fencing located along the shared boundaries is covered by the Dividing Fences Act 1991 and requires agreement between the affected property owners, which has not been provided. As such, a condition is to be imposed that no alteration to the existing boundary fencing is permitted.

In order to maintain privacy between the western boundary (adjoining No.18 Boyer Road), a condition is recommended to ensure a fence is constructed wholly on the subject property adjacent to the western boundary to be 1.8m above proposed finished ground level. This fence is to run the entire length of the proposed rear garden. This would result in the fence being a height ranging from 1.62m to 1.97m as viewed from No.18 Boyer Road, which is considered acceptable in this instance.

In order to maintain privacy between the southern neighbour (No.25 Reynolds Crescent), a condition is recommended to ensure a fence is constructed wholly on the subject property adjacent to the southern boundary to be 1.8m above proposed finished ground level. This fence is to run the entire length of the proposed rear garden and access stairs. This would result in the fence being 1.88m as viewed from No.25 Reynolds Crescent, which is considered acceptable in this instance.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) 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 2019

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

A monetary contribution of \$ 550 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 110,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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 DA2020/1716 for Alterations and additions to a dwelling house on land at Lot 20 DP 218395, 23 Reynolds Crescent, 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
DA.01 Issue B (Site Plan)	08/12/2020	STUDIO ML
DA.02 Issue B (Lower Ground Floor Plan)	08/12/2020	STUDIO ML

DA.03 Issue B (Ground Floor Plan)	08/12/2020	STUDIO ML
DA.04 Issue B (East Elevation)	08/12/2020	STUDIO ML
DA.05 Issue B (North Elevation)	08/12/2020	STUDIO ML
DA.06 Issue B (South Elevation)	08/12/2020	STUDIO ML
DA.07 Issue B (West Elevation)	08/12/2020	STUDIO ML
DA.08 Issue B (Section AA)	08/12/2020	STUDIO ML
DA.09 Issue B (Section BB)	08/12/2020	STUDIO ML

Engineering Plans		
Drawing No.	Dated	Prepared By
D1 Issue A (DETAILS, NOTES & LEGEND)	14/12/2020	NY Civil Engineering
D2 Issue A (STORMWATER MANAGEMENT PLAN)	14/12/2020	NY Civil Engineering

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (A400157)	16/12/2020	Michael Lescsin
Bushfire Risk Assessment Report (2995)	25/09/2020	Bushfire Planning & Design
Geotechnical Report (J2960D)	15/02/2021	White Geotechnical Group
Geotechnical Report (J2960B)	27/09/2020	White Geotechnical Group

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
L/01 (PROPOSED LANDSCAPE PLAN)	04/12/2020	Discount Landscape Plans
L/02 (LANDSCAPE DETAILS)	04/12/2020	Discount Landscape Plans
L/03 (LANDSCAPE SPECIFICATION)	04/12/2020	Discount Landscape Plans

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	16/12/2020	Michael Lescsin

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. Approved Land Use

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a Dwelling House

A dwelling house is defined as:

“a building containing only one dwelling.”

(development is defined by the Warringah Local Environment Plan 2011 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

3. No Approval for Land Use

No approval is granted under this Development Consent for any land use. A separate Development Application must be submitted to Council for approval prior to the use of the premises.

Reason: To ensure compliance with the relevant Local Environmental Plan.

4. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal 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.

5. **No Approval for removal or alteration of Existing boundary Fence**

No approval is granted under this consent for the removal or alteration of existing boundary fencing.

Reason: To ensure compliance with the terms of this consent.

6. **No Works on adjoining land**

No Approval is granted under this consent for any works on adjoining land or on property boundaries.

Reason: To ensure compliance with the terms of this consent.

7. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a

safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

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

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

8. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$550.00 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 \$110,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate

where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

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

The Northern Beaches Section 7.12 Contributions Plan 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

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.

9. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

10. **On slab landscape works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping: 1 metre.

Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: to ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

11. **Amendments to the approved plans**

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

a) **Western and Southern Boundary Fence** - The proposed alterations and additions to the western and southern boundary fencing shall be deleted from the plans.

b) **Fence Adjacent to Western Boundary** - A timber fence shall be constructed adjacent to the western boundary for the entire length of the proposed raised garden level (between the pool coping and southern boundary). This fence shall be constructed to a height of 1.8m above finished ground level. The fence is to be located wholly within the subject site.

c) **Fence Adjacent to Southern Boundary** - A timber fence shall be constructed adjacent to the southern boundary for the entire length of the proposed raised garden level and raised steps to this garden. This fence shall be constructed to a height of 1.8m above finished ground level and stepped to accommodate the fall in land adjoining the proposed steps. The fence is to be located wholly within the subject site.

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.

12. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

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

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

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

13. **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.

14. 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.

15. 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.

16. 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 for:

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

17. 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.

18. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by **Studio ML** prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

19. **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.

20. **Demolition Works - Asbestos**

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

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

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

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

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

21. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, fencing, floor levels, garden levels

and the finished roof/ridge height are in accordance with the approved plans.

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

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

22. Installation and Maintenance of Sediment Control

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

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

23. 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.

24. Aboriginal Heritage

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

25. No Approval for Existing Works

This consent does not regularise the works associated with any current Complying Development Certificate, Building Certificate or the "works constructed without approval" as shown on the approved plans. The area highlighted in orange and labelled "Works constructed without approval" is approved for the use only.

Reason: To ensure that this consent grants approval only for future works and is consistent with the proposal.

26. Site filling - Virgin Excavated Natural Material (VENM)

Where site fill material is necessary, fill materials must:

1. Be Virgin Excavated Natural Material (VENM) only, as defined in: The Protection of the Environment Operations Act 1997
2. Be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.

3. The Applicant shall provide certification by a N.A.T.A. approved laboratory to the Principal Certifying Authority for approval prior to importation of material.

Reason: To ensure protection of the natural environment.

27. Maintenance of Sediment

Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Reason: To ensure sediment controls are effective

28. Stockpiling of Topsoil

During works, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.

Reason: environmental amenity.

29. Storage of Materials on Council Land Prohibited

The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in the Council reserve is prohibited.

Reason: Safety, environmental protection

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

30. Landscape completion

Landscaping is to be implemented in accordance with the approved Landscape Plan, inclusive of the following conditions:

- i) the nominated screen planting within the rear of the property, along the west and south boundaries shall be maintained at a height no higher than 3 metres,
- ii) the nominated *Waterhousia floribunda* tree planting at the rear of the property shall be deleted and replaced with a smaller canopy tree, selected from Council's Native Plant Species Guide - French's Forest Ward, including but not limited to the following suggestions: Heath-leaved Banksia - *Banksia ericifolia*, Black Wattle - *Callicoma serratifolia*, or Yellow Top Mallee - *Eucalyptus luehmanniana*,
- iii) one canopy tree shall be planted within the front of the property, selected from Council's Native Plant Species Guide - French's Forest Ward, including but not limited to the following suggestions: Scribbly Gum - *Eucalyptus haemastoma*, or Water Gum - *Tristaniopsis laurina*,
- iv) tree planting shall be located within a 9m² deep soil area wholly within the site and be located a minimum of 3 metres from existing and proposed buildings and from other trees, and at least 2 metres from common boundaries, and shall be installed at a minimum 75 litre container size,
- v) screen shrub planting within the front of the property along the north and south boundaries shall be installed in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch, and consisting of selected planting capable of attaining a height of 3 metres at maturity, installed at minimum 1 metre intervals and be of a minimum container size of 200mm.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the

landscape works have been completed in accordance with any conditions of consent.

Reason: environmental amenity.

31. **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.

32. **Retaining wall**

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Public and Private Safety

33. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management. (DACPLF01)

34. **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.

35. **Swimming Pool Requirements (existing pool modified by works)**

The existing onsite Swimming Pool / Spa fencing enclosure shall be upgraded to comply with:

(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 warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(c) All signage shall be located in a prominent position within the pool area.

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 a Interim / Final Occupation Certificate.

Reason: To protect human life. (DACPLF10)

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

36. **Landscape maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

The nominated screen planting within the rear of the property, along the west and south boundaries shall be maintained at a height no higher than 3 metres,

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: to maintain local environmental amenity.

37. **Use of Store Room**

The proposed store room is not to be used for the purpose of separate habitation and is not to contain any cooking facilities.

Reason: To ensure that the store room remains ancillary to the dwelling house.

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

Signed



Gareth David, Planner

The application is determined on 19/02/2021, under the delegated authority of:



Lashta Haidari, Acting Development Assessment Manager