

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0549
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Responsible Officer:	Lashta Haidari
Land to be developed (Address):	Lot 102 DP 1224100, 2 Wyadra Avenue FRESHWATER NSW 2096
Proposed Development:	Demolition works and construction of 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:	Mark Robert Aubrey Megan Aubrey
Applicant:	Mark Robert Aubrey

Application Lodged:	19/04/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	29/04/2022 to 13/05/2022
Advertised:	Not Advertised
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 3,036,874.00
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PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent for the demolition of the existing building on the south half of the site and construction of a new two storey house and related parking platform, turntable and a carport,

The proposal includes a mechanical turntable at the end of the driveway to allow vehicles to turnaround and exit the site in a forward direction. A parking platform for one car is proposed on the eastern side of the turntable adjoining the northern boundary and a carport with masonry columns and Cemintel vertical screen walls and a concrete roof is accessed on the south side of the turntable. At the south end of the carport is a bin store and the lift for access down to the entry level of the house. There is also an external stair on the side of the carport of access to down to the first floor entry level.

Amended Plans

Amended plans have been submitted which was submitted in response to Council's Landscape referral comments, which provided the following amendments:

- Parking platform shifted west as far as possible
- Structural pylon shifted west as far as possible
- Platform cantilever to the east increased as much as possible
- Timber as proposed for the dwelling has been included to the parking platform. A handrail is proposed to the top of the parking platform barrier to visually soften the structure.
- No additional structure is to be built over the proposed car space.
- Revised Parking Platform Traffic Diagrams Rev 2 – 15 08 2022 - with accompanying driveway traffic assessment email by TTW 9 June 2022 approving the revised parking arrangement.

The parking platform complies with the building envelope included in Consent for DA2020/0147. There is a covenant defining this envelope which the parking platform must sit within.

The amended plans did not require renotification, as the amended resulted in improved outcome and lesser environmental outcome. In addition, the location of the planning platform is within the approved building envelope so the impact of the structure has already been considered as part of the subdivision of the application.

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 - 5.10 Heritage conservation
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - D7 Views

SITE DESCRIPTION

Property Description:	Lot 102 DP 1224100 , 2 Wyadra Avenue FRESHWATER NSW 2096
Detailed Site Description:	<p>Lot 202, 2 Wyadra Avenue currently unregistered Lot, approved under DA2020/0147 which is a battle axe shaped allotment with a narrow access handle with a new concrete driveway from Wyadra Avenue. There is a set of timber stairs for access from the driveway to the body of the site which is rectangular in shape on top of a cliff above and behind 14 Ellen Street 16 Ellen Street and below 23 and 25 Loch Street. There is an existing elevated single storey building on the south half of the lot that was previously part of 14 Ellen Street prior to the subdivision.</p> <p>The approved Lot 202 (DA2020/0147) has a total area of 686m2, and 587m2 excluding the access handle site is located within the R2 Low Density Residential zone from the WLEP 2011.</p> <p>A large rock shelf sits near the centre of the site that in effect, cuts the site in half in terms of usable land and creates a platform on the western side that can accommodate a dwelling. There is no significant vegetation on the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached dwellings which are primarily two and three storeys in height. Stewart House, a local heritage item, is located to the immediate north. Curl Curl Beach is located to the east.</p>

Map:



SITE HISTORY

A search of Council records revealed the following relevant history:

14 Ellen Street

DA1998/10778 for alterations and additions to an existing cottage at 14 Ellen Street was approved on 9 February 1999. The approval included a single storey enclosed structure in the rear (western) section of the site with a deck annotated to reference a "gazebo". A walkway and stairs leading from the rear lower garden to the structure were also approved.

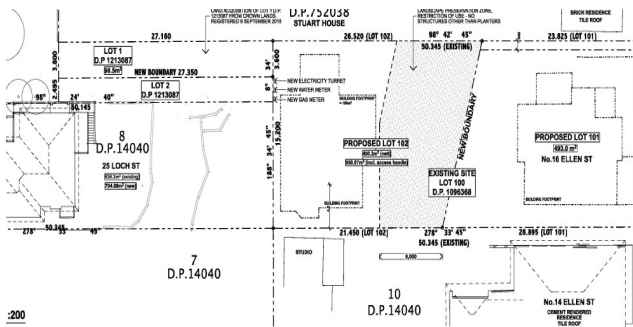
16 Ellen Street

DA2005/0741 for site consolidation and two lot subdivision was refused on 8 June 2006 for the following reasons:

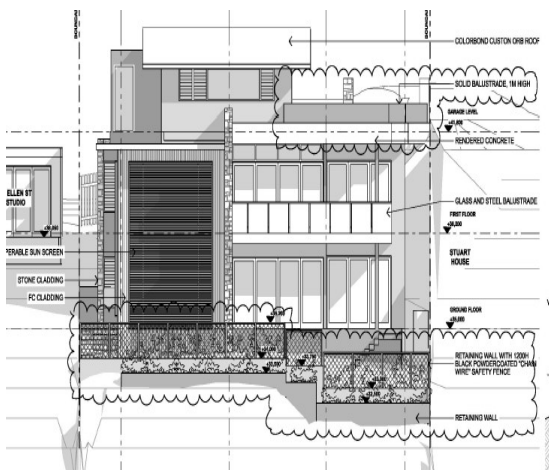
1. Pursuant to Clause 8F of the Environmental Planning and Assessment Regulation 2000, the application does not provide valid owner's consent for utilising a Crown Road Reserve for access purposes.
2. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and the FS Curl Curl Locality Statement of Warringah Local Environmental Plan 2000, the proposal is inconsistent with the Desired Future Character of the FS Locality.
3. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and the Built Form Control of the FS Curl Curl Locality Statement of Warringah Local Environmental Plan 2000, the proposal does not comply with the Housing Density provisions of the FS Locality Statement.
4. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and the Built Form Control of the FS Curl Curl Locality Statement of Warringah Local Environmental Plan 2000, the proposal will result in a numerical shortfall of Landscaped Open Space provision in proposed Lot 1 following subdivision, and a qualitative shortfall in relation to Lot 2.
5. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and Clause 38 Glare and Reflection of Warringah Local Environmental Plan 2000, the proposal will result in glare or light overspill that adversely impacts on the adjoining residence.
6. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and Clause 43 Noise of Warringah Local Environmental Plan 2000, the proposal will result in noise emission that adversely impacts on the adjoining residence.
7. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and Clause 56 Retaining Unique Environmental Features on Site of Warringah Local Environmental Plan 2000, the proposal is incompatible with the natural landscape feature on the site.
8. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and Schedule 7- Matters for Consideration in a Subdivision of Land under Warringah Local Environmental Plan 2000, the proposal does not comply with the allotment dimensions provisions of Schedule 7.

DA2015/1123 for the construction of a part two / three storey dwelling house double garage and driveway and subdivision of 1 lot into 2 lots was approved on 9 June 2016. The approval relates to the northern portion of the new lot to 2 Wyadra Avenue, refer to plans below. It is noted that the consent

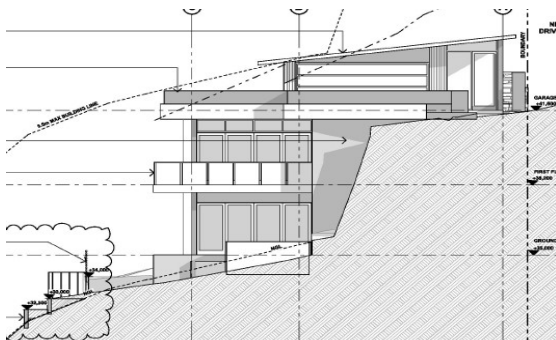
has been activated with the construction of the driveway.



Approved subdivision lot and footprint of new dwelling



Approved east elevation



Approved north elevation

DA2020/0147

Development Application for Consolidation of 3 lots into one lot and resubdivision into 3 Torrens Title lots was approved by Northern Beaches Local Planning Panel 18 November 2020. The purpose of this DA was to adjust the boundary between 16 Ellen Street and 2 Wyadra Avenue by adding a small area at the bottom of the cliff to the rear of 16 Ellen Street as the function and use of this area is more suitable as part of 16 Ellen Street. The second and most significant element of this proposal was to add the rear of 14 Ellen Street on top of the cliff where the existing secondary dwelling is located, to 2 Wyadra Avenue to increase the width and area of 2 Wyadra Avenue. A right of carriageway (ROW) is also proposed along the southern boundary of 14 Ellen Street, in favour of 2 Wyadra Avenue for pedestrian access (footway) to Ellen Street.

An envelope design for a new dwelling house was submitted with this application to show an indicative design in accordance with the applicable planning controls for height, setbacks and impermeable area

and landscaping.

Mod2021/0194

Modification Application 4.55(1) for Modification of Development Consent DA2020/0147 granted for consolidation of 3 lots into one lot and re sub-division into 3 Torrens Title lots.

The Modification was in relation to the Condition 14 of DA2020/0147 was incorrectly worded as "88E instrument". It should have been "88B instrument", was approved on 23 April 2021.

Mod2021/0349

Modification Application 4.55(1) for Modification of Development Consent DA2020/0147 granted for consolidation of 3 lots into one lot and re sub-division into 3 Torrens Title lots.

The Modification was in relation to deleting conditions No. 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 was approved on 26 June 2021.

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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was submitted by the applicant to attempt address the Landscape officer's referral comments.</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>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</p>

Section 4.15 Matters for Consideration	Comments
	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) 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 not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 29/04/2022 to 13/05/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 4 submission/s from:

Name:	Address:
Mr Geoffrey Alexander Wellstead Ms Anne Wellstead	42 Carrington Parade CURL CURL NSW 2096
Mr William Graham Aldis	40 Carrington Parade CURL CURL NSW 2096
Mr Mark Andrew Casazza	21 Loch Street FRESHWATER NSW 2096

Name:	Address:
Mr Darren Andrew Holland Ms Tania Brenda Holland	23 Loch Street FRESHWATER NSW 2096

- **Water runoff**

The submissions received in relation to water runoff, particularly on the properties below the escarpment and cliff face.

Comment

The application has been assessed by Council's Development Engineer, whom has raised no objection to the proposed subject to conditions.

This issue is noted and addressed by Development Engineers comments and conditions.

- **Rear Boundary clarification and Subdivision**

A submission received as question on which boundary is the rear boundary of the site. This question is to ensure there is no impact of the proposal on number 19 Loch Street.

Another submission has question whether the proposed dwelling is consistent with the approved subdivision.

Comment

The assessment has determined that the eastern boundary should be the rear boundary of the site. The impact of the development has been considered in this assessment as well within the subdivision application (DA2020/0147). The design is consistent with the indicative dwelling approved as part of the consent to DA2020/0147.

Given the unique circumstances of the site, the need to preserve the rock shelf, the compliance with the minimum lot size and the well designed and screened eastern elevation of the dwelling, the proposal will provide reasonable spatial separation, a reasonable sense of openness and will minimise impacts on the neighbouring properties.

This issue does not warrant the refusal of the application.

- **Damage to adjoining properties**

The submissions raised concerns that the proposal would cause damage due to proposed excavation.

Comment

Conditions will be included in the consent requiring dilapidation reports for Stewart House and other affected buildings on the same rock shelf.

In addition, a condition requiring compliance with all recommendations and requirements within the Geotechnical Report prepared by Crozier Geotechnical Consultants has been included in the consent.

This issue does not warrant the refusal of the application.

- **Disturbance to Natural Landform**

The submissions raised concerns that the proposal would disturb the natural land form and require substantial earthworks, impacting the natural rock outcrop on the site.

Comment:

The proposal has been set back from the rock shelf in order to protect this unique feature of the site and the area.

Excavation will be required, however, the main areas of excavation are on the western side of the site, away from the rock shelf which is located near the eastern boundary.

All dwellings disturb the natural land form to some degree. The proposal will protect the main unique rock feature of the site, maintain the rock face that links along neighbouring dwellings and as such, is acceptable.

This issue does not warrant the refusal of the application.

- **Glare and Reflection**

The submissions raised concerns that the proposal will result in unreasonable glare and reflection.

Comment:

Conditions have been included in the consent requiring the roof to be of a medium to dark tone to specifically minimise glare and reflection.

- **Privacy**

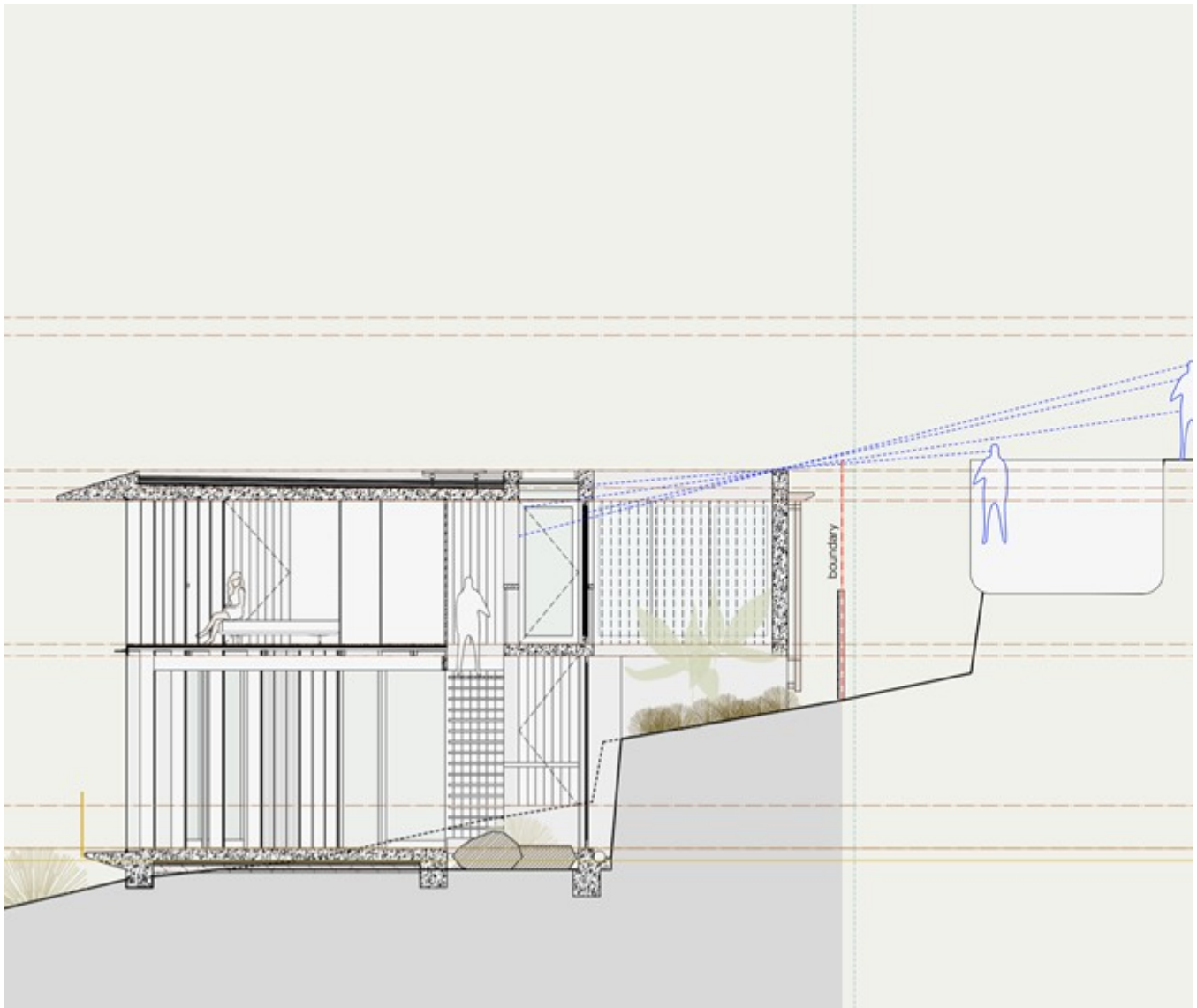
The submissions raised concerns that the dwelling will overlook properties on 23 and 25 Loch Street.

Comment:

The topography of the land rises to the west and the existing dwellings, located to the rear at No. 23 and No. 25 Loch Street, will continue to sit at a higher level than on the subject site. As such, there will be limited overlooking issues from the proposed dwelling to the adjoining developments.

The first floor level of the house and the roof will be at RL41.84, which is below the level of the swimming pool coping at RL42.02 and the dense hedge (RL42.0) between the pool and the boundary, along the rear boundary within 23 Loch Street.

In addition, it is noted that the proposed development includes concrete wall as shown in the diagram below, The proposed wall is provided to reduce wind effect to the courtyard and also act as a privacy screen for any overlooking by 23 & 25 Loch St.



This issue does not warrant the refusal of the application or further amendment of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>Support (subject to conditions)</p> <p>Amended Plans submitted following applicant meeting are noted.</p> <p>The plans have minimized the impact of the parking space on the western side of the site within the approved building envelope.</p> <p>In consideration of the building envelope imposed under the Consent for DA2020/0147 by the NBLPP, the proposed amendments are considered satisfactory.</p> <p>In order to ensure no further visual impacts are created, it is recommended that an additional condition be included prohibiting</p>

Internal Referral Body	Comments				
	construction of a carport/shelter over the car space if it is not already in the Positive Covenant Building Envelope documentation.				
NECC (Bushland and Biodiversity)	<p>Supported (Subject to Conditions)</p> <p>The application seeks approval for the demolition of existing gazebo and stairs, proposed new residential dwelling with carport and turntable.</p> <p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) Warringah Development Control Plan (WDCCP)</p> <ul style="list-style-type: none">• Clause E2 Prescribed Vegetation• Clause E5 Native Vegetation• Clause E6 Retaining unique environmental features <p>Vegetation within the site appears to be non-native, which is supported by historical, aerial imagery which shows consistent slashing of the vegetation, and uptake of invasive species. It is noted that the proposal will retain the rock outcrop on which it is sited, therefore, remains consistent with WDCCP E6 Retaining Unique Environmental Features.</p> <p>No objection is raised to the submitted Landscape Plan which proposes to reestablish native vegetation within the site.</p> <p>Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>				
NECC (Development Engineering)	<p>Supported (Subject to conditions)</p> <p>The stormwater drainage management plan proposed to reduce site flows to pre developed rates by the imposition of On site storm water detention. No objections to the proposed house subject to conditions</p>				
Strategic and Place Planning (Heritage Officer)	<p>Supported</p> <table><tr><th>Discussion of reason for referral</th></tr><tr><td>This application has been referred as the site adjoins a heritage item being Item 1128 - Building known as "Stewart House", Carrington Parade, South Curl Curl, listed in Schedule 5 of Warringah LEP 2011.</td></tr><tr><th>Details of heritage items affected</th></tr><tr><td>Details of the adjoining heritage item, as contained within the Heritage Inventory, are: Item 1128 - Building known as "Stewart House", Carrington Parade, South Curl Curl <u>Statement of Significance</u> A representative example of the institutional buildings which were</td></tr></table>	Discussion of reason for referral	This application has been referred as the site adjoins a heritage item being Item 1128 - Building known as "Stewart House", Carrington Parade, South Curl Curl , listed in Schedule 5 of Warringah LEP 2011.	Details of heritage items affected	Details of the adjoining heritage item, as contained within the Heritage Inventory, are: Item 1128 - Building known as "Stewart House", Carrington Parade, South Curl Curl <u>Statement of Significance</u> A representative example of the institutional buildings which were
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Internal Referral Body	Comments		
	<p>erected in the area to provide health & welfare services associated with the sea. Socially important due to the role that it has played in public health & child welfare since 1930.</p> <p><u>Physical Description</u></p> <p>Elevated face brick building of symmetrical design & central entrance. Tiled hipped roof with stepped parapet centrally located above entrance pavilion. Projecting bays at either end. Flat roofed (enclosed) verandahs with terracotta shingle skirts. Circular driveway at front. Central stairway to entrance. Flagpole.</p>		
	<p>Other relevant heritage listings</p>		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	Comment if applicable
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	s.170 State Agency Listing
	<p>Consideration of Application</p>		
	<p>This application proposes demolition of an existing secondary dwelling and construction of a new 2 storey house, with parking platform, carport and landscaping on a new lot to be created including the rear of 14 Ellen Street (subdivision approval pending). The site is a battle-axe allotment off a long driveway from Wyadra Ave.</p>		
	<p>The adjoining heritage item is "Stewart House", and while this site shares a boundary with this heritage item, the specific building of significance is the original "Stewart House" brick building close to the Carrington Road frontage and its curtilage. This new dwelling will be located some 50 metres away to the south west and while it will be visible from the heritage item, it is not considered to be out of keeping with surrounding development. Therefore, it is considered that this proposal will have no adverse impact upon the heritage significance of "Stewart House".</p>		
	<p>Therefore, no objections are raised on heritage grounds and no conditions required.</p>		
	<p><u>Consider against the provisions of CL5.10 of WLEP 2011:</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? N/A Is a Heritage Impact Statement required? No Has a Heritage</p>		

Internal Referral Body	Comments
	Impact Statement been provided? N/A
Traffic Engineer	<p>Supported (subject to conditions)</p> <p>The proposed dwelling provides for two offstreet parking spaces in accordance with Warringah DCP requirements. One of the parking spaces is 5.0m in length which is adequate for a small vehicle the other is 5.4m in length which caters for a full range of vehicle sizes. The quantum of parking and the fact that one caters only for small vehicles is acceptable.</p> <p>Access to the parking spaces relies on a mechanical turntable. The turntable is appropriately sized and will facilitate access to and from both spaces in a forwards direction.</p> <p>There are no traffic engineering grounds for refusal of the DA</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<p>No sites are recorded in the current development area however, there is a large sandstone overhang on the property. According to the Due Diligence Code of Practice, any land within 20m of or in a rock shelter is considered to have Aboriginal heritage sensitivity and the potential to contain Aboriginal sites. Given the presence of these landscape features in the proposal area there is potential that the works may harm unrecorded Aboriginal sites which are protected under the NPW Act 1974.</p> <p>Therefore, the AHO recommends a Aboriginal heritage due diligence assessment be carried out for the land by a qualified Aboriginal heritage professional. This would provide an assessment of any unrecorded or potential Aboriginal sites within the allotment, and advice on potential (direct or indirect) impacts to any Aboriginal site.</p> <p><u>Comment:</u> The requirement for due diligence assessment report has been requested from the applicant, the applicant has requested that this requirement be imposed as condition of consent. Accordingly, this requirement has been imposed as deferred commencement condition within the recommendation of this report</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1270873S and 23 March 2022). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. #HR-YQJ27D-01 and 23 March 2022).

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

Commitment	Required Target	Proposed
Water	40	45
Thermal Comfort	Pass	Pass
Energy	50	52

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

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	6.56m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

5.10 Heritage conservation

The subject site adjoins Part Lot 1496, DP752038, Carrington Parade South Curl Curl, which is listed as I128 and described as the Building known as “Stewart House”, in Schedule 5 of the LEP as a heritage item of local heritage significance.

Council's Heritage officer has reviewed the proposal and has raised no objection to the proposed new dwelling house and associated parking platform, turning area and carport.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6.84m	N/A	Yes
B3 Side Boundary Envelope	5m	Within	N/A	Yes
B5 Side Boundary Setbacks	0.9m (North)	0.9m	N/A	Yes
	0.9m (South)	0.9m	N/A	Yes
B7 Front Boundary Setbacks	6.5m (west)	Battle axe block, which is off a 27m long driveway to Wyadra Ave	N/A	N/A
B9 Rear Boundary Setbacks	6m (East)	3.1m -8.3m	48%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	42.5% (292m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	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
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B9 Rear Boundary Setbacks

Clause B9 Rear Boundary Setbacks requires development to exhibit a rear setback of 6m.

The subject site is a battle axe shape, therefore eastern boundary is assessed as the rear boundary, even though it is actually an internal boundary to 16 Ellen Street.

The following is a merit assessment of the proposal against the objectives of the control.

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 proposal provides a landscape setting that is consistent with the requirement and objectives of Clause D1 Landscaped Open Space and Bushland Setting. The proposal provides a sufficient setback to accommodate future landscaping and deep soil zones.

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

Comment

The site is constraint in that the proposed dwelling needs to be located away from the rock shelf and cliff edge, a 6.0m rear setback is not practical in this circumstances. The height of the building at the rear is well below 8.5m in height and 7.2m for the wall height, therefore representing a reasonable level of openness.

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

Comment

Existing boundary fencing and conditioned screen planting will assist in retaining adequate

privacy between neighbours, which will mitigate any unreasonable visual and aural privacy impacts.

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

Comment

The proposed dwelling will not disrupt or compromise the existing visual continuity of the area, due to the scale of the development and existing built structures located in rear setbacks of many properties within the immediate vicinity.

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

Comment

As above, the proposed dwelling has been designed to maintain privacy between dwellings.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D7 Views

Whilst no specific objection were received in relation to view loss, the assessment has considered the impact of the proposed dwelling on the adjoining development in relation to view loss, in particular from No. 14 and 16 Ellen Street and from 23 and 25 Loch Street. The assessment has concluded that the proposed dwelling has been designed in accordance with the building envelope as part of the subdivision Application (DA2020/0147).

The proposed dwelling has been assessed as acceptable in terms of compliance with the relevant planning controls to ensure that there is no unreasonable environmental impacts or impacts on neighbouring amenity in particular view sharing. Accordingly, the proposed development is found to be acceptable and reasonable in relation to view loss and found to be consistent with the requirement of this Clause and four principles outlined within the Land and Environment Court case *Tenacity Consulting v Warringah Council*.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$30,369 is required for the provision of new and augmented public

infrastructure. The contribution is calculated as 1% of the total development cost of \$3,036,874.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/0549 for Demolition works and construction of a dwelling house on land at Lot 102 DP 1224100, 2 Wyadra Avenue, FRESHWATER, subject to the conditions printed below:

DEFERRED COMMENCEMENT CONDITIONS

1. Deferred Commencement

- The previously approved consolidation of 3 lots into one lot and resubdivision into 3 Torrens Title lots under consent DA2020/0147 between No.14 Ellen Street (Lot 10 DP 14040), No.16 Ellen Street (Lot 101 DP 1224100) and 2 Wyadra Avenue (Lot 102 DP 1224100) is to be registered with Land Titles (NSW Lands and Property Information Office).

Evidence that the lot has been registered with Land Titles is to be provided to Council

- A due diligence assessment is to be prepared by qualified Aboriginal heritage

professional and submitted to Council for approval. The due diligence is to consider the large sandstone overhang on the site unrecorded Aboriginal sites which are protected under the NPW Act 1974.

Evidence required to satisfy these conditions must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with the Environmental Planning and Assessment Regulation. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Clause 76 of the Environmental Planning and Assessment Regulation 2021. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA 100, DA101, DA102, DA103, DA104, DA200, DA201, DA202, DA300, DA301	9/08/22 (Issue 2)	Peter Stutchbury Architecture

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
REPORT ON GEOTECHNICAL INVESTIGATION	March 2022	Crozier Geotechnical Consultant
REPORT ON GEOTECHNICAL INVESTIGATION	16 March 2022	TTW Structural Civil Traffic Facade
BASIX Certificate	23 March 2022	Ecological Designs Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	-	Northern Beaches Council

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.

3. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	16/05/2022

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

4. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of

that Act,

- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

5. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the

Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

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

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

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

by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$30,368.74 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 2022. The monetary contribution is based on a development cost of \$3,036,874.00.

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 2022 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.

7. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

8. No Clearing of Vegetation

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

9. Vehicle Mechanical Turntable

The applicant is to provide information on the proposed vehicular turntable, operation details, and instructions to visitors on using the device, maintenance plan, and contingency plan during a malfunction.

Details are to be provided to Council for approval and this requirement is to be reflected on the Construction Certificate plans. Details demonstrating compliance are to be reflected on the Construction Certificate plans and any supporting documentation for the endorsement of the Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure no vehicle conflicts within the driveway and parking area.

10. On-site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's WATER MANAGEMENT POLICY for DEVELOPMENT, and generally in accordance with the concept drainage plans prepared by JCL Development Solutions, drawing number 2021-X50 H02-H05 dated 23/3/22. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. The minimum OSD storage volume is to be 5 cumecs and the Orifice Plate hole size 80mm.
- ii. Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.
- iii. Structural details on the OSD Tank are also to be prepared by a structural engineer with NER registration.

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

11. Compliance with Standards

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

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

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

12. External Finishes to Roof

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

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

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

13. Surrender of Consent

The applicant shall surrender to Council Development Consent No: DA2015/1123 in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

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

Reason: To prevent inconsistencies between consents applying to the site (ref 4.63 EPAA & cl68 EPA Regulation 2021).

14. 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 Principal Certifier 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 THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

16. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane.

Reason: To ensure Work zones are monitored and installed correctly.

17. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including swimming pools/decks walls, ceilings, roof, structural members and other similar items.

- No 14 and 16 Ellen Street;
- No 23 and 25 Loch Street;
- Steward House

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage

rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. Protection of Landscape Features and Sites of Significance

a) All natural landscape features including natural rock outcrops, natural vegetation, soil and watercourses are to remain undisturbed during demolition, excavation and construction works except where affected by works detailed on approved plans.

b) Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

c) 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.

Reason: Preservation of significant environmental features.

19. Protection of Rock and Sites of Significance

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to 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.

Reason: Preservation of significant environmental features.

20. Protection of Existing Street Trees

a) All existing street trees in the vicinity of the works shall be retained during all construction stages and the street trees fronting the development site shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings and in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

b) All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

c) Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Tree protection.

21. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site not indicated for removal on the approved plans, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.

- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
 - viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
 - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
 - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
 - xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

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

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking or removal of any tree(s) is prohibited.

Reason: Tree and vegetation protection.

22. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

23. **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:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o 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.

24. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

25. **Survey Certificate**

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

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

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

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

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

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

26. 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**

27. Landscape Completion

a) Planting is to be implemented in accordance with Landscape Plans prepared by Jane Irwin Landscape Architecture:

LA-000 Cover sheet A

LA-100 Site plan B

LA-101 Section B

LA-102 Entrance courtyard A

LA-103 Design Principles B

LA-104 Materials + Planting palette A

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

Reason: Environmental amenity.

28. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with Councils water management policy for development and all relevant Australian Standards and Codes by the design engineer. 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.

29. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Details demonstrating compliance are to be provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

30. Certification of Landscape Plan

Landscaping is to be implemented in accordance with the approved Landscape Plans (Jane Irwin Landscape Architecture 2022) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

31. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

32. Priority Weed Removal and Management

All Priority weeds as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) within the development footprint are to be removed.

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

Reason: To reduce the risk of site works contributing to spread of Priority weeds.

33. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

34. **Certification Elevated Parking Facility Work**

The Applicant shall submit a Structural Engineers' certificate certifying that the elevated parking facility was constructed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation.

Reason: Compliance with this consent.

35. **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)

36. **House / Building Number**

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

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

Reason: Proper identification of buildings.

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

37. **Environmental and Priority Weed Control**

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

Reason: Preservation of environmental amenity.

38. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

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

Signed



Lashta Haidari, Principal Planner

The application is determined on 31/08/2022, under the delegated authority of:



Rodney Piggott, Manager Development Assessments