

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1474
Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot B DP 393276, 14 Gladys Avenue FRENCHS FOREST NSW 2086 Lot A DP 393276, 12 Gladys Avenue FRENCHS FOREST NSW 2086
Proposed Development:	Demolition works, subdivision of two lots into four lots, including the construction of an access driveway, stormwater works, and the construction of four dwelling houses
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Jian Zhang
Applicant:	Keeplan Pty Ltd
Application Lodged:	26/09/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	04/10/2022 to 18/10/2022
Advertised:	Not Advertised
Submissions Received:	6
Clause 4.6 Variation:	Nil
Recommendation:	Deferred Commencement Approval
Estimated Cost of Works:	\$ 4,026,000.00

EXECUTIVE SUMMARY

This application seeks approval for a torrens title subdivision into four (4) residential lots and the construction of four (4) dwellings.

The application is referred to the DDP as the proposal has attracted six (6) submissions.

Concerns raised in the objections predominantly relate to:

- Amenity impacts
- Stormwater
- Building height
- Construction hazards
- Property values

The critical assessment issues include; impact on views and privacy, numerical non-compliances with the subdivision controls, wall height, and side boundary setback controls.

The non-compliance with the built form controls is limited to Lot 2, and is a result of the steep slope of the site, particularly the cliffline situated within the middle portion of the site, which reaches a height of up to 4.5 meters. This unique topographical feature results in an abrupt change in the terrain of the site.

There were a number of amendments made to the proposal to address the issues raised during the assessment of the application.

This report concludes with a recommendation that the DDP grant approval to the application, subject to attached conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development consists of a torrens title subdivision into four (4) residential lots and the construction of four (4) dwellings.

Specifically, the proposed development consists of:

Land Subdivision (exclusive of access handle)

Lot 1 - 731.7sqm

Lot 2 - 1,258sqm

Lot 3 - 1,330sqm

Lot 4 - 686.8sqm

- Civil works for the installation of services, drainage and the construction of a common accessway;
- Construction of four (4) dwellings on each lot, each consisting of a double garage/carport (see below for detailed summary);
- Associated landscaping and retaining walls.

Dwelling on Lot 1

- Ground floor: double garage, guest room, bathroom, kitchen, living and dining.
- First floor: four bedrooms and three bathrooms.

Dwelling on Lot 2:

- Ground floor: guest room, rumpus and bathroom.
- First floor: three bedroom and three bathrooms.
- Second floor: detached double carport, entry, bathroom, study, kitchen, living and dining.

Dwelling on Lot 3

- Ground floor: double garage, guest room, bathroom, kitchen, living and dining.
- First floor: four bedrooms, three bathrooms, living area, media room and study.

Dwelling on Lot 4

- Ground floor: double garage, guest room, bathroom, kitchen, living and dining.
- First floor: four bedrooms, three bathrooms, living area and study.

AMENDED PLANS

Following a preliminary assessment of the application, Council wrote to the applicant on 24 February 2023, outlining concerns with the application.

The concerns related to view loss, retention of unique environmental features, land-use categorisation, and earthworks.

The applicant lodged amended plans and additional information to address the concerns on 18 May 2023.

Additional amended plans were lodged with Council, further reducing the bulk and scale of the proposed development on 29 June 2023, BASIX certificates were also lodged to accompany the design changes as well.

The amended plans incorporated the following changes:

- **Subdivision:** amendment to ROW to allow Small Rigid Vehicle (SRV) reversing to Lots 3, 2 and 1.
- **Lot 1:** relocate dwelling 2.8 metres eastward and reduce the first floor to allow additional view corridors from the south.
- **Lot 2:** convert double garage to carport and delete ground floor kitchenette.
- **Lot 3:** raise garage FFL to match the ground floor (190mm increase).
- **Lot 4:** reduce size of porch, delete first floor south balcony and alterations to south facing windows.

Community Participation Plan

The proposed amendments will have a reduced environmental impact on the adjoining properties when compared to the original proposal. The amended plans result in a significantly reduced size development.

Therefore, formal re-notification was not required in accordance with Northern Beaches Community Participation Plan, however an informal notification was carried out on 26 May 2023.

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 - B1 Wall Heights
Warringah Development Control Plan - B5 Side Boundary Setbacks
Warringah Development Control Plan - C1 Subdivision
Warringah Development Control Plan - C2 Traffic, Access and Safety
Warringah Development Control Plan - C4 Stormwater
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot B DP 393276 , 14 Gladys Avenue FRENCHS FOREST NSW 2086 Lot A DP 393276 , 12 Gladys Avenue FRENCHS FOREST NSW 2086
Detailed Site Description:	<p>The subject site consists of two (2) lots, namely:</p> <p>Lot A, Deposited Plan No. 393276, 12 Gladys Avenue Frenchs Forest; Lot B, Deposited Plan No. 393276, 14 Gladys Avenue Frenchs Forest.</p> <p>The battle axe shaped allotments are located northern side of Gladys Avenue.</p> <p>12 Gladys Avenue is battle axe shaped allotment with a single storey dwelling that is accessed via narrow a concrete driveway from Gladys Avenue. The site has an above ground swimming pool that is located below the cliff and is accessed by a set of stairs along the site's eastern boundary. 12 Gladys Avenue has a total site area of 2262m².</p> <p>14 Gladys Avenue is battle axe shaped allotment with a two storey dwelling that is accessed via narrow a concrete driveway from Gladys Avenue. The site has a detached carport and an in-ground swimming pool. 14 Gladys Avenue has a total site area of 2442m².</p> <p>The site is located within the R2 Low Density Residential zone from the WLEP 2011.</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 southern side that can accommodate the new dwellings. The northern portion of the site that sits below the rock shelf is densely vegetated.

Detailed Description of Adjoining/Surrounding Development

The surrounding development consists of single and two storey detached dwellings in established landscaped settings.

The site is in the vicinity of the Northern Beaches Hospital (approximately 200m to the south east)

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:

DA2019/1076

Development Application for the subdivision of two lots into six lots. The application was withdrawn on 14 January 2020, due to issues with; site planning, access, and stormwater.

PLM2022/0106

A Pre-lodgement meeting was held with Northern Beaches Council on 9 June 2022 for the subdivision of 2 lots into 4 lots and construction of dwelling houses.

The notes advised as follows:

"The applicant has taken on Council’s previous feedback and reduced the proposal from a six (6) lot subdivision to a four (4) lot subdivision, with only one (1) lot below the rock outcrop. This is considered an appropriate response to the site constraints and Council would be able to support a four (4) lot subdivision layout.

A quality landscape plan is to be provided with the application to demonstrate the proposal will meet the R2 Low Density Residential Zone Objectives and the site will continue to provide opportunity for retention and enhancement of landscape to compliment the character of the area."

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	See discussion on “Environmental Planning Instruments” in this report.

Section 4.15 Matters for Consideration	Comments
environmental planning instrument	
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)(iiiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to in relation to bulk and scale and insufficient information.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) 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 04/10/2022 to 18/10/2022 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 6 submission/s from:

Name:	Address:
Mrs Alice Sarah Magniac	10 Gladys Avenue FRENCHS FOREST NSW 2086
Mr Daniel Merrill Egbert	3 Arden Place FRENCHS FOREST NSW 2086
Mr Theodorus Herman Lambooy Catharina Wilhelmina Lambooy	4 Arden Place FRENCHS FOREST NSW 2086
Mrs Deborah Nadilo	7 Naree Road FRENCHS FOREST NSW 2086
Eric Edward Blewitt	10 B Gladys Avenue FRENCHS FOREST NSW 2086
David Gerard Ballesty Annemiek Ballesty	10 A Gladys Avenue FRENCHS FOREST NSW 2086

The following issues were raised in the submissions:

- **Amenity impacts**
- **Stormwater**
- **Building height**
- **Construction hazards**
- **Property values**

The above issues are addressed as follows:

- **Amenity impacts**

The submissions raised concerns that the proposal will result in unacceptable amenity impacts in relation to view loss, privacy and overshadowing.

Comment:

The above-mentioned amenity impacts have been individually discussed in further detail in the relevant sections of this report. In summary, these matters have been satisfactorily addressed and mitigated through the amended plans, as the proposal includes suitable design measures to offset any unacceptable amenity impacts to the adjoining sites.

This matter does not warrant the refusal of the application.

- **Stormwater**

The submissions raised concerns that the additional runoff created by the proposal will unreasonably impact the properties downslope of the development.

Comment:

Details have been provided by the applicant to address stormwater management for the proposed development. The proposed method of stormwater discharge is via easement through the adjoining property to the west No. 29 Bluegum Crescent to connect to the Council stormwater pipe. The applicant has provided a letter of consent from the owners of the properties raising no objection to the stormwater easement. Council's Development Engineer is supportive of the proposal subject to conditions. Therefore, Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

This matter does not warrant the refusal of the application.

- **Building height**

The submissions raised concerns with the proposed dwellings building height.

Comment:

The proposed dwellings all comply with the 8.5m development standard under Warringah LEP 2011. Notwithstanding this, it is noted that the proposed dwelling on Lot 2 is noncompliant with the Warringah DCP wall height control. Despite this, the merits of this non-compliance have been assessed against the objectives of the relevant control. In summary, the non-compliance is largely a consequence of the slope of the land and it will not result in any unacceptable impacts. Overall, the proposed dwellings achieve an high level of compliance with the critical planning controls that regulate building height within the locality.

This matter does not warrant the refusal of the application.

- **Construction hazards**

The submissions raised concerns that the subject site contains various hazards that will potentially impact construction.

Comment:

The proposal includes a detailed demolition plan for the more highly constrained allotment (Lot 2) and suitable conditions regarding construction management have been incorporated within the recommendation of this report.

This matter does not warrant the refusal of the application.

- **Property values**

The submissions raised concerns that the proposal will impact surrounding property values.

Comment:

This matter is not a relevant consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

This matter does not warrant the refusal of the application.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Contaminated Lands)	<p>Supported – Subject to Conditions</p> <p>Application is for the demolition of an existing residential dwelling and subdivision with the construction of four dwelling houses.</p> <p>Given that the land is currently residential the risk of contamination is low. However, given the age of the building there is likely to be the presence of hazardous building materials such as asbestos. As such, Environmental Health recommends that a Hazardous Building Materials Survey be carried out prior to the issue of the Construction Certificate.</p>
Landscape Officer	<p>Supported – Subject to Conditions</p> <p><u>Additional Information Comment 04/07/23:</u> The amended plans are noted.</p> <p>The previous comments and imposed conditions remain valid.</p> <p><u>Original Comment:</u> <i>An Arboricultural Impact Assessment (AIA) and Landscape Plans are included in the application and will be assessed as part of the Landscape Referral. The AIA assessed 68 trees of which trees 8, 50 and 51 have previously been removed, trees 6, 7, 9, 10, 11, 13-23, 26, 29, 31, 34-36, 38 and 41 are proposed to be removed although are exempt by species and tree 39 is exempt by height, therefore do not require consent for removal. Although 5 'A' retention value trees are proposed to be removed the Landscape Plan includes 6 replacement trees, and the proposal will retain 22 'A' retention value trees (and a total of 30 trees across the site). Furthermore, trees 24, 30, 40, 52 can be supported for removal due to their low retention value and short useful life expectancy. Supported tree removal is outlined in the conditions of consent.</i></p>

Internal Referral Body	Comments
	<p><i>Tree 5 is of high significance and must be retained. The proposed driveway has been designed to minimise the impact to tree 5, and as seen in the Driveway Cross Sections (drawing TPC-2022-10658-002) the proposed driveway levels around tree 5 match the existing driveway levels. Tree 5 shall be retained and protected and tree sensitive construction methods (excavation avoided) used for the proposed driveway within its tree protection zone. Trees 1, 4, 48 and 54 also require tree sensitive construction methods. All trees shown to be retained shall be protected as per the recommendations in the AIA and the requirements outlined in the conditions of consent. A Project Arborist shall be engaged to supervise all work within the tree protection zones of trees to be retained and in particular those trees requiring tree sensitive construction methods, subject to the imposed conditions.</i></p> <p><i>The bin storage area will encroach on neighbouring tree 1 and no detrimental impact to tree 1 is acceptable. The permeable paving system is supported and as indicated on the plans it shall be installed on the existing ground level with no excavation unless the Project Arborist advises otherwise.</i></p> <p><i>The landscape proposal is generally supported and all proposed planting shall be installed in accordance with the conditions of consent. The 2 Pyrus calleryana shall be replaced with native species, subject to the imposed conditions.</i></p>
NECC (Development Engineering)	<p>Supported – Subject to Conditions</p> <p>Updated comments 20/7/23 The updated stormwater management plans detail a smaller volume tank adjacent to the boundary of Lot 2. (3.56cumeecs) The updated plans are generally consistent with the previous approved plans. No objections to the 4 lot subdivision subject to conditions.</p> <p>Comments 12/5/23 The applicants engineer has now amended the stormwater management plans and DRAINS model and has demonstrated that the site bypass has been limited to below 20%. This is an acceptable drainage outcome as a downstream properties have been affected by the subject sites overland flow. The design proposes at rear OSD tank at adjacent to the boundary of lot 3. The detention volumes have increased compared to the previous stormwater management plan. No objections subject to conditions.</p> <p>Previous Comments The proposed 4 Lot subdivision has been reviewed and is not supported for the following reasons; 1) The applicant is to submit a DRAINS model for Council review to support the proposed on site stormwater detention design in accordance with Councils water management for development policy. Noting that minimum allowable site bypass is to be limited to 20%. 2) The stormwater drainage plans are to amended to feature the minimum information as required by Clause 9.7.3 of Councils Water management for development policy. 3) The DRAINS model for the downstream Council drainage system capacity check cannot be opened and is required to be resubmitted for Council review. 4) Engineering plans are to be prepared for the proposed concrete Right of way and are to include longsections/cross-sections at suitable intervals and retaining wall locations in accordance with Councils Auspec One minimum information requirements.</p>
NECC (Water Management)	<p>Supported – Subject to Conditions</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • State Environmental Planning Policy (Resilience and Hazards) 2021 (clauses 2.8 and 2.12); • Northern Beaches Water Management for Development Policy (WM Policy); and • Relevant LEP and DCP clauses. <p>Rainwater tanks to comply with Basix certificates.</p> <p>The proposed strata subdivision is subject to the Council Water Management for Development Policy.</p>

Internal Referral Body	Comments
	Tailwater (surface water and rainwater): Please contact catchment@northernbeaches.nsw.gov.au for advice on Council's water quality requirements for a single instance of dewatering tailwater that collects in an excavation during works. A dewatering permit application must be made for expected multiple instances or continuous dewatering of tailwater.
Waste Officer	Supported – Subject to Conditions No issues with the proposal subject to the recommended conditions.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	Supported – Subject to Conditions 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	Supported – Subject to Conditions An Aboriginal Cultural Heritage and Archaeological Advice (Due Diligence) was prepared for the property by Unearthed Archaeology & Heritage in March 2023. Recommendations made in the report are: 1. There is no objection to the proposed demolition, subdivision or construction on Aboriginal archaeological grounds. 2. No Aboriginal objects or rock shelters or overhangs suitable for Aboriginal habitation were recorded during the site inspection. It is considered highly unlikely that any archaeological deposits exist within the study area or would be impacted upon by the proposal. 3. No further investigation in respect of Aboriginal archaeology or cultural heritage is required. 4. It is not necessary to undertake consultation with the Aboriginal community in accordance with the Aboriginal cultural heritage consultation requirements for proponents 2010 or prepare an Aboriginal Cultural Heritage Assessment Report (ACHAR). 5. If, during the proposed works, any Aboriginal objects or evidence of Aboriginal occupation are uncovered, all work must cease in the vicinity of the suspected Aboriginal objects or evidence of occupation, and further advice should be sought from a qualified and experienced archaeologist. The AHO agrees with the recommendations outlined in the March 2023 report. 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, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

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 for each proposed dwelling with the application. The BASIX Certificate is supported by an ABSA Assessor Certificate for each dwelling.

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

Commitment	Required Target	Proposed
Water	40	40-47
Thermal Comfort	Pass	Pass
Energy	50	50-51

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

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	Complies
Minimum Subdivision Lot Size	600m ²	Lot 1: 731.7m ²	Yes
		Lot 2: 1258m ²	Yes
		Lot 3: 1330m ²	Yes

		Lot 4: 686.8m ²	Yes
Height of Buildings	8.5m	Lot 1: 6.4m	Yes
		Lot 2: 8.5m	Yes
		Lot 3: 6.3m	Yes
		Lot 4: 6.5m	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision - consent requirements	Yes
2.7 Demolition requires consent	Yes
4.1 Minimum subdivision lot size	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.3 Development near zone boundaries	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.

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 a 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 a 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 Controls - Lot 1	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6.1m	N/A	Yes
B3 Side Boundary Envelope	4m - North	No encroachment	N/A	Yes
	4m - South	No encroachment	N/A	Yes
	4m - East	No encroachment	N/A	Yes
B5 Side Boundary Setbacks	0.9m - North	5.0m (Deck)	N/A	Yes
	0.9m - South	3.6m (Dwelling)	N/A	Yes
	0.9m - East	1.4m (Porch)	N/A	Yes
B7 Front Boundary Setbacks	Battle-axe	N/A	N/A	N/A
B9 Rear Boundary Setbacks	6m - West	10.5m (Dwelling)	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	63.1% (461.6m ²)	N/A	Yes

Built Form Controls - Lot 2	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.5m	4.2%	No
B3 Side Boundary Envelope	4m - South	No encroachment	N/A	Yes
	4m - East	No encroachment	N/A	Yes
	4m - West	No encroachment	N/A	Yes
B5 Side Boundary Setbacks	0.9m - South	0.5m (Carport) 5.2m (Dwelling)	44.4% N/A	No Yes
	0.9m - East	4.0m (Porch)	N/A	Yes
	0.9m - West	6.2m (Dwelling)	N/A	Yes

B7 Front Boundary Setbacks	Battle-axe	N/A	N/A	N/A
B9 Rear Boundary Setbacks	6m - North	17.2m (Deck)	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	78.0% (981.5m ²)	N/A	Yes

Built Form Controls - Lot 3	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	4.9m	N/A	Yes
B3 Side Boundary Envelope	4m - South	No encroachment	N/A	Yes
	4m - East	No encroachment	N/A	Yes
	4m - West	No encroachment	N/A	Yes
B5 Side Boundary Setbacks	0.9m - South	6.9m (Dwelling)	N/A	Yes
	0.9m - East	2.9m (Dwelling)	N/A	Yes
	0.9m - West	3.9m (Porch)	N/A	Yes
B7 Front Boundary Setbacks	Battle-axe	N/A	N/A	N/A
B9 Rear Boundary Setbacks	6m - North	31.8m (Deck)	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	77.9% (1035.7m ²)	N/A	Yes

Built Form Controls - Lot 4	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6.0m	N/A	Yes
B3 Side Boundary Envelope	4m - South	No encroachment	N/A	Yes
	4m - East	No encroachment	N/A	Yes
	4m - West	No encroachment	N/A	Yes
B5 Side Boundary Setbacks	0.9m - South	2.3m (Garage)	N/A	Yes
	0.9m - East	2.8m (Dwelling)	N/A	Yes
	0.9m - West	2.3m (Dwelling)	N/A	Yes
B7 Front Boundary Setbacks	Battle-axe	N/A	N/A	N/A
B9 Rear Boundary Setbacks	6m - North	6.4m (Deck)	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	49.9% (342.5m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C1 Subdivision	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
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

B1 Wall Heights

Description of Non-compliance

The proposed dwelling on Lot 2 includes a maximum wall height up to 7.5 metres.

The control prescribes a maximum wall height in a continuous plane of 7.2 metres measured from existing ground level.

The non-compliance occurs along both elevations of the second floor, as indicated in the below diagram;

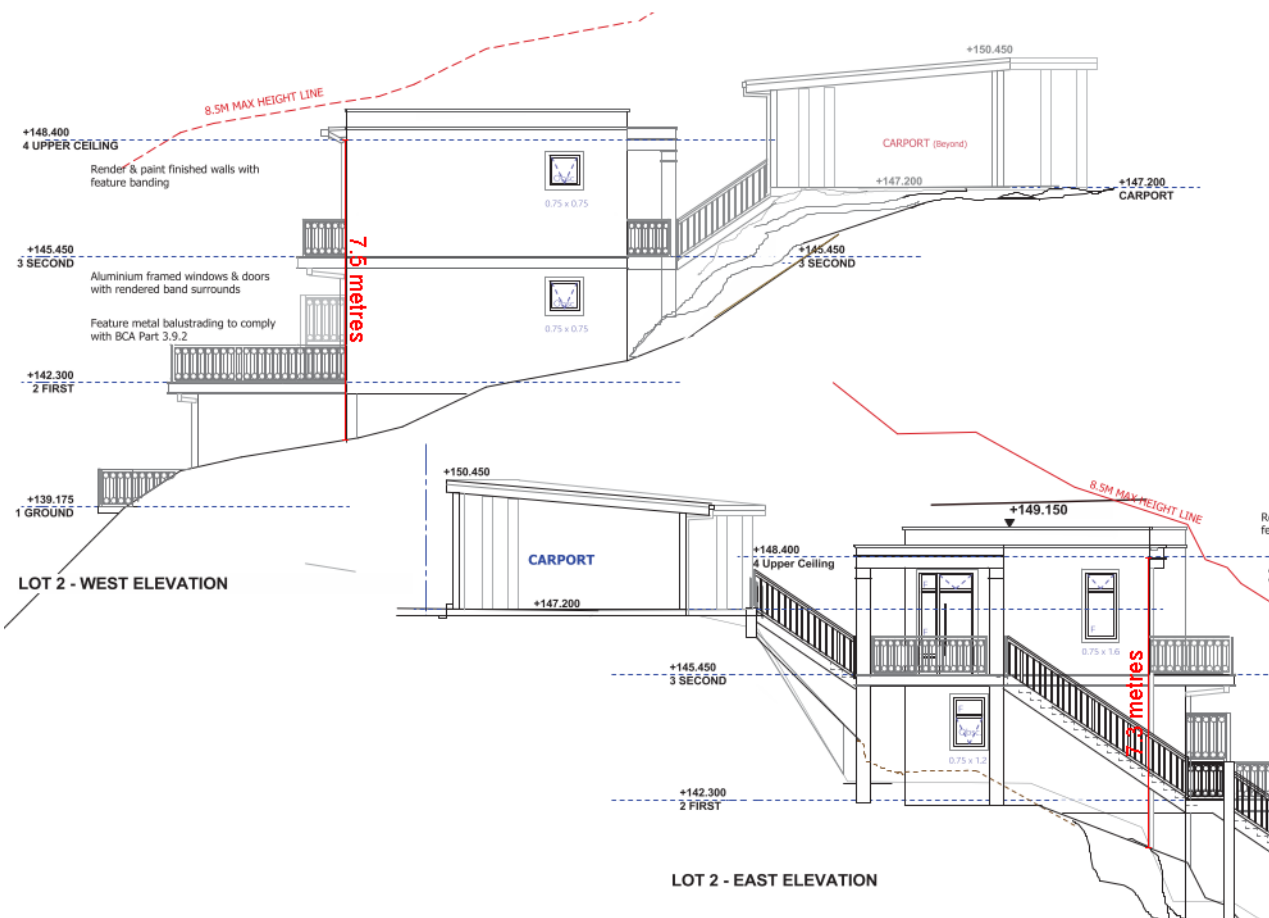


Figure 1. Wall height non-compliance

Merit Consideration

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

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

Comment:

The proposed wall height breach is largely a consequence of site sloping to the north. Notwithstanding, the dwelling is located on a rear allotment of the proposed subdivision and is not readily visible from the public domain. Furthermore, suitable articulation is achieved using recessed and modulated walls, fenestration, balconies, eaves and changes in materials so as to provide visual relief to the second floor. In this regard, whilst the non-compliance would be visible from the adjoining properties, the scale of the wall is of such proportions that it would not create an unacceptable visual impact to those properties. Overall, the proposal remains consistent with the scale of development anticipated for the site and the development will not have an unreasonable visual impact when viewed from the streetscape and surrounding properties.

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

Comment:

The proposed dwelling is generally located beneath the existing tree canopy level within the locality.

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

Comment:

The non-compliant wall height does not create an unreasonable view sharing scenario.

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

Comment:

The proposed dwelling achieves acceptable building separation with compliant boundary setbacks. In addition, the portions of the development that exceed the maximum wall height do not contain any intrusive windows nor do they create unacceptable privacy or overshadowing impacts. Further, the proposal's design minimises overshadowing impacts to adjacent living rooms and private open space on June 21. Overall, the proposed non-compliance is largely as consequence of the slope of the land, notwithstanding, the proposal has been suitably designed to minimise the impact of development on adjoining and nearby properties.

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

Comment:

The proposed dwelling's stepped design makes appropriate level changes where required to sensitively relate to the abrupt slope of the land. Furthermore, the proposed dwelling on Lot 2 does not involve significant earthworks.

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

Comment:

Sufficient scope has been provided to enable the innovative roof form and to remain under the 8.5 metre building height plane.

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

B5 Side Boundary Setbacks

Description of Non-compliance

The proposed carport on Lot 2 sits 0.5 metres from the southern side boundary. The control requires a minimum setback of 0.9 metres.

Merit Consideration

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

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

Comment:

The proposal provides a landscape setting that exceeds the minimum requirements of Part D1 Landscaped Open Space and Bushland Setting of WDCP with 78.0% (981.5m²). In addition, the proposed carport will not involve the removal of any significant vegetation.

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

Comment:

The proposal is located on a rear allotment on a battle-axe subdivision and will not be visually prominent within the streetscape. In addition, the proposal is contained within the prescribed building envelope, while also incorporating an open and lightweight design to moderate building bulk.

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

Comment:

The bulk of the proposal is found to be consistent with the domestic nature of the property.

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

Comment:

The carport results in negligible amenity impacts to neighbouring properties, specifically with regards to privacy, solar access, view sharing and visual bulk.

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

Comment:

The development does not result in the loss of views from any private properties or from the public domain.

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.

C1 Subdivision

Component	Requirement	Proposed	Compliant
Lot Requirements	R2 Low Density Residential zone requirements:	<u>Lot 1:</u> a) Minimum width: 10.7 metres b) Minimum depth: 30.5 metres c) Minimum building area: >150m ²	No - Refer to discussion below this table
	Proposed new allotments:	<u>Lot 2:</u> a) Minimum width: 30.5 metres b) Minimum depth: 33.1 metres c) Minimum building area: >150m ²	Yes
	a) Minimum width: 13 metres b) Minimum depth: 27 metres; and c) Minimum building area: 150m ²	<u>Lot 3:</u> a) Minimum width: 22.4 metres b) Minimum depth: 33.1 metres c) Minimum building area: >150m ²	Yes
		<u>Lot 4:</u> a) Minimum width: 22.4 metres	No - Refer to discussion below this table

		b) Minimum depth: 20.9 metres c) Minimum building area: >150m ²									
Access	<p>Motor vehicle access to each residential allotment is required from a constructed and dedicated public road.</p> <p>Where access is proposed to a section of unconstructed public road, then the subdivision will need to provide legal, constructed access to the Council's satisfaction.</p> <p>Access for Council service vehicles, emergency vehicles and garbage collection vehicles must be provided.</p> <p>Driveways, accessways, etc. to allotments should have a gradient not exceeding 1:4 and allow for transitions at a minimum length of 1.5m and at a grade no steeper than 1:10.</p> <p>Driveways in excess of 200 metres will not be allowed for residential development.</p> <p>Driveways that are 30m or more in length require a passing bay to be provided every 30m. To provide a passing bay, driveways shall be widened to 5.0m for a distance of at least 10m.</p> <p>Passing bays should have regard to sight conditions and minimise vehicular conflict.</p> <p>Vehicular ingress/egress points to internal lots may be used as passing/turning bays, subject to extension of a right-of-carriageway over the passing/turning bay.</p> <p>Rights-of-carriageway should be located so as to accommodate all vehicle turning facilities.</p> <p>Width of accessways are to be as follows:</p> <table border="1"> <thead> <tr> <th>Number of lots to be serviced</th> <th>Width of clear constructed accessway (m)</th> </tr> </thead> <tbody> <tr> <td>1 - 5</td> <td>3.5</td> </tr> <tr> <td>6 - 10</td> <td>5.0</td> </tr> <tr> <td>in excess of 10</td> <td>Access is to be provided by a private or public road constructed with a width that is in accordance with Council standard specifications for engineering works (AUSPEC 1)</td> </tr> </tbody> </table> <p>Provision of services in rights of carriageway are as follows:</p>	Number of lots to be serviced	Width of clear constructed accessway (m)	1 - 5	3.5	6 - 10	5.0	in excess of 10	Access is to be provided by a private or public road constructed with a width that is in accordance with Council standard specifications for engineering works (AUSPEC 1)	<p>The proposal includes an access driveways to the allotments. These have been assessed by Council's Development Engineers as satisfactory.</p> <p>The width of the driveways access can satisfactorily accommodate the provision of services.</p> <p>Access for Council service vehicles, emergency vehicles and garbage collection vehicles is not inhibited.</p> <p>The driveway gradients has been reviewed by Council's Development Engineers as acceptable.</p> <p>Driveway less than 200m.</p>	Yes
Number of lots to be serviced	Width of clear constructed accessway (m)										
1 - 5	3.5										
6 - 10	5.0										
in excess of 10	Access is to be provided by a private or public road constructed with a width that is in accordance with Council standard specifications for engineering works (AUSPEC 1)										

	<table border="1"> <tr> <td>Number of lots to be serviced</td> <td>Additional width to be provided in Right of Carriageway (m)</td> </tr> <tr> <td>Up to 3 lots</td> <td>0.5</td> </tr> <tr> <td>4 or more lots</td> <td>1.0</td> </tr> </table>	Number of lots to be serviced	Additional width to be provided in Right of Carriageway (m)	Up to 3 lots	0.5	4 or more lots	1.0		
Number of lots to be serviced	Additional width to be provided in Right of Carriageway (m)								
Up to 3 lots	0.5								
4 or more lots	1.0								
Design and construction	<p>All roads, rights of carriageway, drainage design and construction is to be in accordance with Council's policy requirements including; AUSPEC 1 - Council's Specification for Engineering Works, Development Engineering Minor Works Specification, On Site Stormwater Detention (OSD) Technical Specification and Council's Water Sensitive Urban Design Policy. Additionally, internal roads must be designed in accordance with the relevant Australian Standards.</p> <p>Subdivision design needs to maximise and protect solar access for each dwelling by considering factors such as orientation, shape, size and lot width.</p>	The proposed development is accompanied by civil engineering plans demonstrating the proposed works are capable of meeting Council's specifications. Council's engineers have reviewed the proposal and recommend approval subject to conditions of consent.	Yes						
Drainage	<p>Provision should be made for each allotment to be drained by gravity to a Council-approved drainage system. The topography of the land should not be altered to adversely affect the natural drainage patterns. Stormwater should drain directly to a Council-approved drainage system and not via adjoining properties unless via a formalised interallotment drainage system. The proposed allotments are to be drained to the direction of the natural fall of the land. Interallotment drainage easements will be required through adjoining properties to adequately drain land to Council's downstream system.</p>	The applicant has proposed the land to drain to Council's stormwater network via a proposed stormwater easement over No. 29 Bluegum Crescent. The owners of each property have provided a letter of support for this easement. Council will require the easement to be obtained prior to the consent becoming operational via a deferred commencement condition.	Yes						
Restrictions	<p>Any easement, right-of-carriageway, or other restriction that is placed on the title of any land as a requirement of the approval of the subdivision is to be protected by a positive covenant or like instrument with the Council nominated as a party.</p>	All necessary easements within the site will be required to be created upon the title as specified within the conditions of consent. These easements include easements for services, right of Carriageway and positive covenant for on-site detention.	Yes						
Environmentally constrained land	<p>In areas subject to constraints such as flooding, tidal inundation, threatened species, landslip risk, bushfire or any other matter, adequate safe area for building, where the risk from hazard is minimised, is to be provided within an allotment.</p> <p>Where possible, lot boundaries should utilise natural land features such as creeks, escarpments and rock outcrops.</p>	<p>The proposed rear allotments (Lots 2 and 3) are slope affected. The proposed built forms on these allotments have been suitably designed and sited to minimise landslip risk.</p> <p>In addition, 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.</p> <p>Therefore, Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life</p>	Yes						
Bushfire	<p>Subdivision should be designed to minimise the risk from potential bushfire. Asset protection zones should be contained within</p>	The site is not identified as bushfire prone land.	Yes						

	the property boundaries of the new subdivision.		
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Description of Non-compliance

Lots 1 and 4 are slightly under the minimum dimensions prescribed under this control. Lot 1 includes a minimum width of 10.7 metres, which is non-compliant with the 13 metre requirement. Lot 4 includes a minimum depth of 20.9 metres, which is non-compliant with the 27 metre requirement.

Merit Consideration

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

- *To regulate the density of development.*

Comment:

Suitably sized dwellings have been proposed as part of the application and the applicant has demonstrated to the satisfaction of Council that a dwelling-house can be appropriately positioned on each lot.

- *To limit the impact of new development and to protect the natural landscape and topography.*

Comment:

The centre of the site includes a significant rock outcrop which cuts through Lots 2 and 3, which is a notable site constraint for the development. Notwithstanding, the proposed dwellings on these allotments have been suitably designed to limit the impact of new development and to protect the natural landscape and topography.

- *To ensure that any new lot created has sufficient area for landscaping, private open space, drainage, utility services and vehicular access to and from the site.*

Comment:

The proposed subdivision pattern provides appropriate opportunity for landscaping to surround the site. There is also adequate area for private open space within each of the new allotments. Subject to conditions, drainage and services will be adequately provided to the site.

- *To maximise and protect solar access for each dwelling.*

Comment:

The proposed subdivision pattern provides opportunity for solar access from the north to the dwellings within the proposed pattern and existing surrounding dwellings. This is as a result of the dwellings generally having a northern orientation and therefore maximises solar access to each new allotment.

- *To maximise the use of existing infrastructure.*

Comment:

The subdivision is unlikely to create any adverse impact upon the existing infrastructure in and around the site.

- *To protect the amenity of adjoining properties.*

Comment:

The proposed dwellings have been appropriately sited to protect neighbouring amenity.

- *To minimise the risk from potential hazards including bushfires, land slip and flooding.*

Comment:

The site is not located in or near to bushfire prone. As discussed above the proposal is consistent with the relevant land slip controls under the Warringah LEP 2011 and DCP 2011.

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.

C2 Traffic, Access and Safety

The proposed development is accompanied by civil engineering plans demonstrating the proposed works are capable of meeting Council's specifications.

Council's engineers have reviewed the proposal and recommend approval subject to conditions of consent.

C4 Stormwater

Details have been provided by the applicant to address stormwater management for the proposed development.

The proposed method of stormwater discharge is via easement through the adjoining property to the west No. 29 Bluegum Crescent to connect to the council stormwater pipe.

The applicant has provided a letter of consent from the owners of the properties raising no objection to the stormwater easement.

The requirement to obtain this easement will be enforced via deferred commencement condition.

The applicant will be required to obtain this easement prior to the consent becoming operational.

D6 Access to Sunlight

Detailed shadow diagrams have been provided with the application that demonstrate that each dwelling will receive the required amount of solar access in accordance with the DCP control.

For the purpose of the control, the required amount of POS for each dwelling is 60m², therefore, each dwelling must receive a minimum 3 hours of solar access to 50% (30m²) of POS between 9am and 3pm on 21 June.

A detailed review is undertaken below:

- Lot 1 - Full 60m² area receives solar access between 9am and 3pm.
- Lot 2 - Full 60m² area receives solar access between 9am and 3pm.
- Lot 3 - Full 60m² area receives solar access between 9am and 3pm.
- Lot 4 - Full 60m² area receives solar access between 9am and 3pm.

The proposed development will not have an unreasonable impact upon the adjoining properties in regards to solar access.

The adjoining properties will retain solar access in accordance with the WDCP control.

D7 Views

Merit Consideration

Multiple submissions were received from adjoining properties along Gladys Avenue, raising concerns regarding potential view loss as a result of the proposed development.

Height poles were erected and certified for accuracy.

View loss inspections were undertaken at the following properties:

- **No. 10 Gladys Avenue (southern neighbour)**
- **No. 10A Gladys Avenue (southern neighbour)**
- **No. 10B Gladys Avenue (southern neighbour)**



Figure 2. Site context map, subject site highlighted in yellow.

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

- *To allow for the reasonable sharing of views.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four step planning principle outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*, are applied to the proposal.

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

Nos. 10, 10A, and 10B Gladys Avenue:

These properties adjoin the site to the south. The views affected are district views of trees and houses, which are generally obscured by existing canopy trees and existing residential development in the foreground. They are not considered highly valuable views in the context of these principles.



Figure 3. No. 10 Gladys Avenue first floor bedroom balcony facing north, across the side boundary from a standing position. Note height poles are indicative of the dwelling proposed on Lot 4.

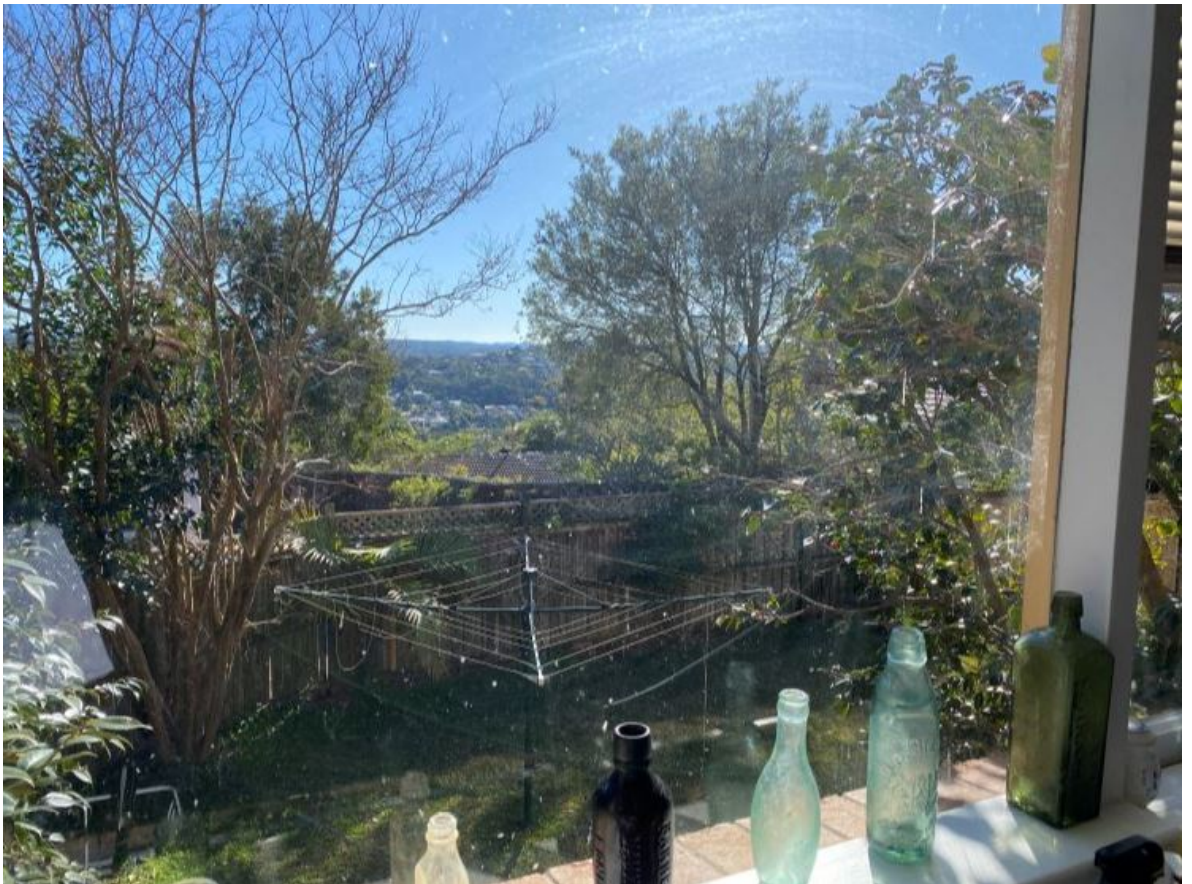


Figure 4. No. 10A Gladys Avenue ground floor kitchen facing north, across the rear boundary from a standing position. Please note that the height poles reflect the original dwelling proposed for Lot 1 and have not been updated to align with the amended plans.



Figure 5. No. 10B Gladys Avenue ground floor private open space facing north, across the rear boundary from a standing position. Please note that the height poles reflect the original dwelling proposed for Lot 1 and have not been updated to align with the amended plans.

2. What part of the affected property are the views obtained

“The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.

Comment to Principle 2:

No. 10 Gladys Avenue

The views impacted by the proposal are directly across the side boundary, from both sitting and standing positions. The views are from the first floor bedrooms.

No. 10A Gladys Avenue

The views impacted by the proposal are directly across the rear boundary, generally from standing positions. The views are from the ground floor kitchen.

No. 10B Gladys Avenue

The views impacted by the proposal are directly across the rear boundary, generally from standing positions. The views are from the ground floor private open space.

3. Extent of impact

“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The

impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.

Comment to Principle 3:

No. 10 Gladys Avenue

The views will be partially impacted, with most impacts occurring to eastern bedroom. Given the value of the views and that they are directly across a side boundary, the view loss is considered **negligible** in the context of these principles.

No. 10A Gladys Avenue

The views will be partially impacted, with most impacts occurring to the ground floor kitchen. Given the minor reduction and value of the views, the view loss is considered **negligible** in the context of these principles.

No. 10B Gladys Avenue

The views will be marginally impacted, as the amended proposal, relocated the dwelling on Lot 1 2.8 metres eastward and reduced the first floor to allow substantial view corridors from the south. Given the minor reduction and value of the views, the view loss is considered **negligible** in the context of these principles.

4. Reasonableness of the proposal that is causing the impact

“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”

Comment to Principle 4:

Clause D7 Views and the intent of Tenacity goes towards the idea of view sharing - rather than view retention. The proposed development is not assessed as having any 'devastating' impacts as it will not block the entirety of anyone's views. However, it is noted that the proposal will result in the loss of views that are clearly important and valuable to the residents surrounding residents. Notwithstanding, the proposed dwellings located on Lot 1 and 4 are fully compliant with the critical controls relating to view loss, being building height, building envelope, and setbacks. In this regard, it is not considered reasonable to require redesign of the development, considering the nature of the view loss as discussed above. The proposal is considered to maintain a reasonable sharing of views, taking into account the considerations discussed above.

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

Comment:

Given that the proposal will maintain a reasonable sharing of views, it is considered sufficiently innovative.

- *To ensure existing canopy trees have priority over views.*

Comment:

The proposal involves the removal of several trees - most of which are exempt - to facilitate the works. The application has been reviewed by Council's Landscape division who are supportive subject to adequate tree replacement.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent 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.

D8 Privacy

Concern has been received that the proposed dwelling on Lot 4 will result in unacceptable privacy impacts to No. 10 Gladys Avenue (south of the dwelling).

Merit Consideration

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

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

Comment:

From the first floor, the proposed southern (front) elevation includes six windows that are sited between 4.0 meters - 13.4 meters from the southern boundary and are approximately 25.4 metres from the concerned dwelling (No. 10 Gladys Avenue). However, these windows are associated with bedrooms, ensuites and a stairway, which are not considered to be highly used parts of the dwelling, as established within the planning principal of *Meriton v Sydney City Council [2004] NSWLEC 313*, where overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time. Notwithstanding, the amended plans demonstrate that all efforts have been made to encourage a high level of visual and acoustic privacy. Deletion of the first-floor balcony and minimising openings along the southern elevation are indicative of this.

Overall, the proposed dwelling has been appropriately designed prevent any significant visual privacy impacts, given the generous building separation, elevation difference and appropriate privacy treatment.

All other windows and openings are considered to be acceptable and will not result in unreasonable impacts to the privacy of adjacent properties are are not recommended to incorporate additional privacy treatment.

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

Comment:

As above, the amended proposal will achieve an innovative design solution, which improves the urban environment.

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

Comment:

The proposed development will result in personal and property security for the occupants of the subject site, and those of adjoining properties.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$40,260 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,026,000.

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 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

In summary, the application has been assessed with regard to the relevant Warringah LEP and DCP controls which guide the future desired character of the site and locality, along with the public submission received during the notification period.

The issues raised in the submissions are considered to be addressed by way of the amended plans and conditions of consent.

Subject to the recommended conditions of consent, it is considered that the proposal will result in a development that displays reasonable size, scale and density which is compatible with the existing site and surrounding development and will not result in unreasonable amenity impacts to surrounding properties. Overall, the proposal is considered a reasonable response to the site constraints and relevant planning controls.

Accordingly, the application is referred to the DDP with a recommendation for approval. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

DEFERRED COMMENCEMENT APPROVAL

A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Clause 76 of the Environmental Planning and Assessment Regulation 2021 to DA2022/1474 for Demolition works, subdivision of two lots into four lots, including the construction of an access driveway, stormwater works, and the construction of four dwelling houses on land at Lot B DP 393276, 14 Gladys Avenue, FRENCHS FOREST, Lot A DP 393276, 12 Gladys Avenue, FRENCHS FOREST, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

DEFERRED COMMENCEMENT CONDITIONS

1. Stormwater Drainage Easement

As the natural fall of the land is towards the rear of the site the disposal of stormwater drainage is to be in accordance with the drainage plan submitted by JCO consultants DRW NO DA-SW200 Issue 9. The drainage easement 1.0m wide is to be created under Sections 88B and/or 88K of the Conveyancing Act 1919, burdening No 29 Bluegum cres (Lot 92 DP 30700). The applicant must provide Council with evidence of the created easement on title in order to activate the consent.

Stormwater drainage plans are to be submitted to Council for written approval detailing disposal of stormwater from the site in accordance with Council's Water Management Policy.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

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:

GENERAL 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
Sheet 1 - Rev 1: Plan of subdivision	16 June 2023	Simon Pak Yan Ho
Sheet 1 - Issue D: Demolition plan	21 July 2022	RK Designs
Sheet 1 - Ver 1: Site driveway plan	27 June 2023	The Traffic Plans Company
Sheet 2 - Ver 1: Site driveway section	27 June 2023	The Traffic Plans Company
Bin enclosure plan	Not dated	Architectural Solutions
DA301 - Rev 2: Site plan	4 August 2023	Eric Architecture
DA01 - Rev G: Lot 1 plan	7 August 2023	Eric Architecture
Sheet 3 - Issue D: Lot 3 plan	21 July 2023	RK Designs
DA04 - Rev G: Lot 4 plan	7 August 2023	Eric Architecture
Lot 1 - External material and colour finishes schedule	1 August 2022	RK Designs
Lot 3 - External material and colour finishes schedule	1 August 2022	RK Designs
Lot 4 - External material and colour finishes schedule	1 August 2022	RK Designs
DA01 - Rev C: Lot 2 - Site plan	27 April 2023	NKP Architecture
DA02 - Rev C: Lot 2 - Second floor plan	27 April 2023	NKP Architecture
DA03 - Rev B: Lot 2 - First floor plan	15 August 2022	NKP Architecture
DA04 - Rev C: Lot 2 - Ground floor plan	12 March 2023	NKP Architecture
DA05 - Rev C: Lot 2 - Section	27 April 2023	NKP Architecture
DA06 - Rev C: Lot 2 - East & west elevation	27 April 2023	NKP Architecture
DA07 - Rev B: Lot 2 - North & south elevation	15 August 2022	NKP Architecture
DA08 - Rev A: Lot 2 -Carport	26 June 2023	NKP Architecture
Lot 2 - External material and colour finishes schedule	30 March 2022	NKP Architecture

Engineering Plans		
Drawing No.	Dated	Prepared By
DA-SW100 - Rev 9	30 June 2023	JCO Consultants
DA-SW200 - Rev 9	30 June 2023	JCO Consultants
DA-SW201 - Rev 9	30 June 2023	JCO Consultants
DA-SW300 - Rev 9	30 June 2023	JCO Consultants
DA-SW500 - Rev 9	30 June 2023	JCO Consultants

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Aboriginal Due Diligence Assessment	14 March 2023	Unearthed Archaeology & Heritage
Arboricultural Impact Assessment Report	15 September 2022	Hugh The Arborist
BASIX Certificate No. 1326764S_02 - Lot 1	8 August 2023	RK Designs

BASIX Certificate No. 1298296S_04 - Lot 2	19 August 2022	Enviuro Pty Ltd
BASIX Certificate No. 1326834S - Lot 3	3 August 2022	RK Designs
BASIX Certificate No. 1327054S_02 - Lot 4	8 August 2023	RK Designs
Geotechnical Report	19 August 2022	White Geotechnical Group
Geotechnical Report - Lot 2	19 May 2022	White Geotechnical Group
Water Sensitive Urban Design	18 August 2022	JCO Consultants

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
LA01 - Rev B	4 August 2022	Apex Studio
LA02 - Rev A	4 August 2022	Apex Studio
LA03 - Rev A	4 August 2022	Apex Studio
LA04- Rev A	4 August 2022	Apex Studio
LA05 - Rev A	4 August 2022	Apex Studio
LA06 - Rev A	4 August 2022	Apex Studio

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	2 August 2022	RK Designs

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	30 September 2022
Aboriginal Heritage Office	Aboriginal Heritage Office Referral Response	12 April 2023

(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 \$250,000. The Long Service Levy is calculated on 0.25% 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.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or 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.

6. **No Approval for Secondary Dwelling**

No approval is granted or implied under this Development Consent for the use of any part of the dwelling house on Lot 2 for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area.

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

FEES / CHARGES / CONTRIBUTIONS

7. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$40,260.00 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 (as amended).

The monetary contribution is based on a development cost of \$4,026,000.00.

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

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

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

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

8. **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 Certifier prior to the issue of the Construction Certificate.

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

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

9. **Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$3000 as security against any damage or failure to complete the construction of stormwater drainage connection works to Council's existing stormwater pit as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

10. **Construction, Excavation and Associated Works Security Bond (Crossing / Kerb)**

The applicant is to lodge a Bond of \$8000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

11. **Construction, Excavation and Associated Works (Road Damage Security Bond)**

A bond of \$5000 as security against damage to Council's roads fronting the site caused by the transport and disposal of materials and equipment to and from the site.

Details confirming payment of the bond are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

12. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

13. **Detailed Design of Stormwater Treatment Measures - Major**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the WSUD strategy report (JCO Consultants Pty Ltd), stormwater plan (JCO Consultants Pty Ltd rev.6 05.09.2022) and Council's Water Management for Development Policy.

The certificate shall be submitted to the Principal Certifier prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

14. **Hazardous Building Materials Survey**

A hazardous building materials survey is to be conducted by a suitably qualified and experienced person. The survey is to include a survey of hazardous building materials including but not limited to asbestos, lead, SMF and PCBs. Following the survey a Hazardous Building Materials Register is to be prepared for the premises providing recommendations for the safe management/removal of hazardous building material.

Reason: To protect human health.

15. **Compliance with Standards**

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

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

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

16. **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 Certifier 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.

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

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

Please refer to the website www.sydneywater.com.au 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.

18. Waste and Recycling Requirements

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Principal Certifier prior to the issue of any Construction Certificate.

If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

19. Subdivision Works Certificate

A Subdivision Works Certificate is to be approved by Certifier for the provision of engineering works.

Engineering plans for the subdivision works within this development consent are to be submitted to the Certifier for approval under Section 6.13 of the Environmental Planning and Assessment Act 1979.

Civil Engineering /stormwater drainage plans for the subdivision works are to be designed in accordance with the Council's specification for engineering works – AUS-SPEC #1 and Council Water management for development policy. The plans shall be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering. The design must include the following information:

1. 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 [in accordance with the concept drainage plans prepared by JCO Consultants , drawing number DA-SW200-SW201 Issue 9 dated 30/6/23 ,DA -SW300 Issue 9,DA-SW500 Issue 9,DA-SW501 Issue 9,dated 30/6/23. 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) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

i. A catch drain at the rear of Lot 2 to capture all the lot overland flow . The catch drains location is to have no impacts on existing trees to be retained.

ii. The locations of any boundary retaining walls.

iii. Typical cross sections of detention tanks 1 and 2.

1v. Proposed stormwater connection detail to Councils existing Pit SPO 1245

v. Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

vi: The project arborist is to confirm the position of OSD Tank 2 will have no impacts of the trees to be retained on site , if there are any impacts OSD Tank 2 is to be relocated to suit.

2. Engineering details of the proposed common concrete access driveway/passing bays including structural details, long sections and typical crossing sections.

The Subdivision Works Certificate must be supported by engineering plans, calculations, specification or any certification relied upon.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specifications.

20. Utilities Services

Prior to the issue of the Subdivision Works Certificate, the Applicant is to obtain the following:

(a) A letter from the utility provider confirming that satisfactory arrangements have been made for the approved development have been made; and

(b) Evidence that notification has been received from a utility authority that, requirements for the development can be provided.

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

Reason: To ensure that services have been provided as required by this Consent.

21. Pre-Commencement Dilapidation Report

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the

existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifier prior to the issue of the any Subdivision Works Certificate and the commencement of any works including demolition.

Reason: Protection of Council's Infrastructure during construction.

22. Traffic Management and Control

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Subdivision Works Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

23. 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 Certifier prior to the issue of the Subdivision Works Certificate.

Reason: To provide public and private safety.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

24. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, and the recommendations of the Arboricultural Impact Assessment.

- a) The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:
 - i) tree protection measures under section 8.2 Tree Sensitive Construction Specification (for trees 1, 4, 48, 54 and including tree 5), section 9 Recommendations, and Section 10 AMS and Tree Protection Requirements,
 - ii) works under section 11 Hold Points,
 - iii) construction of the bin storage area,
 - iv) all stormwater infrastructure excavation and installation,
 - v) additionally, the Project Arborist shall be in attendance and supervise any landscaping works within the TPZ of all existing trees to be retained.
- b) Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.
- c) All tree protection measures specified 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 Project Arborist shall provide certification to the Principal Certifier that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

d) Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to

ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

25. Tree Removal Within the Property

This consent approves the removal of the following tree(s) within the property (as recommended and identified by tree number in the Arboricultural Impact Assessment):

- i) tree 2 - *Eucalyptus resinifera*, tree 12 - *Callistemon viminalis*, tree 24, 25, 30 - *Melaleuca quinquenervia*, tree 37 - *Banksia integrifolia*, tree 40 - *Eucalyptus resinifera*, tree 42 - *Banksia integrifolia*, tree 52 - *Angophora costata*,
- ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised building works.

DURING BUILDING WORK

26. Protection of Landscape Features and Sites of Significance

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.

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

27. Tree and Vegetation Protection

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

- i) all trees and vegetation within the site, 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) or vi) 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 Principal Certifier,
- 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) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Principal Certifier must ensure that:

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

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.

28. Condition of Trees

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from the Project Arborist during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Project Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

29. 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.

30. 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 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.

31. Substitution of Stormwater Treatment Measures

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must be submitted to the Principal Certifier for approval prior to installation.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

32. 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.

33. Demolition Works - Asbestos

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

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to

demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

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

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

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

34. 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.

35. Progress Certification (Road & Subdivision)

The applicant shall provide written compliance certification is to be provided by a suitably qualified engineer upon completion and/or as and when requested by the Council for the following stages of works:

(a) Laying of stormwater pipes and construction of pits

(b) Access driveway base course and sub-grade trimmed and compacted **

(c) Prior to pouring of concrete Pavement

(d) Clean-up of site, and of adjoining Council roadway and drainage system.

(**To be tested by a recognised N.A.T.A. approved laboratory).

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

Reason: To ensure compliance of civil works with Council's specification for engineering works.

36. Civil Works Supervision

The Applicant shall ensure all civil works approved in the Subdivision works certificate are supervised by an appropriately qualified and practising Civil Engineer who has RPENG or NER registration.

Details demonstrating compliance are to be submitted to the Principal Certifier and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

37. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

38. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ normal low and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

39. **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 Certifier.

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

40. **Requirement to Notify about New Contamination Evidence**

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier.

Reason: To protect human health and the environment.

41. **Compliance with Recommendations within Hazardous Building Materials Register**

Any recommendations within the Hazardous Building Materials Register are to be implemented during works.

Reason: To protect human health.

42. **Asbestos**

All removal, repair or disturbance of or to asbestos materials must comply with the relevant guidelines and legislation including the following:

- The Work Health and Safety Act 2011;
- The Work Health and Safety Regulation 2017;
- NSW SafeWork Code of Practice - How to Safely Remove Asbestos; and
- NSW SafeWork Code of Practice - How to Manage and Control Asbestos in the Workplace.

All asbestos waste must be disposed of at a lawful waste disposal facility that accepts asbestos waste.

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.

Following the removal of asbestos containing materials an asbestos clearance certificate is to be issued by a suitably qualified and experienced professional such as an Occupational Hygienist or Licenced Asbestos Assessor before the recommencement of any work.

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

Reason: To protect human health.

43. **Classification of Waste & Off-site Disposal of Waste (fill and/or soil material)**

Prior to the exportation of waste (fill and/or soil) from the site, the waste materials must be tested and classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part 1: Classification of Waste (November 2014).

Testing is required prior to off-site disposal. In accordance with DECC Waste Classification Guidelines (2014) materials identified for off-site disposal must be removed by a suitably qualified contractor to an appropriately licensed waste facility.

'Chain of Custody' documentation including receipts shall be kept for the exportation of waste (fill and/or soil material) from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority within seven (7) days of transport and made available to Council upon request.

Reason: Appropriate disposal of waste and protection of the environment.

44. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled dated [INSERT].

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

45. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

46. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan (drawing LA02 to LA06 by Apex Studio), and inclusive of the following conditions:

- i) substitute the 2 *Pyrus calleryana* with a suitable native alternative to achieve at least 6 metres height at maturity, selected from Northern Beaches Council's Native Plant Species Guide - Frenchs Forest Ward, or Council's Tree Guide,
- ii) all tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- iii) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings, and at least 1 metre from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- iv) mass planting shall be installed at minimum 1 plant per metre square for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at least 4 plants per metre square for grasses/groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- v) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

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

Reason: Environmental amenity.

47. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained, including the following information:

- i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

48. **Certification for the Installation of Stormwater Treatment Measures**

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the stormwater wsud strategy and plans prepared by JCO Consultants Pty Ltd. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifier prior to the release of an Occupation Certificate.

Reason: Protection of the receiving environment.

49. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater

treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. 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 as to user is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

50. **Stormwater Treatment Measures Operation and Maintenance Plan**

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:

- a) Work as executed drawings
- b) Intent of the stormwater treatment measures including modelled pollutant removal rates
- c) Site detail showing catchment for each device
- d) Vegetation species list associated with each type of vegetated stormwater treatment measure
- e) Impervious area restrictions to maintain the water balance for the site
- f) Funding arrangements for the maintenance of all stormwater treatment measures
- g) Identification of maintenance and management responsibilities
- h) Maintenance and emergency contact information

2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:

a) Activity description, and duration and frequency of visits

Additionally for vegetated devices:

- b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
- c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure

3. Maintenance schedule and procedure - ongoing

- a) Activity description, and duration and frequency of visits
- b) Routine maintenance requirements
- c) Work Health and Safety requirements
- d) Waste management and disposal
- e) Traffic control (if required)
- f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

51. **Works as Executed Drawings - Stormwater Treatment Measures**

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

52. **Community Title Management Statement**

The Community Management Statement must specifically list the stormwater treatment measures that will be maintained under community title. The statement must also include the Stormwater Treatment Measure Operation and Maintenance Plan.

Details demonstrating compliance shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: To ensure maintenance of all stormwater management assets and protection of the receiving environment.

53. **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 Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure bushland management.

54. **Garbage and Recycling Facilities**

All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

55. **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.

56. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier 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.

57. **Undergrounding of Telecommunications Services**

Arrangements are to be made for the provision of underground telecommunications services to the building.

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

Reason: Provision of telecommunication facilities in a manner that facilitates the future underground provision of cable services.

58. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

59. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

60. **Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of an Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

61. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of an Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Principal Certifier, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

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

62. **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(s) and any conditions of consent.

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

Reason: To maintain local environmental amenity.

63. **Maintenance of Stormwater Treatment Measures - Major**

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

64. **Certification of Engineering Works and Works as Executed Data within Private Land**

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed road and drainage works have been constructed in accordance with this consent and the approved Subdivision Certificate plans. Works as Executed data (details overdrawn on a copy of the approved SWC plan) certified by a registered surveyor and submitted to the Principal Certifier prior to the issue of the Subdivision Certificate.

Reason: To ensure compliance of drainage works with Council's specification for engineering works.

65. **Positive Covenant for On-site Stormwater Detention**

A positive covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the final plan of subdivision and accompanying 88B instrument, requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, which are available from Northern Beaches Council. Northern Beaches

Council shall be nominated as the sole authority empowered to release, vary or modify such covenant.

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

Reason: To ensure ongoing maintenance of the on-site detention system.

66. **Provision of Services for Subdivision**

The applicant is to ensure all services including water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan of subdivision.

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

Reason: To ensure that utility services have been provided to the newly created lots.

67. **Right of Carriageway**

The Applicant shall create a right of carriageway (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision and accompanying 88B instrument, to include all vehicular access and manoeuvring areas.

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

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919.

68. **Restriction as to User (On-site Stormwater Detention)**

The Applicant shall create a restriction as to user (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision and accompanying 88B instrument for the on-site stormwater detention system, restricting any alteration or additions to the system. The terms of such restriction are to be prepared to Council's standard requirements. Council shall be nominated as the party to release, vary or modify such restriction.

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

Reason: To ensure no modification to the on-site stormwater detention structure without Council's approval.

69. **Services**

The Applicant shall ensure all utilities/services and street lighting is installed. The Applicant is to submit a Certification stating the above requirement has been complied with by the relevant authority(s) and/or authorised contractor.

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

Reason: To ensure services have been provided in accordance with the relevant authorities requirements.

70. **Certification of On-site Detention System (New Subdivision)**

A Certificate is to be submitted by the design Civil Engineer confirming to the satisfaction of the Council/Principal Certifier that the on-site stormwater detention has been constructed in accordance with the approved subdivision certificate plans and the Development Consent and relevant conditions of Development Consent.

Work as executed stormwater drainage with variations overlain in red and a compliance certificate is to be issued by the design engineer accordingly.

The Subdivision Certificate will not be released until this certification has been submitted to Council and confirmed that all relevant this conditions have been satisfied.

Reason: To ensure the On-site Detention System has been built to the appropriate standard

71. **Sydney Water Compliance Certification**

The Applicant shall submit a Section 73 Compliance Certificate under the Sydney Water Act 1994 issued by Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and fees to be paid. Please make early contact with the coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

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

72. **Easement for Drainage**

The Applicant shall create an easement for drainage (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision, to accompany the Section 88B instrument to ensure all drainage infrastructure is located within the appropriate easement(s).

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

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.

73. **Easement for Services**

The Applicant shall create an easement for services (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision, to accompany the Section 88B instrument to ensure all utility services are located within the appropriate easement(s).

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

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.

74. **Release of Subdivision Certificate**

The final plan of subdivision will not be issued by Council until the development has been completed in accordance with terms and conditions of the development consent.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919.

75. **Subdivision Certificate Application**

The Applicant shall submit a Subdivision Certificate Application to Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919, four copies of the final plan of subdivision and all relevant documents including electronic copies. This documentation is to be submitted to Council prior to the issue of the Subdivision Certificate. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919.

76. **Title Encumbrances**

The Applicant shall ensure all easements, rights of carriageway, positive covenants and restrictions as to user as detailed on the plans and required by the development consent are to be created on the title naming Council as the sole authority empowered to release or modify.

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

Reason: To ensure proper management of land.