

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0978
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Responsible Officer:	David Auster
Land to be developed (Address):	Lot 7 DP 238331, 10 Courtley Road BEACON HILL NSW 2100
Proposed Development:	Construction of a retaining wall
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Andrew James lemma Olivia Page Boyle
Applicant:	Andrew James lemma

Application Lodged:	27/06/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	06/07/2022 to 20/07/2022
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 22,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposed retaining wall works are located generally along the southern and western boundaries, and planned to be constructed with masonry blocks on top of the existing footing. The retaining walls will be core filled with concrete and fitted with ag pipe, drainage rock & geo-fab to allow drainage to take its natural course. The retaining wall height varies from 0.4m to 1.65m.

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 Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

Property Description:	Lot 7 DP 238331 , 10 Courtley Road BEACON HILL NSW 2100
Detailed Site Description:	<p>The site has an area of 556 m² which is currently a vacant block of land, with the retaining wall footing constructed (approved per BIC 2022/0078) and temporary timber shoring along the southern and western boundaries. The site is an irregular shaped block with a street frontage of 15.2m along Courtley Road on the northern boundary. The eastern boundary is 33.8m, southern boundary is 30.4m and the western boundary is 19.8m.</p> <p>There is a gradient of 2.3m from the rear south western corner down to the front north eastern corner of the boundary, with majority of this gradient focussed on the north eastern quadrant of the site. There has been unauthorised cut and fill of the site in the past (see history section of this report) to create a level building platform on the site.</p> <p>The site is located within a residential area, where the street has varying housing including both old and new dwellings, a variety of facades, and a mixture of one- and two-story dwellings. The site is zoned R2 - Low Density Residential. The site is currently serviced with water, sewer connection, and electricity.</p>

Map:



SITE HISTORY

PLM2022/0085 Pre-lodgement Meeting was held on 23 May 2022 for Construction of a dwelling house. The notes for this application relate mainly to a new dwelling on site, and not to the existing retaining wall footings or excavation and fill on site. However, they do note that the consent for DA2020/1606 required removal of the fill in the north eastern corner of the site by condition of consent.

BC2022/0078 Building Information Certificate for Footing associated with retaining wall was issued by Council on 4 May 2022. This BIC related to the retaining wall footings along the southern and western boundaries, but not to the fill in the north eastern corner of the site.

BC2021/0304 Building Information Certificate for retaining wall along the western & southern boundaries to satisfy a deferred commencement requirement of Development Consent DA2020/1606 was refused by Council on 28 April 2022. This was refused due to only the footing being constructed on site, and the BIC could not therefore be issued for 'retaining walls' and other works.

DA2020/1606 for Construction of a dwelling house was approved by the Northern Beaches Local Planning Panel on 30/06/2021. During the assessment process of DA2020/1606, concern was raised from the adjoining properties to the east in particular No. 12 Courtley Road. The issues raised in the submission were related directly to the siting of the proposed dwelling and the potential overlooking impacts towards the private open space and western (rear) elevation of the dwelling. The submissions raised questions regarding unauthorised fill being added in the north eastern corner of the site. A condition was therefore included in the consent requesting the removal of fill in the south east corner of the site as to achieve a finished ground level no greater than RL154.5.

A deferred commencement condition was also included in the consent, requiring the application to seek approval for a Building Information Certificate for the existing retaining walls and subsoil drainage along the western and southern boundaries.

DA2020/0585 for Construction of retaining walls and fencing was withdrawn at the request of Council staff on 09/09/2020 by the applicant. This application was for retaining walls on site, including more than what is now proposed in the current application. It was withdrawn due to Council being unable to

approve due to concerns with previous unauthorised excavation and fill on site and subsequent potential privacy concerns to neighbours (12 Courtley Road in particular), and due to concerns with the legitimacy of CDC No.1805/19 issued by Accredited Building Certifiers dated 11 February 2020.

PLM2020/0239 Pre-lodgement Meeting was held on 15/10/2020 for Construction of a dwelling house including a swimming pool. The notes for this PLM state that "the levels of the north-east corner of the site should be returned to pre-existing ground levels to ensure the development reduces its visual impact and ensures no adverse privacy to adjoining dwellings".

CDC2020/0112 (Council reference) or Certificate number **1805/19** approved by Accredited Building Certifiers on 11/02/2020 for Construction of a two storey dwelling with attached garage and swimming pool. The works approved under this application are have not been carried out.

CDC2020/0048 Certificate number **1861/19** for Demolition - Certificate number 1861/19 was approved by Accredited Building Certifiers on 23/01/2020.

DA2018/1886 for Demolition works and construction of a dwelling house was approved by the Northern Beaches Local Planning Panel on 17/07/2019. This application appears to have been approved prior to the unauthorised cut and fill taking place on site. Comparison of the survey submitted with this application (37231/D-3d Chadwick Cheng Consulting Surveyors, dated 23.05.2018) with the survey submitted with the current application, demonstrates the difference in levels in the north east corner of the site.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 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 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional</p>

Section 4.15 Matters for Consideration	Comments
	<p>information was requested in this case.</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 clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 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>
<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>	<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>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

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 06/07/2022 to 20/07/2022 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 1 submission/s from:

Name:	Address:
Kenneth Bruce Smith	12 Courtley Road BEACON HILL NSW 2100

The following issues were raised in the submissions:

- Effect of application on existing cut and fill and compliance action, and future development applications in relation to ground levels.
- Sediment and erosion controls
- Use of existing unapproved footings

The above issues are addressed as follows:

- **Effect of application on existing cut and fill and compliance action, and future development applications in relation to ground levels**

The submissions raised concerns that approval of the application may give tacit approval to the existing unauthorised cut and fill on site, with particular concerns raised in regard to raised ground levels in the north eastern corner of the site, and subsequent privacy impacts to number 12 Courtly Road.

Comment:

This has been a consistent issue raised across various applications (see Site History section of this report). Council has consistently required by condition of consent that fill in the north eastern corner of the site be removed. A comparison of the current survey and a survey lodged in 2018 indicates some change in ground levels. The raised ground level creates a situation where the site overlooks the pool area of number 12.

In this regard, it is considered reasonable to again impose a similar condition on this application to what has been imposed in the past (on applications that have not been taken up) to remove fill from the north eastern corner of the site. The previous condition specified an RL for the new ground level in the north eastern corner, but did not specify the extent that this RL had to be extended to. As such, a condition is recommended requiring the ground level for the length of the common boundary with number 12 to be no higher than RL154.5, for a width of 2m from the boundary and to contain landscaping to ensure its not trafficable. This will return the ground level to something similar to before the unauthorised cut and fill was carried out on site. Further, any future development of the site with a new dwelling will be required to be assessed with regard to privacy impacts towards the neighbouring properties.

- **Sediment and erosion controls**

The submissions raised concerns that existing sediment and erosion controls are inadequate.

Comment:

A condition of consent will be imposed as part of this application requiring controls to be in accordance with the guidelines. Any future failure of sediment and erosion controls will need to be referred to Council's Compliance department for investigation.

- **Use of existing unapproved footings**

The submissions raised concerns that the existing footings have never been approved and are to be utilised to build the wall on, and that these may not be adequate and still structurally sound.

Comment:

Council has issued a Building Information Certificate in relation to the retaining wall footings on 4 May 2022 (see Site History section of this report). As such it is considered use of the footings is satisfactory.

REFERRALS

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	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.

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 (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	1.65m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	1.65m	N/A	Yes
B3 Side Boundary Envelope	4m	Complies	N/A	Yes
B5 Side Boundary Setbacks	W 900mm	150mm	83.3%	No
B7 Front Boundary Setbacks	6.5m	Nil	100%	No
B9 Rear Boundary Setbacks	6m	600mm	90%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	No change - currently a vacant lot	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	No	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

Description of non-compliance

The proposed retaining wall along the western side boundary is setback a minimum of 150mm from the side boundary.

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 for the retaining wall does not significantly impact on the amount of deep soil on site. The wall is close enough to the side boundary that it will allow for landscaping within the side setback area for future development, to the east of the retaining wall.

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

Comment:

The retaining wall will not visually dominate the area, and will eventually be screened from view by a future dwelling on site.

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

Comment:

The retaining wall creates no significant bulk and scale of building on site.

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

Comment:

The retaining wall will have no affect on these matters. These are matters to be assessed when a future application for a dwelling on site is received.

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

Comment:

No views will be significantly affected by the retaining wall.

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.

B7 Front Boundary Setbacks

Description of non-compliance

The proposed retaining wall extends up to the front boundary near the western side of the lot.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying

Objectives of the Control as follows:

- *To create a sense of openness.*

Comment:

The retaining wall will have no significant impacts on the sense of openness on site.

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

Comment:

The retaining wall is a relatively minor feature of the site, which will largely be screened by future development of the site.

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

Comment:

The retaining wall will have no significant adverse impacts on the streetscape.

- *To achieve reasonable view sharing.*

Comment:

No views will be unreasonably impacted upon.

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

B9 Rear Boundary Setbacks

Description of non-compliance

The proposed retaining wall is 600mm from the rear boundary.

Merit consideration:

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

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The retaining wall will not significantly restrict opportunities for deep soil area. This will be a matter for assessment of a future dwelling on site.

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

Comment:

The wall will not have any significant impacts on the sense of openness in the rear yard area.

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

Comment:

The proposed wall does not have any impacts on privacy.

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

Comment:

The proposed wall will not be a highly visible feature of the site once future development is carried out, and will not detract significantly from any visual continuity in the area.

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

Comment:

The proposed wall does not create any impacts on privacy.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

E10 Landslip Risk

The geotechnical report provided does not satisfy the requirements in full of this clause. However, it does give recommendations for ensuring site stability. A condition is recommended to update the geotechnical report prior to issue of a construction certificate, in order to comply with the requirements of this clause in full. Given the nature of the works proposed, the retaining wall would be expected to increase stability on site compared to the temporary measures that are on site currently.

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/0978 for Construction of a retaining wall on land at Lot 7 DP 238331, 10 Courtley Road, BEACON HILL, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance 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
00.04 Rev DA01	18/05/2022	Smith & Smith Studio
00.05 Rev DA01	18/05/2022	Smith & Smith Studio

S-101 Revision A	01/06/22	Structerre Consulting
S-201 Revision A	01/06/22	Structerre Consulting
S-202 Revision A	01/06/22	Structerre Consulting
S-203 Revision A	01/06/22	Structerre Consulting
S-204 Revision A	01/06/22	Structerre Consulting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Soil Classification Report Job No. 3.22.2467.1	24 February 2022	Residential Engineering

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

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

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

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

2. 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	Not dated

(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.

3. 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.

4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the

development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

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

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

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

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

5. Amendments to the Geotechnical Report and Plans

The following amendments are to be made to the geotechnical report:

- Address all matters required to be addressed by clause E10 Landslip Risk of the Warringah DCP, and update or add any recommendations if necessary.
- Fill is to be removed from the north eastern corner of the site for the entire length of the common boundary with number 12 Courtley Road, and for a width of 2m from the

boundary. The ground level is to be no higher than RL154.5 for a width of 2m from the common boundary. The area is to be landscaped with screen planting and made non-trafficable.

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

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

6. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

7. **Boundary Identification Survey**

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

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

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

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

8. **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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. **Geotechnical Requirements**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

10. **Installation and Maintenance of Sediment Control**

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

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

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

11. **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.

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

12. **Geotechnical Recommendations**
Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

Signed



David Auster, Planner

The application is determined on 07/10/2022, under the delegated authority of:



Rodney Piggott, Manager Development Assessments